

Global Partnerships Act of 2011
Proposed by Ranking Member Howard L. Berman
Section-by-Section Analysis and Discussion

Sec. 1. Short Title and Table of Contents. This section provides the title and table of contents for the bill.

Sec. 2. Findings. This section sets out 3 Congressional findings relating to the role of foreign assistance in reflecting American values and achieving United States foreign policy and national security objectives. These findings apply to the entire bill.

Sec. 3. Statement of Policy. This section states U.S. policy regarding the overall goal of foreign assistance.

Sec. 4. Principles of Assistance. This section sets out 13 basic principles to maximize the efficiency and effectiveness of United States foreign assistance.

Sec. 5. Purposes of Assistance. This section sets out 7 overarching purposes of foreign assistance, each of which is elaborated in a separate title of the bill: reducing global poverty and alleviating human suffering; advancing peace and mitigating crises; supporting human rights and democracy; building and reinforcing strategic partnerships; combating transnational threats; sustaining the global environment; and expanding prosperity through trade and investment.

Sec. 6. Definitions. This section defines terms used throughout the Act, including “appropriate congressional committees”, “basic human needs”, “civil society organization”, “development assistance,” “economic assistance,” “foreign assistance”, “fundamental freedoms”, “humanitarian assistance,” “implementing partner”, “intermediate representative institution”, “marginalized group”, “partner country”, and “security assistance”, among others.

TITLE I: REDUCING GLOBAL POVERTY AND ALLEVIATING HUMAN SUFFERING

Title I streamlines and modernizes the basic authorities for development and humanitarian assistance, converting the process from one that is input-oriented to one that is results-based. Subtitle A, relating to poverty reduction, includes chapters for each development goal, establishing principles and guidelines for the preparation of strategies and the provision of assistance. Subtitle B creates the framework for disaster and emergency aid.

Sec. 1001. Findings. This section sets out 7 Congressional findings regarding the reasons for, objectives of, national interests in, and resource requirements of, humanitarian and development assistance. The findings are based on the Millennium Declaration and existing sections of the Foreign Assistance Act of 1961.

Sec. 1002. Statement of Policy. This section states the policy of the United States with regard to reducing global poverty and preventing, preparing for, mitigating and responding to humanitarian crises.

Sec. 1003. Encouragement of United States Private and Voluntary Cooperation. This section recognizes the contributions to poverty reduction and humanitarian relief made by private and voluntary organizations, community and faith-based organizations, charitable foundations, labor unions, cooperatives, credit unions and educational institutions, and states U.S. policy with regard to encouraging and facilitating partnerships with such entities.

Sec. 1004. Encouragement of United States Business Participation. This section recognizes the contributions to humanitarian relief and broad-based economic growth made by U.S. businesses, including private sector implementing partners, and states U.S. policy with regard to encouraging and facilitating public-private partnerships.

Sec. 1005. Development Partnerships Fellows Program. This section authorizes the USAID Administrator to establish a program of exchanges with the private sector, including businesses and nonprofit organizations, to build capacity in areas of critical need, share knowledge and best practices, and develop institutional networks. The Fellows would be chosen competitively, and the home institution would continue to pay the Fellow's salary and benefits during the period of exchange. Parity is required in the total number of Fellows from USAID and from the private sector, although a one-for-one exchange is not required for each organization.

SUBTITLE A—REDUCING GLOBAL POVERTY

Sec. 1011. Findings. This section sets out 7 Congressional findings regarding the goal of international development, the policies and conditions that hinder it, and the role of United States foreign assistance in promoting it.

Sec. 1012. Statement of policy. This section states U.S. policy regarding the reduction of global policy and the desired outcome of assistance.

Sec. 1013. Principles of Assistance. This section sets out 22 principles of U.S. development assistance, derived primarily from the Paris Declaration, the Accra Agenda for Action, the UN Convention on the Rights of Persons with Disabilities, and sections 102, 128 and 209 of the Foreign Assistance Act of 1961.

Sec. 1014. Goals of Assistance. This section sets out 8 goals of development assistance: accelerating economic growth; promoting food security; advancing health; expanding education; protecting and restoring the natural environment; improving access to safe water, sanitation and shelter; fostering equal opportunity; and strengthening democratic governance. There is a chapter in Title I regarding each one of these goals.

Sec. 1015. Development Support Funds. This section establishes a new form of assistance, known as Development Support Funds (DSF), to support global poverty reduction. DSF would

support programs that are now included in three separate budget line-items: Development Assistance, Global Health and Child Survival, and Assistance for Europe, Eurasia and Central Asia (AEECA). These funds could be used for all of the goals listed in Section 1014, as well as for Country Development Cooperation Strategies under Section 1018 and sector strategies under Section 1019.

Subsection (b) encourages the Administrator to emphasize the development of local capacity and the use of country procurement systems in the use of DSF.

Subsection (c) lists 8 specific factors that the Administrator shall take into account in recommending the amount of assistance to be provided for each country, including the level of need, the availability of other resources, the country's performance record, and the country's demonstrated commitment to its own development.

Subsection (d) requires the Administrator to establish, subject to Congressional consultation, the criteria and methodology for determining the amounts recommended for each country, using objective and quantifiable indicators to the maximum extent possible. The criteria and methodology would be made publicly available, and the resultant rankings would be included in the annual budget submission. However, there is no requirement that the final budget request match these rankings, since other factors may be taken into account. The purpose of creating the rankings is to have an empirical basis on which to judge the merits of assistance for each country, before taking into account U.S. foreign policy and security considerations.

Subsection (e) requires that funding for a project or activity under a Country Development Cooperation Strategy or a sector strategy be obligated in full, at the outset, for the life of the project or activity. This requirement would provide greater predictability in aid delivery, ensuring that the money is available to finance a project from start to finish before any contracts or agreements are signed. However, the reduction, suspension or termination of assistance for performance-related reasons would still be allowed.

Sec. 1016. Innovation Fund. This section establishes a fund to support innovative projects and evidence-based solutions that may be tested, replicated, and scaled up in partner countries to significantly improve development outcomes. The fund is authorized to accept private contributions alongside appropriated funds, and is freed of most restrictions so that it can operate quickly and flexibly. No new money is provided, but the Administrator is authorized to transfer up to \$50 million from other programs for these purposes.

