

108TH CONGRESS
2D SESSION

S. 2863

To authorize appropriations for the Department of Justice for fiscal years 2005, 2006, and 2007, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2004

Mr. HATCH (for himself, Mr. LEAHY, Mr. SCHUMER, Mr. DEWINE, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To authorize appropriations for the Department of Justice for fiscal years 2005, 2006, and 2007, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Department of Justice Appropriations Authorization Act,
6 Fiscal Years 2005 through 2007”.

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

Sec. 1. Short title.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL
YEARS 2005 AND 2006

- Sec. 101. Authorization of appropriations for fiscal year 2005.
 Sec. 102. Authorization of appropriations for fiscal year 2006.
 Sec. 103. Authorization of appropriations for fiscal year 2007.

TITLE II—IMPROVING THE DEPARTMENT OF JUSTICE’S GRANT
PROGRAMS

Subtitle A—Assisting Law Enforcement and Criminal Justice Agencies

- Sec. 201. Merger of Byrne Grant Program and Local Law Enforcement Block Grant Program.
 Sec. 202. Clarification of official to be consulted by Attorney General in considering application for emergency Federal law enforcement assistance.
 Sec. 203. Clarification of uses for regional information sharing system grants.
 Sec. 204. Authorization of appropriations for the Regional Information Sharing System to facilitate Federal-State-local law enforcement response related to terrorist attacks.
 Sec. 205. Integrity and enhancement of national criminal record databases.
 Sec. 206. Extension of Crime Free Rural States Grant Program.

Subtitle B—Building Community Capacity To Prevent, Reduce, and Control
Crime

- Sec. 211. Office of Weed and Seed Strategies.

Subtitle C—Assisting Victims of Crime

- Sec. 221. Grants to local nonprofit organizations to improve outreach services to victims of crime.
 Sec. 222. Clarification and enhancement of certain authorities relating to crime victims fund.
 Sec. 223. Amounts received under crime victim grants may be used by State for training purposes.
 Sec. 224. Clarification of authorities relating to violence against women formula and discretionary grant programs.
 Sec. 225. Expansion of grant programs assisting enforcement of domestic violence cases to also assist enforcement of sexual assault cases.

Subtitle D—Preventing Crime

- Sec. 231. Clarification of definition of violent offender for purposes of juvenile drug courts.
 Sec. 232. Eligibility for grants under drug court grants program extended to courts that supervise non-offenders with substance abuse problems.
 Sec. 233. Term of residential substance abuse treatment program for local facilities.
 Sec. 234. Rural 9–1–1 service.
 Sec. 235. Methamphetamine cleanup.
 Sec. 236. National citizens crime prevention campaign.
 Sec. 237. SEARCH, the National Consortium for Justice Information and Statistics.

Subtitle E—Other Matters

- Sec. 241. Changes to certain financial authorities.
- Sec. 242. Coordination duties of Assistant Attorney General.
- Sec. 243. Repeal of certain programs.
- Sec. 244. Elimination of certain notice and hearing requirements.
- Sec. 245. Amended definitions for purposes of Omnibus Crime Control and Safe Streets Act of 1968.
- Sec. 246. Clarification of authority to pay subsistence payments to prisoners for health care items and services.
- Sec. 247. Consolidation of financial management systems of Office of Justice Programs.
- Sec. 248. Authorization and change of cops program to single grant program.
- Sec. 249. Enhanced assistance for criminal investigations and prosecutions by State and local law enforcement officials.

TITLE III—COMBATING MONEY LAUNDERING AND TERRORIST
FINANCING ACT OF 2004

- Sec. 301. Short title.
- Sec. 302. Specified activities for money laundering.
- Sec. 303. Illegal money transmitting businesses.
- Sec. 304. Assets of persons committing terrorist acts against foreign countries or international organizations.
- Sec. 305. Money laundering through informal value transfer systems.
- Sec. 306. Technical corrections to financing of terrorism statute.
- Sec. 307. Miscellaneous and technical amendments.
- Sec. 308. Extension of the Money Laundering and Financial Crimes Strategy Act of 1998.

TITLE IV—PREVENTION AND RECOVERY OF MISSING CHILDREN
ACT OF 2004

- Sec. 401. Short title.
- Sec. 402. Findings.
- Sec. 403. Missing child reporting requirements.
- Sec. 404. Standards for Sex Offender Registration Programs.
- Sec. 405. Effective date.

TITLE V—BULLETPROOF VEST PARTNERSHIP GRANT ACT OF
2004

- Sec. 501. Short title.
- Sec. 502. Authorization of appropriations.

TITLE VI—PACT ACT

- Sec. 601. Short title.
- Sec. 602. Collection of State cigarette and smokeless tobacco taxes.
- Sec. 603. Treatment of cigarettes and smokeless tobacco as nonmailable matter.
- Sec. 604. Penal provisions regarding trafficking in contraband cigarettes or smokeless tobacco.
- Sec. 605. Compliance with model statute or qualifying statute.
- Sec. 606. Undercover criminal investigations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.
- Sec. 607. Inspection by Bureau of Alcohol, Tobacco, Firearms, and Explosives of records of certain cigarette and smokeless tobacco sellers.
- Sec. 608. Compliance with Tariff Act of 1930.

- Sec. 609. Exclusions regarding Indian tribes and tribal matters.
 Sec. 610. Effective date.

TITLE VII—CREATE ACT

- Sec. 701. Short title.
 Sec. 702. Collaborative efforts on claimed inventions.
 Sec. 703. Effective date.

TITLE VIII—PROTECTING INTELLECTUAL RIGHTS AGAINST THEFT AND EXPROPRIATION ACT OF 2004

- Sec. 801. Short title.
 Sec. 802. Authorization of civil copyright enforcement by Attorney General.
 Sec. 803. Authorization of funding for training and pilot program.

TITLE IX—KOBY MANDELL ACT OF 2004

- Sec. 901. Short title.
 Sec. 902. Findings.
 Sec. 903. Establishment of an Office of Justice for Victims of Overseas Terrorism in the Department of Justice.
 Sec. 904. Authorization of appropriations.

TITLE X—SENIOR SAFETY ACT OF 2004

- Sec. 1001. Short title.
 Sec. 1002. Findings and purposes.
 Sec. 1003. Definitions.

Subtitle A—Combating Crimes Against Seniors

- Sec. 1011. Enhanced sentencing penalties based on age of victim.
 Sec. 1012. Study and report on health care fraud sentences.
 Sec. 1013. Increased penalties for fraud resulting in serious injury or death.
 Sec. 1014. Safeguarding pension plans from fraud and theft.
 Sec. 1015. Additional civil penalties for defrauding pension plans.
 Sec. 1016. Punishing bribery and graft in connection with employee benefit plans.

Subtitle B—Preventing Telemarketing Fraud

- Sec. 1021. Centralized complaint and consumer education service for victims of telemarketing fraud.
 Sec. 1022. Blocking of telemarketing scams.

TITLE XI—FEDERAL PROSECUTORS RETIREMENT BENEFIT EQUITY ACT OF 2004

- Sec. 1101. Short title.
 Sec. 1102. Retirement treatment of Federal prosecutors.
 Sec. 1103. Provisions relating to incumbents.
 Sec. 1104. Department of Justice administrative actions.

TITLE XII—ANTI-ATROCITY ALIEN DEPORTATION ACT OF 2004

- Sec. 1201. Short title.
 Sec. 1202. Inadmissibility and deportability of aliens who have committed acts of torture or extrajudicial killings abroad.

- Sec. 1203. Inadmissibility and deportability of foreign government officials who have committed particularly severe violations of religious freedom.
- Sec. 1204. Waiver of inadmissibility.
- Sec. 1205. Bar to good moral character, asylum and refugee status, and withholding of removal for aliens who have committed acts of torture, extrajudicial killings, or severe violations of religious freedom.
- Sec. 1206. Establishment of the office of special investigations.
- Sec. 1207. Reports on implementation of the Act.

TITLE XIII—PROMISE ACT

- Sec. 1301. Short title.
- Sec. 1302. Aliens ineligible to receive visas and excluded from admission for nonpayment of child support.
- Sec. 1303. Authority to parole aliens excluded from admission for nonpayment of child support.
- Sec. 1304. Effect of nonpayment of child support on establishment of good moral character.
- Sec. 1305. Authorization to serve legal process in child support cases on certain visa applicants and arriving aliens.
- Sec. 1306. Authorization to obtain information on child support payments by aliens.
- Sec. 1307. Effective date.

TITLE XIV—FALLEN HEROES OF 9/11 ACT

- Sec. 1401. Short title.
- Sec. 1402. Congressional findings.
- Sec. 1403. Fallen heroes of 9/11 Congressional Medals.
- Sec. 1404. Duplicate medals.
- Sec. 1405. Establishment of lists of recipients.
- Sec. 1406. Sales to the public to defray costs.
- Sec. 1407. National medals.

TITLE XV—MISCELLANEOUS PROVISIONS

- Sec. 1501. Technical amendments relating to Public Law 107–56.
- Sec. 1502. Miscellaneous technical amendments.
- Sec. 1503. Minor substantive amendment relating to contents of FBI annual report.
- Sec. 1504. Use of Federal training facilities.
- Sec. 1505. Technical correction relating to definition used in “terrorism transcending national boundaries” statute.
- Sec. 1506. Increased penalties and expanded jurisdiction for sexual abuse offenses in correctional facilities.
- Sec. 1507. Expanded jurisdiction for contraband offenses in correctional facilities.
- Sec. 1508. Magistrate judge’s authority to continue preliminary hearing.
- Sec. 1509. Boys and Girls Clubs of America.
- Sec. 1510. Authority of Inspectors General.
- Sec. 1511. Foreign student visas.
- Sec. 1512. Pre-release custody of prisoners.
- Sec. 1513. FBI translator reporting requirement.
- Sec. 1514. Amendment to Victims of Child Abuse Act.

Sec. 1515. Development of an information system interstate compact for adult offender supervision.

TITLE XVI—REAUTHORIZATION OF THE NATIONAL FILM
PRESERVATION BOARD

Sec. 1601. Short title.
Sec. 1602. Reauthorization and amendment.

TITLE XVII—REAUTHORIZATION OF THE NATIONAL FILM
PRESERVATION FOUNDATION

Sec. 1701. Short title.
Sec. 1702. Reauthorization and amendment.

TITLE XVIII—DREAM ACT

Sec. 1801. Short title.
Sec. 1802. Definition of institution of higher education.
Sec. 1803. Restoration of State option to determine residency for purposes of higher education benefits.
Sec. 1804. Cancellation of removal and adjustment of status of certain long-term residents who entered the United State as children.
Sec. 1805. Conditional permanent resident status.
Sec. 1806. Retroactive benefits under this act.
Sec. 1807. Exclusive jurisdiction.
Sec. 1808. Penalties for false Statements in application.
Sec. 1809. Confidentiality of information.
Sec. 1810. Expedited processing of applications; prohibition on fees.
Sec. 1811. Sevis registration.
Sec. 1812. Higher education assistance.
Sec. 1813. GAO report.

TITLE XIX—DRU'S LAW

Sec. 1901. Short title.
Sec. 1902. Definition.
Sec. 1903. Availability of the NSOR database to the public.
Sec. 1904. Release of high risk inmates.

1 **TITLE I—AUTHORIZATION OF**
2 **APPROPRIATIONS FOR FIS-**
3 **CAL YEARS 2005 AND 2006**

4 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR FIS-**
5 **CAL YEAR 2005.**

6 There are authorized to be appropriated for fiscal
7 year 2005, to carry out the activities of the Department
8 of Justice (including any bureau, office, board, division,

1 commission, subdivision, unit, or other component there-
2 of), the following sums:

3 (1) GENERAL ADMINISTRATION.—For General
4 Administration: \$186,551,000.

5 (2) ADMINISTRATIVE REVIEW AND APPEALS.—
6 For Administrative Review and Appeals:
7 \$202,518,000 for administration of pardon and
8 clemency petitions and for immigration-related ac-
9 tivities.

10 (3) OFFICE OF INSPECTOR GENERAL.—For the
11 Office of Inspector General: \$71,400,000, which
12 shall include not to exceed \$10,000 to meet unfore-
13 seen emergencies of a confidential character.

14 (4) GENERAL LEGAL ACTIVITIES.—For General
15 Legal Activities: \$657,135,000, which shall in-
16 clude—

17 (A) not less than \$4,000,000 for the inves-
18 tigation and prosecution of denaturalization and
19 deportation cases involving alleged Nazi war
20 criminals;

21 (B) not to exceed \$20,000 to meet unfore-
22 seen emergencies of a confidential character;
23 and

1 (C) such sums as may be necessary for ad-
2 ministrative expenses in accordance with the
3 Radiation Exposure Compensation Act.

4 (5) ANTITRUST DIVISION.—For the Antitrust
5 Division: \$136,463,000.

6 (6) UNITED STATES ATTORNEYS.—For United
7 States Attorneys: \$1,547,519,000, which shall in-
8 clude not less than \$10,000,000 for the investigation
9 and prosecution of intellectual property crimes, in-
10 cluding software counterfeiting crimes, crimes identi-
11 fied in the No Electronic Theft (NET) Act (Public
12 Law 105–147), and violations of law, against unsol-
13 icited commercial e-mail: *Provided*, That such
14 amounts in the appropriations account “General
15 Legal Services” as may be expended for such inves-
16 tigations or prosecutions shall count toward this
17 minimum as though expended from this appropria-
18 tions account.

19 (7) FEDERAL BUREAU OF INVESTIGATION.—
20 For the Federal Bureau of Investigation:
21 \$5,058,921,000, which shall include—

22 (A) not to exceed \$1,250,000 for construc-
23 tion, to remain available until expended;

1 (B) not to exceed \$70,000 to meet unfore-
2 seen emergencies of a confidential character;
3 and

4 (C) such sums as may be necessary to as-
5 sign employees to the Terrorism Threat Inte-
6 gration Center.

7 (8) UNITED STATES MARSHALS SERVICE.—For
8 the United States Marshals Service: \$743,441,000,
9 which shall include not to exceed \$1,371,000 for
10 construction, to remain available until expended.

11 (9) FEDERAL PRISON SYSTEM.—For the Fed-
12 eral Prison System, including the National Institute
13 of Corrections: \$4,706,232,000.

14 (10) DRUG ENFORCEMENT ADMINISTRATION.—
15 For the Drug Enforcement Administration:
16 \$1,661,503,000, which shall include not to exceed
17 \$70,000 to meet unforeseen emergencies of a con-
18 fidential character.

19 (11) BUREAU OF ALCOHOL, TOBACCO, FIRE-
20 ARMS, AND EXPLOSIVES.—For the Bureau of Alco-
21 hol, Tobacco, Firearms, and Explosives:
22 \$868,857,000.

23 (12) FEES AND EXPENSES OF WITNESSES.—
24 For Fees and Expenses of Witnesses: \$177,585,000
25 to remain available until expended, which shall in-

1 clude not to exceed \$6,000,000 for construction of
2 protected witness safesites.

3 (13) INTERAGENCY CRIME AND DRUG EN-
4 FORCEMENT.—For Interagency Crime and Drug
5 Enforcement: \$580,632,000, for expenses not other-
6 wise provided for, for the investigation and prosecu-
7 tion of persons involved in organized crime drug
8 trafficking, except that any funds obligated from ap-
9 propriations authorized by this paragraph may be
10 used under authorities available to the organizations
11 reimbursed from such funds.

12 (14) FOREIGN CLAIMS SETTLEMENT COMMIS-
13 SION.—For the Foreign Claims Settlement Commis-
14 sion: \$1,220,000.

15 (15) COMMUNITY RELATIONS SERVICE.—For
16 the Community Relations Service: \$9,833,000.

17 (16) ASSETS FORFEITURE FUND.—For the As-
18 sets Forfeiture Fund: \$21,759,000 for expenses au-
19 thorized by section 524 of title 28, United States
20 Code.

21 (17) UNITED STATES PAROLE COMMISSION.—
22 For the United States Parole Commission:
23 \$10,650,000.

1 (18) FEDERAL DETENTION TRUSTEE.—For the
2 necessary expenses of the Federal Detention Trust-
3 ee: \$938,810,000.

4 (19) JOINT AUTOMATED BOOKING SYSTEM.—
5 For the necessary expenses of the Joint Automated
6 Booking System: \$20,309,000.

7 (20) INTEGRATED AUTOMATED FINGER-
8 PRINT.—For the expenses necessary for Integrated
9 Automated Fingerprint activities: \$5,054,000.

10 (21) NARROWBAND COMMUNICATIONS.—For
11 the costs of conversion to narrowband communica-
12 tions, including the cost for operation and mainte-
13 nance of Land Mobile Radio legacy systems:
14 \$101,971,000.

15 (22) ADMINISTRATIVE EXPENSES FOR CERTAIN
16 ACTIVITIES.—For the administrative expenses of the
17 Office of Justice Programs, the Office on Violence
18 Against Women, and the Office of Community Ori-
19 ented Policing Services, the following sums:

20 (A) \$106,016,000 for the Office of Justice
21 Programs.

22 (B) \$13,622,000 for the Office on Violence
23 Against Women.

24 (C) \$29,684,000 for the Office of Commu-
25 nity Oriented Policing Services.

1 **SEC. 102. AUTHORIZATION OF APPROPRIATIONS FOR FIS-**
2 **CAL YEAR 2006.**

3 There are authorized to be appropriated for fiscal
4 year 2006, to carry out the activities of the Department
5 of Justice (including any bureau, office, board, division,
6 commission, subdivision, unit, or other component there-
7 of), the following sums:

8 (1) GENERAL ADMINISTRATION.—For General
9 Administration: \$190,282,000.

10 (2) ADMINISTRATIVE REVIEW AND APPEALS.—
11 For Administrative Review and Appeals:
12 \$206,568,000 for administration of pardon and
13 clemency petitions and for immigration-related ac-
14 tivities.

15 (3) OFFICE OF INSPECTOR GENERAL.—For the
16 Office of Inspector General: \$72,828,260, which
17 shall include not to exceed \$10,000 to meet unfore-
18 seen emergencies of a confidential character.

19 (4) GENERAL LEGAL ACTIVITIES.—For General
20 Legal Activities: \$670,278,000, which shall in-
21 clude—

22 (A) not less than \$4,000,000 for the inves-
23 tigation and prosecution of denaturalization and
24 deportation cases involving alleged Nazi war
25 criminals;

1 (B) not to exceed \$20,000 to meet unfore-
2 seen emergencies of a confidential character;
3 and

4 (C) such sums as may be necessary for ad-
5 ministrative expenses in accordance with the
6 Radiation Exposure Compensation Act.

7 (5) ANTITRUST DIVISION.—For the Antitrust
8 Division: \$139,192,000.

9 (6) UNITED STATES ATTORNEYS.—For United
10 States Attorneys: \$1,578,469,000, which shall in-
11 clude not less than \$10,000,000 for the investigation
12 and prosecution of intellectual property crimes, in-
13 cluding software counterfeiting crimes, crimes identi-
14 fied in the No Electronic Theft (NET) Act (Public
15 Law 105–147), and violations of law, against unsol-
16 licited commercial e-mail: *Provided*, That such
17 amounts in the appropriations account “General
18 Legal Services” as may be expended for such inves-
19 tigation or prosecutions shall count toward this
20 minimum as though expended from this appropria-
21 tions account.

22 (7) FEDERAL BUREAU OF INVESTIGATION.—
23 For the Federal Bureau of Investigation:
24 \$5,160,099,000, which shall include—

1 (A) not to exceed \$1,250,000 for construc-
2 tion, to remain available until expended;

3 (B) not to exceed \$70,000 to meet unfore-
4 seen emergencies of a confidential character;
5 and

6 (C) such sums as may be necessary to as-
7 sign employees to the Terrorism Threat Inte-
8 gration Center.

9 (8) UNITED STATES MARSHALS SERVICE.—For
10 the United States Marshals Service: \$758,310,000,
11 which shall include not to exceed \$1,371,000 for
12 construction, to remain available until expended.

13 (9) FEDERAL PRISON SYSTEM.—For the Fed-
14 eral Prison System, including the National Institute
15 of Corrections: \$4,800,357,000.

16 (10) DRUG ENFORCEMENT ADMINISTRATION.—
17 For the Drug Enforcement Administration:
18 \$1,694,733,000, which shall include not to exceed
19 \$70,000 to meet unforeseen emergencies of a con-
20 fidential character.

21 (11) BUREAU OF ALCOHOL, TOBACCO, FIRE-
22 ARMS, AND EXPLOSIVES.—For the Bureau of Alco-
23 hol, Tobacco, Firearms, and Explosives:
24 \$886,234,000.

1 (12) FEES AND EXPENSES OF WITNESSES.—
2 For Fees and Expenses of Witnesses: \$181,137,000
3 to remain available until expended, which shall in-
4 clude not to exceed \$6,000,000 for construction of
5 protected witness safesites.

6 (13) INTERAGENCY CRIME AND DRUG EN-
7 FORCEMENT.—For Interagency Crime and Drug
8 Enforcement: \$592,245,000, for expenses not other-
9 wise provided for, for the investigation and prosecu-
10 tion of persons involved in organized crime drug
11 trafficking, except that any funds obligated from ap-
12 propriations authorized by this paragraph may be
13 used under authorities available to the organizations
14 reimbursed from such funds.

15 (14) FOREIGN CLAIMS SETTLEMENT COMMIS-
16 SION.—For the Foreign Claims Settlement Commis-
17 sion: \$1,244,000.

18 (15) COMMUNITY RELATIONS SERVICE.—For
19 the Community Relations Service: \$10,030,000.

20 (16) ASSETS FORFEITURE FUND.—For the As-
21 sets Forfeiture Fund: \$22,194,000 for expenses au-
22 thorized by section 524 of title 28, United States
23 Code.

1 (17) UNITED STATES PAROLE COMMISSION.—
2 For the United States Parole Commission:
3 \$10,863,000.

4 (18) FEDERAL DETENTION TRUSTEE.—For the
5 necessary expenses of the Federal Detention Trust-
6 ee: \$957,586,000.

7 (19) JOINT AUTOMATED BOOKING SYSTEM.—
8 For the necessary expenses of the Joint Automated
9 Booking System: \$20,715,000.

10 (20) INTEGRATED AUTOMATED FINGER-
11 PRINT.—For the expenses necessary for Integrated
12 Automated Fingerprint activities: \$5,155,000.

13 (21) NARROWBAND COMMUNICATIONS.—For
14 the costs of conversion to narrowband communica-
15 tions, including the cost for operation and mainte-
16 nance of Land Mobile Radio legacy systems:
17 \$104,010,000.

18 (22) ADMINISTRATIVE EXPENSES FOR CERTAIN
19 ACTIVITIES.—For the administrative expenses of the
20 Office of Justice Programs, the Office on Violence
21 Against Women, and the Office of Community Ori-
22 ented Policing Services, the following sums:

23 (A) \$118,730,000 for the Office of Justice
24 Programs.

1 (B) \$13,894,000 for the Office on Violence
2 Against Women.

3 (C) \$30,278,000 for the Office of Commu-
4 nity Oriented Policing Services.

5 **SEC. 103. AUTHORIZATION OF APPROPRIATIONS FOR FIS-**
6 **CAL YEAR 2007.**

7 There are authorized to be appropriated for fiscal
8 year 2007, to carry out the activities of the Department
9 of Justice (including any bureau, office, board, division,
10 commission, subdivision, unit, or other component there-
11 of), the following sums:

12 (1) GENERAL ADMINISTRATION.—For General
13 Administration: \$194,087,640.

14 (2) ADMINISTRATIVE REVIEW AND APPEALS.—
15 For Administrative Review and Appeals:
16 \$210,699,340 for administration of pardon and
17 clemency petitions and for immigration-related ac-
18 tivities.

19 (3) OFFICE OF INSPECTOR GENERAL.—For the
20 Office of Inspector General: \$66,391,045, which
21 shall include not to exceed \$10,000 to meet unfore-
22 seen emergencies of a confidential character.

23 (4) GENERAL LEGAL ACTIVITIES.—For General
24 Legal Activities: \$683,683,560, which shall in-
25 clude—

1 (A) not less than \$4,000,000 for the inves-
2 tigation and prosecution of denaturalization and
3 deportation cases involving alleged Nazi war
4 criminals;

5 (B) not to exceed \$20,000 to meet unfore-
6 seen emergencies of a confidential character;
7 and

8 (C) such sums as may be necessary for ad-
9 ministrative expenses in accordance with the
10 Radiation Exposure Compensation Act.

11 (5) ANTITRUST DIVISION.—For the Antitrust
12 Division: \$141,975,840.

13 (6) UNITED STATES ATTORNEYS.—For United
14 States Attorneys: \$1,610,038,300, which shall in-
15 clude not less than \$10,000,000 for the investigation
16 and prosecution of intellectual property crimes, in-
17 cluding software counterfeiting crimes, crimes identi-
18 fied in the No Electronic Theft (NET) Act (Public
19 Law 105–147), and violations of laws prohibiting
20 unsolicited commercial e-mail: *Provided*, That such
21 amounts in the appropriations account “General
22 Legal Services” as may be expended for such inves-
23 tigation or prosecutions shall count toward this
24 minimum as though expended from this appropria-
25 tions account.

1 (7) FEDERAL BUREAU OF INVESTIGATION.—
2 For the Federal Bureau of Investigation:
3 \$5,263,300,900, which shall include—

4 (A) not to exceed \$1,250,000 for construc-
5 tion, to remain available until expended;

6 (B) not to exceed \$70,000 to meet unfore-
7 seen emergencies of a confidential character;
8 and

9 (C) such sums as may be necessary to as-
10 sign employees to the Terrorism Threat Inte-
11 gration Center.

12 (8) UNITED STATES MARSHALS SERVICE.—For
13 the United States Marshals Service: \$773,476,200,
14 which shall include not to exceed \$1,371,000 for
15 construction, to remain available until expended.

16 (9) FEDERAL PRISON SYSTEM.—For the Fed-
17 eral Prison System, including the National Institute
18 of Corrections: \$4,896,364,100.

19 (10) DRUG ENFORCEMENT ADMINISTRATION.—
20 For the Drug Enforcement Administration:
21 \$2,033,679,600, which shall include not to exceed
22 \$70,000 to meet unforeseen emergencies of a con-
23 fidential character.

24 (11) BUREAU OF ALCOHOL, TOBACCO, FIRE-
25 ARMS, AND EXPLOSIVES.—For the Bureau of Alco-

1 hol, Tobacco, Firearms, and Explosives:
2 \$903,958,680.

3 (12) FEES AND EXPENSES OF WITNESSES.—
4 For Fees and Expenses of Witnesses: \$184,759,740
5 to remain available until expended, which shall in-
6 clude not to exceed \$6,000,000 for construction of
7 protected witness safesites.

8 (13) INTERAGENCY CRIME AND DRUG EN-
9 FORCEMENT.—For Interagency Crime and Drug
10 Enforcement: \$604,089,900, for expenses not other-
11 wise provided for, for the investigation and prosecu-
12 tion of persons involved in organized crime drug
13 trafficking, except that any funds obligated from ap-
14 propriations authorized by this paragraph may be
15 used under authorities available to the organizations
16 reimbursed from such funds.

17 (14) FOREIGN CLAIMS SETTLEMENT COMMIS-
18 SION.—For the Foreign Claims Settlement Commis-
19 sion: \$1,268,880.

20 (15) COMMUNITY RELATIONS SERVICE.—For
21 the Community Relations Service: \$10,230,600.

22 (16) ASSETS FORFEITURE FUND.—For the As-
23 sets Forfeiture Fund: \$22,637,880 for expenses au-
24 thorized by section 524 of title 28, United States
25 Code.

1 (17) UNITED STATES PAROLE COMMISSION.—
2 For the United States Parole Commission:
3 \$11,080,260.

4 (18) FEDERAL DETENTION TRUSTEE.—For the
5 necessary expenses of the Federal Detention Trust-
6 ee: \$976,737,720.

7 (19) NARROWBAND COMMUNICATIONS.—For
8 the costs of conversion to narrowband communica-
9 tions, including the cost for operation and mainte-
10 nance of Land Mobile Radio legacy systems:
11 \$106,090,200.

12 (20) ADMINISTRATIVE EXPENSES FOR CERTAIN
13 ACTIVITIES.—For the administrative expenses of the
14 Office of Justice Programs, the Office on Violence
15 Against Women, and the Office of Community Ori-
16 ented Policing Services, the following sums:

17 (A) \$121,105,000 for the Office of Justice
18 Programs.

19 (B) \$14,172,000 for the Office on Violence
20 Against Women.

21 (C) \$31,343,000 for the Office of Commu-
22 nity Oriented Policing Services.

1 **TITLE II—IMPROVING THE DE-**
2 **PARTMENT OF JUSTICE’S**
3 **GRANT PROGRAMS**

4 **Subtitle A—Assisting Law Enforce-**
5 **ment and Criminal Justice**
6 **Agencies**

7 **SEC. 201. MERGER OF BYRNE GRANT PROGRAM AND LOCAL**
8 **LAW ENFORCEMENT BLOCK GRANT PRO-**
9 **GRAM.**

10 (a) IN GENERAL.—Part E of title I of the Omnibus
11 Crime Control and Safe Streets Act of 1968 is amended
12 as follows:

13 (1) Subpart 1 of such part (42 U.S.C. 3751–
14 3759) is repealed.

15 (2) Such part is further amended—

16 (A) by inserting before section 500 (42
17 U.S.C. 3750) the following new heading:

18 **“Subpart 1—Edward Byrne Memorial Justice**
19 **Assistance Grant Program”;**

20 (B) by amending section 500 to read as
21 follows:

22 **“SEC. 500. NAME OF PROGRAM.**

23 “(a) IN GENERAL.—The grant program established
24 under this subpart shall be known as the ‘Edward Byrne
25 Memorial Justice Assistance Grant Program’.

1 “(b) REFERENCES TO FORMER PROGRAMS.—Any
2 reference in a law, regulation, document, paper, or other
3 record of the United States to the Edward Byrne Memo-
4 rial State and Local Law Enforcement Assistance Pro-
5 grams, or to the Local Government Law Enforcement
6 Block Grants program, shall be deemed to be a reference
7 to the grant program referred to in subsection (a).”; and

8 (C) by inserting after section 500 the fol-
9 lowing new sections:

10 **“SEC. 501. DESCRIPTION.**

11 “(a) GRANTS AUTHORIZED.—From amounts made
12 available to carry out this subpart, the Attorney General
13 may, in accordance with the formula established under
14 section 505, make grants to States and units of local gov-
15 ernment, for use by the State or unit of local government
16 to provide additional personnel, equipment, supplies, con-
17 tractual support, training, technical assistance, and infor-
18 mation systems for criminal justice, including for—

19 “(1) demand reduction education programs in
20 which law enforcement officers participate;

21 “(2) multijurisdictional task force programs
22 that integrate Federal, State, and local drug law en-
23 forcement agencies and prosecutors for the purpose
24 of enhancing interagency coordination, intelligence,
25 and facilitating multijurisdictional investigations;

1 “(3) programs designed to target the domestic
2 sources of controlled and illegal substances, such as
3 precursor chemicals, diverted pharmaceuticals, clan-
4 destine laboratories, and cannabis cultivations and
5 to remove any hazardous substance or pollutant or
6 contaminant associated with the illegal manufacture
7 of amphetamine or methamphetamine;

8 “(4) providing community and neighborhood
9 programs that assist citizens in preventing and con-
10 trolling crime, including special programs that ad-
11 dress the problems of crimes committed against the
12 elderly and special programs for rural jurisdictions;

13 “(5) disrupting illicit commerce in stolen goods
14 and property;

15 “(6) improving the investigation and prosecu-
16 tion of white-collar crime, organized crime, public
17 corruption crimes, and fraud against the government
18 with priority attention to cases involving drug-re-
19 lated official corruption;

20 “(7)(A) improving the operational effectiveness
21 of law enforcement through the use of crime analysis
22 techniques, street sales enforcement, schoolyard vio-
23 lator programs, gang-related and low-income housing
24 drug control programs;

1 “(B) developing and implementing
2 antiterrorism plans for deep draft ports, inter-
3 national airports, and other important facilities;

4 “(8) career criminal prosecution programs in-
5 cluding the development of proposed model drug
6 control legislation;

7 “(9) financial investigative programs that tar-
8 get the identification of money laundering operations
9 and assets obtained through illegal drug trafficking,
10 including the development of proposed model legisla-
11 tion, financial investigative training, and financial
12 information sharing systems;

13 “(10) improving the operational effectiveness of
14 the court process, by expanding prosecutorial, de-
15 fender and judicial resources, and implementing
16 court delay reduction programs;

17 “(11) programs designed to provide additional
18 public correctional resources and improve the correc-
19 tions system, including treatment in prisons and
20 jails, intensive supervision programs, and long-range
21 corrections and sentencing strategies;

22 “(12) providing prison industry projects de-
23 signed to place inmates in a realistic working and
24 training environment which will enable them to ac-
25 quire marketable skills and to make financial pay-

1 ments for restitution to their victims, for support of
2 their own families, and for support of themselves in
3 the institution;

4 “(13) providing programs which identify and
5 meet the treatment needs of adult and juvenile drug-
6 dependent and alcohol-dependent offenders;

7 “(14) developing and implementing programs
8 which provide assistance to jurors and witnesses,
9 and assistance (other than compensation) to victims
10 of crimes;

11 “(15)(A) developing programs to improve drug
12 control technology, such as pretrial drug testing pro-
13 grams, programs which provide for the identifica-
14 tion, assessment, referral to treatment, case manage-
15 ment and monitoring of drug dependent offenders,
16 enhancement of State and local forensic laboratories,
17 and

18 “(B) criminal and justice information systems
19 to assist law enforcement, prosecution, courts, and
20 corrections organization (including automated fin-
21 gerprint identification systems);

22 “(16) innovative programs that demonstrate
23 new and different approaches to enforcement, pros-
24 ecution, and adjudication of drug offenses and other
25 serious crimes;

1 “(17) addressing the problems of drug traf-
2 ficking and the illegal manufacture of controlled sub-
3 stances in public housing.