Sec. 1017. United States Strategy for Global Development. This section requires the Development Policy Committee (see Section 1020) to prepare a United States Strategy for Global Development every 4 years. There are 10 required elements of the strategy, including clear and specific goals and objectives, the roles of various Federal agencies in carrying out the strategy, coordination mechanisms, and a plan, budget and timetable for implementing the strategy. The strategy would be prepared in consultation with the appropriate congressional committees and relevant stakeholders, and would be made available to the public.

Sec. 1018. Country Development Cooperation Strategies. This section requires USAID Mission Directors in most countries to prepare a Country Development Cooperation Strategy every 3 to 5 years (USAID Missions in countries at high risk of conflict would be required to do conflict mitigation strategies rather than development strategies).

There are 20 required elements of the strategy, listed in subsection (c), including: analyses of the country's own strategy and the process by which it was developed; the country's vulnerability to climate change, conflict and natural disaster; the country's progress toward meeting its development goals and major obstacles and challenges; mechanisms for coordination and consultation with stakeholders; linkages between country and sector strategies; the risks and tradeoffs of the proposed approach; specific, measurable goals and objectives; and proposed projects, activities, partners and budgets.

Subsection (d) requires Mission Directors to consult with a wide range of relevant stakeholders to ensure that the strategy is appropriate to local needs and conditions and incorporates the views of partners and beneficiaries.

Subsection (e) provides for the review of each strategy by the Development Policy Committee to ensure coordination of policies among agencies.

Subsection (f) mandates that the strategies be transmitted to Congress and the government of the partner country, and published on the internet.

Sec. 1019. Sector Strategies for Development. This section requires that the Administrator prepare, every 4 years, a strategy for achieving each of the 8 goals of section 1014, referred to here as "sectors".

Subsection (b) lists 12 required elements of all sector strategies, including: specific indicators and measurements of success; methods of coordination with country strategies; the roles of the various agencies in carrying out the strategies; the policies and programs needed to achieve the objectives; the role of research, innovation and technology; a list of priority countries and regions; the impact of gender considerations; and resource requirements. In addition to these general elements required for all strategies, most of the chapters in Title I specify elements to be included for particular sector strategies.

Like the country strategies, the sector strategies would be prepared in consultation with Congress and a wide range of relevant stakeholders, reviewed by the Development Policy Committee, transmitted to Congress, and published on the internet.

Sec. 1020. Development Policy Committee. This section requires the President to establish an inter-agency Development Policy Committee to improve policy consistency and coherence among the various Federal agencies carrying out policies and programs that affect international development. The Committee would consist of at least 15 departments and agencies, plus any others designated by the President. The President would designate the Chairperson of the Committee; in the event that the USAID Administrator is not selected as Chairperson, the

Administrator would serve as Vice Chairperson and would have the authority to call meetings of the Committee.

Sec. 1021. Global Development Council. This section establishes a private-sector council to advise the President and the Development Policy Committee on development-related policies and programs. The purpose of the Council is to bring the advice of internationally-recognized leaders from the highest levels of philanthropic foundations, businesses, nongovernmental organizations, educational and research institutions, and other civil society organizations with significant and frequent experience in developing countries into government decision-making, in order to improve policy coherence, build private-public partnerships, and incorporate best practices. The Council would have 9 members, of which 5 would be appointed by the President and 4 by Congress (1 each from the Majority and Minority Leaders in the Senate, 1 each from the Speaker and Minority Leader in the House). The Council would terminate at the end of 2015.

Sec. 1022. Development Education. This section authorizes the Administrator to use up to \$1 million of DSF to support expansion and improvement of United States education about global poverty, the process and challenges of international development, and the interdependence of the United States and developing countries.

Sec. 1023. Definitions. This section defines terms that are used throughout Subtitle A, including “country systems”, “developing country”, “development stakeholder”, and “relevant stakeholder”.

CHAPTER 1: ACCELERATING ECONOMIC GROWTH

Sec. 1101. Findings and Statement of Policy. This section sets out 9 Congressional findings with respect to the importance of economic growth and the factors that support and hinder it. Subsection (b) expresses the policy of the United States with respect to the achievement of broad-based, inclusive and sustainable economic growth.

Sec. 1102. Goal and Objectives. This section states that the overall goal of assistance under this chapter is to accelerate broad-based and sustainable economic growth, and lists 5 specific objectives in pursuit of that goal: increasing income-generating opportunities; expanding access to markets, capital, credit, and other productive resources; enhancing productivity through education and training; improving the legal, regulatory and policy environment for business and trade; and building human and institutional capacity to compete in the global economy.

Sec. 1103. Global Strategy for Economic Growth. This section provides additional guidelines for the sector strategy relating to economic growth, including that it should: specify the role of microfinance and microenterprise development; identify policies relating to debt, agriculture and trade that have an impact on developing countries and recommend changes that would enhance development objectives; plan for linkages to regional and international markets; address the impact of remittances; and recommend methods for reducing illicit outflows of natural resources and capital.

Sec. 1104. Assistance for Economic Growth. This section authorizes the use of DSF to further the goal and objectives of economic growth, and provides an illustrative list of 15 activities that would be authorized for such purposes.

SUBCHAPTER A—MICROENTERPRISE DEVELOPMENT ASSISTANCE

Sec. 1111. Findings and Statement of Policy. This section states Congressional findings regarding the importance of microfinance and microenterprise development and the appropriate uses of U.S. government funds for such purposes. Subsection (b) states that it is U.S. policy to promote a global strategy of financial inclusion for all, and especially the very poor and women, through support for microfinance and microenterprise development in partner countries.

Sec. 1112. Microenterprise Fund. This section requires the establishment of a centrally-managed fund at USAID for microfinance and microenterprise development activities, 100% of which would be targeted to the very poor, and 75% of which would be targeted to women. It provides an illustrative list of activities that could be supported from the fund, as well as setting out criteria for the selection of implementing partners. Subsection (c)(2) clarifies a provision of existing law by stating that the Administrator shall “identify” – rather than “develop” – no fewer than two poverty assessment tools for the purposes of targeting assistance to the very poor.

Sec. 1113. Office of Microenterprise Development. This section establishes an Office of Microenterprise Development at USAID, to be headed by a director who shall be responsible for administering the Microenterprise Fund, developing a comprehensive plan for financial inclusion, providing support to USAID field missions, setting performance goals and indicators, and documenting results.

Sec. 1114. Definitions. This section defines terms used in the subchapter relating to microenterprise and microfinance.

SUBCHAPTER B—SMALL AND MEDIUM ENTERPRISE DEVELOPMENT

Sec. 1121. Findings and Statement of Policy. This section sets out congressional findings with respect to the importance of small and medium enterprises (SMEs) in accelerating economic growth, and states U.S. policy with regard to encouraging entrepreneurship and expanding the formal sector in partner countries.

Sec. 1122. Assistance for Small and Medium Enterprises. This section authorizes the use of funds for programs to encourage entrepreneurship and strengthen SMEs, and provides an illustrative list of activities.

SUBCHAPTER C—OTHER PROGRAMS

Sec. 1131. Development Credit Authority. This section authorizes the Administrator to provide direct loans, loan guarantees, and other investments to support microfinance, sustainable

urban and environmental activities described in chapters 5 and 6, and policy and institutional reforms. This is an authority that currently exists and the language of this section corresponds to sections 222 and 223 of the FAA.

Sec. 1132. Technical Assistance for Financial Management. This section authorizes the Secretary of Treasury, in consultation with the Secretary of State and USAID Administrator, to establish a program of technical assistance to foreign governments and foreign central banks to promote financial integrity, macroeconomic and fiscal stability, efficient resource allocation, transparent and market-oriented processes and sustainable private sector growth. This is an authority that currently exists and the language of this section corresponds to section 129 of the FAA.

CHAPTER 2—PROMOTING FOOD SECURITY

Sec. 1201. Findings and Statement of Policy. This section sets out congressional findings with respect to chronic hunger, its root causes and effects, and a comprehensive approach to long-term food security. Subsection (b) states the policy of the United States to work in cooperation with the international community to end hunger and achieve universal food security. Some of the language and ideas for this chapter were drawn from the Global Food Security Act of 2009, introduced by Reps. McCollum, Emerson, Grijalva, Honda, Jackson, Lee (CA), McGovern, Payne, and Schakowsky, and Sens. Lugar, Casey, and Durbin in the 111th Congress.

Sec. 1202. Goal and Objectives. This section states that the overall goal of assistance under this chapter is to sustainably reduce hunger, and lists 3 specific objectives in pursuit of that goal: accelerating inclusive agriculture sector growth, improving nutritional status, and increasing economic resilience in vulnerable rural communities.

Sec. 1203. Global Strategy for Food Security. This section provides additional guidelines for the sector strategy relating to food security, including that it should: address the root causes of hunger; reduce gender inequality; promote environmentally-sustainable agricultural development; concentrate efforts and resources on core countries; be tailored to improving the nutritional status of women, infants and children; invest in country-owned plans; ensure a comprehensive approach; leverage the benefits of multilateral institutions; and hold stakeholders accountable for achieving results.

Sec. 1204. Assistance for Promoting Food Security. This section authorizes the use of DSF to further the goal and objectives of food security, and provides an illustrative list of activities.

Sec. 1205. Collaborative Agricultural Research and Innovation. This section authorizes the use of funds for collaborative agricultural research and innovation programs, including collaborative research support programs with institutions of higher education. Subsection (a) lists authorized activities; subsection (b) establishes priority areas for research.

Sec. 1206. Board for International Food and Agricultural Development. This section establishes the Board for International Food and Agricultural Development (BIFAD), and sets

out its duties, membership, reporting requirements, and administrative authorities. BIFAD is an existing board authorized under section 298 of the FAA, although this section slightly alters its purpose and duties.

Sec. 1207. Assistance to International and Regional Organizations. This section authorizes the use of funds under this chapter to build the long-term capacity of international, regional, and sub-regional organizations engaged in agricultural research and development and food security activities, including FAO, WFP, IFAD, GAFSP and CGIAR.

Sec. 1208. Definitions. This section defines terms used in this chapter, such as “agriculture”, “farmers”, and “institutions of higher education”.

CHAPTER 3—ADVANCING HEALTH

Sec. 1301. Findings and Statement of Policy. This section lists congressional findings regarding support for global health, and states the policy of the United States to work in cooperation with the international community to set and achieve measurable targets for reducing maternal and child mortality and improving global health.

Sec. 1302. Goal and Objectives. This section states that the overall goal of assistance under this chapter is to achieve significant and sustainable improvements in global health and in the delivery of health care, and lists 4 specific objectives in pursuit of that goal: reducing maternal and child mortality; preventing, treating, and controlling HIV/AIDS, malaria, tuberculosis, polio and other infectious and chronic diseases; preventing unintended pregnancies and improving reproductive health; and strengthening health systems.

Sec. 1303. Global Health Strategy. This section provides additional guidelines for the sector strategy relating to global health, including that it should: incorporate all U.S. policies and programs relating to global health, explain how such policies and programs will be coordinated with efforts in related areas such as nutrition, water, and sanitation; address the role of research and innovation; address the health-related challenges posed by climate change and other environmental trends; utilize, build upon and strengthen the capacity of partner countries; and safeguard the rights and dignity of health workers and patients.

Sec. 1304. Assistance for Health. This section authorizes the use of DSF to further the goal and objectives of global health, and provides an illustrative list of activities, including those relating to: child survival and maternal health; orphans and vulnerable children; HIV/AIDS, tuberculosis and malaria; neglected tropical diseases; family planning and reproductive health; health systems strengthening; and health technologies.

SUBCHAPTER A—CHILD SURVIVAL AND MATERNAL HEALTH

Sec. 1311. Child Survival. This section authorizes the Administrator to use funds made available under this chapter for programs to reduce child mortality, and provides an illustrative list of activities that are included.