4 “(18) improving the criminal and juvenile jus-
5 tice system’s response to domestic and family vio-
6 lence, including spouse abuse, child abuse, and abuse
7 of the elderly;

8 “(19) drug control evaluation programs which
9 the State and local units of government may utilize
10 to evaluate programs and projects directed at State
11 drug control activities;

12 “(20) providing alternatives to prevent deten-
13 tion, jail, and prison for persons who pose no danger
14 to the community;

15 “(21) programs of which the primary goal is to
16 strengthen urban enforcement and prosecution ef-
17 forts targeted at street drug sales;

18 “(22) programs for the prosecution of driving
19 while intoxicated charges and the enforcement of
20 other laws relating to alcohol use and the operation
21 of motor vehicles;

22 “(23) programs that address the need for effec-
23 tive bindover systems for the prosecution of violent
24 16- and 17-year-old juveniles in courts with jurisdic-
25 tion over adults for the crimes of—

1 “(A) murder in the first degree;

2 “(B) murder in the second degree;

3 “(C) attempted murder;

4 “(D) armed robbery when armed with a
5 firearm;

6 “(E) aggravated battery or assault when
7 armed with a firearm;

8 “(F) criminal sexual penetration when
9 armed with a firearm; and

10 “(G) drive-by shootings as described in
11 section 36 of title 18, United States Code;

12 “(24) law enforcement and prevention programs
13 relating to gangs, or to youth who are involved or
14 at risk of involvement in gangs;

15 “(25) developing or improving in a forensic lab-
16 oratory a capability to analyze deoxyribonucleic acid
17 (hereafter in this title referred to as ‘DNA’) for
18 identification purposes;

19 “(26) to develop and implement antiterrorism
20 training programs and to procure equipment for use
21 by local law enforcement authorities;

22 “(27) enforcing child abuse and neglect laws,
23 including laws protecting against child sexual abuse,
24 and promoting programs designed to prevent child
25 abuse and neglect;

1 “(28) establishing or supporting cooperative
2 programs between law enforcement and media orga-
3 nizations, to collect, record, retain, and disseminate
4 information useful in the identification and appre-
5 hension of suspected criminal offenders;

6 “(29) improving the quality, timeliness, and
7 credibility of forensic science services for criminal
8 justice purposes;

9 “(30)(A) hiring, training, and employing on a
10 continuing basis new, additional law enforcement of-
11 ficers and necessary support personnel;

12 “(B) paying overtime to presently employed law
13 enforcement officers and necessary support per-
14 sonnel for the purpose of increasing the number of
15 hours worked by such personnel; and

16 “(C) procuring equipment, technology, and
17 other material directly related to basic law enforce-
18 ment functions;

19 “(31) enhancing school security measures by—

20 “(A) providing increased law enforcement
21 patrols in and around schools, whether through
22 the hiring of additional law enforcement officers
23 or paying overtime to presently employed offi-
24 cers;

1 “(B) purchasing law enforcement equip-
2 ment necessary to carry out normal law en-
3 forcement functions in and around schools;

4 “(C) equipping schools with metal detec-
5 tors, fences, closed circuit cameras, and other
6 physical safety measures;

7 “(D) gun hotlines designed to facilitate the
8 reporting of weapons possession by students
9 and other individuals in and around schools;
10 and

11 “(E) preventing and suppressing violent
12 youth gang activity;

13 “(32) establishing crime prevention programs
14 that may, though not exclusively, involve law en-
15 forcement officials and that are intended to discour-
16 age, disrupt, or interfere with the commission of
17 criminal activity, including neighborhood watch and
18 citizen patrol programs, sexual assault and domestic
19 violence programs, and programs intended to pre-
20 vent juvenile crime;

21 “(33) establishing or supporting drug courts;

22 “(34) establishing early intervention and pre-
23 vention programs for juveniles to reduce or eliminate
24 crime; and

1 “(35) Enhancing the adjudication process of
2 cases involving violent offenders, including the adju-
3 dication process of cases involving violent juvenile of-
4 fenders.

5 “(b) CONTRACTS AND SUBAWARDS.—A State or unit
6 of local government may, in using a grant under this sub-
7 part for purposes authorized by subsection (a), use all or
8 a portion of that grant to contract with or make one or
9 more subawards to one or more—

10 “(1) neighborhood or community-based organi-
11 zations that are private and nonprofit;

12 “(2) units of local government; or

13 “(3) tribal governments.

14 “(c) PROGRAM ASSESSMENT COMPONENT; WAIV-
15 ER.—

16 “(1) Each program funded under this subpart
17 shall contain a program assessment component, de-
18 veloped pursuant to guidelines established by the At-
19 torney General, in coordination with the National
20 Institute of Justice.

21 “(2) The Attorney General may waive the re-
22 quirement of paragraph (1) with respect to a pro-
23 gram if, in the opinion of the Attorney General, the
24 program is not of sufficient size to justify a full pro-
25 gram assessment.

1 “(d) PROHIBITED USES.—Notwithstanding any
2 other provision of this Act, no funds provided under this
3 subpart may be used, directly or indirectly, to provide any
4 of the following matters:

5 “(1) Any security enhancements or any equip-
6 ment to any nongovernmental entity that is not en-
7 gaged in criminal justice or public safety.

8 “(2) Unless the Attorney General certifies that
9 extraordinary and exigent circumstances exist that
10 make the use of such funds to provide such matters
11 essential to the maintenance of public safety and
12 good order—

13 “(A) vehicles, vessels, or aircraft;

14 “(B) luxury items;

15 “(C) real estate;

16 “(D) construction projects (other than
17 penal or correctional institutions); or

18 “(E) any similar matters.

19 “(e) ADMINISTRATIVE COSTS.—Not more than 10
20 percent of a grant made under this subpart may be used
21 for costs incurred to administer such grant.

22 “(f) PERIOD.—The period of a grant made under this
23 subpart shall be four years, except that renewals and ex-
24 tensions beyond that period may be granted at the discre-
25 tion of the Attorney General.

1 “(g) RULE OF CONSTRUCTION.—Subparagraph
2 (d)(1) shall not be construed to prohibit the use, directly
3 or indirectly, of funds provided under this subpart to pro-
4 vide security at a public event, such as a political conven-
5 tion or major sports event, so long as such security is pro-
6 vided under applicable laws and procedures.

7 **“SEC. 502. APPLICATIONS.**

8 “To request a grant under this subpart, the chief ex-
9 ecutive officer of a State or unit of local government shall
10 submit an application to the Attorney General within 90
11 days after the date on which funds to carry out this sub-
12 part are appropriated for a fiscal year, in such form as
13 the Attorney General may require. Such application shall
14 include the following:

15 “(1) A certification that Federal funds made
16 available under this subpart will not be used to sup-
17 plant State or local funds, but will be used to in-
18 crease the amounts of such funds that would, in the
19 absence of Federal funds, be made available for law
20 enforcement activities.

21 “(2) An assurance that, not fewer than 30 days
22 before the application (or any amendment to the ap-
23 plication) was submitted to the Attorney General,
24 the application (or amendment) was submitted for
25 review to the governing body of the State or unit of

1 local government (or to an organization designated
2 by that governing body).

3 “(3) An assurance that, before the application
4 (or any amendment to the application) was sub-
5 mitted to the Attorney General—

6 “(A) the application (or amendment) was
7 made public; and

8 “(B) an opportunity to comment on the
9 application (or amendment) was provided to
10 citizens and to neighborhood or community-
11 based organizations, to the extent applicable
12 law or established procedure makes such an op-
13 portunity available.

14 “(4) An assurance that, for each fiscal year
15 covered by an application, the applicant shall main-
16 tain and report such data, records, and information
17 (programmatic and financial) as the Attorney Gen-
18 eral may reasonably require.

19 “(5) A certification, made in a form acceptable
20 to the Attorney General and executed by the chief
21 executive officer of the applicant (or by another offi-
22 cer of the applicant, if qualified under regulations
23 promulgated by the Attorney General), that—

24 “(A) the programs to be funded by the
25 grant meet all the requirements of this subpart;

1 “(B) all the information contained in the
2 application is correct;

3 “(C) there has been appropriate coordina-
4 tion with affected agencies; and

5 “(D) the applicant will comply with all
6 provisions of this subpart and all other applica-
7 ble Federal laws.

8 **“SEC. 503. REVIEW OF APPLICATIONS.**

9 “The Attorney General shall not finally disapprove
10 any application (or any amendment to that application)
11 submitted under this subpart without first affording the
12 applicant reasonable notice of any deficiencies in the appli-
13 cation and opportunity for correction and reconsideration.

14 **“SEC. 504. RULES.**

15 “The Attorney General shall issue rules to carry out
16 this subpart. The first such rules shall be issued not later
17 than one year after the date on which amounts are first
18 made available to carry out this subpart.

19 **“SEC. 505. FORMULA.**

20 “(a) ALLOCATION AMONG STATES.—

21 “(1) IN GENERAL.—Of the total amount appro-
22 priated for this subpart, the Attorney General shall,
23 except as provided in paragraph (2), allocate—

1 “(A) 50 percent of such remaining amount
2 to each State in amounts that bear the same
3 ratio of—

4 “(i) the total population of a State
5 to—

6 “(ii) the total population of the
7 United States; and

8 “(B) 50 percent of such remaining amount
9 to each State in amounts that bear the same
10 ratio of—

11 “(i) the average annual number of
12 part 1 violent crimes of the Uniform Crime
13 Reports of the Federal Bureau of Inves-
14 tigation reported by such State for the
15 three most recent years reported by such
16 State to—

17 “(ii) the average annual number of
18 such crimes reported by all States for such
19 years.

20 “(2) MINIMUM ALLOCATION.—If carrying out
21 paragraph (1) would result in any State receiving an
22 allocation less than 0.25 percent of the total amount
23 (in this paragraph referred to as a ‘minimum alloca-
24 tion State’), then paragraph (1), as so carried out,

1 shall not apply, and the Attorney General shall in-
 2 stead—

3 “(A) allocate 0.25 percent of the total
 4 amount to each State; and

5 “(B) using the amount remaining after
 6 carrying out subparagraph (A), carry out para-
 7 graph (1) in a manner that excludes each min-
 8 imum allocation State, including the population
 9 of and the crimes reported by such State.

10 “(b) ALLOCATION BETWEEN STATES AND UNITS OF
 11 LOCAL GOVERNMENT.—Of the amounts allocated under
 12 subsection (a)—

13 “(1) 60 percent shall be for direct grants to
 14 States, to be allocated under subsection (c); and

15 “(2) 40 percent shall be for grants to be allo-
 16 cated under subsection (d).

17 “(c) ALLOCATION FOR STATE GOVERNMENTS.—

18 “(1) IN GENERAL.—Of the amounts allocated
 19 under subsection (b)(1), each State may retain for
 20 the purposes described in section 501 an amount
 21 that bears the same ratio of—

22 “(A) total expenditures on criminal justice
 23 by the State government in the most recently
 24 completed fiscal year to—

1 “(B) the total expenditure on criminal jus-
2 tice by the State government and units of local
3 government within the State in such year.

4 “(2) REMAINING AMOUNTS.—Except as pro-
5 vided in subsection (e)(1), any amounts remaining
6 after the allocation required by paragraph (1) shall
7 be made available to units of local government by
8 the State for the purposes described in section 501.

9 “(d) ALLOCATIONS TO LOCAL GOVERNMENTS.—

10 “(1) IN GENERAL.—Of the amounts allocated
11 under subsection (b)(2), grants for the purposes de-
12 scribed in section 501 shall be made directly to units
13 of local government within each State in accordance
14 with this subsection, subject to subsection (e).

15 “(2) ALLOCATION.—

16 “(A) IN GENERAL.—From the amounts re-
17 ferred to in paragraph (1) with respect to a
18 State (in this subsection referred to as the
19 ‘local amount’), the Attorney General shall allo-
20 cate to each unit of local government an
21 amount which bears the same ratio to such
22 share as the average annual number of part 1
23 violent crimes reported by such unit to the Fed-
24 eral Bureau of Investigation for the 3 most re-
25 cent calendar years for which such data is avail-

1 able bears to the number of part 1 violent
2 crimes reported by all units of local government
3 in the State in which the unit is located to the
4 Federal Bureau of Investigation for such years.

5 “(B) TRANSITIONAL RULE.—Notwith-
6 standing subparagraph (A), for fiscal years
7 2005, 2006, and 2007, the Attorney General
8 shall allocate the local amount to units of local
9 government in the same manner that, under the
10 Local Government Law Enforcement Block
11 Grants program in effect immediately before
12 the date of enactment of this section, the re-
13 served amount was allocated among reporting
14 and nonreporting units of local government.

15 “(3) ANNEXED UNITS.—If a unit of local gov-
16 ernment in the State has been annexed since the
17 date of the collection of the data used by the Attor-
18 ney General in making allocations pursuant to this
19 section, the Attorney General shall pay the amount
20 that would have been allocated to such unit of local
21 government to the unit of local government that an-
22 nexed it.

23 “(4) RESOLUTION OF DISPARATE ALLOCA-
24 TIONS.—(A) Notwithstanding any other provision of
25 this subpart, if—

1 “(i) the Attorney General certifies that a
2 unit of local government bears more than 50
3 percent of the costs of prosecution or incarceration
4 that arise with respect to part 1 violent
5 crimes reported by a specified geographically
6 constituent unit of local government; and

7 “(ii) but for this paragraph, the amount of
8 funds allocated under this section to—

9 “(I) any one such specified geographi-
10 cally constituent unit of local government
11 exceeds 150 percent of the amount allo-
12 cated to the unit of local government cer-
13 tified pursuant to clause (i); or

14 “(II) more than one such specified
15 geographically constituent unit of local
16 government exceeds 400 percent of the
17 amount allocated to the unit of local gov-
18 ernment certified pursuant to clause (i),

19 then in order to qualify for payment under this sub-
20 section, the unit of local government certified pursu-
21 ant to clause (i), together with any such specified
22 geographically constituent units of local government
23 described in clause (ii), shall submit to the Attorney
24 General a joint application for the aggregate of
25 funds allocated to such units of local government.

1 Such application shall specify the amount of such
2 funds that are to be distributed to each of the units
3 of local government and the purposes for which such
4 funds are to be used. The units of local government
5 involved may establish a joint local advisory board
6 for the purposes of carrying out this paragraph.

7 “(B) In this paragraph, the term ‘geographi-
8 cally constituent unit of local government’ means a
9 unit of local government that has jurisdiction over
10 areas located within the boundaries of an area over
11 which a unit of local government certified pursuant
12 to clause (i) has jurisdiction.

13 “(e) LIMITATION ON ALLOCATIONS TO UNITS OF
14 LOCAL GOVERNMENT.—

15 “(1) MAXIMUM ALLOCATION.—No unit of local
16 government shall receive a total allocation under this
17 section that exceeds such unit’s total expenditures
18 on criminal justice services for the most recently
19 completed fiscal year for which data are available.
20 Any amount in excess of such total expenditures
21 shall be allocated proportionally among units of local
22 government whose allocations under this section do
23 not exceed their total expenditures on such services.

24 “(2) ALLOCATIONS UNDER \$10,000.—If the allo-
25 cation under this section to a unit of local govern-

1 ment is less than \$10,000 for any fiscal year, the di-
2 rect grant to the State under subsection (c) shall be
3 increased by the amount of such allocation, to be
4 distributed (for the purposes described in section
5 501) among State police departments that provide
6 criminal justice services to units of local government
7 and units of local government whose allocation under
8 this section is less than \$10,000.

9 “(3) NON-REPORTING UNITS.—No allocation
10 under this section shall be made to a unit of local
11 government that has not reported at least three
12 years of data on part 1 violent crimes of the Uni-
13 form Crime Reports to the Federal Bureau of Inves-
14 tigation within the immediately preceding 10 years.

15 “(f) FUNDS NOT USED BY THE STATE.—If the At-
16 torney General determines, on the basis of information
17 available during any grant period, that any allocation (or
18 portion thereof) under this section to a State for such
19 grant period will not be required, or that a State will be
20 unable to qualify or receive funds under this subpart, or
21 that a State chooses not to participate in the program es-
22 tablished under this subpart, then such State’s allocation
23 (or portion thereof) shall be awarded by the Attorney Gen-
24 eral to units of local government, or combinations thereof,
25 within such State, giving priority to those jurisdictions

1 with the highest annual number of part 1 violent crimes
 2 of the Uniform Crime Reports reported by the unit of local
 3 government to the Federal Bureau of Investigation for the
 4 three most recent calendar years for which such data are
 5 available.

6 “(g) SPECIAL RULES FOR PUERTO RICO.—

7 “(1) ALL FUNDS SET ASIDE FOR COMMON-
 8 WEALTH GOVERNMENT.—Notwithstanding any other
 9 provision of this subpart, the amounts allocated
 10 under subsection (a) to Puerto Rico, 100 percent
 11 shall be for direct grants to the Commonwealth gov-
 12 ernment of Puerto Rico.

13 “(2) NO LOCAL ALLOCATIONS.—Subsections (c)
 14 and (d) shall not apply to Puerto Rico.

15 “(h) UNITS OF LOCAL GOVERNMENT IN LOU-
 16 ISIANA.—In carrying out this section with respect to the
 17 State of Louisiana, the term ‘unit of local government’
 18 means a district attorney or a parish sheriff.

19 **“SEC. 506. RESERVED FUNDS.**

20 “Of the total amount made available to carry out this
 21 subpart for a fiscal year, the Attorney General shall re-
 22 serve not more than—

23 “(1) \$20,000,000, for use by the National In-
 24 stitute of Justice in assisting units of local govern-
 25 ment to identify, select, develop, modernize, and pur-

1 chase new technologies for use by law enforcement,
2 of which \$1,000,000 shall be for use by the Bureau
3 of Justice Statistics to collect data necessary for car-
4 rying out this subpart; and

5 “(2) \$20,000,000, to be granted by the Attor-
6 ney General to States and units of local government
7 to develop and implement antiterrorism training pro-
8 grams.

9 **“SEC. 507. INTEREST-BEARING TRUST FUNDS.**

10 “(a) TRUST FUND REQUIRED.—A State or unit of
11 local government shall establish a trust fund in which to
12 deposit amounts received under this subpart.

13 “(b) EXPENDITURES.—

14 “(1) IN GENERAL.—Each amount received
15 under this subpart (including interest on such
16 amount) shall be expended before the date on which
17 the grant period expires.

18 “(2) REPAYMENT.—A State or unit of local
19 government that fails to expend an entire amount
20 (including interest on such amount) as required by
21 paragraph (1) shall repay the unexpended portion to
22 the Attorney General not later than 3 months after
23 the date on which the grant period expires.

24 “(3) REDUCTION OF FUTURE AMOUNTS.—If a
25 State or unit of local government fails to comply

1 with paragraphs (1) and (2), the Attorney General
2 shall reduce amounts to be provided to that State or
3 unit of local government accordingly.

4 “(c) REPAID AMOUNTS.—Amounts received as repay-
5 ments under this section shall be subject to section 108
6 of this title as if such amounts had not been granted and
7 repaid. Such amounts shall be deposited in the Treasury
8 in a dedicated fund for use by the Attorney General to
9 carry out this subpart. Such funds are hereby made avail-
10 able to carry out this subpart.

11 **“SEC. 508. AUTHORIZATION OF APPROPRIATIONS.**

12 “There is authorized to be appropriated to carry out
13 this subpart \$1,075,000,000 for fiscal year 2005 and such
14 sums as may be necessary for each of fiscal years 2006
15 through 2008.”.

16 (b) REPEALS OF CERTAIN AUTHORITIES RELATING
17 TO BYRNE GRANTS.—

18 (1) DISCRETIONARY GRANTS TO PUBLIC AND
19 PRIVATE ENTITIES.—Chapter A of subpart 2 of part
20 E of title I of the Omnibus Crime Control and Safe
21 Streets Act of 1968 (42 U.S.C. 3760–3762) is re-
22 pealed.

23 (2) TARGETED GRANTS TO CURB MOTOR VEHI-
24 CLE THEFT.—Subtitle B of title I of the Anti Car

1 Theft Act of 1992 (42 U.S.C. 3750a–3750d) is re-
2 pealed.

3 (c) CONFORMING AMENDMENTS.—

4 (1) CRIME IDENTIFICATION TECHNOLOGY
5 ACT.—Subsection (c)(2)(G) of section 102 of the
6 Crime Identification Technology Act of 1998 (42
7 U.S.C. 14601) is amended by striking “such as”
8 and all that follows through “the M.O.R.E. pro-
9 gram” and inserting “such as the Edward Byrne
10 Justice Assistance Grant Program and the M.O.R.E.
11 program”.

12 (2) SAFE STREETS ACT.—Title I of the Omni-
13 bus Crime Control and Safe Streets Act of 1968 is
14 amended—

15 (A) in section 517 (42 U.S.C. 3763), in
16 subsection (a)(1), by striking “pursuant to sec-
17 tion 511 or 515” and inserting “pursuant to
18 section 515”;

19 (B) in section 520 (42 U.S.C. 3766)—

20 (i) in subsection (a)(1), by striking
21 “the program evaluations as required by
22 section 501(c) of this part” and inserting
23 “program evaluations”;

24 (ii) in subsection (a)(2), by striking
25 “evaluations of programs funded under

1 section 506 (formula grants) and sections
2 511 and 515 (discretionary grants) of this
3 part” and inserting “evaluations of pro-
4 grams funded under section 505 (formula
5 grants) and section 515 (discretionary
6 grants) of this part”; and

7 (iii) in subsection (b)(2), by striking
8 “programs funded under section 506 (for-
9 mula grants) and section 511 (discre-
10 tionary grants)” and inserting “programs
11 funded under section 505 (formula
12 grants)”;

13 (C) in section 522 (42 U.S.C. 3766b)—

14 (i) in subsection (a), in the matter
15 preceding paragraph (1), by striking “sec-
16 tion 506” and inserting “section 505”; and

17 (ii) in subsection (a)(1), by striking
18 “an assessment of the impact of such ac-
19 tivities on meeting the needs identified in
20 the State strategy submitted under section
21 503” and inserting “an assessment of the
22 impact of such activities on meeting the
23 purposes of subpart 1”;

24 (D) in section 801(b) (42 U.S.C. 3782(b)),

25 in the matter following paragraph (5)—

1 (i) by striking “the purposes of sec-
2 tion 501 of this title” and inserting “the
3 purposes of such subpart 1”; and

4 (ii) by striking “the application sub-
5 mitted pursuant to section 503 of this
6 title” and inserting “the application sub-
7 mitted pursuant to section 502 of this
8 title”;

9 (E) in section 808 (42 U.S.C. 3789), by
10 striking “the State office described in section
11 507 or 1408” and inserting “the State office
12 responsible for the trust fund required by sec-
13 tion 507, or the State office described in section
14 1408,”;

15 (F) in section 901 (42 U.S.C. 3791), in
16 subsection (a)(2), by striking “for the purposes
17 of section 506(a)” and inserting “for the pur-
18 poses of section 505(a)”;

19 (G) in section 1502 (42 U.S.C. 3796bb-
20 1)—

21 (i) in paragraph (1), by striking “sec-
22 tion 506(a)” and inserting “section
23 505(a)”;

24 (ii) in paragraph (2)—

1 (I) by striking “section 503(a)”
2 and inserting “section 502”; and

3 (II) by striking “section 506”
4 and inserting “section 505”;

5 (H) in section 1602 (42 U.S.C. 3796cc–1),
6 in subsection (b), by striking “The office des-
7 ignated under section 507 of title I” and insert-
8 ing “The office responsible for the trust fund
9 required by section 507”;

10 (I) in section 1702 (42 U.S.C. 3796dd–1),
11 in subsection (c)(1), by striking “and reflects
12 consideration of the statewide strategy under
13 section 503(a)(1)”;

14 (J) in section 1902 (42 U.S.C. 3796ff–1),
15 in subsection (e), by striking “The Office des-
16 ignated under section 507” and inserting “The
17 office responsible for the trust fund required by
18 section 507”.

19 (d) APPLICABILITY.—The amendments made by this
20 section shall apply with respect to the first fiscal year be-
21 ginning after the date of enactment of this title and each
22 fiscal year thereafter.

1 **SEC. 202. CLARIFICATION OF OFFICIAL TO BE CONSULTED**
2 **BY ATTORNEY GENERAL IN CONSIDERING AP-**
3 **PLICATION FOR EMERGENCY FEDERAL LAW**
4 **ENFORCEMENT ASSISTANCE.**

5 Section 609M(b) of the Justice Assistance Act of
6 1984 (42 U.S.C. 10501(b)) is amended by striking “the
7 Director of the Office of Justice Assistance” and inserting
8 “the Assistant Attorney General for the Office of Justice
9 Programs”.

10 **SEC. 203. CLARIFICATION OF USES FOR REGIONAL INFOR-**
11 **MATION SHARING SYSTEM GRANTS.**

12 Section 1301(b) of the Omnibus Crime Control and
13 Safe Streets Act of 1968 (42 U.S.C. 3796h(b)), as most
14 recently amended by section 701 of the USA PATRIOT
15 Act (Public Law 107–56; 115 Stat. 374), is amended—

16 (1) in paragraph (1), by inserting “regional”
17 before “information sharing systems”;

18 (2) by amending paragraph (3) to read as fol-
19 lows:

20 “(3) establishing and maintaining a secure tele-
21 communications system for regional information
22 sharing between Federal, State, and local law en-
23 forcement agencies;” and

24 (3) by striking “(5)” at the end of paragraph
25 (4).

1 **SEC. 204. AUTHORIZATION OF APPROPRIATIONS FOR THE**
2 **REGIONAL INFORMATION SHARING SYSTEM**
3 **TO FACILITATE FEDERAL-STATE-LOCAL LAW**
4 **ENFORCEMENT RESPONSE RELATED TO TER-**
5 **RORIST ATTACKS.**

6 Section 1301 of title I of the Omnibus Crime Control
7 and Safe Streets Act of 1968 (42 U.S.C. 3796h) is amend-
8 ed in subsection (d), by striking “\$50,000,000 for fiscal
9 year 2002 and \$100,000,000 for fiscal year 2003” and
10 inserting “\$100,000,000 for each of fiscal years 2005
11 through 2007”.

12 **SEC. 205. INTEGRITY AND ENHANCEMENT OF NATIONAL**
13 **CRIMINAL RECORD DATABASES.**

14 (a) DUTIES OF DIRECTOR.—Section 302 of the Om-
15 nibus Crime Control and Safe Streets Act of 1968 (42
16 U.S.C. 3732) is amended—

17 (1) in subsection (b), by inserting after the
18 third sentence the following new sentence: “The Di-
19 rector shall be responsible for the integrity of data
20 and statistics and shall protect against improper or
21 illegal use or disclosure.”;

22 (2) by amending paragraph (19) of subsection
23 (c) to read as follows:

24 “(19) provide for improvements in the accuracy,
25 quality, timeliness, immediate accessibility, and inte-
26 gration of State criminal history and related records,

1 support the development and enhancement of na-
2 tional systems of criminal history and related
3 records including the National Criminal History
4 Background Check System, the National Incident-
5 Based Reporting System, and the records of the Na-
6 tional Crime Information Center, facilitate State
7 participation in national records and information
8 systems, and support statistical research for critical
9 analysis of the improvement and utilization of crimi-
10 nal history records;” and

11 (3) in subsection (d)—

12 (A) by striking “and” at the end of para-
13 graph (4);

14 (B) by striking the period at the end of
15 paragraph (5) and inserting “; and”; and

16 (C) by adding at the end the following:

17 “(6) confer and cooperate with Federal statis-
18 tical agencies as needed to carry out the purposes of
19 this part, including by entering into cooperative data
20 sharing agreements in conformity with all laws and
21 regulations applicable to the disclosure and use of
22 data.”.

23 (b) USE OF DATA.—Section 304 of such Act (42
24 U.S.C. 3735) is amended by striking “particular indi-
25 vidual” and inserting “private person or public agency”.

1 (c) CONFIDENTIALITY OF INFORMATION.—Section
 2 812(a) of such Act (42 U.S.C. 3789g(a)) is amended by
 3 striking “Except as provided by Federal law other than
 4 this title, no” and inserting “No”.

5 **SEC. 206. EXTENSION OF CRIME FREE RURAL STATES**
 6 **GRANT PROGRAM.**

7 Section 2989 of the Omnibus Crime Control and Safe
 8 Streets Act of 1968 (42 U.S.C. 3797y–4), is amended by
 9 striking “and 2005” and inserting “2005, 2006, and
 10 2007”.

11 **Subtitle B—Building Community**
 12 **Capacity To Prevent, Reduce,**
 13 **and Control Crime**

14 **SEC. 211. OFFICE OF WEED AND SEED STRATEGIES.**

15 (a) IN GENERAL.—Part A of title I of the Omnibus
 16 Crime Control and Safe Streets Act of 1968 is amended
 17 by inserting after section 102 (42 U.S.C. 3712) the fol-
 18 lowing new sections:

19 **“SEC. 103. OFFICE OF WEED AND SEED STRATEGIES.**

20 **“(a) ESTABLISHMENT.—**There is established within
 21 the Office an Office of Weed and Seed Strategies, headed
 22 by a Director appointed by the Attorney General.

23 **“(b) ASSISTANCE.—**The Director may assist States,
 24 units of local government, and neighborhood and commu-

1 nity-based organizations in developing Weed and Seed
2 strategies, as provided in section 104.

3 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
4 is authorized to be appropriated to carry out this section
5 such sums as may be necessary for each of fiscal years
6 2005, 2006, and 2007, to remain available until expended.

7 **“SEC. 104. WEED AND SEED STRATEGIES.**

8 “(a) IN GENERAL.—From amounts made available
9 under section 103(c), the Director of the Office of Weed
10 and Seed Strategies may implement strategies, to be
11 known as Weed and Seed strategies, to prevent, control,
12 and reduce violent crime, criminal drug-related activity,
13 and gang activity in designated Weed-and-Seed commu-
14 nities. Each such strategy shall involve both of the fol-
15 lowing activities:

16 “(1) WEEDING.—Activities, to be known as
17 Weeding activities, which shall include promoting
18 and coordinating a broad spectrum of community ef-
19 forts (especially those of law enforcement agencies
20 and prosecutors) to arrest, and to sanction or incar-
21 cerate, persons in that community who participate or
22 engage in violent crime, criminal drug-related activ-
23 ity, and other crimes that threaten the quality of life
24 in that community.

1 “(2) SEEDING.—Activities, to be known as
2 Seeding activities, which shall include promoting and
3 coordinating a broad spectrum of community efforts
4 (such as drug abuse education, mentoring, and em-
5 ployment counseling) to provide—

6 “(A) human services, relating to preven-
7 tion, intervention, or treatment, for at-risk indi-
8 viduals and families; and

9 “(B) community revitalization efforts, in-
10 cluding enforcement of building codes and de-
11 velopment of the economy.

12 “(b) GUIDELINES.—The Director shall issue guide-
13 lines for the development and implementation of Weed and
14 Seed strategies under this section. The guidelines shall en-
15 sure that the Weed and Seed strategy for a community
16 referred to in subsection (a) shall—

17 “(1) be planned and implemented through and
18 under the auspices of a steering committee, properly
19 established in the community, comprised of—

20 “(A) in a voting capacity, representatives
21 of—

22 “(i) appropriate law enforcement
23 agencies; and

24 “(ii) other public and private agencies,
25 and neighborhood and community-based

1 organizations, interested in criminal justice
2 and community-based development and re-
3 vitalization in the community; and

4 “(B) in a voting capacity, both—

5 “(i) the Drug Enforcement Adminis-
6 tration’s special agent in charge for the ju-
7 risdiction encompassing the community;
8 and

9 “(ii) the United States Attorney for
10 the District encompassing the community;

11 “(2) describe how law enforcement agencies,
12 other public and private agencies, neighborhood and
13 community-based organizations, and interested citi-
14 zens are to cooperate in implementing the strategy;
15 and

16 “(3) incorporate a community-policing compo-
17 nent that shall serve as a bridge between the Weed-
18 ing activities under subsection (a)(1) and the Seed-
19 ing activities under subsection (a)(2).

20 “(c) DESIGNATION.—For a community to be des-
21 ignated as a Weed-and-Seed community for purposes of
22 subsection (a)—

23 “(1) the United States Attorney for the District
24 encompassing the community must certify to the Di-
25 rector that—

1 “(A) the community suffers from consist-
2 ently high levels of crime or otherwise is appro-
3 priate for such designation;

4 “(B) the Weed and Seed strategy pro-
5 posed, adopted, or implemented by the steering
6 committee has a high probability of improving
7 the criminal justice system within the commu-
8 nity and contains all the elements required by
9 the Director; and

10 “(C) the steering committee is capable of
11 implementing the strategy appropriately; and

12 “(2) the community must agree to formulate a
13 timely and effective plan to independently sustain
14 the strategy (or, at a minimum, a majority of the
15 best practices of the strategy) when assistance under
16 this section is no longer available.

17 “(d) APPLICATION.—An application for designation
18 as a Weed-and-Seed community for purposes of subsection
19 (a) shall be submitted to the Director by the steering com-
20 mittee of the community in such form, and containing
21 such information and assurances, as the Director may re-
22 quire. The application shall propose—

23 “(1) a sustainable Weed and Seed strategy that
24 includes—

1 “(A) the active involvement of the United
2 States Attorney for the District encompassing
3 the community, the Drug Enforcement Admin-
4 istration’s special agent in charge for the juris-
5 diction encompassing the community, and other
6 Federal law enforcement agencies operating in
7 the vicinity;

8 “(B) a significant community-oriented po-
9 licing component; and

10 “(C) demonstrated coordination with com-
11 plementary neighborhood and community-based
12 programs and initiatives; and

13 “(2) a methodology with outcome measures and
14 specific objective indicia of performance to be used
15 to evaluate the effectiveness of the strategy.

16 “(e) GRANTS.—

17 “(1) IN GENERAL.—In implementing a strategy
18 for a community under subsection (a), the Director
19 may make grants to that community.

20 “(2) USES.—For each grant under this sub-
21 section, the community receiving that grant—

22 “(A) shall use not more than 40 percent of
23 the grant amounts for Seeding activities under
24 subsection (a)(2); and

1 “(B) may not use any of the grant
2 amounts for construction, except that the As-
3 sistant Attorney General may authorize use of
4 grant amounts for incidental or minor construc-
5 tion, renovation, or remodeling.

6 “(3) LIMITATIONS.—A community may not re-
7 ceive grants under this subsection (or fall within
8 such a community)—

9 “(A) for a period of more than 10 fiscal
10 years;

11 “(B) for more than 5 separate fiscal years,
12 except that the Assistant Attorney General
13 may, in single increments and only upon a
14 showing of extraordinary circumstances, author-
15 ize grants for not more than 3 additional sepa-
16 rate fiscal years; or

17 “(C) in an aggregate amount of more than
18 \$1,000,000, except that the Assistant Attorney
19 General may, upon a showing of extraordinary
20 circumstances, authorize grants for not more
21 than an additional \$500,000.

22 “(4) DISTRIBUTION.—In making grants under
23 this subsection, the Director shall ensure that—

24 “(A) to the extent practicable, the distribu-
25 tion of such grants is geographically equitable

1 and includes both urban and rural areas of vary-
2 ing population and area; and

3 “(B) priority is given to communities that
4 clearly and effectively coordinate crime preven-
5 tion programs with other Federal programs in
6 a manner that addresses the overall needs of
7 such communities.

8 “(5) FEDERAL SHARE.—(A) Subject to sub-
9 paragraph (B), the Federal share of a grant under
10 this subsection may not exceed 75 percent of the
11 total costs of the projects described in the applica-
12 tion for which the grant was made.

13 “(B) The requirement of subparagraph (A)—

14 “(i) may be satisfied in cash or in kind;
15 and

16 “(ii) may be waived by the Assistant Attor-
17 ney General upon a determination that the fi-
18 nancial circumstances affecting the applicant
19 warrant a finding that such a waiver is equi-
20 table.

21 “(6) SUPPLEMENT, NOT SUPPLANT.—To re-
22 ceive a grant under this subsection, the applicant
23 must provide assurances that the amounts received
24 under the grant shall be used to supplement, not
25 supplant, non-Federal funds that would otherwise be

1 available for programs or services provided in the
2 community.”.

3 (b) ABOLISHMENT OF EXECUTIVE OFFICE OF WEED
4 AND SEED; TRANSFERS OF FUNCTIONS.—

5 (1) ABOLISHMENT.—The Executive Office of
6 Weed and Seed is abolished.

7 (2) TRANSFER.—There are hereby transferred
8 to the Office of Weed and Seed Strategies all func-
9 tions and activities performed immediately before
10 the date of enactment of this title by the Executive
11 Office of Weed and Seed Strategies.

12 (c) EFFECTIVE DATE.—This section and the amend-
13 ments made by this section take effect 90 days after the
14 date of enactment of this Act.

15 **Subtitle C—Assisting Victims of** 16 **Crime**

17 **SEC. 221. GRANTS TO LOCAL NONPROFIT ORGANIZATIONS**
18 **TO IMPROVE OUTREACH SERVICES TO VIC-**
19 **TIMS OF CRIME.**

20 Section 1404(c) of the Victims of Crime Act of 1984
21 (42 U.S.C. 10603(c)), as most recently amended by sec-
22 tion 623 of the USA PATRIOT Act (Public Law 107–
23 56; 115 Stat. 372), is amended—

24 (1) in paragraph (1)—

1 (A) in the matter preceding subparagraph
2 (A), by striking the comma after “Director”;

3 (B) in subparagraph (A), by striking
4 “and” at the end;

5 (C) in subparagraph (B), by striking the
6 period at the end and inserting “; and”; and

7 (D) by adding at the end the following new
8 subparagraph:

9 “(C) for nonprofit neighborhood and commu-
10 nity-based victim service organizations and coalitions
11 to improve outreach and services to victims of
12 crime.”;

13 (2) in paragraph (2)—

14 (A) in subparagraph (A)—

15 (i) by striking “paragraph (1)(A)”
16 and inserting “paragraphs (1)(A) and
17 (1)(C)”;

18 (ii) by striking “and” at the end;

19 (B) in subparagraph (B), by striking the
20 period at the end and inserting “; and”; and

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

23 “(C) not more than \$10,000 shall be used for
24 any single grant under paragraph (1)(C).”.

1 **SEC. 222. CLARIFICATION AND ENHANCEMENT OF CERTAIN**
2 **AUTHORITIES RELATING TO CRIME VICTIMS**
3 **FUND.**

4 Section 1402 of the Victims of Crime Act of 1984
5 (42 U.S.C. 10601) is amended as follows:

6 (1) **AUTHORITY TO ACCEPT GIFTS.**—Subsection
7 (b)(5) of such section is amended by striking the pe-
8 riod at the end and inserting the following: “, which
9 the Director is hereby authorized to accept for de-
10 posit into the Fund, except that the Director is not
11 hereby authorized to accept any such gift, bequest,
12 or donation that—

13 “(A) attaches conditions inconsistent with
14 applicable laws or regulations; or

15 “(B) is conditioned upon or would require
16 the expenditure of appropriated funds that are
17 not available to the Office for Victims of
18 Crime.”.

19 (2) **AUTHORITY TO REPLENISH ANTITERRORISM**
20 **EMERGENCY RESERVE.**—Subsection (d)(5)(A) of
21 such section is amended by striking “expended” and
22 inserting “obligated”.

23 (3) **AUTHORITY TO MAKE GRANTS TO INDIAN**
24 **TRIBES FOR VICTIM ASSISTANCE PROGRAMS.**—Sub-
25 section (g) of such section is amended—

1 (A) in paragraph (1), by striking “, acting
2 through the Director,”;

3 (B) by redesignating paragraph (2) as
4 paragraph (3); and

5 (C) by inserting after paragraph (1) the
6 following new paragraph:

7 “(2) The Attorney General may use 5 percent of the
8 funds available under subsection (d)(2) (prior to distribu-
9 tion) for grants to Indian tribes to establish victim assist-
10 ance programs, as appropriate.”.

11 (4) AUTHORITY TO CARRY OVER CERTAIN
12 AMOUNTS FROM YEAR TO YEAR.—Subsection (d)(5)
13 of such section is amended—

14 (A) in subparagraph (A), in the second
15 sentence by inserting “, once each fiscal year,”
16 after “subsequent fiscal years”; and

17 (B) in subparagraph (C), by inserting after
18 “subparagraph (A)” the following: “, and
19 amounts made available by law for obligation
20 pursuant to sections 1402(g) and 1404(c) but
21 remaining unobligated at the end of a fiscal
22 year”.

1 **SEC. 223. AMOUNTS RECEIVED UNDER CRIME VICTIM**
2 **GRANTS MAY BE USED BY STATE FOR TRAIN-**
3 **ING PURPOSES.**

4 (a) CRIME VICTIM COMPENSATION.—Section
5 1403(a)(3) of the Victims of Crime Act of 1984 (42
6 U.S.C. 10602(a)(3)) is amended—

7 (1) by inserting “training purposes and” after
8 “may be used for”; and

9 (2) by striking “5” and inserting “7.5”.

10 (b) CRIME VICTIM ASSISTANCE.—Section 1404(b)(3)
11 of such Act (42 U.S.C. 10603(b)(3)) is amended—

12 (1) by inserting “training purposes and” after
13 “may be used for”; and

14 (2) by striking “5” and inserting “7.5”.

15 **SEC. 224. CLARIFICATION OF AUTHORITIES RELATING TO**
16 **VIOLENCE AGAINST WOMEN FORMULA AND**
17 **DISCRETIONARY GRANT PROGRAMS.**

18 (a) CLARIFICATION OF SPECIFIC PURPOSES.—Sec-
19 tion 2001(b) of the Omnibus Crime Control and Safe
20 Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended
21 in the matter preceding paragraph (1) by inserting after
22 “violent crimes against women” the following: “to develop
23 and strengthen victim services in cases involving violent
24 crimes against women”.

25 (b) TECHNICAL AMENDMENT RELATING TO
26 MISDESIGNATED SECTIONS.—Section 402(2) of Public

1 Law 107–273 (116 Stat. 1789) is amended by striking
2 “as sections 2006 through 2011, respectively” and insert-
3 ing “as sections 2007 through 2011, respectively”.

4 (c) TRIBAL COALITION GRANTS.—

5 (1) IN GENERAL.—Section 2001 of title I of the
6 Omnibus Crime Control and Safe Streets Act of
7 1968 (42 U.S.C. 3796gg) is amended by adding at
8 the end the following:

9 “(d) TRIBAL COALITION GRANTS.—

10 “(1) PURPOSE.—The Attorney General shall
11 award grants to tribal domestic violence and sexual
12 assault coalitions for purposes of—

13 “(A) increasing awareness of domestic vio-
14 lence and sexual assault against Indian women;

15 “(B) enhancing the response to violence
16 against Indian women at the tribal, Federal,
17 and State levels; and

18 “(C) identifying and providing technical
19 assistance to coalition membership and tribal
20 communities to enhance access to essential serv-
21 ices to Indian women victimized by domestic
22 and sexual violence.

23 “(2) GRANTS TO TRIBAL COALITIONS.—The At-
24 torney General shall award grants under paragraph
25 (1) to—

1 “(A) established nonprofit, nongovern-
2 mental tribal coalitions addressing domestic vio-
3 lence and sexual assault against Indian women;
4 and

5 “(B) individuals or organizations that pro-
6 pose to incorporate as nonprofit, nongovern-
7 mental tribal coalitions to address domestic vio-
8 lence and sexual assault against Indian women.

9 “(3) ELIGIBILITY FOR OTHER GRANTS.—Re-
10 ceipt of an award under this subsection by tribal do-
11 mestic violence and sexual assault coalitions shall
12 not preclude the coalition from receiving additional
13 grants under this title to carry out the purposes de-
14 scribed in subsection (b).”.

15 (2) USE OF STATE GRANTS.—Section
16 2007(b)(4) of title I of the Omnibus Crime Control
17 and Safe Streets Act of 1968 (42 U.S.C. 3796gg-
18 1(b)(4)) is amended to read as follows:

19 “(4) ¹/₅₄ shall be available for grants under sec-
20 tion 2001(d);”.

21 (d) AVAILABILITY OF FORENSIC MEDICAL EXAMS.—
22 Section 2010 of such Act (42 U.S.C. 3796gg-4), as reded-
23 ignated pursuant to the amendment made by subsection
24 (b), is amended by adding at the end the following new
25 subsections:

1 “(c) USE OF FUNDS.—A State or Indian tribal gov-
2 ernment may use Federal grant funds under this part to
3 pay for forensic medical exams performed by trained ex-
4 aminers for victims of sexual assault, except that such
5 funds may not be used to pay for forensic medical exams
6 by any State or Indian tribal government that requires
7 victims of sexual assault to seek reimbursement for such
8 exams from their insurance carriers.

9 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
10 tion shall be construed to require a victim of sexual assault
11 to participate in the criminal justice system or cooperate
12 with law enforcement in order to be provided with a foren-
13 sic medical exam, reimbursement for charges incurred on
14 account of such an exam, or both.”.

15 (e) TECHNICAL AMENDMENT.—The heading for part
16 T of title I of the Omnibus Crime Control and Safe Streets
17 Act of 1968 (42 U.S.C. 3796gg et seq.) is amended to
18 read as follows:

1 **“PART T—GRANTS TO COMBAT VIOLENT CRIMES**
2 **AGAINST WOMEN”.**

3 **SEC. 225. EXPANSION OF GRANT PROGRAMS ASSISTING EN-**
4 **FORCEMENT OF DOMESTIC VIOLENCE CASES**
5 **TO ALSO ASSIST ENFORCEMENT OF SEXUAL**
6 **ASSAULT CASES.**

7 (a) GRANTS TO ENCOURAGE DOMESTIC VIOLENCE
8 ARREST POLICIES.—Section 2101 of the Omnibus Crime
9 Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh)
10 is amended—

11 (1) in subsection (a), by striking “to treat do-
12 mestic violence as a serious violation” and inserting
13 “to treat domestic violence and sexual assault as se-
14 rious violations”;

15 (2) in subsection (b)—

16 (A) in each of paragraphs (2) and (5), by
17 striking “domestic violence and dating violence”
18 and inserting “domestic violence, sexual assault,
19 and dating violence”;

20 (B) in paragraph (3), by striking “domes-
21 tic violence cases” and inserting “domestic vio-
22 lence and sexual assault cases”;

23 (C) in paragraph (6), by striking “about
24 domestic violence” and inserting “about domes-
25 tic violence and sexual assault”; and

26 (D) at the end, by adding the following:

1 “(9) To develop and implement policies and
2 training for police, prosecutors, and the judiciary in
3 recognizing, investigating, and prosecuting instances
4 of sexual assault perpetrated by an acquaintance of
5 the victim, with an emphasis on recognizing the
6 threat to the community for repeat crime perpetra-
7 tion by such individuals.

8 “(10) To educate police, prosecutors, and the
9 judiciary about the co-occurrence of sexual assault
10 and domestic violence and dating violence, with an
11 emphasis on investigating and prosecuting such
12 crimes when they occur.”; and

13 (3) in subsection (d), by striking “In this sec-
14 tion, the term” and inserting “In this part—

15 “(1) the term ‘sexual assault’ has the meaning
16 given the term in section 2008; and

17 “(2) the term”.

18 (b) APPLICATIONS.—Section 2102(b) of such Act (42
19 U.S.C. 3796hh–1(b)) is amended in each of paragraphs
20 (1) and (2) by inserting after “involving domestic vio-
21 lence” the following: “or sexual assault”.

22 (c) RURAL DOMESTIC VIOLENCE AND CHILD ABUSE
23 ENFORCEMENT ASSISTANCE.—Section 40295(a) of the
24 Violence Against Women Act of 1994 (title IV of the Vio-
25 lent Crime Control and Law Enforcement Act of 1994;

1 42 U.S.C. 13971(a)) is amended in each of paragraphs
 2 (1) and (2) by striking “domestic violence and dating vio-
 3 lence (as defined in section 2003” and inserting “domestic
 4 violence, sexual assault, and dating violence (as such
 5 terms are defined in section 2008”.

6 **Subtitle D—Preventing Crime**

7 **SEC. 231. CLARIFICATION OF DEFINITION OF VIOLENT OF-** 8 **FENDER FOR PURPOSES OF JUVENILE DRUG** 9 **COURTS.**

10 Section 2953(b) of the Omnibus Crime Control and
 11 Safe Streets Act of 1968 (42 U.S.C. 3797u–2(b)) is
 12 amended in the matter preceding paragraph (1) by strik-
 13 ing “an offense that” and inserting “a felony-level offense
 14 that”.

15 **SEC. 232. ELIGIBILITY FOR GRANTS UNDER DRUG COURT** 16 **GRANTS PROGRAM EXTENDED TO COURTS** 17 **THAT SUPERVISE NON-OFFENDERS WITH** 18 **SUBSTANCE ABUSE PROBLEMS.**

19 Section 2951(a)(1) of such Act (42 U.S.C.
 20 3797u(a)(1)) is amended by striking “offenders with sub-
 21 stance abuse problems” and inserting “offenders, and
 22 other individuals under the jurisdiction of the court, with
 23 substance abuse problems”.

1 **SEC. 233. TERM OF RESIDENTIAL SUBSTANCE ABUSE**
 2 **TREATMENT PROGRAM FOR LOCAL FACILI-**
 3 **TIES.**

4 Section 1904 of the Omnibus Crime Control and Safe
 5 Streets Act of 1968 (42 U.S.C. 3796ff-3) is amended by
 6 adding at the end the following new subsection:

7 “(d) DEFINITION.—In this section, the term ‘jail-
 8 based substance abuse treatment program’ means a course
 9 of individual and group activities, lasting for a period of
 10 not less than 3 months, in an area of a correctional facility
 11 set apart from the general population of the correctional
 12 facility, if those activities are—

13 “(1) directed at the substance abuse problems
 14 of the prisoners; and

15 “(2) intended to develop the cognitive, behav-
 16 ioral, and other skills of prisoners in order to ad-
 17 dress the substance abuse and related problems of
 18 prisoners.”.

19 **SEC. 234. RURAL 9-1-1 SERVICE.**

20 (a) PURPOSE.—The purpose of this section is to pro-
 21 vide access to, and improve a communications infrastruc-
 22 ture that will ensure a reliable and seamless communica-
 23 tion between, law enforcement, fire, and emergency med-
 24 ical service providers in units of local government and trib-
 25 al governments located outside a Standard Metropolitan
 26 Statistical Area and in States.

1 (b) AUTHORITY TO MAKE GRANTS.—The Office of
2 Justice Programs of the Department of Justice shall make
3 grants, in accordance with such regulations as the Attor-
4 ney General may prescribe, to units of local government
5 and tribal governments located outside a Standard Metro-
6 politan Statistical Area for the purpose of establishing or
7 improving 9–1–1 service in those communities. Priority in
8 making grants under this section shall be given to commu-
9 nities that do not have 9–1–1 service.

10 (c) DEFINITION.—In this section, the term “9–1–1
11 service” refers to telephone service that has designated 9–
12 1–1 as a universal emergency telephone number in the
13 community served for reporting an emergency to appro-
14 priate authorities and requesting assistance.

15 (d) LIMIT ON GRANT AMOUNT.—The total amount
16 of a grant made under this section shall not exceed
17 \$250,000.

18 (e) FUNDING.—

19 (1) IN GENERAL.—There are authorized to be
20 appropriated to carry out this section \$25,000,000
21 for fiscal year 2005, to remain available until ex-
22 pended.

23 (2) SET-ASIDE.—Of the amount made available
24 for grants under this section, 10 percent shall be
25 awarded to tribal governments.

1 **SEC. 235. METHAMPHETAMINE CLEANUP.**

2 (a) IN GENERAL.—The Attorney General shall,
3 through the Department of Justice or through grants to
4 States or units of local government and tribal governments
5 located outside a Standard Metropolitan Statistical Area,
6 in accordance with such regulations as the Attorney Gen-
7 eral may prescribe, provide for—

8 (1) the cleanup of methamphetamine labora-
9 tories and related hazardous waste in units of local
10 government and tribal governments located outside a
11 Standard Metropolitan Statistical Area; and

12 (2) the improvement of contract-related re-
13 sponse time for cleanup of methamphetamine labora-
14 tories and related hazardous waste in units of local
15 government and tribal governments located outside a
16 Standard Metropolitan Statistical Area by providing
17 additional contract personnel, equipment, and facili-
18 ties.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—

20 (1) IN GENERAL.—There is authorized to be
21 appropriated \$20,000,000 for fiscal year 2005 to
22 carry out this section.

23 (2) FUNDING ADDITIONAL.—Amounts author-
24 ized by this section are in addition to amounts oth-
25 erwise authorized by law.

1 (3) SET-ASIDE.—Of the amount made available
2 for grants under this section, 10 percent shall be
3 awarded to tribal governments.

4 **SEC. 236. NATIONAL CITIZENS CRIME PREVENTION CAM-**
5 **PAIGN.**

6 (a) IN GENERAL.—Pursuant to subpart 1 of part E
7 of title I of the Omnibus Crime Control and Safe Streets
8 Act of 1968, the Director of the Bureau of Justice Assist-
9 ance shall make grants to the National Citizens Crime
10 Prevention Campaign.

11 (b) CAMPAIGN ACTIVITIES.—Grants under this sec-
12 tion shall be used for campaign activities including—

13 (1) a national public communications campaign;

14 (2) the development and distribution of publica-
15 tions;

16 (3) trainings for local law enforcement per-
17 sonnel and community leaders;

18 (4) technical assistance to States and local gov-
19 ernments; research and demonstrations; and

20 (5) the McGruff Truck/McGruff House pro-
21 gram.

22 (c) MATCH REQUIREMENT.—The Director of the Bu-
23 reau of Justice Assistance shall require a 30 percent non-
24 Federal match for Federal funds granted under this sec-
25 tion

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized—

3 (1) in fiscal year 2005, \$6,000,000 to carry out
4 this section;

5 (2) in fiscal year 2006, \$6,000,000 to carry out
6 this section; and

7 (3) in fiscal year 2007, \$7,000,000 to carry out
8 this section.

9 **SEC. 237. SEARCH, THE NATIONAL CONSORTIUM FOR JUSTICE**
10 **INFORMATION AND STATISTICS.**

11 (a) IN GENERAL.—Pursuant to subpart 1 of part E
12 of title I of the Omnibus Crime Control and Safe Streets
13 Act of 1968, the Director of the Bureau of Justice Assist-
14 ance shall make grants to SEARCH, the National Consor-
15 tium for Justice Information and Statistics, to carry out
16 the operations of the National Technical Assistance and
17 Training Program operated by SEARCH under the direc-
18 tion of the Office of Justice Programs.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated in each of fiscal years
21 2005, 2006, and 2007, \$4,000,000 to carry out this sec-
22 tion.

1 **Subtitle E—Other Matters**

2 **SEC. 241. CHANGES TO CERTAIN FINANCIAL AUTHORITIES.**

3 (a) CERTAIN PROGRAMS THAT ARE EXEMPT FROM
4 PAYING STATES INTEREST ON LATE DISBURSEMENTS
5 ALSO EXEMPTED FROM PAYING CHARGE TO TREASURY
6 FOR UNTIMELY DISBURSEMENTS.—Section 204(f) of
7 such Act (116 Stat. 1776; 31 U.S.C. 6503 note) is amend-
8 ed—

9 (1) by striking “section 6503(d)” and inserting
10 “sections 3335(b) or 6503(d)”; and

11 (2) by striking “section 6503” and inserting
12 “sections 3335(b) or 6503”.

13 (b) SOUTHWEST BORDER PROSECUTOR INITIATIVE
14 INCLUDED AMONG SUCH EXEMPTED PROGRAMS.—Sec-
15 tion 204(f) of such Act is further amended by striking
16 “pursuant to section 501(a)” and inserting “pursuant to
17 the Southwest Border Prosecutor Initiative (as carried out
18 pursuant to paragraph (3) (117 Stat. 64) under the head-
19 ing relating to Community Oriented Policing Services of
20 the Department of Justice Appropriations Act, 2003 (title
21 I of division B of Public Law 108–7), or as carried out
22 pursuant to any subsequent authority) or section 501(a)”.

23 (c) FUNDS AVAILABLE FOR ATFE MAY BE USED
24 FOR AIRCRAFT, BOATS, AMMUNITION, FIREARMS, FIRE-
25 ARMS COMPETITIONS, AND ANY AUTHORIZED ACTIV-

1 ITY.—Section 530C(b) of title 28, United States Code, is
2 amended—

3 (1) in paragraph (2), in each of subparagraphs
4 (A) and (B), by inserting “for the Bureau of Alco-
5 hol, Tobacco, Firearms, and Explosives,” before “for
6 the Drug Enforcement Administration,”; and

7 (2) by adding at the end the following new
8 paragraph:

9 “(8) BUREAU OF ALCOHOL, TOBACCO, FIRE-
10 ARMS, AND EXPLOSIVES.—Funds available to the
11 Attorney General for the Bureau of Alcohol, To-
12 bacco, Firearms, and Explosives may be used for the
13 conduct of all its authorized activities.”.

14 (d) ATFE UNDERCOVER INVESTIGATIVE OPER-
15 ATIONS.—Section 102(b) of the Department of Justice
16 and Related Agencies Appropriations Act, 1993 (28
17 U.S.C. 533 note), as in effect pursuant to section 815(d)
18 of the Antiterrorism and Effective Death Penalty Act of
19 1996 (28 U.S.C. 533 note) shall apply with respect to the
20 Bureau of Alcohol, Tobacco, Firearms, and Explosives and
21 the undercover investigative operations of the Bureau on
22 the same basis as such section applies with respect to any
23 other agency and the undercover investigative operations
24 of such agency.

1 **SEC. 242. COORDINATION DUTIES OF ASSISTANT ATTOR-**
2 **NEY GENERAL.**

3 (a) COORDINATE AND SUPPORT OFFICE FOR VIC-
4 TIMS OF CRIME.—Section 102 of the Omnibus Crime Con-
5 trol and Safe Streets Act of 1968 (42 U.S.C. 3712) is
6 amended in subsection (a)(5) by inserting after “the Bu-
7 reau of Justice Statistics,” the following: “the Office for
8 Victims of Crime,”.

9 (b) SETTING GRANT CONDITIONS.—Such section is
10 further amended in subsection (a)(6) by inserting “, in-
11 cluding placing special conditions on all grants” before the
12 period at the end.

13 **SEC. 243. REPEAL OF CERTAIN PROGRAMS.**

14 (a) SAFE STREETS ACT PROGRAMS.—The following
15 provisions of title I of the Omnibus Crime Control and
16 Safe Streets Act of 1968 are repealed:

17 (1) CRIMINAL JUSTICE FACILITY CONSTRU-
18 CTION PILOT PROGRAM.—Part F (42 U.S.C. 3769–
19 3769d).

20 (2) MATCHING GRANT PROGRAM FOR SCHOOL
21 SECURITY.—Part AA (42 U.S.C. 3797a–3797e).

22 (b) VIOLENT CRIME CONTROL AND LAW ENFORCE-
23 MENT ACT PROGRAMS.—The following provisions of the
24 Violent Crime Control and Law Enforcement Act of 1994
25 are repealed:

1 (1) LOCAL CRIME PREVENTION BLOCK GRANT
2 PROGRAM.—Subtitle B of title III (42 U.S.C.
3 13751–13758).

4 (2) ASSISTANCE FOR DELINQUENT AND AT-
5 RISK YOUTH.—Subtitle G of title III (42 U.S.C.
6 13801–13802).

7 (3) IMPROVED TRAINING AND TECHNICAL AU-
8 TOMATION.—Subtitle E of title XXI (42 U.S.C.
9 14151).

10 (4) OTHER STATE AND LOCAL AID.—Subtitle F
11 of title XXI (42 U.S.C. 14161).

12 **SEC. 244. ELIMINATION OF CERTAIN NOTICE AND HEARING**
13 **REQUIREMENTS.**

14 Part H of title I of the Omnibus Crime Control and
15 Safe Streets Act of 1968 is amended as follows:

16 (1) NOTICE AND HEARING ON DENIAL OR TER-
17 MINATION OF GRANT.—Section 802 (42 U.S.C.
18 3783) of such part is amended—

19 (A) by striking subsections (b) and (c);
20 and

21 (B) by striking “(a)” before “Whenever,”.

22 (2) FINALITY OF DETERMINATIONS.—Section
23 803 (42 U.S.C. 3784) of such part is amended—

24 (A) by striking “, after reasonable notice
25 and opportunity for a hearing,”; and

1 (B) by striking “, except as otherwise pro-
2 vided herein”.

3 (3) REPEAL OF APPELLATE COURT REVIEW.—
4 Section 804 (42 U.S.C. 3785) of such part is re-
5 pealed.

6 **SEC. 245. AMENDED DEFINITIONS FOR PURPOSES OF OMNI-
7 BUS CRIME CONTROL AND SAFE STREETS
8 ACT OF 1968.**

9 Section 901 of title I of the Omnibus Crime Control
10 and Safe Streets Act of 1968 (42 U.S.C. 3791) is amend-
11 ed as follows:

12 (1) INDIAN TRIBE.—Subsection (a)(3)(C) of
13 such section is amended by striking “(as that term
14 is defined in section 103 of the Juvenile Justice and
15 Delinquency Prevention Act of 1974 (42 U.S.C.
16 5603))”.

17 (2) COMBINATION.—Subsection (a)(5) of such
18 section is amended by striking “program or project”
19 and inserting “program, plan, or project”.

20 (3) NEIGHBORHOOD OR COMMUNITY-BASED OR-
21 GANIZATIONS.—Subsection (a)(11) of such section is
22 amended by striking “which” and inserting “, in-
23 cluding faith-based, that”.

24 (4) INDIAN TRIBE; PRIVATE PERSON.—Sub-
25 section (a) of such section is further amended—

1 (A) in paragraph (24) by striking “and” at
2 the end;

3 (B) in paragraph (25) by striking the pe-
4 riod at the end and inserting a semicolon; and

5 (C) by adding at the end the following new
6 paragraphs:

7 “(26) the term ‘Indian Tribe’ has the meaning
8 given the term ‘Indian tribe’ in section 4(e) of the
9 Indian Self-Determination and Education Assistance
10 Act (25 U.S.C. 450b(e)); and

11 “(27) the term ‘private person’ means any indi-
12 vidual (including an individual acting in his official
13 capacity) and any private partnership, corporation,
14 association, organization, or entity (or any combina-
15 tion thereof).”.

16 **SEC. 246. CLARIFICATION OF AUTHORITY TO PAY SUBSIST-**
17 **ENCE PAYMENTS TO PRISONERS FOR**
18 **HEALTH CARE ITEMS AND SERVICES.**

19 Section 4006 of title 18, United States Code, is
20 amended—

21 (1) in subsection (a) by inserting after “The
22 Attorney General” the following: “or the Secretary
23 of Homeland Security, as applicable,”; and

24 (2) in subsection (b)(1)—

1 (A) by striking “the Immigration and Nat-
 2 uralization Service” and inserting “the Depart-
 3 ment of Homeland Security”;

4 (B) by striking “shall not exceed the lesser
 5 of the amount” and inserting “shall be the
 6 amount billed, not to exceed the amount”;

7 (C) by striking “items and services” and
 8 all that follows through “the Medicare pro-
 9 gram” and inserting “items and services under
 10 the Medicare program”; and

11 (D) by striking “; or” and all that follows
 12 through the period at the end and inserting a
 13 period.

14 **SEC. 247. CONSOLIDATION OF FINANCIAL MANAGEMENT**
 15 **SYSTEMS OF OFFICE OF JUSTICE PROGRAMS.**

16 (a) CONSOLIDATION OF ACCOUNTING ACTIVITIES
 17 AND PROCUREMENT ACTIVITIES.—The Assistant Attor-
 18 ney General of the Office of Justice Programs shall ensure
 19 that—

20 (1) all accounting activities for all elements of
 21 the Office of Justice Programs are carried out under
 22 the direct management of the Office of the Comp-
 23 troller; and

1 (2) all procurement activities for all elements of
2 the Office are carried out under the direct manage-
3 ment of the Office of Administration.

4 (b) FURTHER CONSOLIDATION OF PROCUREMENT
5 ACTIVITIES.—The Assistant Attorney General shall en-
6 sure that, on and after September 30, 2007—

7 (1) all procurement activities for all elements of
8 the Office are carried out through a single manage-
9 ment office; and

10 (2) all contracts and purchase orders used in
11 carrying out those activities are processed through a
12 single procurement system.

13 (c) CONSOLIDATION OF FINANCIAL MANAGEMENT
14 SYSTEMS.—The Assistant Attorney General shall ensure
15 that, on and after September 30, 2010, all financial man-
16 agement activities (including human resources, payroll,
17 and accounting activities, as well as procurement activi-
18 ties) of all elements of the Office are carried out through
19 a single financial management system.

20 (d) ACHIEVING COMPLIANCE.—

21 (1) SCHEDULE.—The Assistant Attorney Gen-
22 eral shall undertake a scheduled consolidation of op-
23 erations to achieve compliance with the requirements
24 of this section.

1 (2) SPECIFIC REQUIREMENTS.—With respect to
2 achieving compliance with the requirements of—

3 (A) subsection (a), the consolidation of op-
4 erations shall be initiated not later than 90
5 days after the date of enactment of this Act;
6 and

7 (B) subsections (b) and (c), the consolida-
8 tion of operations shall be initiated not later
9 than September 30, 2005, and shall be carried
10 out by the Office of Administration, in con-
11 sultation with the Chief Information Officer
12 and the Office of Audit, Assessment, and Man-
13 agement.

14 **SEC. 248. AUTHORIZATION AND CHANGE OF COPS PRO-**
15 **GRAM TO SINGLE GRANT PROGRAM.**

16 (a) IN GENERAL.—Section 1701 of title I of the Om-
17 nibus Crime Control and Safe Streets Act of 1968 (42
18 U.S.C. 3796dd) is amended—

19 (1) by amending subsection (a) to read as fol-
20 lows:

21 “(a) GRANT AUTHORIZATION.—The Attorney Gen-
22 eral shall carry out a single grant program under which
23 the Attorney General makes grants to States, units of
24 local government, Indian tribal governments, other public

1 and private entities, and multi-jurisdictional or regional
2 consortia for the purposes described in subsection (b).”;

3 (2) by striking subsections (b) and (c);

4 (3) by redesignating subsection (d) as sub-
5 section (b), and in that subsection—

6 (A) by striking “ADDITIONAL GRANT
7 PROJECTS.—Grants made under subsection (a)
8 may include programs, projects, and other ac-
9 tivities to—” and inserting “USES OF GRANT
10 AMOUNTS.—The purposes for which grants
11 made under subsection (a) may be made are—
12 ”;

13 (B) by redesignating paragraphs (1)
14 through (12) as paragraphs (5) through (16),
15 respectively;

16 (C) by inserting before paragraph (5) (as
17 so redesignated) the following:

18 “(1) rehire law enforcement officers who have
19 been laid off as a result of State and local budget
20 reductions for deployment in community-oriented po-
21 licing;

22 “(2) hire and train new, additional career law
23 enforcement officers for deployment in community-
24 oriented policing across the Nation;

1 “(3) procure equipment, technology, or support
2 systems, or pay overtime, to increase the number of
3 officers deployed in community-oriented policing;

4 “(4) improve security at schools and on school
5 grounds in the jurisdiction of the grantee through—

6 “(A) placement and use of metal detectors,
7 locks, lighting, and other deterrent measures;

8 “(B) security assessments;

9 “(C) security training of personnel and
10 students;

11 “(D) coordination with local law enforce-
12 ment; and

13 “(E) any other measure that, in the deter-
14 mination of the Attorney General, may provide
15 a significant improvement in security;”;

16 (D) by amending paragraph (8) (as so re-
17 designated) to read as follows:

18 “(8) develop new technologies, including inter-
19 operable communications technologies, modernized
20 criminal record technology, and forensic technology,
21 to assist State and local law enforcement agencies in
22 reorienting the emphasis of their activities from re-
23 acting to crime to preventing crime and to train law
24 enforcement officers to use such technologies;”;

1 (4) by redesignating subsections (e) through (k)
2 as subsections (c) through (i), respectively;

3 (5) in subsection (c) (as so redesignated) by
4 striking “subsection (i)” and inserting “subsection
5 (g)”; and

6 (6) by adding at the end the following new sub-
7 section:

8 “(j) MATCHING FUNDS FOR SCHOOL SECURITY
9 GRANTS.—Notwithstanding subsection (i), in the case of
10 a grant under subsection (a) for the purposes described
11 in subsection (b)(4)—

12 “(1) the portion of the costs of a program pro-
13 vided by that grant may not exceed 50 percent;

14 “(2) any funds appropriated by Congress for
15 the activities of any agency of an Indian tribal gov-
16 ernment or the Bureau of Indian Affairs performing
17 law enforcement functions on any Indian lands may
18 be used to provide the non-Federal share of a
19 matching requirement funded under this subsection;
20 and

21 “(3) the Attorney General may provide, in the
22 guidelines implementing this section, for the require-
23 ment of paragraph (1) to be waived or altered in the
24 case of a recipient with a financial need for such a
25 waiver or alteration.”.

1 (b) CONFORMING AMENDMENT.—Section 1702 of
2 title I of the Omnibus Crime Control and Safe Streets Act
3 of 1968 (42 U.S.C. 3796dd–1) is amended in subsection
4 (d)(2) by striking “section 1701(d)” and inserting “sec-
5 tion 1701(b)”.

6 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
7 1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11))
8 is amended—

9 (1) in subparagraph (A) by striking clause (i)
10 and all that follows through the period at the end
11 and inserting the following:

12 “(i) \$1,027,176,000 for fiscal year 2005;

13 “(ii) \$1,047,119,000 for fiscal year 2006; and

14 “(iii) \$1,068,061,000 for fiscal year 2007.”;

15 and

16 (2) in subparagraph (B)—

17 (A) by striking “section 1701(f)” and in-
18 serting “section 1701(d)”; and

19 (B) by striking the third sentence.

20 **SEC. 249. ENHANCED ASSISTANCE FOR CRIMINAL INVES-**
21 **TIGATIONS AND PROSECUTIONS BY STATE**
22 **AND LOCAL LAW ENFORCEMENT OFFICIALS.**

23 (a) IN GENERAL.—At the request of a State, Indian
24 tribal government, or unit of local government, the Attor-
25 ney General shall provide technical, forensic, prosecutorial,

1 or any other form of assistance in the criminal investiga-
2 tion or prosecution of any crime that—

3 (1) constitutes a crime of violence (as defined
4 in section 16 of title 18, United States Code);

5 (2) constitutes a felony under the laws of the
6 State or Indian tribe; and

7 (3) is committed against a person under 18
8 years of age.

9 (b) PRIORITY.—If the Attorney General determines
10 that there are insufficient resources to fulfill requests
11 made pursuant to subsection (a), the Attorney General
12 shall give priority to requests for assistance to—

13 (1) crimes committed by, or believed to be com-
14 mitted by, offenders who have committed crimes in
15 more than 1 State; and

16 (2) rural jurisdictions that have difficulty cov-
17 ering the extraordinary expenses relating to the in-
18 vestigation or prosecution of the crime.

19 **TITLE III—COMBATING MONEY**
20 **LAUNDERING AND TER-**
21 **RORIST FINANCING ACT OF**
22 **2004**

23 **SEC. 301. SHORT TITLE.**

24 This title may be cited as the “Combating Money
25 Laundering and Terrorist Financing Act of 2004”.

1 **SEC. 302. SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.**

2 (a) RICO DEFINITIONS.—Section 1961(1) of title
3 18, United States Code, is amended—

4 (1) in subparagraph (A), by inserting “bur-
5 glary, embezzlement,” after “robbery,”;

6 (2) in subparagraph (B), by—

7 (A) inserting “section 1960 (relating to il-
8 legal money transmitters),” before “sections
9 2251”;

10 (B) striking “1588” and inserting “1592”;

11 (C) inserting “and 1470” after “1461–
12 1465”; and

13 (D) inserting “2252A,” after “2252,”;

14 (3) in subparagraph (D), by striking “fraud in
15 the sale of securities” and inserting “fraud in the
16 purchase or sale of securities”; and

17 (4) in subparagraph (F), by inserting “and
18 274A” after “274”.

19 (b) MONETARY INVESTMENTS.—Section
20 1956(c)(7)(D) of title 18, United States Code, is amended
21 by—

22 (1) inserting “, or section 2339C (relating to fi-
23 nancing of terrorism)” before “of this title”; and

24 (2) striking “or any felony violation of the For-
25 eign Corrupt Practices Act” and inserting “any fel-
26 ony violation of the Foreign Corrupt Practices Act,

1 or any violation of section 208 of the Social Security
2 Act (42 U.S.C. 408) (relating to obtaining funds
3 through misuse of a social security number)”.

4 **SEC. 303. ILLEGAL MONEY TRANSMITTING BUSINESSES.**

5 (a) TECHNICAL AMENDMENTS.—Section 1960 of
6 title 18, United States Code, is amended—

7 (1) in the caption by striking “unlicensed” and
8 inserting “illegal”;

9 (2) in subsection (a), by striking “unlicensed”
10 and inserting “illegal”;

11 (3) in subsection (b)(1), by striking “unli-
12 censed” and inserting “illegal”; and

13 (4) in subsection (b)(1)(C), by striking “to be
14 used to be used” and inserting “to be used”.