Sec. 1312. Maternal and Newborn Health. This section authorizes the Administrator to use funds made available under this chapter for programs to reduce the mortality of, and improve the health of, mothers and newborns, and provides an illustrative list of activities.

Sec. 1313. Assistance for Orphans and Other Vulnerable Children. This section authorizes the Administrator to use funds made available under this chapter to provide basic care and services for orphans and other vulnerable children, and provides an illustrative list of activities.

SUBCHAPTER B—COMBATING DISEASE

Sec. 1321. Assistance to Combat HIV/AIDS, Tuberculosis, and Malaria. This section sets out findings with respect to the global HIV/AIDS pandemic, the spread of drug-resistant tuberculosis, and the burden of malaria. Subsection (b) authorizes the President to use funds made available under this chapter to carry out the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, and other related laws, and to contribute to the Global Fund and the GAVI Alliance. Subsection (c) requires that PEPFAR programs be coordinated with other health-related programs under this chapter and included in the global health strategy required under section 1303. In Title XII, the authorities of sections 104A, 104B and 104C of the FAA, which this section replaces, are transferred into the 2003 HIV/AIDS, TB and Malaria Act. As a result, funds made available for the PEPFAR program under this Act will be used in accordance with the requirements of the 2003 legislation.

Sec. 1322. Assistance to Combat Neglected Tropical Diseases. This section sets out congressional findings relating to neglected tropical diseases (NTDs), and authorizes the Administrator to use funds made available under this chapter for the prevention, treatment, control, and elimination of such diseases.

Sec. 1323. Assistance for Disease Prevention, Control, and Treatment. This section sets out congressional findings relating to infectious and chronic diseases, and authorizes the Administrator to use funds made available under this chapter for the prevention, treatment, control, and elimination of such diseases.

SUBCHAPTER C—FAMILY PLANNING AND REPRODUCTIVE HEALTH

Sec. 1331. Assistance for Family Planning and Reproductive Health. This section sets out congressional findings relating to family planning and reproductive health, and authorizes the Administrator to use funds made available under this chapter for reproductive health care programs. Subsection (c) contains guidelines to ensure that such programs are administered so as to, among other things: enable couples and individuals to make decisions concerning reproduction free of discrimination, intimidation, coercion and violence; remove social, economic and cultural barriers to women's access to reproductive health care; coordinate with programs for maternal, child, and newborn health; and protect the confidentiality and dignity of clients. Subsection (d), which is drawn from annual appropriations language, lists conditions for

the eligibility of providers of reproductive health care and requires notification of violations of these conditions.

Sec. 1332. Reproductive Health Care in Emergencies. This section authorizes the Administrator to use funds made available under this chapter and under Subtitle B of Title I for programs to provide reproductive health care during humanitarian emergencies and complex crises.

SUBCHAPTER D—STRENGTHENING HEALTH SYSTEMS

Sec. 1341. Assistance to Strengthen Health Systems. This section authorizes the Administrator to use funds made available under this chapter to build and strengthen health systems in partner countries, and provides an illustrative list of authorized activities.

CHAPTER 4—EXPANDING EDUCATION

Sec. 1401. Findings and Statement of Policy. This section sets out congressional findings regarding the importance of education for poverty reduction and economic growth, and states the policy of the United States to work in cooperation with the international community to achieve universal basic education. Some of the findings, activities and definitions in this chapter are based on the Education for All Act of 2010, introduced by Reps. Lowey, Lee (CA), Olver, Reichert, and Smith (WA), and Sens. Gillibrand and Murray, in the 111th Congress.

Sec. 1402. Goal and Objectives. This section establishes the goal of assistance under this chapter as increasing access to quality education, and lists 6 specific objectives in support of this goal: expanding and improving early childhood development and education; providing universal access to and completion of free, quality primary education; increasing access to appropriate learning and life skills programs for young people and adults; raising adult literacy, especially for women; reducing gender disparities in primary and secondary education; and improving educational quality at all levels.

Sec. 1403. Global Education Strategy. This section provides additional guidelines for the sector strategy relating to education, including that it should: contribute to meeting the Millennium Development Goals and Education for All goals; work in collaboration and coordination with national education plans; pay particular attention to expanding educational opportunities for marginalized and vulnerable groups; identify ways to reduce the adverse impact of HIV/AIDS on education systems, address the challenges posed by large numbers of out-of-school, unemployed youth; and address the problem of financing education.

Sec. 1404. Basic Education Assistance. This section authorizes the Administrator to use DSF for basic education, and provides an illustrative list of activities. It also contains a definition, in paragraph (c), of “basic education”.

Sec. 1405. Higher Education Partnerships. This section sets out congressional findings regarding the benefits of partnerships between institutions of higher education in the United

States and developing countries. Subsection (b) states the policy of the United States to encourage the expansion and strengthening of higher education in developing countries. Subsection (c) authorizes the Administrator to use assistance made available under this chapter to expand and strengthen institutions of higher education in developing countries, through partnerships with U.S. universities and business, nonprofit organizations, and international organizations. Subsection (d) provides an illustrative list of authorized activities.

Sec. 1406. American Schools and Hospitals Abroad. This section sets out congressional findings regarding educational and medical institutions abroad that are founded or sponsored by U.S. citizens, and authorizes the Administrator to use funds made available under this chapter for competitively-selected grants to such institutions. Subsection (c) provides an illustrative list of authorized activities.

CHAPTER 5—PROTECTING AND RESTORING THE NATURAL ENVIRONMENT

Sec. 1501. Findings and Statement of Policy. This section sets out congressional findings regarding the value of natural ecosystems, the dangers of unregulated exploitation of natural resources, and the relationships between the economy, energy and the environment. It states the policy of the United States to work in cooperation with the international community to reduce biodiversity loss, mitigate climate change, and integrate principles of environmental sustainability into policies and programs for international development.

Sec. 1502. Goal and Objectives. This section establishes the goal of assistance under this chapter as helping partner countries maximize the environmental sustainability of their development policies and programs, and lists 7 specific objectives in support of this goal: protecting natural ecosystems, conserving biological diversity, adapting to climate change, reducing pollution, increasing energy efficiency, expanding access to renewable energy, and building capacity for natural resource management.