15 (b) PROHIBITION OF UNLICENSED MONEY TRANS-
16 MITTING BUSINESSES.—Section 1960(b)(1)(B) of title 18,
17 United States Code, is amended by inserting the following
18 before the semicolon: “, whether or not the defendant
19 knew that the operation was required to comply with such
20 registration requirements”.

21 **SEC. 304. ASSETS OF PERSONS COMMITTING TERRORIST**
22 **ACTS AGAINST FOREIGN COUNTRIES OR**
23 **INTERNATIONAL ORGANIZATIONS.**

24 Section 981(a)(1)(G) of title 18, United States Code,
25 is amended by—

- 1 (1) striking “or” at the end of clause (ii);
- 2 (2) striking the period at the end of clause (iii)
- 3 and inserting “; or”; and
- 4 (3) inserting after clause (iii) the following:
 - 5 “(iv) of any individual, entity, or or-
 - 6 ganization engaged in planning or perpe-
 - 7 trating any act of international terrorism
 - 8 (as defined in section 2331) against any
 - 9 international organization (as defined in
 - 10 section 209 of the State Department Basic
 - 11 Authorities Act of 1956 (22 U.S.C.
 - 12 4309(b))) or against any foreign govern-
 - 13 ment. Where the property sought for for-
 - 14 feiture is located beyond the territorial
 - 15 boundaries of the United States, an act in
 - 16 furtherance of such planning or perpetra-
 - 17 tion must have occurred within the juris-
 - 18 diction of the United States.”.

19 **SEC. 305. MONEY LAUNDERING THROUGH INFORMAL**
20 **VALUE TRANSFER SYSTEMS.**

21 Section 1956(a) of title 18, United States Code, is
22 amended by adding at the end the following:

23 “(4) A transaction described in paragraph (1) or a
24 transportation, transmission, or transfer described in
25 paragraph (2) shall be deemed to involve the proceeds of

1 specified unlawful activity, if the transaction, transpor-
2 tation, transmission, or transfer is part of a single plan
3 or arrangement whose purpose is described in either of
4 those paragraphs and one part of such plan or arrange-
5 ment actually involves the proceeds of specified unlawful
6 activity.”.

7 **SEC. 306. TECHNICAL CORRECTIONS TO FINANCING OF**
8 **TERRORISM STATUTE.**

9 (a) CONCEALMENT.—Section 2339C(c)(2) of title 18,
10 United States Code, is amended—

11 (1) by striking “resources, or funds” and in-
12 serting “resources, or any funds or proceeds of such
13 funds”;

14 (2) in subparagraph (A), by striking “were pro-
15 vided” and inserting “are to be provided, or knowing
16 that the support or resources were provided,”; and

17 (3) in subparagraph (B)—

18 (A) by striking “or any proceeds of such
19 funds”; and

20 (B) by striking “were provided or col-
21 lected” and inserting “are to be provided or col-
22 lected, or knowing that the funds were provided
23 or collected,”.

24 (b) INTERNATIONAL TERRORISM.—Section
25 2332b(g)(5)(B) of title 18, United States Code, is amend-

1 ed by inserting “)” after “2339C (relating to financing
2 of terrorism”.

3 **SEC. 307. MISCELLANEOUS AND TECHNICAL AMENDMENTS.**

4 (a) **CRIMINAL FORFEITURE.**—Section 982(b) of title
5 18, United States Code, is amended in subsection (b)(2),
6 by striking “The substitution” and inserting “With re-
7 spect to a forfeiture under subsection (a)(1), the substi-
8 tution”.

9 (b) **TECHNICAL AMENDMENTS TO SECTIONS 1956**
10 **AND 1957.**—

11 (1) **UNLAWFUL ACTIVITY.**—Section
12 1956(e)(7)(F) of title 18, United States Code, is
13 amended by inserting “, as defined in section 24”
14 before the period.

15 (2) **PROPERTY FROM UNLAWFUL ACTIVITY.**—
16 Section 1957 of title 18, United States Code, is
17 amended—

18 (A) in subsection (a), by striking “engages
19 or attempts to engage in” and inserting “con-
20 ducts or attempts to conduct”; and

21 (B) in subsection (f), by inserting the fol-
22 lowing after paragraph (3):

23 “(4) the term ‘conducts’ has the same meaning
24 as it does for purposes of section 1956 of this title.”.

1 (c) OBSTRUCTION OF JUSTICE.—Section
 2 1510(b)(3)(B) of title 18, United States Code, is amended
 3 by striking “or” the first time it appears and inserting
 4 “, a subpoena issued pursuant to section 1782 of title 28,
 5 or”.

6 **SEC. 308. EXTENSION OF THE MONEY LAUNDERING AND FI-**
 7 **NANCIAL CRIMES STRATEGY ACT OF 1998.**

8 (a) TRANSMITTAL TO CONGRESS.—Section
 9 5341(a)(2) of title 31, United States Code, is amended
 10 by striking “and 2003” and inserting “2003, 2004, 2005,
 11 and 2006”.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
 13 5355 of title 31, United States Code, is amended by in-
 14 serting after the item for fiscal year 2003 the following:

| | |
|-------------|-----------------|
| “2004 | \$15,000,000 |
| “2005 | \$15,000,000 |
| “2006 | \$15,000,000.”. |

15 **TITLE IV—PREVENTION AND RE-**
 16 **COVERY OF MISSING CHIL-**
 17 **DREN ACT OF 2004**

18 **SEC. 401. SHORT TITLE.**

19 This title may be cited as the “Prevention and Recov-
 20 ery of Missing Children Act of 2004”.

21 **SEC. 402. FINDINGS.**

22 Congress finds the following:

23 (1) An improved registration system for sex of-
 24 fenders and others who commit predatory acts

1 against children will provide law enforcement agen-
2 cies with additional information critical to pre-
3 venting and promptly resolving such crimes.

4 (2) Federal, State, and local law enforcement
5 were called upon to investigate over 12,000 non-fam-
6 ily abductions in the United States in 1999.

7 (3) The National Crime Information Center
8 (NCIC) database, which links more than 16,000
9 Federal, State, and local law enforcement agencies,
10 is a critical means of cooperation among law en-
11 forcement agencies.

12 (4) Delays in entering missing children reports
13 into the NCIC database leads to investigative delays
14 when time is critical to ensuring the safe return of
15 missing children, as evidenced by the fact that in 74
16 percent of abduction homicide cases the child is dead
17 within the first 3 hours and 91 percent are killed
18 within 24 hours.

19 **SEC. 403. MISSING CHILD REPORTING REQUIREMENTS.**

20 (a) IN GENERAL.—Section 3702 of the Crime Con-
21 trol Act of 1990 (42 U.S.C. 5780) is amended—

22 (1) by redesignating paragraphs (2) and (3) as
23 paragraphs (3) and (4), respectively;

24 (2) by inserting after paragraph (1) the fol-
25 lowing:

1 “(2) ensure that no law enforcement agency
2 within the State establishes or maintains any policy
3 that requires the removal of a missing person entry
4 from its State law enforcement system or the Na-
5 tional Crime Information Center computer network
6 based solely on the age of the person;” and

7 (3) in paragraph (3), as so redesignated, by
8 striking “immediately” and inserting “within 2
9 hours of receipt”.

10 **SEC. 404. STANDARDS FOR SEX OFFENDER REGISTRATION**
11 **PROGRAMS.**

12 (a) IN GENERAL.—Section 170101 of the Violent
13 Crime Control and Law Enforcement Act of 1994 (42
14 U.S.C. 14071) is amended—

15 (1) in subsection (b)—

16 (A) in paragraph (1)(A)—

17 (i) by striking clause (i), and inserting
18 the following:

19 “(i) inform the person of the duty to
20 register and obtain the information re-
21 quired for such registration, including the
22 person’s name, current address, antici-
23 pated future residence, employer name and
24 address, license plate number and other
25 identifying information about each vehicle

1 that the person owns, and student enroll-
2 ment information;”;

3 (ii) by striking clause (iv) and insert-
4 ing the following:

5 “(iv) obtain fingerprints, a photo-
6 graph, and a deoxyribonucleic acid (DNA)
7 sample, unless they were obtained within
8 the previous 3 months;”;

9 (iii) in clause (v), by striking the pe-
10 riod at the end and inserting the following:
11 “; and”; and

12 (iv) by adding at the end the fol-
13 lowing:

14 “(vi) for persons who are incarcer-
15 ated, perform each of the duties under
16 clauses (i) through (v) prior to the release
17 of that person from incarceration.”;

18 (B) in paragraph (2)(A), in the second
19 sentence, by inserting “registration information
20 for persons intending to move to another State
21 is promptly made available to the registering
22 agency of that State, and that” after “State
23 procedures shall also ensure that”;

24 (C) by striking paragraph (3) and insert-
25 ing the following:

1 “(3) VERIFICATION.—For all persons required
2 to register under this section, State procedures shall
3 provide for verification of registry information de-
4 scribed in paragraph (1)(A)(i) at least once every 90
5 days.”;

6 (D) by striking paragraph (4) and insert-
7 ing the following:

8 “(4) NOTIFICATION OF LOCAL LAW ENFORCE-
9 MENT AGENCIES OF CHANGES IN REGISTRY INFOR-
10 MATION.—State procedures shall provide that all
11 persons required to register under this section shall
12 report a change of name, address, employer name
13 and address, vehicle information, and student enroll-
14 ment information to a law enforcement agency that
15 has jurisdiction where the person will reside, not
16 later than 10 days after such change takes effect.”;
17 and

18 (E) by adding at the end the following:

19 “(8) CURRENT PHOTOGRAPH.—State proce-
20 dures shall provide for local law enforcement to ob-
21 tain a photograph for all persons required to register
22 under this section—

23 “(A) at the initial registration of the per-
24 son; and

1 “(B) at least once a year from the time of
2 verification of the registry information of that
3 person, throughout the term of registration.

4 “(9) DRIVER’S LICENSE OR IDENTIFICATION
5 CARD.—State procedures shall require that all per-
6 sons required to register under this section obtain,
7 at the time of initial registration, a driver’s license
8 or identification card from the State Department of
9 Motor Vehicles in the State in which that person re-
10 sides.”; and

11 (2) in subsection (d)—

12 (A) by striking “A” and inserting the fol-
13 lowing:

14 “(1) IN GENERAL.—A”; and

15 (B) by adding at the end the following:

16 “(2) FELONY.—States shall designate a failure
17 to comply with the registration and verification re-
18 quirements of this section as a felony and permit
19 such failure to be grounds for the immediate
20 issuance of an arrest warrant.

21 “(3) CONSIDERATIONS.—States shall consider a
22 failure to comply with the registration and
23 verification requirements of this section as an ongo-
24 ing offense for the purpose of statutes of limitation,

1 and shall consider a failure to register each item of
2 changed registry information as a separate offense.”.

3 **SEC. 405. EFFECTIVE DATE.**

4 This title and the amendments made by this title
5 shall take effect on the expiration of the date which is
6 2 years after the date of enactment of this title.

7 **TITLE V—BULLETPROOF VEST**
8 **PARTNERSHIP GRANT ACT OF**
9 **2004**

10 **SEC. 501. SHORT TITLE.**

11 This title may be cited as the “Bulletproof Vest Part-
12 nership Grant Act of 2004”.

13 **SEC. 502. AUTHORIZATION OF APPROPRIATIONS.**

14 Section 1001(a)(23) of title I of the Omnibus Crime
15 Control and Safe Streets Act of 1968 (42 U.S.C.
16 3793(a)(23)) is amended by striking “2004” and inserting
17 “2007”.

18 **TITLE VI—PACT ACT**

19 **SEC. 601. SHORT TITLE.**

20 This title may be cited as the “Prevent All Cigarette
21 Trafficking Act” or “PACT Act”.

1 **SEC. 602. COLLECTION OF STATE CIGARETTE AND SMOKE-**
2 **LESS TOBACCO TAXES.**

3 (a) DEFINITIONS.—Section 1 of the Act of October
4 19, 1949 (15 U.S.C. 375; commonly referred to as the
5 “Jenkins Act”), is amended—

6 (1) by striking paragraphs (1), (2), and (3) and
7 inserting the following new paragraphs:

8 “(1) The term ‘attorney general’, with respect
9 to a State, means the attorney general or other chief
10 law enforcement officer of the State, or the designee
11 of that officer.

12 “(2) The term ‘cigarette’ means—

13 “(A) any roll of tobacco wrapped in paper
14 or in any substance not containing tobacco
15 which is to be heated or burned;

16 “(B) any roll of tobacco wrapped in any
17 substance containing tobacco that, because of
18 its appearance, the type of tobacco used in the
19 filler, or its packaging or labeling, is likely to be
20 offered to, or purchased by, consumers as a cig-
21 arette described in subparagraph (A);

22 “(C) any roll of tobacco wrapped in any
23 substance that because of its appearance, the
24 type of tobacco used in the filler, or its pack-
25 aging or labeling, is likely to be offered to, or
26 purchased by, consumers as a cigarette; or

1 “(D) loose rolling tobacco that, because of
2 its appearance, type, packaging, or labeling, is
3 likely to be offered to, or purchased by, con-
4 sumers as tobacco for making cigarettes.

5 “(3) The term ‘smokeless tobacco’ means any
6 finely cut, ground, powdered, or leaf tobacco that is
7 intended to be placed in the oral or nasal cavity or
8 otherwise consumed without being combusted.”;

9 (2) in paragraph (5)—

10 (A) by inserting “, local, or Tribal” after
11 “the State”;

12 (B) by striking “administer the cigarette
13 tax law” and inserting “collect the tobacco tax
14 or administer the tax law”; and

15 (C) by inserting “, locality, or Tribe, re-
16 spectively” after “a State”.

17 (3) by striking paragraph (6) and inserting the
18 following new paragraph (6):

19 “(6) The term ‘delivery sale’ means any sale of
20 cigarettes or smokeless tobacco in interstate com-
21 merce to a consumer if—

22 “(A) the consumer submits the order for
23 such sale by means of a telephone or other
24 method of voice transmission, the mails, or the
25 Internet or other online service, or the seller is

1 otherwise not in the physical presence of the
2 buyer when the request for purchase or order is
3 made; or

4 “(B) the cigarettes or smokeless tobacco
5 are delivered by use of a common carrier, pri-
6 vate delivery service, or the mails, or the seller
7 is not in the physical presence of the buyer
8 when the buyer obtains personal possession of
9 the delivered cigarettes or smokeless tobacco.”;
10 and

11 (4) by adding at the end the following new
12 paragraphs:

13 “(8) The term ‘delivery seller’ means a person
14 who makes a delivery sale.

15 “(9) The term ‘common carrier’ means any per-
16 son (other than a local messenger service or the
17 United States Postal Service (as defined in section
18 102 of title 39, United States Code)) that holds
19 itself out to the general public as a provider for hire
20 of the transportation by water, land, or air of mer-
21 chandise, whether or not the person actually oper-
22 ates the vessel, vehicle, or aircraft by which the
23 transportation is provided, between a port or place
24 and a port or place in the United States.

1 “(10) The term ‘interstate commerce’ means
2 commerce between a State and any place outside the
3 State, commerce between a State and any Indian
4 lands in the State, or commerce between points in
5 the same State but through any place outside the
6 State or through any Indian lands.

7 “(11) The term ‘person’ means an individual,
8 corporation, company, association, firm, partnership,
9 society, State government, local government, Indian
10 tribal government, governmental organization of
11 such government, or joint stock company.

12 “(12) The term ‘State’ means a State of the
13 United States, the District of Columbia, the Com-
14 monwealth of Puerto Rico, or any territory or pos-
15 session of the United States.

16 “(13) The term ‘Indian Country’ has the mean-
17 ing given that term in section 1151 of title 18,
18 United States Code, except that within the State of
19 Alaska that term applies only to the Metlakatla In-
20 dian Community, Annette Island Reserve.

21 “(14) The term ‘Indian Tribe’, ‘Tribe’, or
22 ‘Tribal’ refers to an Indian tribe as defined in the
23 Indian Self-Determination and Education Assistance
24 Act (25 U.S.C. 450b(e)) or as listed pursuant to sec-
25 tion 104 of the Federally Recognized Indian Tribe

1 List Act of 1994 (Public Law 103–454; 25 U.S.C.
2 479a–1).

3 “(15) The term ‘tobacco tax administrator’, in
4 the case of a State, local, or Tribal government,
5 means the official of the government duly authorized
6 to collect the tobacco tax or administer the tax law
7 of the government.”.

8 (b) REPORTS TO STATE TOBACCO TAX ADMINISTRA-
9 TORS.—Section 2 of that Act (15 U.S.C. 376) is amend-
10 ed—

11 (1) by striking “cigarettes” each place it ap-
12 pears and inserting “cigarettes or smokeless to-
13 bacco”;

14 (2) in subsection (a)—

15 (A) in the matter preceding paragraph

16 (1)—

17 (i) by striking “or transfers” and in-
18 serting “, transfers, or ships”;

19 (ii) by inserting “, locality, or Indian
20 Country of an Indian Tribe” after “a
21 State”; and

22 (iii) by striking “to other than a dis-
23 tributor licensed by or located in such
24 State,”;

25 (B) in paragraph (1)—

1 (i) by striking “administrator of the
2 State” and inserting “administrators of
3 the State and place”; and

4 (ii) by striking “; and” and inserting
5 the following: “, as well as telephone num-
6 bers for each place of business, a principal
7 electronic mail address, any website ad-
8 dresses, and the name, address, and tele-
9 phone number of an agent in the State au-
10 thorized to accept service on behalf of such
11 person;”;

12 (C) in paragraph (2), by striking “and the
13 quantity thereof.” and inserting “the quantity
14 thereof, and the name, address, and phone
15 number of the person delivering the shipment to
16 the recipient on behalf of the delivery seller,
17 with all invoice or memoranda information re-
18 lating to specific customers to be organized by
19 city or town and by zip code; and”;

20 (D) by adding at the end the following new
21 paragraph:

22 “(3) with respect to each memorandum or in-
23 voice filed with a State under paragraph (2), also
24 file copies of such memorandum or invoice with the
25 tobacco tax administrators and chief law enforce-

1 ment officers of the local governments and Indian
2 Tribes operating within the borders of the State that
3 apply their own local or Tribal taxes on cigarettes or
4 smokeless tobacco.”; and

5 (3) in subsection (b)—

6 (A) by striking “(1)”; and

7 (B) by striking “, and (2)” and all that
8 follows and inserting a period.

9 (c) REQUIREMENTS FOR DELIVERY SALES.—That
10 Act is further amended by inserting after section 2 the
11 following new section:

12 “SEC. 2A. (a) With respect to delivery sales into a
13 specific State and place, each delivery seller shall comply
14 with—

15 “(1) the shipping requirements set forth in sub-
16 section (b);

17 “(2) the recordkeeping requirements set forth
18 in subsection (c);

19 “(3) all State, local, Tribal, and other laws gen-
20 erally applicable to sales of cigarettes or smokeless
21 tobacco as if such delivery sales occurred entirely
22 within the specific State and place, including laws
23 imposing—

24 “(A) excise taxes;

1 “(B) licensing and tax-stamping require-
2 ments; and

3 “(C) other payment obligations or legal re-
4 quirements relating to the sale, distribution, or
5 delivery of cigarettes or smokeless tobacco; and

6 “(4) the tax collection requirements set forth in
7 subsection (d).

8 “(b)(1) Each delivery seller shall include on the bill
9 of lading included with the shipping package containing
10 cigarettes or smokeless tobacco sold pursuant to such
11 order a clear and conspicuous statement providing as fol-
12 lows: ‘CIGARETTES/SMOKELESS TOBACCO: FED-
13 ERAL LAW REQUIRES THE PAYMENT OF ALL AP-
14 PLICABLE EXCISE TAXES, AND COMPLIANCE
15 WITH APPLICABLE LICENSING AND TAX-STAMP-
16 ING OBLIGATIONS’.

17 “(2) Any shipping package described in paragraph
18 (1) that is not labeled in accordance with that paragraph
19 shall be treated as non-deliverable matter by a common
20 carrier or the United States Postal Service if the common
21 carrier or the United States Postal Service, as the case
22 may be, knows or should know the contents of the pack-
23 age.

24 “(c)(1) Each delivery seller shall keep a record of all
25 delivery sales so made, including all of the information de-

1 scribed in section 2(a)(2), organized by the State, and
2 within such State, by the city or town and by zip code,
3 into which such delivery sales are so made.

4 “(2) Records of delivery sales shall be kept under
5 paragraph (1) in the year in which made and for the next
6 four years.

7 “(3) Records kept under paragraph (1) shall be made
8 available to tobacco tax administrators of the States, to
9 local governments and Indian Tribes that apply their own
10 local or Tribal taxes on cigarettes or smokeless tobacco,
11 to the attorneys general of the States, to the chief law
12 enforcement officers of such local governments and Indian
13 Tribes, and to the Attorney General of the United States
14 in order to ensure the compliance of persons making deliv-
15 ery sales with the requirements of this Act.

16 “(d)(1) Except as provided in paragraph (2), no ciga-
17 rettes or smokeless tobacco may be delivered pursuant to
18 a delivery sale in interstate commerce unless in advance
19 of the delivery—

20 “(A) any cigarette or smokeless tobacco excise
21 tax that is imposed by the State in which the ciga-
22 rettes or smokeless tobacco are to be delivered has
23 been paid to the State;

24 “(B) any cigarette or smokeless tobacco excise
25 tax that is imposed by the local government of the

1 place in which the cigarette or smokeless tobacco are
2 to be delivered has been paid to the local government;
3 and

4 “(C) any required stamps or other indicia that
5 such excise tax has been paid are properly affixed or
6 applied to the cigarettes or smokeless tobacco.

7 “(2) Paragraph (1) does not apply to a delivery sale
8 of smokeless tobacco if the law of the State or local gov-
9 ernment of the place where the smokeless tobacco is to
10 be delivered requires or otherwise provides that delivery
11 sellers collect the excise tax from the consumer and remit
12 the excise tax to the State or local government, and the
13 delivery seller complies with the requirement.

14 “(e)(1) Each State, and each local government or In-
15 dian Tribal government that levies a tax subject to sub-
16 section (a)(3), may compile a list of delivery sellers who
17 are in compliance with this Act with respect to such State,
18 locality, or Indian Tribe. If a State, local government, or
19 Indian Tribe posts a list pursuant to this subsection that
20 specifically refers to this subsection, no common carrier
21 or other person may knowingly deliver cigarettes or
22 smokeless tobacco to consumers in such State or locality
23 or in the Indian Country of such Indian Tribe unless the
24 delivery seller is on the list at the time of delivery.

1 “(2)(A) Each State, and each local government or In-
2 dian Tribal government that levies a tax subject to sub-
3 section (a)(3), may compile a list of delivery sellers who
4 are not in compliance with this Act with respect to such
5 State, locality, or Indian Tribe.

6 “(B) A State, locality, or Indian Tribal government
7 may provide such a list to a common carrier, the United
8 States Postal Service, or other person. Such a list shall
9 be confidential, and a common carrier, the United States
10 Postal Service, or other person that receives such a list
11 shall maintain the confidentiality of such list.

12 “(C) If a State, local government, or Indian Tribal
13 government provides such a list pursuant to this sub-
14 section that specifically refers to this subsection, no com-
15 mon carrier, the United States Postal Service, or other
16 person may knowingly deliver any item to a consumer in
17 such State or locality or in the Indian Country of such
18 Indian Tribe for a delivery seller on such list unless the
19 common carrier, the United States Postal Service, or per-
20 son in good faith determines that the item does not include
21 cigarettes or smokeless tobacco.

22 “(f) For purposes of this Act, a delivery sale shall
23 be deemed to have occurred in the State and place where
24 the buyer obtains personal possession of the cigarettes or
25 smokeless tobacco, and a delivery pursuant to a delivery

1 sale is deemed to have been initiated or ordered by the
2 delivery seller.”.

3 (d) PENALTIES.—Section 3 of that Act (15 U.S.C.
4 377) is amended—

5 (1) by inserting “(a)” before “Whoever”;

6 (2) in subsection (a), as so designated—

7 (A) by inserting “(except for a State, local,
8 or Tribal government)” after “this Act”; and

9 (B) by striking “shall be guilty of a mis-
10 demeanor and shall be fined not more than
11 \$1,000, or imprisoned not more than 6
12 months” and inserting “shall be guilty of a fel-
13 ony, fined under subchapter C of chapter 227
14 of title 18, United States Code, imprisoned not
15 more than three years, or both”; and

16 (3) by adding at the end the following new sub-
17 section:

18 “(b)(1) Whoever violates any provision of this Act
19 shall be subject to a civil penalty in an amount not to
20 exceed the greater of—

21 “(A) \$5,000 in the case of the first violation, or
22 \$10,000 for any other violation; or

23 “(B) for any violation, 2 percent of the gross
24 sales of cigarettes or smokeless tobacco of such per-

1 son during the one-year period ending on the date
2 of the violation.

3 “(2) A civil penalty under paragraph (1) for a viola-
4 tion of this Act is in addition to any criminal penalty
5 under subsection (a) for the violation.”.

6 (e) ENFORCEMENT.—Section 4 of that Act (15
7 U.S.C. 378) is amended—

8 (1) by inserting “(a)” before “The United
9 States district courts”;

10 (2) in subsection (a), as so designated, by in-
11 serting before the period the following: “, and to
12 provide other appropriate injunctive or equitable re-
13 lief, including money damages, for such violations”;
14 and

15 (3) by adding at the end the following new sub-
16 sections:

17 “(b) The Attorney General of the United States shall
18 administer and enforce the provisions of this Act.

19 “(c)(1)(A) A State, through its attorney general (or
20 a designee thereof), or a local government or Indian Tribe
21 that levies a tax subject to section 2A(a)(3), through its
22 chief law enforcement officer (or a designee thereof), may
23 bring an action in the United States district courts to pre-
24 vent and restrain violations of this Act by any person (or
25 by any person controlling such person) or to obtain any

1 other appropriate relief from any person (or from any per-
2 son controlling such person) for violations of this Act, in-
3 cluding civil penalties, money damages, and injunctive or
4 other equitable relief.

5 “(B) Nothing in this Act shall be deemed to abrogate
6 or constitute a waiver of any sovereign immunity of a
7 State or local government or Indian Tribe against any
8 unconsented lawsuit under this Act, or otherwise to re-
9 strict, expand, or modify any sovereign immunity of a
10 State or local government or Indian Tribe.

11 “(2) A State, through its attorney general, or a local
12 government or Indian Tribe that levies a tax subject to
13 section 2A(a)(3), through its chief law enforcement officer
14 (or a designee thereof), may provide evidence of a violation
15 of this Act by any person not subject to State, local, or
16 Tribal government enforcement actions for violations of
17 this Act to the Attorney General of the United States or
18 a United State Attorney, who shall take appropriate ac-
19 tions to enforce the provisions of this Act.

20 “(3)(A) Notwithstanding any other provision of law
21 and subject to subparagraph (B), an amount equal to 50
22 percent of any criminal and civil penalties collected by the
23 United States Government in enforcing the provisions of
24 this Act shall be available to the Department of Justice

1 for purposes of enforcing the provisions of this Act and
2 other laws relating to contraband tobacco products.

3 “(B) Of the amount available to the Department
4 under subparagraph (A), not less than 50 percent shall
5 be made available only to the agencies and offices within
6 the Department that were responsible for the enforcement
7 actions in which the penalties concerned were imposed.

8 “(4) The remedies available under this subsection are
9 in addition to any other remedies available under Federal,
10 State, local, Tribal, or other law.

11 “(5) Nothing in this Act shall be construed to ex-
12 pand, restrict, or otherwise modify any right of an author-
13 ized State official to proceed in State court, or take other
14 enforcement actions, on the basis of an alleged violation
15 of State or other law.

16 “(6) Nothing in this Act shall be construed to ex-
17 pand, restrict, or otherwise modify any right of an author-
18 ized Indian Tribal government official to proceed in Tribal
19 court, or take other enforcement actions, on the basis of
20 an alleged violation of Tribal law.

21 “(7) Nothing in this Act shall be construed to ex-
22 pand, restrict, or otherwise modify any right of an author-
23 ized local government official to proceed in State court,
24 or take other enforcement actions, on the basis of an al-
25 leged violation of local or other law.

1 “(d) Any person who holds a permit under section
2 5712 of the Internal Revenue Code of 1986 may bring
3 an action in the United States district courts to prevent
4 and restrain violations of this Act by any person (or by
5 any person controlling such person) other than a State,
6 local, or Tribal government.

7 “(e)(1) Any person who commences a civil action
8 under subsection (d) shall inform the Attorney General of
9 the United States of the action.

10 “(2) It is the sense of Congress that any attorney
11 general of a State, or chief law enforcement officer of a
12 locality or Tribe, who commences a civil action under this
13 section should inform the Attorney General of the United
14 States of the action.

15 “(f)(1) The Attorney General of the United States
16 shall make available to the public, by posting such infor-
17 mation on the Internet and by other means, information
18 about all enforcement actions undertaken by the Attorney
19 General or United States Attorneys, or reported to the At-
20 torney General, under this section, including information
21 on the resolution of such actions and, in particular, infor-
22 mation on how the Attorney General and the United
23 States Attorney have responded to referrals of evidence
24 of violations pursuant to subsection (b)(2).

1 “(2) The Attorney General shall submit to Congress
2 each year a report containing the information described
3 in paragraph (1).”.

4 **SEC. 603. TREATMENT OF CIGARETTES AND SMOKELESS**
5 **TOBACCO AS NONMAILABLE MATTER.**

6 Section 1716 of title 18, United States Code, is
7 amended—

8 (1) by redesignating subsections (j) and (k) as
9 subsections (k) and (l), respectively; and

10 (2) by inserting after subsection (i) the fol-
11 lowing new subsection (j):

12 “(j)(1) Except as provided in paragraph (2), the
13 transmission in the mails of any tobacco product, includ-
14 ing cigarettes (as that term is defined in section 1(2) of
15 the Act of October 19, 1949 (15 U.S.C. 375; commonly
16 referred to as the ‘Jenkins Act’)) and smokeless tobacco
17 (as that term is defined in section 1(3) of that Act), is
18 prohibited, and tobacco products are nonmailable and
19 shall not be deposited in or carried through the mails.

20 “(2) Paragraph (1) shall apply only to States that
21 are contiguous with at least one other State of the United
22 States.”.

1 **SEC. 604. PENAL PROVISIONS REGARDING TRAFFICKING IN**
2 **CONTRABAND CIGARETTES OR SMOKELESS**
3 **TOBACCO.**

4 (a) **THRESHOLD QUANTITY FOR TREATMENT AS**
5 **CONTRABAND CIGARETTES.**—(1) Section 2341(2) of title
6 18, United States Code, is amended by striking “60,000
7 cigarettes” and inserting “10,000 cigarettes”.

8 (2) Section 2342(b) of that title is amended by strik-
9 ing “60,000” and inserting “10,000”.

10 (3) Section 2343 of that title is amended—

11 (A) in subsection (a), by striking “60,000” and
12 inserting “10,000”; and

13 (B) in subsection (b), by striking “60,000” and
14 inserting “10,000”.

15 (b) **CONTRABAND SMOKELESS TOBACCO.**—(1) Sec-
16 tion 2341 of that title is amended—

17 (A) in paragraph (4), by striking “and” at the
18 end;

19 (B) in paragraph (5), by striking the period at
20 the end and inserting a semicolon; and

21 (C) by adding at the end the following new
22 paragraphs:

23 “(6) the term ‘smokeless tobacco’ means any
24 finely cut, ground, powdered, or leaf tobacco that is
25 intended to be placed in the oral or nasal cavity or
26 otherwise consumed without being combusted;

1 “(7) the term ‘contraband smokeless tobacco’
2 means a quantity in excess of 500 single-unit con-
3 sumer-sized cans or packages of smokeless tobacco,
4 or their equivalent, that are in the possession of any
5 person other than—

6 “(A) a person holding a permit issued pur-
7 suant to chapter 52 of the Internal Revenue
8 Code of 1986 as manufacturer of tobacco prod-
9 ucts or as an export warehouse proprietor, a
10 person operating a customs bonded warehouse
11 pursuant to section 311 or 555 of the Tariff
12 Act of 1930 (19 U.S.C. 1311, 1555), or an
13 agent of such person;

14 “(B) a common carrier transporting such
15 smokeless tobacco under a proper bill of lading
16 or freight bill which states the quantity, source,
17 and designation of such smokeless tobacco;

18 “(C) a person who—

19 “(i) is licensed or otherwise author-
20 ized by the State where such smokeless to-
21 bacco is found to engage in the business of
22 selling or distributing tobacco products or,
23 for smokeless tobacco found in Indian
24 Country, is licensed or otherwise author-
25 ized by the Tribal government of such In-

1 dian Country to account for and pay
2 smokeless tobacco taxes imposed by the
3 Tribal government; and

4 “(ii) has complied with the account-
5 ing, tax, and payment requirements relat-
6 ing to such license or authorization with
7 respect to such smokeless tobacco; or

8 “(D) an officer, employee, or agent of the
9 United States or a State or a Tribe, or any de-
10 partment, agency, or instrumentality of the
11 United States, a State (including any political
12 subdivision of a State), or a Tribe (including
13 any political subdivision of a Tribe), having pos-
14 session of such smokeless tobacco in connection
15 with the performance of official duties;”.

16 (2) Section 2342(a) of that title is amended by insert-
17 ing “or contraband smokeless tobacco” after “contraband
18 cigarettes”.

19 (3) Section 2343(a) of that title is amended by insert-
20 ing “, or any quantity of smokeless tobacco in excess of
21 500 single-unit consumer-sized cans or packages,” before
22 “in a single transaction”.

23 (4) Section 2344(c) of that title is amended by insert-
24 ing “or contraband smokeless tobacco” after “contraband
25 cigarettes”.

1 (5) Section 2345 of that title is amended by inserting
2 “or smokeless tobacco” after “cigarettes” each place it ap-
3 pears.

4 (c) ADDITIONAL DEFINITIONAL MATTERS.—Section
5 2341 of such title is further amended—

6 (1) in paragraph (2), as amended by subsection
7 (a)(1) of this section—

8 (A) in the matter preceding subparagraph
9 (A), by striking “State cigarette taxes in the
10 State where such cigarettes are found, if the
11 State” and inserting “State, local, or Tribal
12 cigarette taxes in the State, locality, or Indian
13 Country where such cigarettes are found, if the
14 State, local or Tribal government”;

15 (B) in subparagraph (C)(i), by inserting
16 before the semicolon the following: “, or, for
17 cigarettes found in Indian County, is licensed or
18 otherwise authorized by the Tribal government
19 of such Indian Country to account for and pay
20 cigarette taxes imposed by the Tribal govern-
21 ment”; and

22 (C) in subparagraph (D)—

23 (i) by inserting “or a Tribe” after “a
24 State” the first place it appears; and

1 (ii) by striking “or a State (or any po-
2 litical subdivision of a State)” and insert-
3 ing “, a State (or any political subdivision
4 of a State), or a Tribe (including any polit-
5 ical subdivision of a Tribe)”;

6 (2) in paragraph (3), by inserting before the
7 semicolon the following: “, or, for a carrier making
8 a delivery entirely within Indian Country, under
9 equivalent operating authority from the Indian Trib-
10 al government of such Indian Country”; and

11 (3) by adding at the end the following new
12 paragraphs:

13 “(8) the term ‘Indian Country’ has the meaning
14 given that term in section 1151 of title 18, United
15 States Code, except that within the State of Alaska
16 that term applies only to the Metlakatla Indian
17 Community, Annette Island Reserve; and

18 “(9) the term ‘Indian Tribe’, ‘Tribe’, or ‘Tribal’
19 refers to an Indian tribe as defined in the Indian
20 Self-Determination and Education Assistance Act
21 (25 U.S.C. 450b(e)) or as listed pursuant to section
22 104 of the Federally Recognized Indian Tribe List
23 Act of 1994 (Public Law 103–454; 25 U.S.C. 479a–
24 1).”.

1 (d) RECORDKEEPING, REPORTING, AND INSPEC-
2 TION.—Section 2343 of that title, as amended by this sec-
3 tion, is further amended—

4 (1) in subsection (a)—

5 (A) in the matter preceding paragraph (1),
6 by striking “only—” and inserting “such infor-
7 mation as the Attorney General considers ap-
8 propriate for purposes of enforcement of this
9 chapter, including—”; and

10 (B) in the flush matter following para-
11 graph (3), by striking the second sentence;

12 (2) by redesignating subsection (b) as sub-
13 section (c);

14 (3) by inserting after subsection (a) the fol-
15 lowing new subsection (b):

16 “(b) Any person who engages in a delivery sale, and
17 who ships, sells, or distributes any quantity in excess of
18 10,000 cigarettes, or any quantity in excess of 500 single-
19 unit consumer-sized cans or packages of smokeless to-
20 bacco, or their equivalent, within a single month, shall
21 submit to the Attorney General, pursuant to rules or regu-
22 lations prescribed by the Attorney General, a report that
23 sets forth the following:

1 “(1) The person’s beginning and ending inven-
2 tory of cigarettes and cans or packages of smokeless
3 tobacco (in total) for such month.

4 “(2) The total quantity of cigarettes and cans
5 or packages of smokeless tobacco that the person re-
6 ceived within such month from each other person
7 (itemized by name and address).

8 “(3) The total quantity of cigarettes and cans
9 or packages of smokeless tobacco that the person
10 distributed within such month to each person
11 (itemized by name and address) other than a retail
12 purchaser.”; and

13 (4) by adding at the end the following new sub-
14 sections:

15 “(d) Any report required to be submitted under this
16 chapter to the Attorney General shall also be submitted
17 to the Secretary of the Treasury and to the attorneys gen-
18 eral and the tax administrators of the States from where
19 the shipments, deliveries, or distributions both originated
20 and concluded, and to the chief law enforcement officer
21 and tax administrator of the Tribe for shipments, deliv-
22 eries or distributions that originated or concluded on the
23 Indian Country of the Indian Tribe.

1 “(e) In this section, the term ‘delivery sale’ means
2 any sale of cigarettes or smokeless tobacco in interstate
3 commerce to a consumer if—

4 “(A) the consumer submits the order for
5 such sale by means of a telephone or other
6 method of voice transmission, the mails, or the
7 Internet or other online service, or by any other
8 means where the consumer is not in the same
9 physical location as the seller when the pur-
10 chase or offer of sale is made; or

11 “(B) the cigarettes or smokeless tobacco
12 are delivered by use of the mails, common car-
13 rier, private delivery service, or any other
14 means where the consumer is not in the same
15 physical location as the seller when the con-
16 sumer obtains physical possession of the ciga-
17 rettes or smokeless tobacco.

18 “(f) In this section, the term ‘interstate commerce’
19 means commerce between a State and any place outside
20 the State, commerce between a State and any Indian lands
21 in the State, or commerce between points in the same
22 State but through any place outside the State or through
23 any Indian lands.”.

24 (e) DISPOSAL OR USE OF FORFEITED CIGARETTES
25 AND SMOKELESS TOBACCO.—Section 2344(c) of that

1 title, as amended by this section, is further amended by
2 striking “seizure and forfeiture,” and all that follows and
3 inserting “seizure and forfeiture, and any cigarettes or
4 smokeless tobacco so seized and forfeited shall be either—

5 “(1) destroyed and not resold; or

6 “(2) used for undercover investigative oper-
7 ations for the detection and prosecution of crimes,
8 and then destroyed and not resold.”.

9 (f) EFFECT ON STATE, LOCAL, AND TRIBAL LAW.—

10 Section 2345 of that title is amended—

11 (1) in subsection (a), by striking “a State to
12 enact and enforce” and inserting “a State, local gov-
13 ernment, or Tribe to enact and enforce its own”;
14 and

15 (2) in subsection (b), by striking “of States,
16 through interstate compact or otherwise, to provide
17 for the administration of State” and inserting “of
18 State, local, or Tribal governments, through inter-
19 state compact or otherwise, to provide for the ad-
20 ministration of State, local, or Tribal”.

21 (g) ENFORCEMENT.—Section 2346 of that title is
22 amended—

23 (1) by inserting “(a)” before “The Attorney
24 General”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(b)(1) A State, through its attorney general, a local
4 government or Indian Tribe, through its chief law enforce-
5 ment officer (or a designee thereof), or any person who
6 holds a permit under section 5712 of the Internal Revenue
7 Code of 1986, may bring an action in the United States
8 district courts to prevent and restrain violations of this
9 chapter by any person (or by any person controlling such
10 person), except that any person who holds a permit under
11 section 5712 of the Internal Revenue Code of 1986 may
12 not bring such an action against a State, local, or Tribal
13 government.

14 “(2) A State, through its attorney general, or a local
15 government or Indian Tribe, through its chief law enforce-
16 ment officer (or a designee thereof), may in a civil action
17 under paragraph (1) also obtain any other appropriate re-
18 lief for violations of this chapter from any person (or by
19 any person controlling such person), including civil pen-
20 alties, money damages, and injunctive or other equitable
21 relief. Nothing in this chapter shall be deemed to abrogate
22 or constitute a waiver of any sovereign immunity of a
23 State or local government or Indian Tribe against any
24 unconsented lawsuit under this chapter, or otherwise to

1 restrict, expand, or modify any sovereign immunity of a
2 State or local government or Indian Tribe.

3 “(3) The remedies under paragraphs (1) and (2) are
4 an addition to any other remedies under Federal, State,
5 local, Tribal, or other law.

6 “(4) Nothing in this chapter shall be construed to
7 expand, restrict, or otherwise modify any right of an au-
8 thorized State official to proceed in State court, or take
9 other enforcement actions, on the basis of an alleged viola-
10 tion of State or other law.

11 “(5) Nothing in this chapter shall be construed to
12 expand, restrict, or otherwise modify any right of an au-
13 thorized Indian Tribal government official to proceed in
14 Tribal court, or take other enforcement actions, on the
15 basis of an alleged violation of Tribal law.

16 “(6) Nothing in this chapter shall be construed to
17 expand, restrict, or otherwise modify any right of an au-
18 thorized local government official to proceed in State
19 court, or take other enforcement actions, on the basis of
20 an alleged violation of local or other law.”.

21 (h) CONFORMING AND CLERICAL AMENDMENTS.—

22 (1) The section heading for section 2343 of that title is
23 amended to read as follows:

1 **“§ 2343. Recordkeeping, reporting, and inspection”.**

2 (2) The section heading for section 2345 of such title
3 is amended to read as follows:

4 **“§ 2345. Effect on State, Tribal, and local law”.**

5 (3) The table of sections at the beginning of chapter
6 114 of that title is amended—

7 (A) by striking the item relating to section
8 2343 and inserting the following new item:

“2343. Recordkeeping, reporting, and inspection.”;

9 and

10 (B) by striking the item relating to section
11 2345 and inserting the following new item:

“2345. Effect on State, Tribal, and local law.”.

12 (4)(A) The heading for chapter 114 of that title is
13 amended to read as follows:

14 **“CHAPTER 114—TRAFFICKING IN CONTRA-**
15 **BAND CIGARETTES AND SMOKELESS**
16 **TOBACCO”.**

17 (B) The table of chapters at the beginning of part
18 I of that title is amended by striking the item relating
19 to section 114 and inserting the following new item:

**“114. Trafficking in contraband cigarettes and smokeless
tobacco 2341”.**

20 **SEC. 605. COMPLIANCE WITH MODEL STATUTE OR QUALI-**
21 **FYING STATUTE.**

22 (a) IN GENERAL.—A Tobacco Product Manufacturer
23 or importer may not sell in, deliver to, or place for delivery

1 sale, or cause to be sold in, delivered to, or placed for deliv-
2 ery sale in, a State that is a party to the Master Settle-
3 ment Agreement any cigarette manufactured by a Tobacco
4 Product Manufacturer that is not in full compliance with
5 the terms of the Model Statute or Qualifying Statute en-
6 acted by such State requiring funds to be placed into a
7 qualified escrow account under specified conditions, or any
8 regulations promulgated pursuant to such terms.

9 (b) JURISDICTION TO PREVENT AND RESTRAIN VIO-
10 LATIONS.—(1) The United States district courts shall
11 have jurisdiction to prevent and restrain violations of sub-
12 section (a) in accordance with this subsection.

13 (2) A State, through its attorney general, may bring
14 an action in the United States district courts to prevent
15 and restrain violations of subsection (a) by any person (or
16 by any person controlling such person).

17 (3) In any action under paragraph (2), a State,
18 through its attorney general, shall be entitled to reason-
19 able attorney fees from a person found to have willfully
20 and knowingly violated subsection (a).

21 (4) The remedy available under paragraph (2) is in
22 addition to any other remedies available under Federal,
23 State, or other law.

24 (5) Nothing in this subsection shall be construed to
25 prohibit an authorized State official from proceeding in

1 State court or taking other enforcement actions on the
2 basis of an alleged violation of State or other law.

3 (6) The Attorney General may administer and en-
4 force subsection (a).

5 (c) DEFINITIONS.—In this section:

6 (1) MASTER SETTLEMENT AGREEMENT.—The
7 term “Master Settlement Agreement” means the
8 agreement executed November 23, 1998, by the At-
9 torneys General of 46 States, the District of Colum-
10 bia, the Commonwealth of Puerto Rico, and four
11 Territories of the United States, on the one hand,
12 and certain tobacco manufacturers on the other
13 hand.

14 (2) TOBACCO PRODUCT MANUFACTURER.—The
15 term “Tobacco Product Manufacturer” has the
16 meaning given that term in section II(uu) of the
17 Master Settlement Agreement.

18 (3) IMPORTER.—The term “importer” means
19 each of the following:

20 (A) Any person in the United States to
21 whom non-tax-paid tobacco products manufac-
22 tured in a foreign country, Puerto Rico, the
23 Virgin Islands, or a possession of the United
24 States are shipped or consigned.

1 (B) Any person who removes cigars or
2 cigarettes for sale or consumption in the United
3 States from a customs bonded manufacturing
4 warehouse.

5 (C) Any person who smuggles or otherwise
6 unlawfully brings tobacco products into the
7 United States.

8 (4) MODEL STATUTE; QUALIFYING STATUTE.—
9 The terms “Model Statute” and “Qualifying Stat-
10 ute” means a statute as defined in section
11 IX(d)(2)(e) of the Master Settlement Agreement.

12 (5) DELIVERY SALE.—The term “delivery sale”
13 means any sale of cigarettes or smokeless tobacco in
14 interstate commerce to a consumer if—

15 (A) the consumer submits the order for
16 such sale by means of a telephone or other
17 method of voice transmission, the mails, or the
18 Internet or other online service, or the seller is
19 otherwise not in the physical presence of the
20 buyer when the request for purchase or order is
21 made; or

22 (B) the cigarettes or smokeless tobacco are
23 delivered by use of a common carrier, private
24 delivery service, or the mails, or the seller is not
25 in the physical presence of the buyer when the

1 buyer obtains personal possession of the deliv-
2 ered cigarettes or smokeless tobacco.

3 (6) INTERSTATE COMMERCE.—The term “inter-
4 state commerce” means commerce between a State
5 and any place outside the State, commerce between
6 a State and any Indian lands in the State, or com-
7 merce between points in the same State but through
8 any place outside the State or through any Indian
9 lands.

10 **SEC. 606. UNDERCOVER CRIMINAL INVESTIGATIONS OF**
11 **THE BUREAU OF ALCOHOL, TOBACCO, FIRE-**
12 **ARMS, AND EXPLOSIVES.**

13 (a) IN GENERAL.—(1) Commencing as of the date
14 of the enactment of this Act and without fiscal year limita-
15 tion, the authorities in section 102(b) of the Department
16 of Justice and Related Agencies Appropriations Act, 1993
17 (title I of Public Law 102–395; 106 Stat. 1838) shall be
18 available to the Bureau of Alcohol, Tobacco, Firearms,
19 and Explosives for undercover investigative operations of
20 the Bureau which are necessary for the detection and
21 prosecution of crimes against the United States.

22 (2) For purposes of the exercise of the authorities
23 referred to in paragraph (1) by the Bureau, a reference
24 in such section 102(b) to the Federal Bureau of Investiga-
25 tion shall be deemed to be a reference to the Bureau of

1 Alcohol, Tobacco, Firearms, and Explosives, and a ref-
2 erence to the Director of the Federal Bureau of Investiga-
3 tion shall be deemed to be a reference to the Director of
4 the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

5 (b) LIMITATIONS IN APPROPRIATIONS ACTS.—The
6 exercise of the authorities referred to in subsection (a)(1)
7 by the Bureau of Alcohol, Tobacco, Firearms, and Explo-
8 sives shall be subject to the provisions of appropriations
9 Acts.

10 **SEC. 607. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO,**
11 **FIREARMS, AND EXPLOSIVES OF RECORDS**
12 **OF CERTAIN CIGARETTE AND SMOKELESS**
13 **TOBACCO SELLERS.**

14 (a) IN GENERAL.—Any officer of the Bureau of Alco-
15 hol, Tobacco, Firearms, and Explosives may, during nor-
16 mal business hours, enter the premises of any person de-
17 scribed in subsection (b) for the purposes of inspecting—

18 (1) any records or information required to be
19 maintained by such person under the provisions of
20 law referred to in subsection (d); or

21 (2) any cigarettes or smokeless tobacco kept or
22 stored by such person at such premises.

23 (b) COVERED PERSONS.—A person described in this
24 subsection is any person who engages in a delivery sale,
25 and who ships, sells, distributes, or receives any quantity

1 in excess of 10,000 cigarettes, or any quantity in excess
2 of 500 single-unit consumer-sized cans or packages of
3 smokeless tobacco, within a single month.

4 (c) RELIEF.—(1) The district courts of the United
5 States shall have the authority in a civil action under this
6 subsection to compel inspections authorized by subsection
7 (a).

8 (2) Whoever violates subsection (a) or an order issued
9 pursuant to paragraph (1) shall be subject to a civil pen-
10 alty in an amount not to exceed \$10,000 for each viola-
11 tion.

12 (d) COVERED PROVISIONS OF LAW.—The provisions
13 of law referred to in this subsection are as follows:

14 (1) The Act of October 19, 1949 (15 U.S.C.
15 375; commonly referred to as the “Jenkins Act”).

16 (2) Chapter 114 of title 18, United States
17 Code.

18 (3) This Act.

19 (e) DELIVERY SALE DEFINED.—In this section, the
20 term “delivery sale” has the meaning given that term in
21 2343(e)(1) of title 18, United States Code, as amended
22 by section 4(b)(3) of this Act.

23 **SEC. 608. COMPLIANCE WITH TARIFF ACT OF 1930.**

24 (a) INAPPLICABILITY OF EXEMPTIONS FROM RE-
25 QUIREMENTS FOR ENTRY OF CERTAIN CIGARETTES.—

1 Subsection (b)(1) of section 802 of the Tariff Act of 1930
2 (19 U.S.C. 1681a) is amended by adding at the end the
3 following new sentence: “The preceding sentence shall not
4 apply to any cigarettes sold in connection with a delivery
5 sale (as that term is defined in section 1 of the Act of
6 October 19, 1949 (15 U.S.C. 375; commonly referred to
7 as the ‘Jenkins Act’)).”.

8 (b) STATE AND TRIBAL ACCESS TO CUSTOMS CER-
9 TIFICATIONS.—Section 802 of that Act is further amended
10 by adding at the end the following new subsection:

11 “(d) STATE AND TRIBAL ACCESS TO CUSTOMS CER-
12 TIFICATIONS.—A State, through its attorney general, and
13 an Indian tribe (as that term is defined in the Indian Self-
14 Determination and Education Assistance Act (25 U.S.C.
15 450b(e)) through its chief law enforcement officer, shall
16 be entitled to obtain copies of any certification required
17 pursuant to subsection (c) directly—

18 “(1) upon request to the agency of the United
19 States responsible for collecting such certification; or

20 “(2) upon request to the importer, manufac-
21 turer, or authorized official of such importer or
22 manufacturer.”.

23 (c) ENFORCEMENT PROVISIONS.—Section 803 of
24 such Act (19 U.S.C. 1681b) is amended—

25 (1) in subsection (b)—

1 (A) in the first sentence—

2 (i) by inserting “any of” before “the
3 United States” the first and second places
4 it appears; and

5 (ii) by inserting before the period the
6 following: “, to any State in which such to-
7 bacco product, cigarette papers, or tube
8 was imported, or to the Indian Tribe of
9 any Indian Country (as that term is de-
10 fined in section 1151 of title 18, United
11 States Code) in which such tobacco prod-
12 uct, cigarette papers, or tube was im-
13 ported”; and

14 (B) in the second sentence, by inserting “,
15 or to any State or Indian Tribe,” after “the
16 United States”; and

17 (2) by adding at the end the following new sub-
18 section:

19 “(c) ACTIONS BY STATES AND OTHERS.—

20 “(1) IN GENERAL.—Any person who holds a
21 permit under section 5712 of the Internal Revenue
22 Code of 1986 may bring an action in the United
23 States district courts to prevent and restrain viola-
24 tions of this title by any person (or by any person

1 controlling such person), other than by a State,
2 local, or Tribal government.

3 “(2) RELIEF FOR STATE, LOCAL, AND TRIBAL
4 GOVERNMENTS.—A State, through its attorney gen-
5 eral, or a local government or Tribe through its chief
6 law enforcement officer (or a designee thereof), may
7 in a civil action under this title to prevent and re-
8 strain violations of this title by any person (or by
9 any person controlling such person) or to obtain any
10 other appropriate relief for violations of this title by
11 any person (or from any person controlling such per-
12 son), including civil penalties, money damages, and
13 injunctive or other equitable relief.

14 “(3) CONSTRUCTION GENERALLY.—

15 “(A) IN GENERAL.—Nothing in this sub-
16 section shall be deemed to abrogate or con-
17 stitute a waiver of any sovereign immunity of a
18 State or local government or Indian Tribe
19 against any unconsented lawsuit under this title
20 or to otherwise restrict, expand, or modify any
21 sovereign immunity of a State local government
22 or Indian Tribe.

23 “(B) CONSTRUCTION WITH OTHER RE-
24 LIEF.—The remedies available under this sub-
25 section are in addition to any other remedies

1 available under Federal, State, local, Tribal, or
2 other law.

3 “(4) CONSTRUCTION WITH FORFEITURE PROVI-
4 SIONS.—Nothing in this subsection shall be con-
5 strued to require a State or Indian Tribe to first
6 bring an action pursuant to paragraph (1) when
7 pursuing relief under subsection (b).

8 “(d) CONSTRUCTION WITH OTHER AUTHORITIES.—

9 “(1) STATE AUTHORITIES.—Nothing in this
10 title shall be construed to expand, restrict, or other-
11 wise modify the right of an authorized State official
12 from proceeding in State court, or taking other en-
13 forcement actions, on the basis of alleged violation
14 of State or other law.

15 “(2) TRIBAL AUTHORITIES.—Nothing in this
16 title shall be construed to expand, restrict, or other-
17 wise modify the right of an authorized Indian Tribal
18 government official from proceeding in Tribal court,
19 or taking other enforcement actions, on the basis of
20 alleged violation of Tribal law.

21 (d) INCLUSION OF SMOKELESS TOBACCO.—(1) Sec-
22 tions 802 and 803(a) of such Act are further amended
23 by inserting “or smokeless tobacco products” after “ciga-
24 rettes” each place it appears.

25 (2) Section 802 of such Act is further amended—

1 (A) in subsection (a)—

2 (i) in paragraph (1), by inserting “or sec-
3 tion 4 of the Comprehensive Smokeless Tobacco
4 Health Education Act of 1986 (15 U.S.C.
5 4403), respectively” after “section 7 of the
6 Federal Cigarette Labeling and Advertising Act
7 (15 U.S.C. 1335a)”;

8 (ii) in paragraph (2), by inserting “or sec-
9 tion 3 of the Comprehensive Smokeless Tobacco
10 Health Education Act of 1986 (15 U.S.C.
11 4402), respectively,” after “section 4 of the
12 Federal Cigarette Labeling and Advertising Act
13 (15 U.S.C. 1333)”;

14 (iii) in paragraph (3), by inserting “or sec-
15 tion 3(c) of the Comprehensive Smokeless To-
16 bacco Health Education Act of 1986 (15 U.S.C.
17 4402(c)), respectively,” after “section 4(c) of
18 the Federal Cigarette Labeling and Advertising
19 Act (15 U.S.C. 1333(c))”;

20 (B) in subsection (b)—

21 (i) in the paragraph caption of paragraph
22 (1), by inserting “OR SMOKELESS TOBACCO”
23 after “CIGARETTES”; and

1 (ii) in the paragraph caption of paragraphs
2 (2) and (3), by inserting “OR SMOKELESS TO-
3 BACCO” after “CIGARETTES”; and

4 (C) in subsection (c)—

5 (i) in the subsection caption, by inserting
6 “OR SMOKELESS TOBACCO” after “CIGA-
7 RETTE”;

8 (ii) in paragraph (1), by inserting “or sec-
9 tion 4 of the Comprehensive Smokeless Tobacco
10 Health Education Act of 1986 (15 U.S.C.
11 4403), respectively” after “section 7 of the
12 Federal Cigarette Labeling and Advertising Act
13 (15 U.S.C. 1335a)”;

14 (iii) in paragraph (2)(A), “or section 3 of
15 the Comprehensive Smokeless Tobacco Health
16 Education Act of 1986 (15 U.S.C. 4402), re-
17 spectively,” after “section 4 of the Federal Cig-
18 arette Labeling and Advertising Act (15 U.S.C.
19 1333)”;

20 (iv) in paragraph (2)(B), by inserting “or
21 section 3(c) of the Comprehensive Smokeless
22 Tobacco Health Education Act of 1986 (15
23 U.S.C. 4402(c)), respectively” after “section
24 4(c) of the Federal Cigarette Labeling and Ad-
25 vertising Act (15 U.S.C. 1333(c))”.

1 (3) Section 803(c) of such Act, as amended by sub-
2 section (b)(1) of this section, is further amended by insert-
3 ing “, or any smokeless tobacco product,” after “or tube”
4 the first place it appears.

5 (4)(A) The heading of title VIII of such Act is
6 amended by inserting “**AND SMOKELESS TO-**
7 **BACCO**” after “**CIGARETTES**”.

8 (B) The heading of section 802 of such Act is amend-
9 ed by inserting “**AND SMOKELESS TOBACCO**”
10 after “**CIGARETTES**”.

11 **SEC. 609. EXCLUSIONS REGARDING INDIAN TRIBES AND**
12 **TRIBAL MATTERS.**

13 (a) IN GENERAL.—Nothing in this Act or the amend-
14 ments made by this Act is intended nor shall be construed
15 to affect, amend, or modify—

16 (1) any agreements, compacts, or other inter-
17 governmental arrangements between any State or
18 local government and any government of an Indian
19 tribe (as that term is defined in the Indian Self-De-
20 termination and Education Assistance Act (25
21 U.S.C. 450b(e)) relating to the collection of taxes on
22 cigarettes or smokeless tobacco sold in Indian Coun-
23 try (as that term is defined section 1151 of title 18,
24 United States Code);

1 (2) any State laws that authorize or otherwise
2 pertain to any such intergovernmental arrangements
3 or create special rules or procedures for the collec-
4 tion of State, local, or tribal taxes on cigarettes or
5 smokeless tobacco sold in Indian Country;

6 (3) any limitations under existing Federal law,
7 including Federal common law and treaties, on
8 State, local, and tribal tax and regulatory authority
9 with respect to the sale, use, or distribution of ciga-
10 rettes and smokeless tobacco by or to Indian Tribes
11 or tribal members or in Indian Country;

12 (4) any existing Federal law, including Federal
13 common law and treaties, regarding State jurisdic-
14 tion, or lack thereof, over any Tribe, tribal members
15 or tribal reservations; and

16 (5) any existing State or local government au-
17 thority to bring enforcement actions against persons
18 located in Indian Country.

19 (b) COORDINATION OF LAW ENFORCEMENT.—Noth-
20 ing in this Act or the amendments made by this Act shall
21 be construed to inhibit or otherwise affect any coordinated
22 law enforcement effort by 1 or more States or other juris-
23 dictions, including Indian Tribes, through interstate com-
24 pact or otherwise, that—

1 (1) provides for the administration of tobacco
2 product laws or laws pertaining to interstate sales or
3 other sales of tobacco products;

4 (2) provides for the seizure of tobacco products
5 or other property related to a violation of such laws;
6 or

7 (3) establishes cooperative programs for the ad-
8 ministration of such laws.

9 (c) TREATMENT OF STATE AND LOCAL GOVERN-
10 MENTS.—Notwithstanding any other provision of this Act,
11 the provisions of this Act are not intended and shall not
12 be construed to authorize, deputize, or commission States
13 or local governments as instrumentalities of the United
14 States.

15 (d) ENFORCEMENT WITHIN INDIAN COUNTRY.—
16 Nothing in this Act or the amendments made by this Act
17 is intended to prohibit, limit, or restrict enforcement by
18 the Attorney General of the United States of the provi-
19 sions herein within Indian Country.

20 (e) AMBIGUITY.—Any ambiguity between the lan-
21 guage of this section or its application, and any other pro-
22 vision of this Act shall be resolved in favor of this section.

1 **SEC. 610. EFFECTIVE DATE.**

2 (a) IN GENERAL.—Except as provided in subsection
3 (b), this Act shall take effect 90 days after the date of
4 the enactment of this Act.

5 (b) BATFE AUTHORITY.—

6 (1) IN GENERAL.—Sections 6 and 7 shall take
7 effect on the date of the enactment of this Act.

8 (2) DEFINITION.—For purposes of section 7,
9 the definition of delivery sale in section 2343(e)(1)
10 of title 18, United States Code, as amended by sec-
11 tion 4(b)(3) of this Act, shall take effect on the date
12 of the enactment of this Act.

13 **TITLE VII—CREATE ACT**

14 **SEC. 701. SHORT TITLE.**

15 This title may be cited as the “Cooperative Research
16 and Technology Enhancement of 2004” or the “CREATE
17 Act”.

18 **SEC. 702. COLLABORATIVE EFFORTS ON CLAIMED INVEN-**
19 **TIONS.**

20 Section 103(c) of title 35, United States Code, is
21 amended to read as follows:

22 “(c)(1) Subject matter developed by another person,
23 which qualifies as prior art only under 1 or more of sub-
24 sections (e), (f), and (g) of section 102 of this title, shall
25 not preclude patentability under this section where the
26 subject matter and the claimed invention were, at the time

1 the claimed invention was made, owned by the same per-
2 son or subject to an obligation of assignment to the same
3 person.

4 “(2) For purposes of this subsection, subject matter
5 developed by another person and a claimed invention shall
6 be deemed to have been owned by the same person or sub-
7 ject to an obligation of assignment to the same person if—

8 “(A) the claimed invention was made by or on
9 behalf of parties to a joint research agreement that
10 was in effect on or before the date the claimed in-
11 vention was made;

12 “(B) the claimed invention was made as a re-
13 sult of activities undertaken within the scope of the
14 joint research agreement; and

15 “(C) the application for patent for the claimed
16 invention discloses or is amended to disclose the
17 names of the parties to the joint research agree-
18 ment.

19 “(3) For purposes of paragraph (2), the term ‘joint
20 research agreement’ means a written contract, grant, or
21 cooperative agreement entered into by 2 or more persons
22 or entities for the performance of experimental, develop-
23 mental, or research work in the field of the claimed inven-
24 tion.”.

1 **SEC. 703. EFFECTIVE DATE.**

2 (a) IN GENERAL.—The amendments made by this
3 title shall apply to any patent granted on or after the date
4 of enactment of this Act.

5 (b) SPECIAL RULE.—The amendments made by this
6 title shall not affect any final decision of a court or the
7 United States Patent and Trademark Office rendered be-
8 fore the date of enactment of this title, and shall not affect
9 the right of any party in any action pending before the
10 United States Patent and Trademark Office or a court
11 on the date of enactment of this Act to have that party’s
12 rights determined on the basis of the provisions of title
13 35, United States Code, in effect on the day before the
14 date of enactment of this title.

15 **TITLE VIII—PROTECTING INTEL-**
16 **LECTUAL RIGHTS AGAINST**
17 **THEFT AND EXPROPRIATION**
18 **ACT OF 2004**

19 **SEC. 801. SHORT TITLE.**

20 This title may be cited as the “Protecting Intellectual
21 Rights Against Theft and Expropriation Act of 2004”.

22 **SEC. 802. AUTHORIZATION OF CIVIL COPYRIGHT ENFORCE-**
23 **MENT BY ATTORNEY GENERAL.**

24 (a) IN GENERAL.—Chapter 5 of title 17, United
25 States Code, is amended by inserting after section 506 the
26 following:

1 **“§ 506a. Civil penalties for violations of section 506**

2 “(a) IN GENERAL.—The Attorney General may com-
3 mence a civil action in the appropriate United States dis-
4 trict court against any person who engages in conduct con-
5 stituting an offense under section 506. Upon proof of such
6 conduct by a preponderance of the evidence, such person
7 shall be subject to a civil penalty under section 504 which
8 shall be in an amount equal to the amount which would
9 be awarded under section 3663(a)(1)(B) of title 18 and
10 restitution to the copyright owner aggrieved by the con-
11 duct.

12 “(b) OTHER REMEDIES.—

13 “(1) IN GENERAL.—Imposition of a civil pen-
14 alty under this section does not preclude any other
15 criminal or civil statutory, injunctive, common law or
16 administrative remedy, which is available by law to
17 the United States or any other person;

18 “(2) OFFSET.—Any restitution received by a
19 copyright owner as a result of a civil action brought
20 under this section shall be offset against any award
21 of damages in a subsequent copyright infringement
22 civil action by that copyright owner for the conduct
23 that gave rise to the civil action brought under this
24 section.”.

25 (b) DAMAGES AND PROFITS.—Section 504 of title 17,
26 United States Code, is amended—

1 (1) in subsection (b)—

2 (A) in the first sentence—

3 (i) by inserting “, or the Attorney
4 General in a civil action,” after “The copy-
5 right owner”; and

6 (ii) by striking “him or her” and in-
7 serting “the copyright owner”; and

8 (B) in the second sentence by inserting “,
9 or the Attorney General in a civil action,” after
10 “the copyright owner”; and

11 (2) in subsection (c)—

12 (A) in paragraph (1), by inserting “, or the
13 Attorney General in a civil action,” after “the
14 copyright owner”; and

15 (B) in paragraph (2), by inserting “, or
16 the Attorney General in a civil action,” after
17 “the copyright owner”.

18 (c) TECHNICAL AND CONFORMING AMENDMENT.—

19 The table of sections for chapter 5 of title 17, United
20 States Code, is amended by inserting after the item relat-
21 ing to section 506 the following:

“506a. Civil penalties for violations of section 506.”.

22 **SEC. 803. AUTHORIZATION OF FUNDING FOR TRAINING**
23 **AND PILOT PROGRAM.**

24 (a) TRAINING AND PILOT PROGRAM.—Not later than
25 180 days after enactment of this Act, the Attorney Gen-

1 eral shall develop a program to ensure effective implemen-
2 tation and use of the authority for civil enforcement of
3 the copyright laws by—

4 (1) establishing training programs, including
5 practical training and written materials, for qualified
6 personnel from the Department of Justice and
7 United States Attorneys Offices to educate and in-
8 form such personnel about—

9 (A) resource information on intellectual
10 property and the legal framework established
11 both to protect and encourage creative works as
12 well as legitimate uses of information and
13 rights under the first amendment of the United
14 States Constitution;

15 (B) the technological challenges to pro-
16 tecting digital copyrighted works from online pi-
17 racy;

18 (C) guidance on and support for bringing
19 copyright enforcement actions against persons
20 engaging in infringing conduct, including model
21 charging documents and related litigation mate-
22 rials;

23 (D) strategic issues in copyright enforce-
24 ment actions, including whether to proceed in a
25 criminal or a civil action;

1 (E) how to employ and leverage the exper-
2 tise of technical experts in computer forensics;

3 (F) the collection and preservation of elec-
4 tronic data in a forensically sound manner for
5 use in court proceedings;

6 (G) the role of the victim copyright owner
7 in providing relevant information for enforce-
8 ment actions and in the computation of dam-
9 ages; and

10 (H) the appropriate use of injunctions, im-
11 poundment, forfeiture, and related authorities
12 in copyright law;

13 (2) designating personnel from at least 4
14 United States Attorneys Offices to participate in a
15 pilot program designed to implement the civil en-
16 forcement authority of the Attorney General under
17 section 506a of title 17, United States Code, as
18 added by this Act; and

19 (3) reporting to Congress annually on—

20 (A) the use of the civil enforcement au-
21 thority of the Attorney General under section
22 506a of title 17, United States Code, as added
23 by this Act; and

1 (B) the progress made in implementing the
2 training and pilot programs described under
3 paragraphs (1) and (2) of this subsection.

4 (b) ANNUAL REPORT.—The report under subsection
5 (a)(3) may be included in the annual performance report
6 of the Department of Justice and shall include—

7 (1) with respect to civil actions filed under sec-
8 tion 506a of title 17, United States Code, as added
9 by this Act—

10 (A) the number of investigative matters re-
11 ceived by the Department of Justice and United
12 States Attorneys Offices;

13 (B) the number of defendants involved in
14 those matters;

15 (C) the number of civil actions filed and
16 the number of defendants involved;

17 (D) the number of civil actions resolved or
18 terminated;

19 (E) the number of defendants involved in
20 those civil actions;

21 (F) the disposition of those civil actions,
22 including whether the civil actions were settled,
23 dismissed, or resolved after a trial;

1 (G) the dollar value of any civil penalty im-
2 posed and the amount remitted to any copy-
3 right owner; and

4 (H) other information that the Attorney
5 General may consider relevant to inform Con-
6 gress on the effective use of the civil enforce-
7 ment authority;

8 (2) a description of the training program and
9 the number of personnel who participated in the pro-
10 gram; and

11 (3) the locations of the United States Attorneys
12 Offices designated to participate in the pilot pro-
13 gram.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated \$2,000,000 for fiscal
16 year 2005 to carry out this section.

17 **TITLE IX—KOBY MANDELL ACT**
18 **OF 2004**

19 **SEC. 901. SHORT TITLE.**

20 This title may be cited as the “Koby Mandell Act of
21 2004”.

22 **SEC. 902. FINDINGS.**

23 Congress finds the following:

24 (1) Numerous American citizens have been
25 murdered or maimed by terrorists around the world,

1 including more than 100 murdered since 1968 in
2 terrorist attacks occurring in Israel or in territories
3 administered by Israel or in territories administered
4 by the Palestinian Authority.

5 (2) Some American citizens who have been vic-
6 tims of terrorism overseas, especially those harmed
7 by terrorists operating from areas administered by
8 the Palestinian Authority, have not received from
9 the United States Government services equal to
10 those received by other such victims of overseas ter-
11 rorism.

12 (3) The United States Government has not de-
13 voted adequate efforts or resources to the apprehen-
14 sion of terrorists who have harmed American citi-
15 zens overseas, particularly in cases involving terror-
16 ists operating from areas administered by the Pales-
17 tinian Authority. Monetary rewards for information
18 leading to the capture of terrorists overseas, which
19 the Government advertises in regions where the ter-
20 rorists are believed to be hiding, have not been ad-
21 vertised in areas administered by the Palestinian
22 Authority.

23 (4) This situation is especially grave in the
24 areas administered by the Palestinian Authority, be-
25 cause many terrorists involved in the murders of

1 Americans are walking free there; some of these ter-
2 rorists have been given positions in the Palestinian
3 Authority security forces or other official Palestinian
4 Authority agencies; and a number of schools, streets,
5 and other public sites have been named in honor of
6 terrorists who were involved in the murders of
7 Americans.