Sec. 1503. Global Conservation Strategy. This section provides additional guidelines for the sector strategy relating to environmental conservation, including that it should: identify priority countries, regions or ecosystems; identify the economic, health and conflict-prevention benefits to be obtained; link conservation investments to broader development goals; identify and improve U.S. policies affecting conservation abroad; leverage participation from the private sector and other donors; address the anticipated effects of climate change; and include a review of executive orders and regulations having an impact on the strategy.

Sec. 1504. Assistance for Environmental Sustainability. This section authorizes the Administrator to use DSF for environmental programs, and provides an illustrative list of permissible activities.

Sec. 1505. Assistance for Sustainable Energy and Natural Resource Management. This section sets out findings regarding access to clean, efficient and renewable energy sources and sound management of natural resources. Subsection (b) authorizes the Administrator to use funds under this chapter for clean energy technologies, responsible stewardship of natural

resources, and reliable access by the poor to energy. Subsection (c) contains an illustrative list of permissible activities.

Sec. 1506. Environmental Restrictions. This section prohibits the use of funds under this subtitle for programs, projects and activities that: introduce invasive and nonnative plant species; cause the destruction or degradation of natural ecosystems; cause a loss of biological diversity; involve destructive farming, fishing and forest harvesting practices; or construct dams. Subsection (b) contains a waiver if the Administrator determines that the proposed program, project or activity is vital to the livelihoods of the rural poor and will be conducted in an environmentally sound manner.

Sec. 1507. Environmental Impact Statements and Assessment. This section establishes the general requirements for the conduct of environmental impact statements (EIS) and environmental assessments (EA) for programs funded under this title. An EIS is required if the activity would significantly affect the environment of the global commons or of the United States; an EA is required if an activity would significantly affect the environment of a foreign country. Subsection (c) lists the matters to be included in the EIS or EA, such as recommendations for possible alternatives and mitigation measures and an estimate of greenhouse gas emissions attributable to the project. Subsection (d) encourages the use of local technical resources in carrying out an EIS or EA. Subsection (e) authorizes the Administrator to establish exceptions from the requirements for emergency conditions. Subsection (f) requires that each EIS and EA be published on the USAID website and, to the extent feasible, translated into the local language of the affected communities.

Sec. 1508. Definitions. This section defines terms used in this chapter, including “ecosystem” and “greenhouse gas”.

CHAPTER 6—IMPROVING ACCESS TO SAFE WATER, SANITATION, AND SHELTER

Sec. 1601. Findings and Statement of Policy. This section sets out congressional findings regarding the importance of clean water, basic sanitation, adequate shelter and other living conditions to human health and dignity, as well as to economic growth and political stability. Subsection (b) states United States policy to recognize that access to safe water and living conditions is a basic human need and, therefore, a human right. Some of the findings, objectives and ideas contained in this chapter were derived from the SLUM Assistance Act of 2009 introduced by Reps. Miller (NC), Castle, Ellison, Hinchey, Jackson, Moore (WI), and Price (NC), and the Sustainable Urban Development Act of 2010, introduced by Sens. Kerry, Cardin and Durbin in the 111th Congress.

Sec. 1602. Goal and Objectives. This section establishes the goal of assistance under this chapter as improving the living conditions and basic human dignity for the world’s poorest people, and lists 5 specific objectives in support of this goal: expanding access to safe water, upgrading basic sanitation, increasing access to basic shelter and affordable housing, improving the management of water resources, and enhancing planning for sustainable urban development.

Sec. 1603. Global Strategy for Water, Sanitation and Shelter. This section provides additional guidelines for the sector strategy relating to water, sanitation and shelter, including that it should: set targets for providing first-time access to safe water and sanitation on a sustainable basis; be integrated with the strategies for food security, health and environmental conservation; contribute to meeting internationally-agreed targets; maximize efficiency in water use; identify and promote best practices for public-private partnerships; address the effects of climate change on water resources; evaluate the impact of urbanization and migration trends; and utilize expertise within a wide range of Federal agencies.

Sec. 1604. Assistance for Water, Sanitation and Shelter. This section authorizes the Administrator to use DSF for water, sanitation and shelter programs, and provides an illustrative list of permissible activities.

CHAPTER 7—FOSTERING EQUAL OPPORTUNITY

Sec. 1701. Findings and Statement of Policy. This section sets out congressional findings regarding the ways that discrimination against women and girls impedes economic, social and human development and the value of investing in women and other marginalized groups. Subsection (b) states United States policy to: invest in women and girls; include marginalized groups in all stages of project design, implementation and monitoring; mainstream into all policies and programs an understanding of their distinctive impact on women and girls; and promote equal opportunities for all people.

Sec. 1702. Goal and Objectives. This section establishes the goal of assistance under this chapter as promoting equal opportunities for all people, and lists 5 specific objectives in support of this goal: increasing educational, economic and political opportunities for women and other marginalized groups; building the capacity of women and such groups; reducing legal and social barriers to their participation in economic and political processes; expanding the collection of gender-disaggregated data and the use of gender analysis; and integrating gender considerations into all international development policies and programs.

Sec. 1703. Global Strategy for Equality. This section provides additional guidelines for the sector strategy relating to equal opportunity, including that it should: be coordinated with the comprehensive international strategy to prevent and respond to violence against women and girls; include plans for preventing child marriage; address the ways that exclusion and discrimination hinder economic growth; identify examples of exclusionary and discriminatory practices that are particularly harmful to development; include plans for hiring, training, deploying and retaining a diverse USAID workforce; ensure that equal opportunity goals are reflected in USAID procurement regulations; and build accountability for gender integration into monitoring and evaluation systems.

Sec. 1704. Assistance for Equal Opportunity. This section authorizes the Administrator to use DSF for equal opportunity programs, and provides an illustrative list of permissible activities.

Sec. 1705. Office for Women’s Global Development. This section establishes an Office for Women’s Global Development within USAID, headed by a director who reports directly to the Administrator. Subsection (c) sets out the duties of the office, including: leading and coordinating all USAID efforts to empower women and promote gender equality; direct the preparation of the Global Strategy for Equality; integrate gender considerations into all policies and programs; assist other bureaus and offices in designing strategies and projects; monitoring and evaluating the impact on women and girls of USAID programs; and disseminating lessons learned and best practices. This provision is derived from the International Violence Against Women Act of 2010, introduced by Reps. Delahunt and Poe and 25 others in the 111th Congress.

Sec. 1706. Prevention of Child Marriage. This section sets out congressional findings regarding the risks and dangers of child marriage, states United States policy as to seek the elimination of the practice of child marriage, authorizes the use of funds under this chapter to prevent the incidence or child marriage, and establishes priority areas for assistance. These findings and the section that follows are derived from the International Protecting Girls by Preventing Child Marriage Act of 2009, introduced by Rep. McCollum and 27 others and by Sens. Durbin, Snowe, Whitehouse, Brown and Murray in the 111th Congress.

Sec. 1707. Coordination of Efforts to Prevent Child Marriage. This section requires the Administrator to designate an official to lead and coordinate policies and programs to prevent child marriage, describes additional duties for such official, and requires that the official consult with a wide range of relevant stakeholders in carrying out the duties of the office.

Sec. 1708. Definitions. This section defines terms used in this chapter, including “child marriage”, “gender analysis”, “gender equality”, and “gender integration”.

CHAPTER 8—STRENGTHENING DEMOCRATIC GOVERNANCE

Sec. 1801. Findings and Statement of Policy. This section sets out congressional findings regarding the importance of democratic institutions and practices and respect for human rights in economic development. It states United States policy to support democratic aspirations and values, foster the spread of democratic institutions, encourage universal respect for human rights, recognize that democracy must not be defined narrowly in terms of elections, and take into consideration a country’s commitment to good governance in providing assistance under this subtitle.

Sec. 1802. Goal and Objectives. This section establishes the goal of assistance under this chapter as strengthening democratic institutions and practices and promoting human rights in partner countries, and lists 4 specific objectives in support of this goal: improving government responsiveness, accountability, transparency, and effectiveness; increasing the capacity and participation of civil society; strengthening the observance of internationally-recognized human rights and the rule of law; and fostering political competition and consensus-building.

Sec. 1803. Assistance for Democratic Strengthening. This section authorizes the Administrator to use DSF for democratic strengthening and human rights, and provides an illustrative list of permissible activities.

Sec. 1804. Advisory Committee on Democracy Promotion. This section establishes an Advisory Committee on Democracy Promotion, reporting jointly to the Secretary of State and the Administrator. The purpose of the Committee is to review and make recommendations on how to improve U.S. government efforts to promote democracy internationally, including the best means for doing so, the integration of democracy considerations into diplomatic and development efforts, the use of indicators and impact measurements, the balance between strengthening civil society and government institutions, the application of the principle of country ownership, the application of marking and branding rules, and the parameters for operating in undemocratic and conflict settings. The committee would be composed of 8 individuals appointed by the Secretary and 7 individuals appointed by the Administrator, to serve 2 year terms in an individual rather than a representative capacity.

Sec. 1805. Foreign Government Approval and Conditionality. This section prohibits the Administrator from conditioning democracy and human rights programs on the approval of a foreign government.

Sec. 1806. Relationship to Other Laws. This section authorizes the provision of democracy and human rights assistance notwithstanding provisions of law that restrict assistance to a foreign country.

Sec. 1807. Prohibiting Assistance to Influence the Outcome of Elections. This section prohibits the use of assistance under this chapter to influence the outcome of any elections in any country.

SUBTITLE B—ALLEVIATING HUMAN SUFFERING

Sec. 1901. Findings and Statement of Policy. This section sets out congressional findings regarding the impact of natural and human-caused disasters and the humanitarian obligation to respond quickly and effectively. It states United States policy to save lives and alleviate human suffering wherever possible, taking action solely on the basis of need, without discrimination between or within affected populations, without regard to diplomatic, economic, military or other objectives of the United States, and without favoring any side in an armed conflict or other dispute.

Sec. 1902. Goal and Objectives. This section establishes the goal of assistance under this subtitle as saving lives, alleviating suffering, maintaining human dignity, and protecting and upholding the rights of extremely vulnerable people, and lists 4 specific objectives in support of this goal: providing quick and effective relief in the aftermath of disasters; restoring self-sufficiency and facilitating the return to normal lives; protecting civilians affected by conflict, disaster and displacement from physical harm and human rights abuses; and building capacity to prevent and mitigate the effects of conflict, disasters, and displacement.

Sec. 1903. Humanitarian Principles. This section sets out 16 key principles governing all forms of United States humanitarian action, which includes not only disaster and refugee assistance carried out by USAID and the State Department, but also humanitarian policies and programs carried out by the Department of Defense and all other USG agencies. These principles include impartiality, neutrality, independence, compliance with international law and international humanitarian standards, civilian leadership, and equal treatment of refugees and internally-displaced persons.

Sec. 1904. International Disaster Assistance. This section authorizes the Administrator to provide assistance for international disaster relief, recovery and reconstruction notwithstanding any other provision of law. Subsection (c) provides authority to temporarily use up to \$100 million in DSF funding to respond to a disaster, which may be subsequently reimbursed using disaster funds.

Sec. 1905. Emergency Humanitarian Response Fund. This section establishes a new fund, analogous to the Emergency Refugee and Migration Assistance account, to meet unexpected urgent humanitarian and food assistance needs. Subsection (c) authorizes the President to transfer amounts made available under any other provision of this Act into the Fund. In addition, excess funds under section 11305 would automatically be deposited into the Fund. The Fund could contain up to \$500 million at any time.

Sec. 1906. Humanitarian Coordination. This section requires the President to designate, on a permanent basis or for the purposes of a specific humanitarian crisis, a senior civilian official as the Humanitarian Coordinator. The official would be responsible for promoting maximum effectiveness and coordination in responses to foreign disasters by Federal agencies and between the U.S. and other donors. If the President fails to designate a coordinator, the USAID Administrator would serve in that role.