8 (5) To remedy these and related problems, an
9 office should be established within the Department
10 of Justice for the purpose of ensuring equally vig-
11 orous efforts to capture all terrorists who have
12 harmed American citizens overseas and equal treat-
13 ment for all American victims of overseas terrorism.

14 **SEC. 903. ESTABLISHMENT OF AN OFFICE OF JUSTICE FOR**
15 **VICTIMS OF OVERSEAS TERRORISM IN THE**
16 **DEPARTMENT OF JUSTICE.**

17 (a) IN GENERAL.—There is established within the
18 Department of Justice an Office of Justice for Victims
19 of Overseas Terrorism (in this Act referred to as the “Of-
20 fice”) to carry out the following activities:

21 (1) REWARDS FOR JUSTICE.—

22 (A) IN GENERAL.—The Office shall as-
23 sume responsibility for administration of the
24 Rewards for Justice program and its website.

1 (B) ADMINISTRATION.—In administering
2 the Rewards for Justice program the Office
3 shall ensure that—

4 (i) rewards are offered to capture all
5 terrorists involved in harming American
6 citizens overseas, regardless of the terror-
7 ists' country of origin or residence;

8 (ii) such rewards are prominently ad-
9 vertised in the mass media and public sites
10 in all countries or regions where such ter-
11 rorists reside;

12 (iii) the names and photographs and
13 suspects in all such cases are included on
14 the website; and

15 (iv) the names of the specific organi-
16 zations claiming responsibility for terrorist
17 attacks mentioned on the site are included
18 in the descriptions of those attacks.

19 (2) NOTIFICATION PROGRAM.—The Office shall
20 establish and administer a program—

21 (A) comparable to the VINE system for
22 notification of crime victims; and

23 (B) that will provide notification for Amer-
24 ican victims of overseas terrorism or their im-
25 mediate family to update them on the status of

1 efforts to capture the terrorists who harmed
2 them.

3 (3) GOVERNMENT REPRESENTATION.—The Of-
4 fice shall send an official United States Government
5 representative to attend the funeral of every Amer-
6 ican victim of terrorism overseas.

7 (4) REPORT.—The Office shall assume respon-
8 sibility for providing twice-annual reports to Con-
9 gress as required by section 805 of the Admiral
10 James W. Nance and Meg Donovan Foreign Rela-
11 tions Authorization Act, Fiscal Years 2000 and
12 2001.

13 (5) PROFITING FROM CRIMES.—The Office
14 shall work with other United States Government
15 agencies to expand legal restrictions on the ability of
16 murderers to reap profits from books or movies con-
17 cerning their crimes so as to ensure that terrorists
18 who harm American citizens overseas are unable to
19 profit from book or movie sales in the United States.

20 (6) TERRORISTS AS POLICE.—The Office
21 shall—

22 (A) determine if terrorists who have
23 harmed American citizens overseas are serving
24 in their local police or security forces; and

1 (B) if it is found that terrorists who have
2 harmed American citizens overseas are serving
3 in their local police or security forces—

4 (i) alert those United States Govern-
5 ment agencies involved in providing assist-
6 ance, directly or indirectly, to those forces;
7 and

8 (ii) request of those agencies that all
9 such assistance be halted until the afore-
10 mentioned terrorists are removed from
11 their positions.

12 (7) PATTERNS OF PROSECUTION.—The Office
13 shall—

14 (A) undertake a comprehensive assessment
15 of the pattern of United States indictments and
16 prosecution of terrorists who have harmed
17 American citizens overseas, in order to deter-
18 mine the reasons for the absence of indictments
19 of terrorists residing in some regions, such as
20 the territories controlled by the Palestinian Au-
21 thority; and

22 (B) provide the assessment to the Attorney
23 General and to Congress, together with its rec-
24 ommendations.

25 (8) MONITORING.—The Office shall—

1 (A) monitor public actions by governments
2 and regimes overseas pertaining to terrorists
3 who have harmed American citizens, such as
4 the naming of schools, streets, or other public
5 institutions or sites after such terrorists; and

6 (B) in such instances, encourage other
7 United States Government agencies to halt
8 their provision of assistance, directly or indi-
9 rectly, to those institutions.

10 (9) COMPENSATION.—The Office shall initiate
11 negotiations to secure appropriate financial com-
12 pensation for American citizens, or the families of
13 such citizens, who were harmed by organizations
14 that claim responsibility for acts of terrorism against
15 Americans overseas and that subsequently become
16 part of a governing regime with which the United
17 States Government maintains diplomatic or other of-
18 ficial contacts, such as the Palestinian Authority.

19 (10) INCARCERATED TERRORISTS.—The Office
20 shall—

21 (A) monitor the incarceration abroad of
22 terrorists who harmed Americans overseas, to
23 ensure that their conditions of incarceration are
24 reasonably similar to conditions of incarceration
25 in the United States; and

1 (B) in cases where terrorists who have
2 harmed Americans overseas, and are subse-
3 quently released from incarceration abroad, are
4 eligible for further prosecution in the United
5 States, coordinate with other Government agen-
6 cies to seek the transfer of those terrorists to
7 the United States for further prosecution.

8 (11) PERSONA NON GRATA.—The Office shall
9 strive to ensure that all terrorists who have harmed
10 Americans overseas are treated by the United States
11 Government as persona non grata, including steps
12 such as—

13 (A) denying those individuals visas for
14 entry to the United States;

15 (B) urging United States Government
16 agencies to refrain from political and diplomatic
17 contacts with those individuals; and

18 (C) instructing United States embassies
19 and consulates to urge American visitors to
20 those countries to refrain from patronizing
21 businesses that are owned or operated by such
22 individuals.

1 **SEC. 904. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-
3 priated for fiscal year 2005 and each subsequent fiscal
4 year such sums as may be necessary to carry out this title.

5 (b) AVAILABILITY.—Amounts appropriated pursuant
6 to the authorization of appropriations under subsection (a)
7 are authorized to remain available until expended.

8 **TITLE X—SENIOR SAFETY ACT**
9 **OF 2004**

10 **SEC. 1001. SHORT TITLE.**

11 This title may be cited as the “Seniors Safety Act
12 of 2004”.

13 **SEC. 1002. FINDINGS AND PURPOSES.**

14 (a) FINDINGS.—Congress makes the following find-
15 ings:

16 (1) The number of older Americans is rapidly
17 growing in the United States. According to the 2000
18 census, 21 percent of the United States population
19 is 55 years of age or older.

20 (2) In 1997, 7 percent of victims of serious vio-
21 lent crime were 50 years of age or older.

22 (3) In 1997, 17.7 percent of murder victims
23 were 55 years of age or older.

24 (4) According to the Department of Justice,
25 persons 65 years of age and older experienced ap-

1 proximately 2,700,000 crimes a year between 1992
2 and 1997.

3 (5) Older victims of violent crime are almost
4 twice as likely as younger victims to be raped,
5 robbed, or assaulted at or in their own homes.

6 (6) Approximately half of all Americans who
7 are 50 years of age or older are afraid to walk alone
8 at night in their own neighborhoods.

9 (7) Seniors over 50 years of age reportedly ac-
10 count for 37 percent of the estimated
11 \$40,000,000,000 in losses each year due to tele-
12 marketing fraud.

13 (8) A 1996 American Association of Retired
14 Persons survey of people 50 years of age and older
15 showed that 57 percent were likely to receive calls
16 from telemarketers at least once a week.

17 (9) In 1998, Congress enacted legislation to
18 provide for increased penalties for telemarketing
19 fraud that targets seniors.

20 (10) It has been estimated that—

21 (A) approximately 43 percent of persons
22 turning 65 years of age can expect to spend
23 some time in a long-term care facility; and

24 (B) approximately 20 percent can expect
25 to spend 5 years or more in such a facility.

1 (11) In 1997, approximately \$82,800,000,000
2 was spent on nursing home care in the United
3 States and over half of this amount was spent by the
4 Medicaid and Medicare programs.

5 (12) Losses to fraud and abuse in health care
6 reportedly cost the United States an estimated
7 \$100,000,000,000 in 1996.

8 (13) The Inspector General for the Department
9 of Health and Human Services has estimated that
10 about \$12,600,000,000 in improper Medicare benefit
11 payments, due to inadvertent mistake, fraud, and
12 abuse were made during fiscal year 1998.

13 (14) Incidents of health care fraud and abuse
14 remain common despite awareness of the problem.

15 (b) PURPOSES.—The purposes of this title are to—

16 (1) enhance safeguards for pension plans and
17 health care programs;

18 (2) develop strategies for preventing and pun-
19 ishing crimes that target or otherwise disproportion-
20 ately affect seniors by collecting appropriate data—

21 (A) to measure the extent of crimes com-
22 mitted against seniors; and

23 (B) to determine the extent of domestic
24 and elder abuse of seniors; and

1 (3) prevent and deter criminal activity, such as
2 telemarketing fraud, that results in economic and
3 physical harm against seniors, and ensure appro-
4 priate restitution.

5 **SEC. 1003. DEFINITIONS.**

6 In this title:

7 (1) **CRIME.**—The term “crime” means any
8 criminal offense under Federal or State law.

9 (2) **SENIOR.**—The term “senior” means an in-
10 dividual who is more than 55 years of age.

11 **Subtitle A—Combating Crimes**
12 **Against Seniors**

13 **SEC. 1011. ENHANCED SENTENCING PENALTIES BASED ON**
14 **AGE OF VICTIM.**

15 (a) **DIRECTIVE TO THE UNITED STATES SEN-**
16 **TENCING COMMISSION.**—Pursuant to its authority under
17 section 994(p) of title 28, United States Code, and in ac-
18 cordance with this section, the United States Sentencing
19 Commission (referred to in this section as the “Commis-
20 sion”) shall review and, if appropriate, amend section
21 3A1.1(a) of the Federal sentencing guidelines to include
22 the age of a crime victim as one of the criteria for deter-
23 mining whether the application of a sentencing enhance-
24 ment is appropriate.

1 (b) REQUIREMENTS.—In carrying out this section,
2 the Commission shall—

3 (1) ensure that the Federal sentencing guide-
4 lines and the policy statements of the Commission
5 reflect the serious economic and physical harms as-
6 sociated with criminal activity targeted at seniors
7 due to their particular vulnerability;

8 (2) consider providing increased penalties for
9 persons convicted of offenses in which the victim was
10 a senior in appropriate circumstances;

11 (3) consult with individuals or groups rep-
12 resenting seniors, law enforcement agencies, victims
13 organizations, and the Federal judiciary as part of
14 the review described in subsection (a);

15 (4) ensure reasonable consistency with other
16 Federal sentencing guidelines and directives;

17 (5) account for any aggravating or mitigating
18 circumstances that may justify exceptions, including
19 circumstances for which the Federal sentencing
20 guidelines provide sentencing enhancements;

21 (6) make any necessary conforming changes to
22 the Federal sentencing guidelines; and

23 (7) ensure that the Federal sentencing guide-
24 lines adequately meet the purposes of sentencing set

1 forth in section 3553(a)(2) of title 18, United States
2 Code.

3 (c) REPORT.—Not later than December 31, 2004, the
4 Commission shall submit to Congress a report on issues
5 relating to the age of crime victims, which shall include—

6 (1) an explanation of any changes to sentencing
7 policy made by the Commission under this section;
8 and

9 (2) any recommendations of the Commission for
10 retention or modification of penalty levels, including
11 statutory penalty levels, for offenses involving sen-
12 iors.

13 **SEC. 1012. STUDY AND REPORT ON HEALTH CARE FRAUD**
14 **SENTENCES.**

15 (a) DIRECTIVE TO THE UNITED STATES SEN-
16 TENCING COMMISSION.—Pursuant to its authority under
17 section 994(p) of title 28, United States Code, and in ac-
18 cordance with this section, the United States Sentencing
19 Commission (referred to in this section as the “Commis-
20 sion”) shall review and, if appropriate, amend the Federal
21 sentencing guidelines and the policy statements of the
22 Commission with respect to persons convicted of offenses
23 involving fraud in connection with a health care benefit
24 program (as defined in section 24(b) of title 18, United
25 States Code).

1 (b) REQUIREMENTS.—In carrying out this section,
2 the Commission shall—

3 (1) ensure that the Federal sentencing guide-
4 lines and the policy statements of the Commission
5 reflect the serious harms associated with health care
6 fraud and the need for aggressive and appropriate
7 law enforcement action to prevent such fraud;

8 (2) consider providing increased penalties for
9 persons convicted of health care fraud in appropriate
10 circumstances;

11 (3) consult with individuals or groups rep-
12 resenting victims of health care fraud, law enforce-
13 ment agencies, the health care industry, and the
14 Federal judiciary as part of the review described in
15 subsection (a);

16 (4) ensure reasonable consistency with other
17 Federal sentencing guidelines and directives;

18 (5) account for any aggravating or mitigating
19 circumstances that might justify exceptions, includ-
20 ing circumstances for which the Federal sentencing
21 guidelines provide sentencing enhancements;

22 (6) make any necessary conforming changes to
23 the Federal sentencing guidelines; and

24 (7) ensure that the Federal sentencing guide-
25 lines adequately meet the purposes of sentencing as

1 set forth in section 3553(a)(2) of title 18, United
2 States Code.

3 (c) REPORT.—Not later than December 31, 2004, the
4 Commission shall submit to Congress a report on issues
5 relating to offenses described in subsection (a), which shall
6 include—

7 (1) an explanation of any changes to sentencing
8 policy made by the Commission under this section;
9 and

10 (2) any recommendations of the Commission for
11 retention or modification of penalty levels, including
12 statutory penalty levels, for those offenses.

13 **SEC. 1013. INCREASED PENALTIES FOR FRAUD RESULTING**
14 **IN SERIOUS INJURY OR DEATH.**

15 Sections 1341 and 1343 of title 18, United States
16 Code, are each amended by inserting before the last sen-
17 tence the following: “If the violation results in serious bod-
18 ily injury (as defined in section 1365), such person shall
19 be fined under this title, imprisoned not more than 20
20 years, or both, and if the violation results in death, such
21 person shall be fined under this title, imprisoned for any
22 term of years or life, or both.”.

1 **SEC. 1014. SAFEGUARDING PENSION PLANS FROM FRAUD**
 2 **AND THEFT.**

3 (a) IN GENERAL.—Chapter 63 of title 18, United
 4 States Code, is amended by adding at the end the fol-
 5 lowing:

6 **“§ 1351. Fraud in relation to retirement arrange-**
 7 **ments**

8 “(a) DEFINITIONS.—

9 “(1) RETIREMENT ARRANGEMENT.—In this
 10 section, the term ‘retirement arrangement’ means—

11 “(A) any employee pension benefit plan
 12 subject to any provision of title I of the Em-
 13 ployee Retirement Income Security Act of 1974;

14 “(B) any qualified retirement plan within
 15 the meaning of section 4974(c) of the Internal
 16 Revenue Code of 1986;

17 “(C) any medical savings account de-
 18 scribed in section 220 of the Internal Revenue
 19 Code of 1986; or

20 “(D) a fund established within the Thrift
 21 Savings Fund by the Federal Retirement Thrift
 22 Investment Board pursuant to subchapter III of
 23 chapter 84 of title 5.

24 “(2) CERTAIN ARRANGEMENTS INCLUDED.—

25 The term ‘retirement arrangement’ shall include any
 26 arrangement that has been represented to be an ar-

1 rangement described in any subparagraph of para-
2 graph (1) (whether or not so described).

3 “(3) EXCEPTION FOR GOVERNMENTAL PLAN.—
4 Except as provided in paragraph (1)(D), the term
5 ‘retirement arrangement’ shall not include any gov-
6 ernmental plan (as defined in section 3(32) of title
7 I of the Employee Retirement Income Security Act
8 of 1974 (29 U.S.C. 1002(32))).

9 “(b) PROHIBITION AND PENALTIES.—Whoever exe-
10 cutes, or attempts to execute, a scheme or artifice—

11 “(1) to defraud any retirement arrangement or
12 other person in connection with the establishment or
13 maintenance of a retirement arrangement; or

14 “(2) to obtain, by means of false or fraudulent
15 pretenses, representations, or promises, any of the
16 money or property owned by, or under the custody
17 or control of, any retirement arrangement or other
18 person in connection with the establishment or main-
19 tenance of a retirement arrangement;

20 shall be fined under this title, imprisoned not more than
21 10 years, or both.

22 “(c) ENFORCEMENT.—

23 “(1) IN GENERAL.—Subject to paragraph (2),
24 the Attorney General may investigate any violation
25 of, and otherwise enforce, this section.

1 (B) upon proof of such conduct by a pre-
2 ponderance of the evidence, such person shall
3 be subject to a civil penalty in an amount equal
4 to the greatest of—

5 (i) the amount of pecuniary gain to
6 that person;

7 (ii) the amount of pecuniary loss sus-
8 tained by the victim; or

9 (iii) not more than—

10 (I) \$50,000 for each such viola-
11 tion in the case of an individual; or

12 (II) \$100,000 for each such vio-
13 lation in the case of a person other
14 than an individual.

15 (2) NO EFFECT ON OTHER REMEDIES.—The
16 imposition of a civil penalty under this subsection
17 does not preclude any other statutory, common law,
18 or administrative remedy available by law to the
19 United States or any other person.

20 (b) EXCEPTION.—No civil penalty may be imposed
21 pursuant to subsection (a) with respect to conduct involv-
22 ing a retirement arrangement that—

23 (1) is an employee pension benefit plan subject
24 to title I of the Employee Retirement Income Secu-
25 rity Act of 1974; and

1 (2) for which the civil penalties may be imposed
2 under section 502 of the Employee Retirement In-
3 come Security Act of 1974 (29 U.S.C. 1132).

4 (c) DETERMINATION OF PENALTY AMOUNT.—In de-
5 termining the amount of the penalty under subsection (a),
6 the district court may consider the effect of the penalty
7 on the violator or other person’s ability to—

8 (1) restore all losses to the victims; or

9 (2) provide other relief ordered in another civil
10 or criminal prosecution related to such conduct, in-
11 cluding any penalty or tax imposed on the violator
12 or other person pursuant to the Internal Revenue
13 Code of 1986.

14 **SEC. 1016. PUNISHING BRIBERY AND GRAFT IN CONNEC-**
15 **TION WITH EMPLOYEE BENEFIT PLANS.**

16 (a) IN GENERAL.—Section 1954 of title 18, United
17 States Code, is amended to read as follows:

18 **“§ 1954. Bribery and graft in connection with em-**
19 **ployee benefit plans**

20 “(a) DEFINITIONS.—In this section—

21 “(1) the term ‘employee benefit plan’ means
22 any employee welfare benefit plan or employee pen-
23 sion benefit plan subject to any provision of title I
24 of the Employee Retirement Income Security Act of
25 1974;

1 “(2) the terms ‘employee organization’, ‘admin-
2 istrator’, and ‘employee benefit plan sponsor’ mean
3 any employee organization, administrator, or plan
4 sponsor, as defined in title I of the Employment Re-
5 tirement Income Security Act of 1974; and

6 “(3) the term ‘applicable person’ means—

7 “(A) an administrator, officer, trustee,
8 custodian, counsel, agent, or employee of any
9 employee benefit plan;

10 “(B) an officer, counsel, agent, or em-
11 ployee of an employer or an employer any of
12 whose employees are covered by such plan;

13 “(C) an officer, counsel, agent, or em-
14 ployee of an employee organization any of
15 whose members are covered by such plan;

16 “(D) a person who, or an officer, counsel,
17 agent, or employee of an organization that, pro-
18 vides benefit plan services to such plan; or

19 “(E) a person with actual or apparent in-
20 fluence or decisionmaking authority in regard
21 to such plan.

22 “(b) BRIBERY AND GRAFT.—Whoever—

23 “(1) being an applicable person, receives or
24 agrees to receive or solicits, any fee, kickback, com-
25 mission, gift, loan, money, or thing of value, person-

1 ally or for any other person, because of or with the
2 intent to be corruptly influenced with respect to any
3 action, decision, or duty of that applicable person re-
4 lating to any question or matter concerning an em-
5 ployee benefit plan;

6 “(2) directly or indirectly, gives or offers, or
7 promises to give or offer, any fee, kickback, commis-
8 sion, gift, loan, money, or thing of value, to any ap-
9 plicable person, because of or with the intent to be
10 corruptly influenced with respect to any action, deci-
11 sion, or duty of that applicable person relating to
12 any question or matter concerning an employee ben-
13 efit plan; or

14 “(3) attempts to give, accept, or receive any
15 thing of value with the intent to be corruptly influ-
16 enced in violation of this section;

17 shall be fined under this title, imprisoned not more than
18 5 years, or both.

19 “(c) EXCEPTIONS.—Nothing in this section may be
20 construed to apply to any—

21 “(1) payment to, or acceptance by, any person
22 of bona fide salary, compensation, or other payments
23 made for goods or facilities actually furnished or for
24 services actually performed in the regular course of
25 his duties as an applicable person; or

1 “(2) payment to, or acceptance in good faith
 2 by, any employee benefit plan sponsor, or person
 3 acting on behalf of the sponsor, of anything of value
 4 relating to the decision or action of the sponsor to
 5 establish, terminate, or modify the governing instru-
 6 ments of an employee benefit plan in a manner that
 7 does not violate—

8 “(A) title I of the Employee Retirement
 9 Income Security Act of 1974;

10 “(B) any regulation or order promulgated
 11 under title I of the Employee Retirement In-
 12 come Security Act of 1974; or

13 “(C) any other provision of law governing
 14 the plan.”.

15 (b) CONFORMING AMENDMENT.—The analysis for
 16 chapter 95 of title 18, United States Code, is amended
 17 by striking the item relating to section 1954 and inserting
 18 the following:

“1954. Bribery and graft in connection with employee benefit plans.”.

19 **Subtitle B—Preventing**
 20 **Telemarketing Fraud**

21 **SEC. 1021. CENTRALIZED COMPLAINT AND CONSUMER**
 22 **EDUCATION SERVICE FOR VICTIMS OF TELE-**
 23 **MARKETING FRAUD.**

24 (a) CENTRALIZED SERVICE.—

1 (1) REQUIREMENT.—The Federal Trade Com-
2 mission shall, after consultation with the Attorney
3 General, establish procedures to—

4 (A) log the receipt of complaints by indi-
5 viduals who claim that they have been the vic-
6 tim of fraud in connection with the conduct of
7 telemarketing (as that term is defined in sec-
8 tion 2325 of title 18, United States Code, as
9 amended by section 1122(a) of this title);

10 (B) provide to individuals described in sub-
11 paragraph (A), and to any other persons, if re-
12 quested, information on telemarketing fraud, in-
13 cluding—

14 (i) general information on tele-
15 marketing fraud, including descriptions of
16 the most common telemarketing fraud
17 schemes;

18 (ii) information on means of referring
19 complaints on telemarketing fraud to ap-
20 propriate law enforcement agencies, includ-
21 ing the Director of the Federal Bureau of
22 Investigation, the attorneys general of the
23 States, and the national toll-free telephone
24 number on telemarketing fraud established
25 by the Attorney General; and

1 (iii) information, if available, on any
2 record of civil or criminal law enforcement
3 action for telemarketing fraud against a
4 particular company for which a specific re-
5 quest has been made; and

6 (C) refer complaints described in subpara-
7 graph (A), as appropriate, to law enforcement
8 authorities, including State consumer protection
9 agencies or entities, for potential action.

10 (2) COMMENCEMENT.—The Federal Trade
11 Commission shall commence carrying out the service
12 not later than 1 year after the date of enactment of
13 this Act.

14 (b) FRAUD CONVICTION DATA.—

15 (1) ENTRY OF INFORMATION ON CONVICTIONS
16 INTO FTC DATABASE.—The Attorney General shall
17 provide information on the corporations and compa-
18 nies that are the subject of civil or criminal law en-
19 forcement action for telemarketing fraud under Fed-
20 eral and State law to the Federal Trade Commission
21 in such electronic format as will enable the Federal
22 Trade Commission to automatically enter the infor-
23 mation into a database maintained in accordance
24 with subsection (a).

1 (2) INFORMATION.—The information described
2 in paragraph (1) shall include a description of the
3 type and method of the fraud scheme that prompted
4 the law enforcement action against each such cor-
5 poration or company.

6 (3) USE OF DATABASE.—The Attorney General
7 shall make information in the database available to
8 the Federal Trade Commission for purposes of pro-
9 viding information as part of the service under sub-
10 section (a).

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated such sums as may be nec-
13 essary to carry out this section.

14 **SEC. 1022. BLOCKING OF TELEMARKETING SCAMS.**

15 (a) EXPANSION OF SCOPE OF TELEMARKETING
16 FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES.—
17 Section 2325(1) of title 18, United States Code, is amend-
18 ed by striking “telephone calls” and inserting “wire com-
19 munications utilizing a telephone service”.

20 (b) BLOCKING OR TERMINATION OF TELEPHONE
21 SERVICE ASSOCIATED WITH TELEMARKETING FRAUD.—

22 (1) IN GENERAL.—Chapter 113A of title 18,
23 United States Code, is amended by adding at the
24 end the following:

1 **“§ 2328. Blocking or termination of telephone service**

2 “(a) DEFINITIONS.—In this section:

3 “(1) REASONABLE NOTICE TO THE SUB-
4 SCRIBER.—

5 “(A) IN GENERAL.—The term ‘reasonable
6 notice to the subscriber’, in the case of a sub-
7 scriber of a common carrier, means any infor-
8 mation necessary to provide notice to the sub-
9 scriber that—

10 “(i) the wire communications facilities
11 furnished by the common carrier may not
12 be used for the purpose of transmitting,
13 receiving, forwarding, or delivering a wire
14 communication in interstate or foreign
15 commerce for the purpose of executing any
16 scheme or artifice to defraud in connection
17 with the conduct of telemarketing; and

18 “(ii) such use constitutes sufficient
19 grounds for the immediate discontinuance
20 or refusal of the leasing, furnishing, or
21 maintaining of the facilities to or for the
22 subscriber.

23 “(B) INCLUDED MATTER.—The term in-
24 cludes any tariff filed by the common carrier
25 with the Federal Communications Commission

1 that contains the information specified in sub-
2 paragraph (A).

3 “(2) WIRE COMMUNICATION.—The term ‘wire
4 communication’ has the same meaning given that
5 term in section 2510(1).

6 “(3) WIRE COMMUNICATIONS FACILITY.—The
7 term ‘wire communications facility’ means any facil-
8 ity (including instrumentalities, personnel, and serv-
9 ices) used by a common carrier for purposes of the
10 transmission, receipt, forwarding, or delivery of wire
11 communications.

12 “(b) BLOCKING OR TERMINATING TELEPHONE
13 SERVICE.—If a common carrier subject to the jurisdiction
14 of the Federal Communications Commission is notified in
15 writing by the Attorney General, acting within the juris-
16 diction of the Attorney General, that any wire communica-
17 tions facility furnished by that common carrier is being
18 used or will be used by a subscriber for the purpose of
19 transmitting or receiving a wire communication in inter-
20 state or foreign commerce for the purpose of executing any
21 scheme or artifice to defraud, or for obtaining money or
22 property by means of false or fraudulent pretenses, rep-
23 resentations, or promises, in connection with the conduct
24 of telemarketing, the common carrier shall discontinue or
25 refuse the leasing, furnishing, or maintaining of the facil-

1 ity to or for the subscriber after reasonable notice to the
2 subscriber.

3 “(c) PROHIBITION ON DAMAGES.—No damages, pen-
4 alty, or forfeiture, whether civil or criminal, shall be found
5 or imposed against any common carrier for any act done
6 by the common carrier in compliance with a notice re-
7 ceived from the Attorney General under this section.

8 “(d) RELIEF.—

9 “(1) IN GENERAL.—Nothing in this section
10 may be construed to prejudice the right of any per-
11 son affected thereby to secure an appropriate deter-
12 mination, as otherwise provided by law, in a Federal
13 court, that—

14 “(A) the leasing, furnishing, or maintain-
15 ing of a facility should not be discontinued or
16 refused under this section; or

17 “(B) the leasing, furnishing, or maintain-
18 ing of a facility that has been so discontinued
19 or refused should be restored.

20 “(2) SUPPORTING INFORMATION.—In any ac-
21 tion brought under this subsection, the court may
22 direct that the Attorney General present evidence in
23 support of the notice made under subsection (b) to
24 which such action relates.”.

1 (2) CONFORMING AMENDMENT.—The analysis
2 for chapter 113A of title 18, United States Code, is
3 amended by adding at the end the following:

“2328. Blocking or termination of telephone service.”.

4 **TITLE XI—FEDERAL PROSECU-**
5 **TORS RETIREMENT BENEFIT**
6 **EQUITY ACT OF 2004**

7 **SEC. 1101. SHORT TITLE.**

8 This title may be cited as the “Federal Prosecutors
9 Retirement Benefit Equity Act of 2004”.

10 **SEC. 1102. RETIREMENT TREATMENT OF FEDERAL PROS-**
11 **ECUTORS.**

12 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

13 (1) FEDERAL PROSECUTOR DEFINED.—Section
14 8331 of title 5, United States Code, is amended—

15 (A) in paragraph (27), by striking “and”
16 at the end;

17 (B) in paragraph (28), by striking the pe-
18 riod and inserting “; and”; and

19 (C) by adding at the end the following:

20 “(29) ‘Federal prosecutor’ means—

21 “(A) an assistant United States attorney
22 under section 542 of title 28; or

23 “(B) an attorney employed by the Depart-
24 ment of Justice and designated by the Attorney
25 General of the United States.”.

1 (2) RETIREMENT TREATMENT.—

2 (A) IN GENERAL.—Chapter 83 of title 5,
3 United States Code, is amended by adding after
4 section 8351 the following:

5 **“§ 8352. Federal prosecutors**

6 “Except as provided under the Federal Prosecutors
7 Retirement Benefit Equity Act of 2004 (including the pro-
8 visions relating to the nonapplicability of mandatory sepa-
9 ration requirements under section 8335(b) and 8425(b)
10 of this title), a Federal prosecutor shall be treated in the
11 same manner and to the same extent as a law enforcement
12 officer for purposes of this chapter.”.

13 (B) TECHNICAL AND CONFORMING AMEND-
14 MENT.—The table of sections for chapter 83 of
15 title 5, United States Code, is amended by in-
16 sserting after the item relating to section 8351
17 the following:

“8352. Federal prosecutors.”.

18 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

19 (1) FEDERAL PROSECUTOR DEFINED.—Section
20 8401 of title 5, United States Code, is amended—

21 (A) in paragraph (33), by striking “and”
22 at the end;

23 (B) in paragraph (34), by striking the pe-
24 riod and inserting “; and”; and

25 (C) by adding at the end the following:

1 “(35) ‘Federal prosecutor’ means—

2 “(A) an assistant United States attorney
3 under section 542 of title 28; or

4 “(B) an attorney employed by the Depart-
5 ment of Justice and designated by the Attorney
6 General of the United States.”.

7 (2) RETIREMENT TREATMENT.—Section 8402
8 of title 5, United States Code, is amended by adding
9 at the end the following:

10 “(h) Except as provided under the Federal Prosecu-
11 tors Retirement Benefit Equity Act of 2004 (including the
12 provisions relating to the nonapplicability of mandatory
13 separation requirements under section 8335(b) and
14 8425(b) of this title), a Federal prosecutor shall be treated
15 in the same manner and to the same extent as a law en-
16 forcement officer for purposes of this chapter.”.

17 (c) MANDATORY SEPARATION.—Sections 8335(b)
18 and 8425(b) of title 5, United States Code, are amended
19 by adding at the end of each the following: “The preceding
20 provisions of this subsection shall not apply in the case
21 of a Federal prosecutor as defined under section 8331(29)
22 or 8401(35).”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on the first day of the first

1 applicable pay period beginning on or after 120 days after
2 the date of enactment of this Act.

3 **SEC. 1103. PROVISIONS RELATING TO INCUMBENTS.**

4 (a) DEFINITIONS.—In this section, the term—

5 (1) “Federal prosecutor” means—

6 (A) an assistant United States attorney
7 under section 542 of title 28, United States
8 Code; or

9 (B) an attorney employed by the Depart-
10 ment of Justice and designated by the Attorney
11 General of the United States; and

12 (2) “incumbent” means an individual who is
13 serving as a Federal prosecutor on the effective date
14 of this section.

15 (b) DESIGNATED ATTORNEYS.—If the Attorney Gen-
16 eral of the United States makes any designation of an at-
17 torney to meet the definition under subsection (a)(1)(B)
18 for purposes of being an incumbent under this section—

19 (1) such designation shall be made before the
20 effective date of this section; and

21 (2) the Attorney General shall submit to the
22 Office of Personnel Management before that effec-
23 tive date—

24 (A) the name of the individual designated;
25 and

1 (B) the period of service performed by that
2 individual as a Federal prosecutor before that
3 effective date.

4 (c) NOTICE REQUIREMENT.—Not later than 9
5 months after the date of enactment of this title, the De-
6 partment of Justice shall take measures reasonably de-
7 signed to provide notice to incumbents on—

8 (1) their election rights under this title; and

9 (2) the effects of making or not making a time-
10 ly election under this title.

11 (d) ELECTION AVAILABLE TO INCUMBENTS.—

12 (1) IN GENERAL.—An incumbent may elect, for
13 all purposes, to be treated—

14 (A) in accordance with the amendments
15 made by this title; or

16 (B) as if this title had never been enacted.

17 (2) FAILURE TO ELECT.—Failure to make a
18 timely election under this subsection shall be treated
19 in the same way as an election under paragraph
20 (1)(A), made on the last day allowable under para-
21 graph (3).

22 (3) TIME LIMITATION.—An election under this
23 subsection shall not be effective unless the election
24 is made not later than the earlier of—

1 (A) 120 days after the date on which the
2 notice under subsection (c) is provided; or

3 (B) the date on which the incumbent in-
4 volved separates from service.

5 (e) LIMITED RETROACTIVE EFFECT.—

6 (1) EFFECT ON RETIREMENT.—In the case of
7 an incumbent who elects (or is deemed to have elect-
8 ed) the option under subsection (d)(1)(A), all service
9 performed by that individual as a Federal prosecutor
10 shall—

11 (A) to the extent performed on or after the
12 effective date of that election, be treated in ac-
13 cordance with applicable provisions of sub-
14 chapter III of chapter 83 or chapter 84 of title
15 5, United States Code, as amended by this title;
16 and

17 (B) to the extent performed before the ef-
18 fective date of that election, be treated in ac-
19 cordance with applicable provisions of sub-
20 chapter III of chapter 83 or chapter 84 of such
21 title, as if the amendments made by this title
22 had then been in effect.

23 (2) NO OTHER RETROACTIVE EFFECT.—Noth-
24 ing in this title (including the amendments made by
25 this title) shall affect any of the terms or conditions

1 of an individual's employment (apart from those
2 governed by subchapter III of chapter 83 or chapter
3 84 of title 5, United States Code) with respect to
4 any period of service preceding the date on which
5 such individual's election under subsection (d) is
6 made (or is deemed to have been made).

7 (f) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERV-
8 ICE.—

9 (1) IN GENERAL.—An individual who makes an
10 election under subsection (d)(1)(A) may, with re-
11 spect to prior service performed by such individual,
12 contribute to the Civil Service Retirement and Dis-
13 ability Fund the difference between the individual
14 contributions that were actually made for such serv-
15 ice and the individual contributions that should have
16 been made for such service if the amendments made
17 by section 1102 had then been in effect.

18 (2) EFFECT OF NOT CONTRIBUTING.—If no
19 part of or less than the full amount required under
20 paragraph (1) is paid, all prior service of the incum-
21 bent shall remain fully creditable as law enforcement
22 officer service, but the resulting annuity shall be re-
23 duced in a manner similar to that described in sec-
24 tion 8334(d)(2) of title 5, United States Code, to
25 the extent necessary to make up the amount unpaid.

1 (3) PRIOR SERVICE DEFINED.—For purposes of
2 this section, the term “prior service” means, with re-
3 spect to any individual who makes an election under
4 subsection (d)(1)(A), service performed by such indi-
5 vidual before the date as of which appropriate retire-
6 ment deductions begin to be made in accordance
7 with such election.