Sec. 1907. Monitoring and Evaluation of Humanitarian Assistance. This section requires that the USAID Office of Foreign Disaster Assistance (OFDA) be responsible for monitoring the adherence of assistance under this subtitle to international humanitarian standards. Subsection (b) requires the Administrator to notify the appropriate congressional committees if assistance under this subtitle is not sufficient to meet international humanitarian standards, the standards not being met, the resources that would be necessary to meet them, and the reasons why such resources are not available. Subsection (c) directs USAID's Office of Food for Peace (FFP) to be responsible for tracking and monitoring the nutritional outcomes of emergency food assistance under this act and PL-480 Title II, which the GAO recently reported is not being done currently. Subsection (d) ensures that the notwithstanding authorities provided for disaster assistance and emergency humanitarian response fund are not used to vitiate the requirement for monitoring and evaluation of U.S. foreign assistance.

Sec. 1908. Authority to Pay Transportation Costs. This section authorizes the Administrator to use funds under this subtitle to pay the transportation costs for shipments of humanitarian goods by U.S. private and voluntary organizations.

Sec. 1909. Increasing Flexibility for the Emergency Refugee and Migration Account. This section amends the Migration and Refugee Assistance Act of 1982 to increase the ceiling on the Emergency Refugee and Migration Assistance Fund from \$100 million to \$200 million, and to shift authority to make the determination to furnish such assistance from the President to the Secretary of State.

Sec. 1910. Definitions. This section defines terms used in this subtitle, including “disaster” and “international disaster relief, recovery, and reconstruction”.11 C:\DOCUMENTS

TITLE II: ADVANCING PEACE AND MITIGATING CONFLICT

This title would address key gaps in U.S. Government capabilities to prevent and respond to conflict, including structural problems, lack of training, and complex statutory constraints. It would elevate the role of conflict prevention and response in Executive Branch decisionmaking and make US capabilities more flexible to address conflict before and after it occurs.

Sec. 2001. Statement of Policy. This section provides general policy statements regarding strengthening civilian capacity to prevent and response to conflict.

Sec. 2002. Definition. This section defines the term “peacebuilding,” which includes short-term activities to prevent armed conflict, stabilize weak and fragile states, protect civilians in conflict zones, mitigates crises, help countries to rebuild and recover after conflict, and support transitions to peace, stability, and democracy.

SUBTITLE A—CRISIS PREVENTION, MITIGATION, AND RESPONSE

CHAPTER 1 – CONFLICT PREVENTION

Sec. 2011. Conflict Prevention Working Group. This section would establish an interagency conflict prevention working group, the primary purpose of which would be to coordinate and synchronize the crisis prevention activities of the U.S. Government. Although the White House recently established such a group, Congress should formalize and strengthen such efforts. The working group would also be responsible for integrating the early-warning systems of national security agencies, conducting gaming and contingency planning exercises regarding crisis prevention, and identifying available resources and policy options necessary to prevent conflict.

Sec. 2012. Regional Conflict Risk Assessment and Conflict Mitigation Strategy. This section would require the Secretary of State, acting through the Under Secretary for Civilian Security, Democracy, and Human Rights, to conduct annual regional conflict risk assessments, including an identification of ongoing violent conflicts in a region, an evaluation of the potential for outbreaks of violent conflict in the region, a list of those conflicts determined to be at high risk of outbreak of escalation, and a description of new opportunities and challenges for conflict mitigation in the region. The assessments ideally would require the Department to address conflict prevention comprehensively – including incorporating cross border and non-state actors into any assessments – rather than just focusing on traditional bilateral, state-centric diplomacy.

Subsection (c) would require that for any area determined to be at high risk or outbreak of escalation, the relevant office or diplomatic or consular post shall develop a conflict mitigation strategy. The strategy, among several items, shall include an analysis of the key drivers of potential conflict, specific objectives in mitigating conflict for the next year, and a description of policies and programs needed to achieve those objectives. The purpose of the strategy is to require the Department to take action once the Secretary designates an area of high conflict.

CHAPTER 2—CONFLICT MITIGATION AND RESOLUTION

Sec. 2021. Under Secretary for Civilian Security, Democracy, and Human Rights. This section would implement a key recommendation of the QDDR to establish a new Under Secretary with responsibilities related to the formation and implementation of policy and oversight of crisis prevention and response activities, democracy, human rights, labor, refugees, and migration. This position would integrate the conflict prevention and response functions of the Department currently scattered among several bureaus and offices. Subsection (a) amends the State Department Basic Authorities Act to establish the new Under Secretary position. The new Under Secretary shall be responsible for coordinating and implementing civilian responses to conflict. Subsections (b) – (d) would make technical changes, including the abolition of the existing position of the Under Secretary for Democracy and Global Affairs.

Sec. 2022. Complex Crisis, Stabilization, and Prevention Fund. This section would establish a Complex Crisis, Stabilization, and Prevention Fund, which would enable the Secretary to provide assistance to a country at risk of, in, or in transition from, conflict or civil strife. The fund would replace the now-defunct section 1207 authority and would provide programmatic support for contingency operations and deployments of the Response Readiness Corps, as well as security-related programming by State and USAID. Subsection (c) would set aside at least 25 percent of the fund for conflict prevention activities.

Sec. 2023. Peacekeeping. This section would replace section 551 of the existing FAA and would authorize the Secretary of State to provide assistance to foreign countries, international organizations, and regional arrangements for peacekeeping operations.

Sec. 2024. Data on Costs Incurred in Support of United Nations Peacekeeping Operations. This section would replace section 554 of the existing FAA and would require the Secretary of Defense to submit, on a quarterly basis, a report on the costs incurred by DoD in implementing or supporting resolutions of the UN Security Council.

Sec. 2025. Transition Initiatives. This section would authorize the Office of Transition Initiatives (OTI), which has been a staple of USAID’s conflict response capabilities.

Sec. 2026. Limit on Payment to United Nations and Affiliated Agencies. This section would eliminate a cap, established in 1994, on the U.S. share of assessed contributions for each UN peacekeeping operation. Under current law, the U.S. share of assessed contributions for each UN peacekeeping operation is capped at 25 percent after fiscal year 1995. The provision would

allow the Department to pay UN assessments at the assessed rate agreed upon by the US and to avoid cap-related arrears.