8 (g) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERV-
9 ICE.—

10 (1) IN GENERAL.—If an incumbent makes an
11 election under subsection (d)(1)(A), the Department
12 of Justice shall remit to the Office of Personnel
13 Management, for deposit in the Treasury of the
14 United States to the credit of the Civil Service Re-
15 tirement and Disability Fund, the amount required
16 under paragraph (2) with respect to such service.

17 (2) AMOUNT REQUIRED.—The amount the De-
18 partment of Justice is required to remit is, with re-
19 spect to any prior service, the total amount of addi-
20 tional Government contributions to the Civil Service
21 Retirement and Disability Fund (over and above
22 those actually paid) that would have been required
23 if the amendments made by section 1102 had then
24 been in effect.

1 (3) CONTRIBUTIONS TO BE MADE RATABLY.—
 2 Government contributions under this subsection on
 3 behalf of an incumbent shall be made by the Depart-
 4 ment of Justice ratably (on at least an annual basis)
 5 over the 30-year period beginning on the date re-
 6 ferred to in subsection (f)(3).

7 (h) REGULATIONS.—Except as provided under sec-
 8 tion 1104, the Office of Personnel Management shall pre-
 9 scribe regulations necessary to carry out this title, includ-
 10 ing provisions under which any interest due on the amount
 11 described under subsection (f) shall be determined.

12 (i) EFFECTIVE DATE.—This section shall take effect
 13 120 days after the date of enactment of this title.

14 **SEC. 1104. DEPARTMENT OF JUSTICE ADMINISTRATIVE AC-**
 15 **TIONS.**

16 (a) DEFINITION.—In this section, the term “Federal
 17 prosecutor” has the meaning given under section
 18 1103(a)(1).

19 (b) REGULATIONS.—

20 (1) IN GENERAL.—Not later than 120 days
 21 after the date of enactment of this title, the Attor-
 22 ney General of the United States shall—

23 (A) consult with the Office of Personnel
 24 Management on this title (including the amend-
 25 ments made by this title); and

1 (B) promulgate regulations for making
2 designations of Federal prosecutors who are not
3 assistant United States attorneys.

4 (2) CONTENTS.—Any regulations promulgated
5 under paragraph (1) shall ensure that attorneys des-
6 igned as Federal prosecutors who are not assistant
7 United States attorneys have routine employee re-
8 sponsibilities that are substantially similar to those
9 of assistant United States attorneys.

10 (c) DESIGNATIONS.—The designation of any Federal
11 prosecutor who is not an assistant United States attorney
12 for purposes of this title (including the amendments made
13 by this title) shall be at the discretion of the Attorney Gen-
14 eral of the United States.

15 **TITLE XII—ANTI-ATROCITY**
16 **ALIEN DEPORTATION ACT OF**
17 **2004**

18 **SEC. 1201. SHORT TITLE.**

19 This title may be cited as the “Anti-Atrocity Alien
20 Deportation Act of 2004”.

1 **SEC. 1202. INADMISSIBILITY AND DEPORTABILITY OF**
2 **ALIENS WHO HAVE COMMITTED ACTS OF**
3 **TORTURE OR EXTRAJUDICIAL KILLINGS**
4 **ABROAD.**

5 (a) INADMISSIBILITY.—Section 212(a)(3)(E) of the
6 Immigration and Nationality Act (8 U.S.C.
7 1182(a)(3)(E)) is amended—

8 (1) in clause (ii), by striking “has engaged in
9 conduct that is defined as genocide for purposes of
10 the International Convention on the Prevention and
11 Punishment of Genocide is inadmissible” and insert-
12 ing “ordered, incited, assisted, or otherwise partici-
13 pated in conduct outside the United States that
14 would, if committed in the United States or by a
15 United States national, be genocide, as defined in
16 section 1091(a) of title 18, United States Code, is
17 inadmissible”;

18 (2) by adding at the end the following:

19 “(iii) COMMISSION OF ACTS OF TOR-
20 TURE OR EXTRAJUDICIAL KILLINGS.—Any
21 alien who, outside the United States, has
22 committed, ordered, incited, assisted, or
23 otherwise participated in the commission
24 of—

1 “(I) any act of torture, as de-
2 fined in section 2340 of title 18,
3 United States Code; or

4 “(II) under color of law of any
5 foreign nation, any extrajudicial kill-
6 ing, as defined in section 3(a) of the
7 Torture Victim Protection Act of
8 1991 (28 U.S.C. 1350 note);

9 is inadmissible.”; and

10 (3) in the subparagraph heading, by striking
11 “PARTICIPANTS IN NAZI PERSECUTION OR GENO-
12 CIDE” and inserting “PARTICIPANTS IN NAZI PERSE-
13 CUTION, GENOCIDE, OR THE COMMISSION OF ANY
14 ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

15 (b) DEPORTABILITY.—Section 237(a)(4)(D) of such
16 Act (8 U.S.C. 1227(a)(4)(D)) is amended—

17 (1) by striking “clause (i) or (ii)” and inserting
18 “clause (i), (ii), or (iii)”; and

19 (2) in the subparagraph heading, by striking
20 “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN
21 GENOCIDE” and inserting “PARTICIPATED IN NAZI
22 PERSECUTION, GENOCIDE, OR THE COMMISSION OF
23 ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to offenses committed before, on,
3 or after the date of enactment of this Act.

4 **SEC. 1203. INADMISSIBILITY AND DEPORTABILITY OF FOR-**
5 **EIGN GOVERNMENT OFFICIALS WHO HAVE**
6 **COMMITTED PARTICULARLY SEVERE VIOLA-**
7 **TIONS OF RELIGIOUS FREEDOM.**

8 (a) GROUND OF INADMISSIBILITY.—Section
9 212(a)(2)(G) of the Immigration and Nationality Act (8
10 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

11 “(G) FOREIGN GOVERNMENT OFFICIALS
12 WHO HAVE COMMITTED PARTICULARLY SEVERE
13 VIOLATIONS OF RELIGIOUS FREEDOM.—Any
14 alien who, while serving as a foreign govern-
15 ment official, was responsible for or directly
16 carried out, at any time, particularly severe vio-
17 lations of religious freedom, as defined in sec-
18 tion 3 of the International Religious Freedom
19 Act of 1998 (22 U.S.C. 6402), is inadmis-
20 sible.”.

21 (b) GROUND OF DEPORTABILITY.—Section 237(a)(4)
22 of the Immigration and Nationality Act (8 U.S.C.
23 1227(a)(4)) is amended by adding at the end the fol-
24 lowing:

1 “(E) PARTICIPATED IN THE COMMISSION
2 OF SEVERE VIOLATIONS OF RELIGIOUS FREE-
3 DOM.—Any alien described in section
4 212(a)(2)(G) is deportable.”.

5 **SEC. 1204. WAIVER OF INADMISSIBILITY.**

6 Section 212(d)(3) of the Immigration and Nationality
7 Act (8 U.S.C. 1182(d)(3)) is amended—

8 (1) in subparagraph (A), by striking “and
9 3(E)” and inserting “and clauses (i) and (ii) of
10 paragraph (3)(E)”; and

11 (2) in subparagraph (B), by striking “and
12 3(E)” and inserting “and clauses (i) and (ii) of
13 paragraph (3)(E)”.

14 **SEC. 1205. BAR TO GOOD MORAL CHARACTER, ASYLUM AND**
15 **REFUGEE STATUS, AND WITHHOLDING OF**
16 **REMOVAL FOR ALIENS WHO HAVE COM-**
17 **MITTED ACTS OF TORTURE, EXTRAJUDICIAL**
18 **KILLINGS, OR SEVERE VIOLATIONS OF RELI-**
19 **GIUS FREEDOM.**

20 (a) GOOD MORAL CHARACTER.—Section 101(f) of
21 the Immigration and Nationality Act (8 U.S.C. 1101(f))
22 is amended—

23 (1) by striking the period at the end of para-
24 graph (8) and inserting “; and”; and

25 (2) by adding at the end the following:

1 “(9) one who at any time has engaged in con-
2 duct described in section 212(a)(3)(E) (relating to
3 assistance in Nazi persecution, participation in geno-
4 cide, or commission of acts of torture or
5 extrajudicial killings) or 212(a)(2)(G) (relating to
6 severe violations of religious freedom).”.

7 (b) ASYLUM.—Section 208(b)(2)(A) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is
9 amended—

10 (1) in clause (v), by striking “or” at the end;

11 (2) in clause (vi), by striking the period and in-
12 serting “; or”; and

13 (3) by adding at the end the following:

14 “(vii) the alien is inadmissible under
15 section 212(a)(3)(E).”.

16 (c) REFUGEES.—Section 101(a)(42) of the Immigra-
17 tion and Nationality Act (8 U.S.C. 1101(a)(42)) is amend-
18 ed in the second sentence (regarding exclusions to the
19 term “refugee”) by inserting “, or any person who is inad-
20 missible under section 212(a)(3)(E)” after “or political
21 opinion”.

22 (d) WITHHOLDING OF REMOVAL.—Section
23 241(b)(3)(B) of the Immigration and Nationality Act (8
24 U.S.C. 1231(b)(3)(B)) is amended—

25 (1) in clause (iii), by striking “or” at the end;

1 (2) in clause (iv), by striking the period and in-
2 serting “; or”; and

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

4 “(v) the alien is inadmissible under
5 section 212(a)(3)(E).”.

6 **SEC. 1206. ESTABLISHMENT OF THE OFFICE OF SPECIAL IN-**
7 **VESTIGATIONS.**

8 (a) AMENDMENT OF THE IMMIGRATION AND NA-
9 TIONALITY ACT.—Section 103 of the Immigration and
10 Nationality Act (8 U.S.C. 1103) is amended by adding
11 at the end the following:

12 “(h)(1) The Attorney General shall establish within
13 the Criminal Division of the Department of Justice an Of-
14 fice of Special Investigations with the authority to detect
15 and investigate, and, where appropriate, to take legal ac-
16 tion to denaturalize any alien described in section
17 212(a)(3)(E).

18 “(2) The Attorney General shall consult with the Sec-
19 retary of the Department of Homeland Security in making
20 determinations concerning the criminal prosecution or ex-
21 tradition of aliens described in section 212(a)(3)(E).

22 “(3) In determining the appropriate legal action to
23 take against an alien described in section 212(a)(3)(E),
24 consideration shall be given to—

1 “(A) the availability of criminal prosecution
2 under the laws of the United States for any conduct
3 that may form the basis for removal and
4 denaturalization; or

5 “(B) the availability of extradition of the alien
6 to a foreign jurisdiction that is prepared to under-
7 take a prosecution for such conduct.”.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—

9 (1) IN GENERAL.—There are authorized to be
10 appropriated to the Department of Justice such
11 sums as may be necessary to carry out the addi-
12 tional duties established under section 103(h) of the
13 Immigration and Nationality Act (as added by this
14 Act) in order to ensure that the Office of Special In-
15 vestigations fulfills its continuing obligations regard-
16 ing Nazi war criminals.

17 (2) AVAILABILITY OF FUNDS.—Amounts appro-
18 priated pursuant to paragraph (1) are authorized to
19 remain available until expended.

20 **SEC. 1207. REPORTS ON IMPLEMENTATION OF THE ACT.**

21 (a) IMPLEMENTATION REPORT.—Not later than 180
22 days after the date of enactment of this Act, the Attorney
23 General, in consultation with the Secretary of Homeland
24 Security, shall submit to the Committees on the Judiciary
25 of the Senate and the House of Representatives a report

1 on the implementation of this Act that includes a descrip-
2 tion of—

3 (1) the procedures used to refer matters to the
4 Office of Special Investigations and other compo-
5 nents within the Department of Justice and the De-
6 partment of Homeland Security in a manner con-
7 sistent with the amendments made by this Act;

8 (2) the revisions, if any, made to immigration
9 forms to reflect changes in the Immigration and Na-
10 tionality Act made by the amendments contained in
11 this Act; and

12 (3) the procedures developed, with adequate due
13 process protection, to obtain sufficient evidence to
14 determine whether an alien may be inadmissible
15 under the terms of the amendments made by this
16 Act.

17 (b) **ADDITIONAL REPORT.**—One year after the date
18 of enactment of this Act, and annually thereafter, the At-
19 torney General and the Secretary of Homeland Security
20 shall submit to the Committees on the Judiciary of the
21 Senate and the House of Representatives a report that
22 includes—

23 (1) the number of criminal investigations and
24 criminal prosecutions conducted pursuant to this
25 Act;

1 (2) the number of persons removed from, or de-
 2 nied admission to, the United States pursuant to
 3 this Act; and

4 (3) the number and nationality of aliens who
 5 have been removed from, or denied access to, the
 6 United states pursuant to this Act.

7 **TITLE XIII—PROMISE ACT**

8 **SEC. 1301. SHORT TITLE.**

9 This title may be cited as the “Parental Responsi-
 10 bility Obligations Met through Immigration System En-
 11 forcement Act” or “PROMISE Act”.

12 **SEC. 1302. ALIENS INELIGIBLE TO RECEIVE VISAS AND EX-** 13 **CLUDED FROM ADMISSION FOR NON-** 14 **PAYMENT OF CHILD SUPPORT.**

15 Section 212(a)(10) of the Immigration and Nation-
 16 ality Act (8 U.S.C. 1182(a)(10)) is amended by adding
 17 at the end the following:

18 “(F) NONPAYMENT OF CHILD SUPPORT.—

19 “(i) IN GENERAL.—Except as pro-
 20 vided in clause (ii), an alien who is legally
 21 obligated under a judgment, decree, or
 22 order to pay child support and whose fail-
 23 ure to pay such child support has resulted
 24 in arrearages that exceed the amount spec-
 25 ified in section 454(31) of the Social Secu-

1 rity Act (42 U.S.C. 654(31)) is inadmis-
2 sible.

3 “(ii) EXCEPTION.—An alien described
4 in clause (i) may become admissible
5 when—

6 “(I) child support payments
7 under the judgment, decree, or order
8 are satisfied; or

9 “(II) the alien is in compliance
10 with a payment agreement approved
11 by the appropriate State enforcement
12 agency or court.

13 “(iii) FEDERAL PARENT LOCATOR
14 SERVICE.—The Federal Parent Locator
15 Service, established under section 453 of
16 the Social Security Act (42 U.S.C. 653),
17 shall be used to determine if an alien is in-
18 admissible under clause (i).

19 “(iv) REQUEST BY FOREIGN COUN-
20 TRY.—For purposes of clause (i), any re-
21 quest for services by a foreign recipro-
22 cating country or a foreign country with
23 which a State has an arrangement de-
24 scribed in section 459A(d) of the Social Se-

1 curity Act (42 U.S.C. 659a(d)) shall be
2 treated as a State request.”.

3 **SEC. 1303. AUTHORITY TO PAROLE ALIENS EXCLUDED**
4 **FROM ADMISSION FOR NONPAYMENT OF**
5 **CHILD SUPPORT.**

6 Section 212(d)(5) of the Immigration and Nationality
7 Act (8 U.S.C. 1182(d)(5)) is amended by adding at the
8 end the following:

9 “(C)(i) The Secretary of Homeland Security may, in
10 the Secretary’s discretion, parole into the United States,
11 any alien who is inadmissible under subsection
12 (a)(10)(F)(i) if—

13 “(I) the Secretary of Homeland Security places
14 such alien into removal proceedings;

15 “(II) the alien demonstrates to the satisfaction
16 of the Secretary of Homeland Security that such pa-
17 role is essential to the compliance and fulfillment of
18 child support obligations;

19 “(III) the alien demonstrates that the alien has
20 employment in the United States and is authorized
21 by law for employment in the United States; and

22 “(IV) the alien is not inadmissible under any
23 other provision of law.

24 “(ii) The Secretary of State may permit an alien de-
25 scribed in clause (i) to present himself or herself at a port

1 of entry for the limited purpose of seeking parole pursuant
2 to clause (i).

3 “(iii) The Secretary of Homeland Security and the
4 Secretary of State shall exercise the discretionary author-
5 ity described in this subparagraph in a manner consistent
6 with the objective of facilitating collection of payment of
7 child support arrearages.

8 “(iv) For purposes of this subparagraph, unless
9 waived by the alien, the Attorney General shall not enter
10 a final order of removal within the 180-day period after
11 the Secretary of Homeland Security initially charges the
12 alien as removable under subsection (a)(10)(F) and shall
13 not enter such final removal order during the pendency
14 of State court proceedings involving the child support obli-
15 gations of the alien.”.

16 **SEC. 1304. EFFECT OF NONPAYMENT OF CHILD SUPPORT**
17 **ON ESTABLISHMENT OF GOOD MORAL CHAR-**
18 **ACTER.**

19 Section 101(f) of the Immigration and Nationality
20 Act (8 U.S.C. 1101(f)) is amended—

21 (1) in paragraph (8), by striking the period at
22 the end and inserting “; or”; and

23 (2) by inserting after paragraph (8) the fol-
24 lowing:

1 “(9) one who is legally obligated under a judg-
 2 ment, decree, or order to pay child support (as de-
 3 fined in section 459(i) of the Social Security Act (42
 4 U.S.C. 659(i))) and whose failure to pay such child
 5 support has resulted in arrearages that exceed the
 6 amount specified in section 454(31) of that Act (42
 7 U.S.C. 654(31)), unless support payments under the
 8 judgment, decree, or order are satisfied or the alien
 9 is in compliance with an approved payment agree-
 10 ment.”.

11 **SEC. 1305. AUTHORIZATION TO SERVE LEGAL PROCESS IN**
 12 **CHILD SUPPORT CASES ON CERTAIN VISA AP-**
 13 **PLICANTS AND ARRIVING ALIENS.**

14 Section 235(d) of the Immigration and Nationality
 15 Act (8 U.S.C. 1225(d)) is amended by adding at the end
 16 the following:

17 “(5) **AUTHORITY TO SERVE PROCESS IN CHILD**
 18 **SUPPORT CASES.—**

19 “(A) **IN GENERAL.—**To the extent con-
 20 sistent with State law, immigration officers are
 21 authorized to serve on any alien who is an ap-
 22 plicant for admission to the United States, legal
 23 process with respect to—

24 “(i) any action to enforce a legal obli-
 25 gation of an individual to pay child support

1 (as defined in section 459(i) of the Social
2 Security Act (42 U.S.C. 659(i)); or

3 “(ii) any action to establish paternity.

4 “(B) DEFINITION.—For purposes of sub-
5 paragraph (A), the term ‘legal process’ means
6 any writ, order, summons, or other similar
7 process that is issued by—

8 “(i) a court or an administrative
9 agency of competent jurisdiction in any
10 State, territory, or possession of the
11 United States; or

12 “(ii) an authorized official pursuant to
13 an order of such a court or agency or pur-
14 suant to State or local law.”.

15 **SEC. 1306. AUTHORIZATION TO OBTAIN INFORMATION ON**
16 **CHILD SUPPORT PAYMENTS BY ALIENS.**

17 Section 453(h) of the Social Security Act (42 U.S.C.
18 653(h)) is amended by adding at the end the following:

19 “(4) PROVISION OF INFORMATION ON PERSONS
20 DELINQUENT IN CHILD SUPPORT PAYMENTS.—

21 “(A) IN GENERAL.—Notwithstanding any
22 other provision of law and in accordance with
23 the requirements of subsection (b), on request
24 by the Attorney General, Secretary of Home-
25 land Security, or Secretary of State, the Sec-

1 retary of Health and Human Services shall pro-
2 vide and transmit to authorized persons
3 through the Federal Parent Locator Service,
4 such information as the Secretary of Health
5 and Human Services determines may aid the
6 authorized person in establishing whether an
7 alien is delinquent in the payment of child sup-
8 port.

9 “(B) PROHIBITION ON DISCLOSURE OF IN-
10 FORMATION.—In no case may an authorized
11 person permit use by, or disclosure to, any per-
12 son (other than a sworn officer or employee of
13 the United States Government for legitimate
14 law enforcement purposes) of any information
15 obtained under this paragraph through the
16 Federal Parent Locator Service.

17 “(C) PENALTY.—Any person who willfully
18 uses, publishes, or permits information to be
19 disclosed in violation of this paragraph shall be
20 subject to appropriate disciplinary action and
21 subject to a civil monetary penalty of not more
22 than \$5,000 for each such violation.

23 “(D) AUTHORIZED PERSON DEFINED.—
24 For purposes of this paragraph, the term ‘au-
25 thorized person’ means any administrative

1 agency, immigration officer, or consular officer
2 (as defined in section 101(a) of the Immigration
3 and Nationality Act (8 U.S.C. 1101(a)) having
4 the authority to investigate or enforce the immi-
5 gration and naturalization laws of the United
6 States with respect to the legal entry and status
7 of aliens.”.

8 **SEC. 1307. EFFECTIVE DATE.**

9 This title and the amendments made by this title
10 shall take effect on the date that is 90 days after the date
11 of enactment of this title and shall apply to aliens who
12 apply for benefits under the Immigration and Nationality
13 Act (8 U.S.C. 1101 et seq.) on or after such effective date.

14 **TITLE XIV—FALLEN HEROES OF**
15 **9/11 ACT**

16 **SEC. 1401. SHORT TITLE.**

17 This title may be cited as the “Fallen Heroes of 9/
18 11 Act”.

19 **SEC. 1402. CONGRESSIONAL FINDINGS.**

20 Congress finds that—

21 (1) since September 11, 2001, the United
22 States has been engaged in a war different from any
23 other in our Nation’s history;

1 (2) in the eyes of the terrorists, we are all the
2 enemy, and the term “innocent civilian” has no
3 meaning for such terrorists;

4 (3) the deaths by airplane at the World Trade
5 Center, at the Pentagon, and in rural Pennsylvania
6 represent an escalation of direct terrorist attacks on
7 civilians;

8 (4) the officers, emergency workers, and other
9 employees of State and local government agencies,
10 including the Port Authority of New York and New
11 Jersey, and of the United States Government and
12 others, who responded to the attacks on the World
13 Trade Center in New York City and perished as a
14 result of the tragic events of September 11, 2001
15 (including those who are missing and presumed
16 dead), took heroic and noble action on that day;

17 (5) the passengers and crew of United Airlines
18 Flight 93, recognizing the potential danger that the
19 aircraft that they were aboard posed to large num-
20 bers of innocent Americans, American institutions,
21 and the symbols of American democracy, took heroic
22 and noble action to ensure that the aircraft could
23 not be used as a weapon; and

24 (6) given the unprecedented nature of the at-
25 tacks against the United States of America and the

1 (A) victims of the attack at the World
2 Trade Center, including civilians, public safety
3 officers, emergency workers, and hijack victims;

4 (B) victims aboard United Airlines Flight
5 93 that crashed in Pennsylvania; and

6 (C) victims at the Pentagon, including the
7 hijack victims.

8 (2) CONSULTATION.—Before making a final de-
9 termination with respect to the design of the medal
10 under this subsection, the Secretary shall consult
11 with the Secretary of Defense and such other parties
12 as the Secretary may determine to be appropriate.

13 (c) ELIGIBILITY TO RECEIVE MEDAL.—

14 (1) IN GENERAL.—Any individual who died on
15 or after September 11, 2001, as a direct result of
16 the act of terrorism within the United States on that
17 date, shall be eligible for a medal referred to in sub-
18 section (a).

19 (2) DETERMINATION.—Eligibility under para-
20 graph (1) shall be determined by the Secretary, in
21 consultation with such other officers of the United
22 States Government and State and local officials as
23 the Secretary determines to be appropriate.

24 (3) TERRORISM DEFINED.—For purposes of
25 this section and section 1404, the term “act of ter-

1 rorism” means the premeditated, politically moti-
2 vated violence perpetrated against the United States
3 on September 11, 2001.

4 **SEC. 1404. DUPLICATE MEDALS.**

5 (a) **RECIPIENTS OF DUPLICATE MEDALS.**—The Sec-
6 retary shall strike duplicates of the medals struck pursu-
7 ant to section 1404 for presentation to each precinct
8 house, firehouse, emergency response station, or other
9 duty station or place of employment to which each person
10 referred to in subsection (b) of this section was assigned
11 on September 11, 2001, for permanent display in each
12 such place in a manner befitting the memory of such per-
13 son.

14 (b) **PUBLIC SAFETY, EMERGENCY, AND OTHER**
15 **WORKERS.**—Persons referred to in this subsection are of-
16 ficers, emergency workers, and other employees of State
17 and local government agencies, including the Port Author-
18 ity of New York and New Jersey, and of the United States
19 Government and others, who responded to the attacks on
20 the World Trade Center in New York City on September
21 11, 2001, and perished as a direct result of that act of
22 terrorism (including those who are missing and presumed
23 dead).

1 **SEC. 1405. ESTABLISHMENT OF LISTS OF RECIPIENTS.**

2 (a) INITIAL LISTS.—Before the end of the 120-day
3 period beginning on the date of enactment of this title,
4 the Secretary shall establish—

5 (1) a list of the names of individuals eligible to
6 receive a medal under section 1404, as described in
7 section 1404(c)(1), during the period beginning on
8 September 11, 2001, and ending on the date of en-
9 actment of this title; and

10 (2) a list of the eligible recipients of a duplicate
11 medal under section 1404.

12 (b) SUBSEQUENT ELIGIBILITY.—If any individual be-
13 comes eligible for a medal, as described in section
14 1603(c)(1), or any other recipient becomes eligible for a
15 duplicate medal, as described in section 1504, the Sec-
16 retary shall promptly add the name of that individual or
17 recipient to the appropriate list established pursuant to
18 subsection (a).

19 **SEC. 1406. SALES TO THE PUBLIC TO DEFRAY COSTS.**

20 Under such regulations as the Secretary may pre-
21 scribe, the Secretary may strike and sell duplicates of the
22 medals struck under this title, at a price sufficient to cover
23 the costs of the medals (including labor, materials, dies,
24 use of machinery, and overhead expenses).

1 **SEC. 1407. NATIONAL MEDALS.**

2 The medals struck pursuant to this title are national
3 medals for purposes of chapter 51 of title 31, United
4 States Code.

5 **TITLE XV—MISCELLANEOUS**
6 **PROVISIONS**

7 **SEC. 1501. TECHNICAL AMENDMENTS RELATING TO PUBLIC**
8 **LAW 107-56.**

9 (a) **STRIKING SURPLUS WORDS.—**

10 (1) Section 2703(c)(1) of title 18, United
11 States Code, is amended by striking “or” at the end
12 of subparagraph (C).

13 (2) Section 1960(b)(1)(C) of title 18, United
14 States Code, is amended by striking “to be used to
15 be used” and inserting “to be used”.

16 (b) **PUNCTUATION AND GRAMMAR CORRECTIONS.—**
17 Section 2516(1)(q) of title 18, United States Code, is
18 amended—

19 (1) by striking the semicolon after the first
20 close parenthesis; and

21 (2) by striking “sections” and inserting “sec-
22 tion”.

23 (c) **CROSS REFERENCE CORRECTION.—**Section 322
24 of Public Law 107-56 is amended, effective on the date
25 of enactment of that section, by striking “title 18” and
26 inserting “title 28”.

1 (d) CAPITALIZATION CORRECTION.—Subsections (a)
2 and (b) of section 2703 of title 18, United States Code,
3 are each amended by striking “CONTENTS OF WIRE OR
4 ELECTRONIC” and inserting “CONTENTS OF WIRE OR
5 ELECTRONIC”.

6 **SEC. 1502. MISCELLANEOUS TECHNICAL AMENDMENTS.**

7 (a) PUNCTUATION CORRECTIONS.—The heading for
8 section 1591 of title 18, United States Code, is amended
9 by inserting a comma after “**fraud**”.

10 (b) DUPLICATE SECTION NUMBERS.—The second
11 section 540C in chapter 33 of title 28, United States Code,
12 is redesignated as section 540D, and the item relating to
13 that section in the table of sections at the beginning of
14 that chapter is redesignated accordingly and transferred
15 so as to be placed after the item relating to section 540C.

16 (c) TABLE OF SECTIONS OMISSION.—The table of
17 sections at the beginning of chapter 203 of title 18, United
18 States Code, is amended by inserting after the item relat-
19 ing to section 3050 the following new item:

“3051. Powers of Special Agents of Bureau of Alcohol, Tobacco, Firearms, and
Explosives.”.

20 (d) REPEAL OF DUPLICATIVE PROGRAM.—Section
21 316 of part A of the Runaway and Homeless Youth Act
22 (42 U.S.C. 5712d), as added by section 40155 of the Vio-
23 lent Crime Control and Law Enforcement Act of 1994
24 (Public Law 103–322; 108 Stat. 1922), is repealed.

1 **SEC. 1503. MINOR SUBSTANTIVE AMENDMENT RELATING**
2 **TO CONTENTS OF FBI ANNUAL REPORT.**

3 Section 540D(b)(1)(A) of title 28, United States
4 Code, as redesignated by section 302(b), is further amend-
5 ed by inserting “and the number of such personnel who
6 receive danger pay under section 151 of the Foreign Rela-
7 tions Authorization Act, Fiscal Years 1990 and 1991 (5
8 U.S.C. 5928 note)” after “year”.

9 **SEC. 1504. USE OF FEDERAL TRAINING FACILITIES.**

10 (a) **FEDERAL TRAINING FACILITIES.**—Unless specifi-
11 cally authorized in writing by the Attorney General, the
12 Department of Justice (and each entity within it) shall
13 use for any predominately internal training only a facility
14 that does not require a payment to a private entity for
15 use of the facility.

16 (b) **ANNUAL REPORT.**—The Attorney General shall
17 prepare an annual report to the chairmen and ranking mi-
18 nority members of the Committees on the Judiciary of the
19 Senate and of the House of Representatives that details
20 each training that requires specific authorization under
21 subsection (a). The report shall include an explanation of
22 why the facility was chosen, and a breakdown of any ex-
23 penditures incurred in excess of the cost of conducting the
24 training or meeting at a facility that did not require such
25 authorization.

1 **SEC. 1505. TECHNICAL CORRECTION RELATING TO DEFINI-**
2 **TION USED IN “TERRORISM TRANSCENDING**
3 **NATIONAL BOUNDARIES” STATUTE.**

4 Section 1958 of title 18, United States Code, is
5 amended—

6 (1) in subsection (a), by striking “facility in”
7 and inserting “facility of”; and

8 (2) in subsection (b)(2), by inserting “or for-
9 eign” after “interstate”.

10 **SEC. 1506. INCREASED PENALTIES AND EXPANDED JURIS-**
11 **DICTION FOR SEXUAL ABUSE OFFENSES IN**
12 **CORRECTIONAL FACILITIES.**

13 (a) **EXPANDED JURISDICTION.**—The following provi-
14 sions of title 18, United States Code, are each amended
15 by inserting “or with respect to any person in the custody
16 of the Attorney General or the Bureau of Prisons or any
17 institution or facility in which the person is confined under
18 the direction of the Attorney General or the Bureau of
19 Prisons,” after “in a Federal prison,”:

20 (1) Subsections (a) and (b) of section 2241.

21 (2) The first sentence of subsection (c) of sec-
22 tion 2241.

23 (3) Section 2242.

24 (4) Subsections (a) and (b) of section 2243.

25 (5) Subsections (a) and (b) of section 2244.

26 (b) **INCREASED PENALTIES.**—

1 (1) SEXUAL ABUSE OF A WARD.—Section
2 2243(b) of such title is amended by striking “one
3 year” and inserting “five years”.

4 (2) ABUSIVE SEXUAL CONTACT.—Section 2244
5 of such title is amended by striking “six months”
6 and inserting “two years” in each of subsections
7 (a)(4) and (b).

8 **SEC. 1507. EXPANDED JURISDICTION FOR CONTRABAND**
9 **OFFENSES IN CORRECTIONAL FACILITIES.**

10 Section 1791(a) of title 18, United States Code, is
11 amended in each of paragraphs (1) and (2) by inserting
12 “or an individual in the custody of the Attorney General
13 or the Bureau of Prisons or any institution or facility in
14 which the person is confined under the direction of the
15 Attorney General or the Bureau of Prisons” after “an in-
16 mate of a prison”.

17 **SEC. 1508. MAGISTRATE JUDGE’S AUTHORITY TO CON-**
18 **TINUE PRELIMINARY HEARING.**

19 The second sentence of section 3060(e) of title 18,
20 United States Code, is amended to read as follows: “In
21 the absence of such consent of the accused, the judge or
22 magistrate judge may extend the time limits only on a
23 showing that extraordinary circumstances exist and justice
24 requires the delay.”.

1 **SEC. 1509. BOYS AND GIRLS CLUBS OF AMERICA.**

2 Section 401 of the Economic Espionage Act of 1996
3 (42 U.S.C. 13751 note) is amended—

4 (1) in subsection (a)(2)—

5 (A) by striking “1,200” and inserting
6 “1,500”;

7 (B) by striking “4,000” and inserting
8 “5,000”; and

9 (C) by striking “December 31, 2005” and
10 inserting “December 31, 2010”;

11 (2) in subsection (c)—

12 (A) in paragraph (1), by striking “2002,
13 2003, 2004, 2005, and 2006” and inserting
14 “2006, 2007, 2008, 2009, and 2010”; and

15 (B) in paragraph (2)—

16 (i) in subparagraph (A), by striking
17 “1,200” and inserting “1,500”; and

18 (ii) in subparagraph (B)—

19 (I) by striking “4,000” and in-
20 serting “5,000”; and

21 (II) by striking “2007” and in-
22 serting “2010”; and

23 (3) in subsection (e), by striking paragraph (1)
24 and inserting the following:

25 “(1) IN GENERAL.—There are authorized to be
26 appropriated to carry out this section—

1 “(A) \$80,000,000 for fiscal year 2006;

2 “(B) \$85,000,000 for fiscal year 2007;

3 “(C) \$90,000,000 for fiscal year 2008;

4 “(D) \$95,000,000 for fiscal year 2009;

5 and

6 “(E) \$100,000,000 for fiscal year 2010.”.

7 **SEC. 1510. AUTHORITY OF INSPECTORS GENERAL.**

8 Title XXXVII of the Crime Control Act of 1990 (42
9 U.S.C. 5779 et seq.) is amended by inserting after section
10 3701 the following:

11 **“SEC. 3701A. AUTHORITY OF INSPECTORS GENERAL.**

12 “(a) IN GENERAL.—An Inspector General appointed
13 under section 3 or section 8G of the Inspector General
14 Act of 1978 (5 U.S.C. App. 3), or the Inspector General
15 of the Government Printing Office, may provide staff sup-
16 port to the National Center for Missing and Exploited
17 Children for the purpose of conducting reviews of inactive
18 case files to develop recommendations for further inves-
19 tigation, and for similar activities.

20 “(b) LIMITATION.—An Inspector General may pro-
21 vide support under subsection (a) only if the provision of
22 such support will not interfere with the duties of the In-
23 spector General under the Inspector General Act of
24 1978.”.

1 **SEC. 1511. FOREIGN STUDENT VISAS.**

2 (a) IN GENERAL.—Section 101(a)(15)(F) of the Im-
3 migration and Nationality Act (8 U.S.C. 1101(a)(15)(F))
4 is amended—

5 (1) by striking “alien, and (iii)” and inserting
6 “alien, (iii)”; and

7 (2) by striking “Canada or Mexico;” and insert-
8 ing “Canada or Mexico, and (iv) an alien who main-
9 tains actual residence and place of abode in a for-
10 eign country and who is described in clause (i), ex-
11 cept that the alien’s actual course of study is a dis-
12 tance learning program at an approved institution
13 (other than an elementary or secondary school) that
14 may be full or part-time, for which the alien is vis-
15 iting the United States temporarily for a period not
16 to exceed 30 days;”.

17 (b) CHANGE OF NONIMMIGRANT CLASSIFICATION.—
18 Section 248(1) of the Immigration and Nationality Act (8
19 U.S.C. 1258(1)) is amended by inserting “(F)(iv),” after
20 “(D),”.

21 **SEC. 1512. PRE-RELEASE CUSTODY OF PRISONERS.**

22 Section 3624 of title 18, United States Code, is
23 amended by striking subsection (c) and inserting the fol-
24 lowing:

25 “(c) PRE-RELEASE CUSTODY.—

1 “(1) IN GENERAL.—The Bureau of Prisons
2 shall, to the extent practicable, assure that a pris-
3 oner serving a term of imprisonment spends a rea-
4 sonable part of the final portion of the term, not to
5 exceed 1 year, to be served under conditions that
6 will afford the prisoner a reasonable opportunity to
7 adjust to and prepare for the prisoner’s reentry into
8 the community. Such conditions may include, but
9 are not limited to, residence in a community correc-
10 tional facility.

11 “(2) PERIOD OF CONFINEMENT.—This sub-
12 section authorizes the Bureau of Prisons to place a
13 prisoner in home confinement for the last 10 per-
14 centum of the term to be served, not to exceed 6
15 months.

16 “(3) ASSISTANCE.—The United States proba-
17 tion system shall, to the extent practicable, offer as-
18 sistance to a prisoner during such pre-release cus-
19 tody.

20 “(4) PLACE OF IMPRISONMENT.—For the pur-
21 poses of this subsection, a community correctional
22 facility and home confinement shall constitute a
23 place of imprisonment.

24 “(5) CONSTRUCTION.—Nothing in this sub-
25 section shall be construed to limit or restrict the au-

1 thority of the Bureau of Prisons granted under sec-
2 tion 3621 of this title.”.

3 **SEC. 1513. FBI TRANSLATOR REPORTING REQUIREMENT.**

4 Section 205(c) of the USA PATRIOT ACT (28
5 U.S.C. 532 note) is amended—

6 (1) in the matter preceding paragraph (1), by
7 striking “The Attorney General shall report to the
8 Committees on the Judiciary of the House of Rep-
9 resentatives and the Senate on” and inserting “Not
10 later than 30 days after the date of enactment of
11 the Department of Justice Appropriations Author-
12 ization Act, Fiscal Years 2005 through 2007, and
13 on an annual basis thereafter, the Attorney General
14 shall submit a report to the Committee on the Judi-
15 ciary of the Senate, and the Committee on the Judi-
16 ciary of the House of Representatives, with respect
17 to each preceding 12-month period, on”; and

18 (2) in paragraph (1), by inserting “, or con-
19 tracted for,” after “employed”.

20 **SEC. 1514. AMENDMENT TO VICTIMS OF CHILD ABUSE ACT.**

21 Section 227(b) of the Victims of Child Abuse Act of
22 1990 (42 U.S.C. 13032) is amended by adding at the end
23 the following:

24 “(5) CONTENTS OF REPORT.—The contents of
25 the report of facts and circumstances for purposes

1 of this subsection shall include the following infor-
2 mation:

3 “(A) Apparent illegal content and images,
4 provided in compliance and compatible with the
5 existing electronic infrastructure of the
6 CyberTipline.

7 “(B) The Internet Protocol Address, and
8 the time and date when the address was used
9 associated with each apparent violation as re-
10 quired under this section.

11 “(C) The Internet Protocol Address, and
12 the time and date when the address was used
13 associated with the account registration of the
14 apparent violation as required under this sec-
15 tion.

16 “(D) The relevant time zone of the dates
17 and times of any apparent violation.

18 “(E) Contact information on service of
19 legal process to obtain relevant information for
20 an apparent violation.

21 “(F) Any locator information, such as a
22 ZIP Code, identifying the originating jurisdic-
23 tion where the facts and circumstances of the
24 apparent violation occurred.

1 “(H) Relevant addresses, city, county,
2 State, ZIP code, and country identification code
3 listed in related subscriber or customer records,
4 to include home or work place designations sub-
5 scriber name, method of payment, credit card
6 number, contact phone numbers, screen and e-
7 mail names.

8 “(I) Relevant city, county, State, ZIP
9 Code, or country identification code in which a
10 gateway device is located that was used in con-
11 nection with an apparent violation by the sub-
12 scriber or customer to access a electronic com-
13 munication service or a remote computing serv-
14 ice on such dates or times associated to a re-
15 portable incident as required under this section.

16 “(6) IMPOSITION OF PENALTIES.—Failure to
17 provide a report containing the required contents set
18 forth under paragraph (5) shall be the basis for the
19 imposition of penalties as set forth under paragraph
20 (4).”.

21 **SEC. 1515. DEVELOPMENT OF AN INFORMATION SYSTEM**
22 **INTERSTATE COMPACT FOR ADULT OF-**
23 **FENDER SUPERVISION.**

24 (a) PROGRAM.—The Attorney General shall establish
25 a program to support the development of an information

1 sharing system between States to support the exchange
2 of information on offenders seeking and completing trans-
3 fer from 1 State to another through the Interstate Com-
4 pact for Adult Offender Supervision.

5 (b) DETAILS.—The program shall—

6 (1) establish a system of uniform data collec-
7 tion;

8 (2) allow instant and real time access to infor-
9 mation on active criminal cases by criminal justice
10 officials;

11 (3) provide regular reporting of Compact activi-
12 ties to heads of State councils, State executive, judi-
13 cial and legislative leaders and criminal justice ad-
14 ministrators; and

15 (4) be designed to integrate with current and
16 future national, State, and local information sys-
17 tems.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated such sums as necessary
20 to carry out the development of an information system for
21 the Interstate Compact for Adult Offender Supervision
22 under this section.

1 **TITLE XVI—REAUTHORIZATION**
2 **OF THE NATIONAL FILM**
3 **PRESERVATION BOARD**

4 **SEC. 1601. SHORT TITLE.**

5 This title may be cited as the “National Film Preser-
6 vation Act of 2004”.

7 **SEC. 1602. REAUTHORIZATION AND AMENDMENT.**

8 (a) DUTIES OF THE LIBRARIAN OF CONGRESS.—Sec-
9 tion 103 of the National Film Preservation Act of 1996
10 (2 U.S.C. 179m) is amended—

11 (1) in subsection (b)—

12 (A) by striking “film copy” each place that
13 term appears and inserting “film or other ap-
14 proved copy”;

15 (B) by striking “film copies” each place
16 that term appears and inserting “film or other
17 approved copies”; and

18 (C) in the third sentence, by striking
19 “copyrighted” and inserting “copyrighted, mass
20 distributed, broadcast, or published”; and

21 (2) by adding at the end the following:

22 “(c) COORDINATION OF PROGRAM WITH OTHER
23 COLLECTION, PRESERVATION, AND ACCESSIBILITY AC-
24 TIVITIES.—In carrying out the comprehensive national
25 film preservation program for motion pictures established

1 under the National Film Preservation Act of 1992, the
2 Librarian, in consultation with the Board established
3 under section 104, shall—

4 “(1) carry out activities to make films included
5 in the National Film Registry more broadly acces-
6 sible for research and educational purposes, and to
7 generate public awareness and support of the Reg-
8 istry and the comprehensive national film preserva-
9 tion program;

10 “(2) review the comprehensive national film
11 preservation plan, and amend it to the extent nec-
12 essary to ensure that it addresses technological ad-
13 vances in the preservation and storage of, and access
14 to film collections in multiple formats; and

15 “(3) wherever possible, undertake expanded ini-
16 tiatives to ensure the preservation of the moving
17 image heritage of the United States, including film,
18 videotape, television, and born digital moving image
19 formats, by supporting the work of the National
20 Audio-Visual Conservation Center of the Library of
21 Congress, and other appropriate nonprofit archival
22 and preservation organizations.”.

23 (b) NATIONAL FILM PRESERVATION BOARD.—Sec-
24 tion 104 of the National Film Preservation Act of 1996
25 (2 U.S.C. 179n) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1) by striking “20” and
3 inserting “22”; and

4 (B) in paragraph (2) by striking “three”
5 and inserting “5”;

6 (3) in subsection (d) by striking “11” and in-
7 serting “12”; and

8 (4) by striking subsection (e) and inserting the
9 following:

10 “(e) REIMBURSEMENT OF EXPENSES.—Members of
11 the Board shall serve without pay, but may receive travel
12 expenses, including per diem in lieu of subsistence, in ac-
13 cordance with sections 5702 and 5703 of title 5, United
14 States Code.”.

15 (e) NATIONAL FILM REGISTRY.—Section 106 of the
16 National Film Preservation Act of 1996 (2 U.S.C. 179p)
17 is amended by adding at the end the following:

18 “(e) NATIONAL AUDIO-VISUAL CONSERVATION CEN-
19 TER.—The Librarian shall utilize the National Audio-Vis-
20 ual Conservation Center of the Library of Congress at
21 Culpeper, Virginia, to ensure that preserved films included
22 in the National Film Registry are stored in a proper man-
23 ner, and disseminated to researchers, scholars, and the
24 public as may be appropriate in accordance with—

25 “(1) title 17 of the United States Code; and

1 “(2) the terms of any agreements between the
2 Librarian and persons who hold copyrights to such
3 audiovisual works.”.

4 (d) USE OF SEAL.—Section 107(a) of the National
5 Film Preservation Act of 1996 (2 U.S.C. 179q) is amend-
6 ed—

7 (1) in paragraph (1), by inserting “in any for-
8 mat” after “or any copy”; and

9 (2) in paragraph (2), by striking “or film copy”
10 and inserting “in any format”.

11 (e) EFFECTIVE DATE.—Section 113 of the National
12 Film Preservation Act of 1996 (2 U.S.C. 179w) is amend-
13 ed by striking “7” and inserting “17”.

14 **TITLE XVII—REAUTHORIZATION**
15 **OF THE NATIONAL FILM**
16 **PRESERVATION FOUNDATION**

17 **SEC. 1701. SHORT TITLE.**

18 This title may be cited as the “National Film Preser-
19 vation Foundation Reauthorization Act of 2004”.

20 **SEC. 1702. REAUTHORIZATION AND AMENDMENT.**

21 (a) BOARD OF DIRECTORS.—Section 151703 of title
22 36, United States Code, is amended—

23 (1) in subsection (b)(2)(A), by striking “nine”
24 and inserting “12”; and

1 (2) in subsection (b)(4), by striking the second
2 sentence and inserting “There shall be no limit to
3 the number of terms to which any individual may be
4 appointed.”.

5 (b) POWERS.—Section 151705 of title 36, United
6 States Code, is amended in subsection (b) by striking
7 “District of Columbia” and inserting “the jurisdiction in
8 which the principal office of the corporation is located”.

9 (c) PRINCIPAL OFFICE.—Section 151706 of title 36,
10 United States Code, is amended by inserting “, or another
11 place as determined by the board of directors” after “Dis-
12 trict of Columbia”.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—Section
14 151711 of title 36, United States Code, is amended by
15 striking subsections (a) and (b) and inserting the fol-
16 lowing:

17 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Library of Con-
19 gress amounts necessary to carry out this chapter, not to
20 exceed \$500,000 for each of the fiscal years 2004 and
21 2005, and not to exceed \$1,000,000 for each of the fiscal
22 years 2006 through 2013. These amounts are to be made
23 available to the corporation to match any private contribu-
24 tions (whether in currency, services, or property) made to

1 the corporation by private persons and State and local
2 governments.

3 “(b) LIMITATION RELATED TO ADMINISTRATIVE EX-
4 PENSES.—Amounts authorized under this section may not
5 be used by the corporation for management and general
6 or fundraising expenses as reported to the Internal Rev-
7 enue Service as part of an annual information return re-
8 quired under the Internal Revenue Code of 1986.”.

9 **TITLE XVIII—DREAM ACT**

10 **SEC. 1801. SHORT TITLE.**

11 This title may be cited as the “Development, Relief,
12 and Education for Alien Minors Act of 2003” or
13 “DREAM Act”.

14 **SEC. 1802. DEFINITION OF INSTITUTION OF HIGHER EDU- 15 CATION.**

16 In this title, the term “institution of higher edu-
17 cation” has the meaning given the term in section 101
18 of the Higher Education Act of 1965 (20 U.S.C. 1001).

19 **SEC. 1803. RESTORATION OF STATE OPTION TO DETER- 20 MINE RESIDENCY FOR PURPOSES OF HIGHER 21 EDUCATION BENEFITS.**

22 (a) IN GENERAL.—Section 505 of the Illegal Immi-
23 gration Reform and Immigrant Responsibility Act of 1996
24 (8 U.S.C. 1623) is repealed.

1 (b) EFFECTIVE DATE.—The repeal described in sub-
2 section (a) shall take effect as if included in the enactment
3 of the Illegal Immigration Reform and Immigrant Respon-
4 sibility Act of 1996.

5 **SEC. 1804. CANCELLATION OF REMOVAL AND ADJUSTMENT**
6 **OF STATUS OF CERTAIN LONG-TERM RESI-**
7 **DENTS WHO ENTERED THE UNITED STATES**
8 **AS CHILDREN.**

9 (a) SPECIAL RULE FOR ALIENS IN QUALIFIED INSTI-
10 TUTIONS OF HIGHER EDUCATION.—

11 (1) IN GENERAL.—Notwithstanding any other
12 provision of law and except as otherwise provided in
13 this title, the Secretary of Homeland Security may
14 cancel removal of, and adjust to the status of an
15 alien lawfully admitted for permanent residence,
16 subject to the conditional basis described in section
17 1805, an alien who is inadmissible or deportable
18 from the United States, if the alien demonstrates
19 that—

20 (A) the alien has been physically present in
21 the United States for a continuous period of
22 not less than 5 years immediately preceding the
23 date of enactment of this title, and had not yet
24 reached the age of 16 years at the time of ini-
25 tial entry;

1 (B) the alien has been a person of good
2 moral character since the time of application;

3 (C) the alien—

4 (i) is not inadmissible under para-
5 graph (2), (3), (6)(B), (6)(C), (6)(E),
6 (6)(F), or (6)(G) of section 212(a) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1182(a)), or, if inadmissible solely under
9 subparagraphs (C) or (F) of paragraph (6)
10 of such section, the alien was under the
11 age of 16 years at the time the violation
12 was committed; and

13 (ii) is not deportable under paragraph
14 (1)(E), (1)(G), (2), (3)(B), (3)(C), (3)(D),
15 (4), or (6) of section 237(a) of the Immi-
16 gration and Nationality Act (8 U.S.C.
17 1227(a)), or, if deportable solely under
18 subparagraphs (C) or (D) of paragraph (3)
19 of such section, the alien was under the
20 age of 16 years at the time the violation
21 was committed;

22 (D) the alien, at the time of application,
23 has been admitted to an institution of higher
24 education in the United States, or has earned
25 a high school diploma or obtained a general

1 education development certificate in the United
2 States; and

3 (E) the alien has never been under a final
4 administrative or judicial order of exclusion, de-
5 portation, or removal, unless the alien has re-
6 mained in the United States under color of law
7 or received the order before attaining the age of
8 16 years.

9 (2) WAIVER.—The Secretary of Homeland Se-
10 curity may waive the grounds of ineligibility under
11 section 212(a)(6) of the Immigration and Nation-
12 ality Act and the grounds of deportability under
13 paragraphs (1), (3), and (6) of section 237(a) of
14 that Act for humanitarian purposes or family unity
15 or when it is otherwise in the public interest.

16 (3) PROCEDURES.—The Secretary of Homeland
17 Security shall provide a procedure by regulation al-
18 lowing eligible individuals to apply affirmatively for
19 the relief available under this subsection without
20 being placed in removal proceedings.

21 (b) TERMINATION OF CONTINUOUS PERIOD.—For
22 purposes of this section, any period of continuous resi-
23 dence or continuous physical presence in the United States
24 of an alien who applies for cancellation of removal under
25 this section shall not terminate when the alien is served

1 a notice to appear under section 239(a) of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1229(a)).

3 (c) TREATMENT OF CERTAIN BREAKS IN PRES-
4 ENCE.—

5 (1) IN GENERAL.—An alien shall be considered
6 to have failed to maintain continuous physical pres-
7 ence in the United States under subsection (a) if the
8 alien has departed from the United States for any
9 period in excess of 90 days or for any periods in the
10 aggregate exceeding 180 days.

11 (2) EXTENSIONS FOR EXCEPTIONAL CIR-
12 CUMSTANCES.—The Secretary of Homeland Security
13 may extend the time periods described in paragraph
14 (1) if the alien demonstrates that the failure to time-
15 ly return to the United States was due to excep-
16 tional circumstances. The exceptional circumstances
17 determined sufficient to justify an extension should
18 be no less compelling than serious illness of the
19 alien, or death or serious illness of a parent, grand-
20 parent, sibling, or child.

21 (d) EXEMPTION FROM NUMERICAL LIMITATIONS.—
22 Nothing in this section may be construed to apply against
23 the numerical limitation on the number of aliens who may
24 be eligible for cancellation of removal under section 240A
25 of the Immigration and Nationality Act (8 U.S.C. 1229b).

1 (e) REGULATIONS.—

2 (1) PROPOSED REGULATIONS.—Not later than
3 180 days after the date of enactment of this title,
4 the Secretary of Homeland Security shall publish
5 proposed regulations implementing this section.
6 Such regulations shall be effective immediately on an
7 interim basis, but are subject to change and revision
8 after public notice and opportunity for a period for
9 public comment.

10 (2) INTERIM, FINAL REGULATIONS.—Within a
11 reasonable time after publication of the interim reg-
12 ulations in accordance with paragraph (1), the Sec-
13 retary of Homeland Security shall publish final regu-
14 lations implementing this section.

15 (f) REMOVAL OF ALIEN.—The Secretary of Home-
16 land Security shall not remove any alien who has a pend-
17 ing application for conditional status under this title.

18 **SEC. 1805. CONDITIONAL PERMANENT RESIDENT STATUS.**

19 (a) IN GENERAL.—

20 (1) CONDITIONAL BASIS FOR STATUS.—Not-
21 withstanding any other provision of law, and except
22 as provided in section 1806, an alien whose status
23 has been adjusted under section 1804 to that of an
24 alien lawfully admitted for permanent residence shall
25 be considered to have obtained such status on a con-

1 conditional basis subject to the provisions of this sec-
2 tion. Such conditional resident status shall be valid
3 for a period of 6 years, subject to termination under
4 subsection (b).

5 (2) NOTICE OF REQUIREMENTS.—

6 (A) AT TIME OF OBTAINING PERMANENT
7 RESIDENCE.—At the time an alien obtains per-
8 manent resident status on a conditional basis
9 under paragraph (1), the Secretary of Home-
10 land Security shall provide for notice to the
11 alien regarding the provisions of this section
12 and the requirements of subsection (c)(1) to
13 have the conditional basis of such status re-
14 moved.

15 (B) EFFECT OF FAILURE TO PROVIDE NO-
16 TICE.—The failure of the Secretary of Home-
17 land Security to provide a notice under this
18 paragraph—

19 (i) shall not affect the enforcement of
20 the provisions of this title with respect to
21 the alien; and

22 (ii) shall not give rise to any private
23 right of action by the alien.

24 (b) TERMINATION OF STATUS.—

1 (1) IN GENERAL.—The Secretary of Homeland
2 Security shall terminate the conditional permanent
3 resident status of any alien who obtained such sta-
4 tus under this title, if the Secretary determines that
5 the alien—

6 (A) has violated any provision of subpara-
7 graph (B) or (C) of section 1804(a)(1);

8 (B) has become a public charge; or

9 (C) in the case of an alien who received
10 conditional permanent resident status under
11 section 1804(a)(1)(B), has received a dishonor-
12 able or other than honorable discharge from the
13 Armed Forces of the United States.

14 (2) RETURN TO PREVIOUS IMMIGRATION STA-
15 TUS.—Any alien whose permanent resident status is
16 terminated under paragraph (1) shall return to the
17 immigration status the alien had immediately prior
18 to receiving conditional permanent resident status
19 under this title.

20 (c) REQUIREMENTS OF TIMELY PETITION FOR RE-
21 MOVAL OF CONDITION.—

22 (1) IN GENERAL.—In order for the conditional
23 basis of permanent resident status obtained by an
24 alien under subsection (a) to be removed, the alien
25 must file with the Secretary of Homeland Security,

1 in accordance with paragraph (3), a petition which
2 requests the removal of such conditional basis and
3 which states, under penalty of perjury, the facts and
4 information described in subsection (d)(1).

5 (2) ADJUDICATION OF PETITION TO REMOVE
6 CONDITION.—

7 (A) IN GENERAL.—If a petition is filed in
8 accordance with paragraph (1), the Secretary of
9 Homeland Security shall make a determination
10 as to whether the facts and information de-
11 scribed in subsection (d)(1) and alleged in the
12 petition are true with respect to the eligibility
13 of the alien.

14 (B) REMOVAL OF CONDITIONAL BASIS IF
15 FAVORABLE DETERMINATION.—If the Secretary
16 of Homeland Security determines that the facts
17 and information alleged in the petition are true,
18 the Secretary of Homeland Security shall so no-
19 tify the alien and shall immediately remove the
20 conditional basis of the status of the alien.

21 (C) TERMINATION IF ADVERSE DETER-
22 MINATION.—If the Secretary of Homeland Se-
23 curity determines that such facts and informa-
24 tion alleged in the petition are not true, the
25 Secretary of Homeland Security shall so notify

1 the alien and shall terminate the permanent
2 resident status of the alien as of the date of the
3 determination.

4 (3) TIME TO FILE PETITION.—An alien may pe-
5 tition to remove the conditional basis to lawful resi-
6 dent status during the period beginning 180 days
7 before and ending 2 years after either the date that
8 is 6 years after the date of the granting of condi-
9 tional resident status or any other expiration date of
10 the conditional resident status as extended by the
11 Secretary of Homeland Security in accordance with
12 this title. The alien shall be deemed in lawful status
13 in the United States during the period in which the
14 petition is pending.

15 (d) DETAILS OF PETITION.—

16 (1) CONTENTS OF PETITION.—Each petition
17 under subsection (c)(1) shall contain the following
18 facts and information:

19 (A) The alien maintained good moral char-
20 acter during the entire period the alien has
21 been a conditional permanent resident.

22 (B) The alien continues to be in compli-
23 ance with subparagraphs (B) and (C) of section
24 1804(a)(1).

1 (C) The alien has not abandoned his or her
2 residence in the United States. There shall be
3 a presumption that the alien has abandoned his
4 or her residence if the alien is absent from the
5 United States for more than 365 days in the ag-
6 gregate during the period of conditional resi-
7 dence, unless the alien demonstrates that he or
8 she did not in fact abandon residence in the
9 United States. The presumption shall not apply
10 to an alien whose absence is due to active serv-
11 ice in the Armed Forces of the United States.

12 (D) The alien has completed at least 1 of
13 the following:

14 (i) The alien has acquired a degree
15 from an institution of higher education in
16 the United States or has completed at
17 least 2 years, in good standing, in a pro-
18 gram for a bachelor's degree or higher de-
19 gree in the United States.

20 (ii) The alien has served in the Armed
21 Forces of the United States for at least 2
22 years and, if discharged, has received an
23 honorable discharge.

24 (E) All secondary education institutions at-
25 tended in the United States.

1 (2) HARDSHIP EXCEPTION.—

2 (A) IN GENERAL.—The Secretary of
3 Homeland Security may, in the Secretary’s dis-
4 cretion, remove the conditional status of an
5 alien if the alien—

6 (i) satisfies the requirements of sub-
7 paragraphs (A), (B), and (C) of paragraph
8 (1);

9 (ii) demonstrates compelling cir-
10 cumstances for the inability to complete
11 the requirements described in paragraph
12 (1)(D); and

13 (iii) demonstrates that the alien’s re-
14 moval from the United States would result
15 in exceptional and extremely unusual hard-
16 ship to the alien or the alien’s spouse, par-
17 ent, or child who is a citizen or a lawful
18 permanent resident of the United States.

19 (B) EXTENSION.—Upon a showing of good
20 cause, the Secretary of Homeland Security may
21 also extend the validity period of the conditional
22 resident status for the purpose of completing
23 the requirements described in paragraph
24 (1)(D).

1 (e) TREATMENT OF PERIOD FOR PURPOSES OF NAT-
2 URALIZATION.—For purposes of title III of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1401 et seq.), in the
4 case of an alien who is in the United States as a lawful
5 permanent resident on a conditional basis under this sec-
6 tion, the alien shall be considered to have been admitted
7 as an alien lawfully admitted for permanent residence and
8 to be in the United States as an alien lawfully admitted
9 to the United States for permanent residence. However,
10 the conditional basis must be removed before the alien
11 may apply for naturalization.

12 **SEC. 1806. RETROACTIVE BENEFITS UNDER THIS TITLE.**

13 If, upon the date of enactment of this title, an alien
14 has satisfied all the requirements of section 1804 and
15 complied with section 1805(d)(1)(D), the Secretary of
16 Homeland Security may adjust the status of the alien to
17 that of a conditional resident in accordance with section
18 1804. The alien may petition for removal of such condition
19 at the end of the conditional residence period in accord-
20 ance with section 1805(c) if the alien has complied with
21 subparagraphs (A), (B), and (C) of section 1805(d)(1)
22 during the entire period of conditional residence.

23 **SEC. 1807. EXCLUSIVE JURISDICTION.**

24 (a) IN GENERAL.—The Secretary of Homeland Secu-
25 rity shall have exclusive jurisdiction to determine eligibility

1 for relief under this title, except where the alien has been
2 placed into deportation, exclusion, or removal proceedings
3 either prior to or after filing an application for relief under
4 this title, in which case the Attorney General shall have
5 exclusive jurisdiction and shall assume all the powers and
6 duties of the Secretary of Homeland Security until pro-
7 ceedings are terminated, or if a final order of deportation,
8 exclusion, or removal is entered the Secretary of Home-
9 land Security shall resume all powers and duties delegated
10 to the Secretary of Homeland Security under this title.

11 (b) STAY OF REMOVAL OF CERTAIN ALIENS EN-
12 ROLLED IN PRIMARY OR SECONDARY SCHOOL.—The At-
13 torney General shall stay the removal proceedings of any
14 alien who—

15 (1) meets all the requirements for relief under
16 this title, except that the alien has not yet graduated
17 from high school;

18 (2) is at least 12 years of age; and

19 (3) is enrolled full-time in a primary or sec-
20 ondary school.

21 (c) EMPLOYMENT.—An alien whose removal is stayed
22 pursuant to subsection (b) may be engaged in employment
23 in the United States, consistent with the Fair Labor
24 Standards Act (29 U.S.C. 201 et seq.), and State and
25 local laws governing minimum age for employment.

1 (d) LIFT OF STAY.—The Attorney General shall lift
2 the stay granted pursuant to subsection (b) if the alien—

3 (1) is no longer enrolled in a primary or sec-
4 ondary school; and

5 (2) fails to maintain prima facie eligibility for
6 relief under this title.

7 **SEC. 1808. PENALTIES FOR FALSE STATEMENTS IN APPLI-**
8 **CATION.**

9 Whoever files an application for relief under this title
10 and willfully and knowingly falsifies, misrepresents, or
11 conceals a material fact or makes any false or fraudulent
12 statement or representation, or makes or uses any false
13 writing or document knowing the same to contain any
14 false or fraudulent statement or entry, shall be fined in
15 accordance with title 18, United States Code, or impris-
16 oned not more than 5 years, or both.

17 **SEC. 1809. CONFIDENTIALITY OF INFORMATION.**

18 (a) PROHIBITION.—No officer or employee of the
19 United States may—

20 (1) use the information furnished by the appli-
21 cant pursuant to an application filed under this title
22 to initiate removal proceedings against any persons
23 identified in the application;

24 (2) make any publication whereby the informa-
25 tion furnished by any particular individual pursuant

1 to an application under this title can be identified;
2 or

3 (3) permit anyone other than an officer or em-
4 ployee of the United States Government or, in the
5 case of applications filed under this title with a des-
6 ignated entity, that designated entity, to examine
7 applications filed under this title.

8 (b) REQUIRED DISCLOSURE.—The Attorney General
9 or the Secretary of Homeland Security shall provide the
10 information furnished under this section, and any other
11 information derived from such furnished information, to—

12 (1) a duly recognized law enforcement entity in
13 connection with an investigation or prosecution of an
14 offense described in paragraph (2) or (3) of section
15 212(a) of the Immigration and Nationality Act (8
16 U.S.C. 1182(a)), when such information is requested
17 in writing by such entity; or

18 (2) an official coroner for purposes of affirma-
19 tively identifying a deceased individual (whether or
20 not such individual is deceased as a result of a
21 crime).

22 (c) PENALTY.—Whoever knowingly uses, publishes,
23 or permits information to be examined in violation of this
24 section shall be fined not more than \$10,000.

1 **SEC. 1810. EXPEDITED PROCESSING OF APPLICATIONS;**
2 **PROHIBITION ON FEES.**

3 Regulations promulgated under this title shall pro-
4 vide that applications under this title will be considered
5 on an expedited basis and without a requirement for the
6 payment by the applicant of any additional fee for such
7 expedited processing.

8 **SEC. 1811. SEVIS REGISTRATION.**

9 An institution of higher education that enrolls any
10 alien who is a beneficiary under this title shall register
11 the alien in the Student and Exchange Visitor Information
12 System (SEVIS).

13 **SEC. 1812. HIGHER EDUCATION ASSISTANCE.**

14 Notwithstanding any provision of the Higher Edu-
15 cation Act of 1965 (20 U.S.C. 1001 et seq.), with respect
16 to assistance provided under title IV of the Higher Edu-
17 cation Act of 1965 (20 U.S.C. 1070 et seq.), an alien who
18 adjusts status to that of a lawful permanent resident
19 under this title shall be eligible only for the following as-
20 sistance under such title:

21 (1) Student loans under parts B, D, and E of
22 such title IV (20 U.S.C. 1071 et seq., 1087a et seq.,
23 1087aa et seq.), subject to the requirements of such
24 parts.

1 (2) Federal work-study programs under part C
2 of such title IV (42 U.S.C. 2751 et seq.), subject to
3 the requirements of such part.

4 (3) Services under such title IV (20 U.S.C.
5 1070 et seq.), subject to the requirements for such
6 services.

7 **SEC. 1813. GAO REPORT.**

8 Seven years after the date of enactment of this title,
9 the Comptroller General of the United States shall submit
10 a report to the Committees on the Judiciary of the Senate
11 and the House of Representatives setting forth—

12 (1) the number of aliens who were eligible for
13 cancellation of removal and adjustment of status
14 during the application period described in section
15 1804(a)(1)(A);

16 (2) the number of aliens who applied for adjust-
17 ment of status under section 1804(a);

18 (3) the number of aliens who were granted ad-
19 justment of status under section 1804(a); and

20 (4) the number of aliens with respect to whom
21 the conditional basis of their status was removed
22 under section 1805.

1 **TITLE XIX—DRU’S LAW**

2 **SEC. 1901. SHORT TITLE.**

3 This title may be cited as the “Dru Sjodin National
4 Sex Offender Public Database Act of 2004” or “Dru’s
5 Law”.

6 **SEC. 1902. DEFINITION.**

7 In this title:

8 (1) **CRIMINAL OFFENSE AGAINST A VICTIM WHO**
9 **IS A MINOR.**—The term “criminal offense against a
10 victim who is a minor” has the same meaning as in
11 section 170101(a)(3) of the Jacob Wetterling
12 Crimes Against Children and Sexually Violent Of-
13 fender Registration Act (42 U.S.C. 14071(a)(3)).

14 (2) **MINIMALLY SUFFICIENT SEXUAL OF-**
15 **FENDER REGISTRATION PROGRAM.**—The term
16 “minimally sufficient sexual offender registration
17 program” has the same meaning as in section
18 170102(a) of the Jacob Wetterling Crimes Against
19 Children and Sexually Violent Offender Registration
20 Act (42 U.S.C. 14072(a)).

21 (3) **SEXUALLY VIOLENT OFFENSE.**—The term
22 “sexually violent offense” has the same meaning as
23 in section 170101(a)(3) of the Jacob Wetterling
24 Crimes Against Children and Sexually Violent Of-
25 fender Registration Act (42 U.S.C. 14071(a)(3)).

1 (4) SEXUALLY VIOLENT PREDATOR.—The term
2 “sexually violent predator” has the same meaning as
3 in section 170102(a) of the Jacob Wetterling Crimes
4 Against Children and Sexually Violent Offender
5 Registration Act (42 U.S.C. 14072(a)).

6 **SEC. 1903. AVAILABILITY OF THE NSOR DATABASE TO THE**
7 **PUBLIC.**

8 (a) IN GENERAL.—The Attorney General shall—

9 (1) make publicly available in a registry (in this
10 title referred to as the “public registry”) from infor-
11 mation contained in the the National Sex Offender
12 Registry, via the Internet, all information described
13 in subsection (b); and

14 (2) allow for users of the public registry to de-
15 termine which registered sex offenders are currently
16 residing within a radius, as specified by the user of
17 the public registry, of the location indicated by the
18 user of the public registry.

19 (b) INFORMATION AVAILABLE IN PUBLIC REG-
20 ISTRY.—With respect to any person convicted of a crimi-
21 nal offense against a victim who is a minor or a sexually
22 violent offense, or any sexually violent predator, required
23 to register with a minimally sufficient sexual offender reg-
24 istration program within a State, including a program es-
25 tablished under section 170101 of the Jacob Wetterling

1 Crimes Against Children and Sexually Violent Offender
2 Registration Act (42 U.S.C. 14017(b)), the public registry
3 shall provide, to the extent available in the National Sex
4 Offender Registry—

5 (1) the name and any known aliases of the per-
6 son;

7 (2) the date of birth of the person;

8 (3) the current address of the person and any
9 subsequent changes of that address;

10 (4) a physical description and current photo-
11 graph of the person;

12 (5) the nature of and date of commission of the
13 offense by the person;

14 (6) the date on which the person is released
15 from prison, or placed on parole, supervised release,
16 or probation; and

17 (7) any other information the Attorney General
18 considers appropriate.

19 **SEC. 1904. RELEASE OF HIGH RISK INMATES.**

20 (a) CIVIL COMMITMENT PROCEEDINGS.—

21 (1) IN GENERAL.—Any State that provides for
22 a civil commitment proceeding, or any equivalent
23 proceeding, shall issue timely notice to the attorney
24 general of that State of the impending release of any
25 person incarcerated by the State who—

1 (A) is a sexually violent predator; or

2 (B) has been deemed by the State to be at
3 high-risk for recommitting any sexually violent
4 offense or criminal offense against a victim who
5 is a minor.

6 (2) REVIEW.—Upon receiving notice under
7 paragraph (1), the State attorney general shall con-
8 sider whether or not to institute a civil commitment
9 proceeding, or any equivalent proceeding required
10 under State law.

11 (b) MONITORING OF RELEASED PERSONS.—

12 (1) IN GENERAL.—Each State shall intensively
13 monitor, for not less than 1 year, any person de-
14 scribed under paragraph (2) who—

15 (A) has been unconditionally released from
16 incarceration by the State; and

17 (B) has not been civilly committed pursu-
18 ant to a civil commitment proceeding, or any
19 equivalent proceeding under State law.

20 (2) APPLICABILITY.—Paragraph (1) shall apply
21 to—

22 (A) any sexually violent predator; or

23 (B) any person who has been deemed by
24 the State to be at high-risk for recommitting

1 any sexually violent offense or criminal offense
2 against a victim who is a minor.

3 (c) COMPLIANCE.—

4 (1) COMPLIANCE DATE.—Each State shall have
5 not more than 3 years from the date of enactment
6 of this Act in which to implement the requirements
7 of this section.

8 (2) INELIGIBILITY FOR FUNDS.—A State that
9 fails to implement the requirements of this section,
10 shall not receive 25 percent of the funds that would
11 otherwise be allocated to the State under section
12 20106(b) of the Violent Crime Control and Law En-
13 forcement Act of 1994 (42 U.S.C. 13706(b)).

14 (3) REALLOCATION OF FUNDS.—Any funds
15 that are not allocated for failure to comply with this
16 section shall be reallocated to States that comply
17 with this section.

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