CHAPTER 3—STABILIZATION AND RECONSTRUCTION

Sec. 2031. Stabilization and Reconstruction. This section would amend the authorization for the Office of Reconstruction and Stabilization in the State Department Basic Authorities Act of 1956 (originally authorized in the National Defense Authorization Act for 2009) by: (1) narrowing its mission to supervising the Response Readiness Corps (RRC) and planning, solely at the request of a Chief of Mission; (2) clarifying the mission of the RRC, including capping the number of those members posted at State and authorizing a ‘surge’ capacity; and (3) empowering S/CRS to establish a cadre of contingency contracting support personnel; and (4) authorizing the Administrator to appoint individuals to the Senior Foreign Service to support contingency operations. The provision would further strengthen the RRC by eliminating the Standby Corps, requiring a majority of the RRC Active Corps to be deployed at any one time, and clarifying that the RRC falls under the relevant chief of mission when deployed.

Sec. 2032. Danger Pay. This section would strengthen the RRC by making RRC members eligible for danger pay when deployed.

Sec. 2033. Stability Policing Coordinator. This section would establish an office, akin to S/CRS, that would oversee and implement law enforcement assistance programs in countries or regions that are at risk of, in, or in transition from civil strife. The purpose of this section is to address a gap in the State Department’s oversight and implementation of police training programs in contingency operations. This office would focus solely on assistance provided in stability operations and not on the full spectrum of police training conducted by the Bureau of International Narcotics and Law Enforcement.

Sec. 2034. Training in Conflict Management and Mitigation. This section would implement a recommendation of the QDDR to provide training to Foreign Service Officers (FSOs) in conflict management and mitigation, including recognizing patterns of conflict escalation and early warning signs of potential atrocities. The training would be mandatory for FSOs deploying to potential conflict areas or who have related responsibilities.

Sec. 2035. Availability of Aircraft. This provision would authorize the Secretary of Defense to make available DoD aircraft to prevent or respond to a conflict or civil strife, including for use by Assistant Secretaries of State to conduct emergency diplomatic missions. The purpose of this provision would be to facilitate transporting senior diplomats to the field to respond to conflict. It is premised on the belief that diplomats should play the primary role in addressing conflict, including negotiating with foreign partners and potential adversaries.

Sec. 2036. Addressing Violence Against Women and Girls in Humanitarian Relief, Peacekeeping, Conflict, and Post-Conflict Settings. Subsection (a) would authorize the Secretary and the Administrator to provide assistance specifically to prevent and respond to violence against women and girls and build the capacity of organizations to address the special

protection needs of women and children, including through support of efforts to provide immediate assistance to survivors of violence and reintegrate such individuals. Subsection (b) would require the Secretary of State to consult regularly with the Secretary of Defense and the Attorney General to coordinate, design, and implement programs relevant to the purposes of this section. Subsection (c) would authorize the Secretary, in consultation with the Administrator and the United States Permanent Representative to the United Nations, to promote UN efforts to develop and implement appropriate training programs for peacekeeping and humanitarian personnel in prevention and response to violence against women, and other related activities. Subsection (d) would require the Secretary of State, within 45 days after receiving a credible report of serious or widespread incidents of violence against women and girls in a situation of armed conflict or civil strife, to implement emergency response measures.

SUBTITLE B—CONFLICT RECOVERY

CHAPTER 1—DEMINEING

Sec. 2041. Demining. This section incorporates relevant provisions from the annual Foreign Operations Appropriations Act. It authorizes the Secretary of State, notwithstanding any other provision of law, to provide assistance to foreign countries for demining activities, including clearance of unexploded ordinance, the destruction of small arms, and related activities (see section 4391 for authority to grant demining equipment to a foreign country).

CHAPTER 2—DISARMEMENT, DEMOBILIZATION, REINTEGRATION, AND REHABILITATION

SEC. 2051. Foreign Programs. This section explicitly authorizes disarmament, demobilization, reintegration, and rehabilitation (DDR) activities funded annually in the appropriations process. The provision uses the term “former combatants” to capture the full spectrum of individuals engaged in combat and reflect the principles identified in Sec. 1903 (Humanitarian Principles).

TITLE III: SUPPORTING HUMAN RIGHTS AND DEMOCRACY

Title III raises the profile of human rights and democracy programs and integrates human rights and democracy considerations throughout U.S. foreign policy and foreign assistance. Subtitle A contains general provisions; Subtitle B establishes a framework for combating international violence against women and girls; Subtitle C sets parameters relating to programs for police training and the rule of law; and Subtitle D provides additional tools to address child protection.

Subtitle A—General Provisions

Sec. 3101. Findings and Statement of Policy. This section sets out congressional findings regarding the advancement of human rights and fundamental freedoms and the institutionalization of democracy. It states the policy of the U.S. to promote and encourage

increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, religion, sexual orientation or gender identity.

Sec. 3102. Country Reports on Human Rights Practices. This section requires a comprehensive annual report by the Secretary of State on the status of internationally recognized human rights in each country that receives assistance under this Act or is a member of the United Nations. Subsection (b) lists the required contents of the report in 6 areas: respect for the integrity of the person, respect for civil liberties, respect for political rights, respect for worker rights, protection against violence, intimidation and discrimination, and official accountability. Subsection (c) requires that, in compiling data and making assessments, U.S. diplomatic mission personnel in each country consult with relevant international and non-governmental organizations. Subsection (d) requires that the report for each country be translated into the principal language of that country and made available on the U.S. Embassy website.

Sec. 3103. Action Plans for Human Rights and Democracy. This section requires that the Secretary, in coordination with the Administrator, develop every 3-5 years an action plan for human rights and democracy in each country covered by the report in section 3102. There is an exception for countries in which the Secretary determines that human rights and fundamental freedoms are generally respected. Subsection (b) requires that the plans be prepared by the Ambassador and USAID Mission Director in each country, where possible.

Subsection (c) lists the required elements of the plan for each country, including: a description of the major barriers to fundamental rights and freedoms, specific improvements being sought over the next 3-5 years, policies and programs being undertaken to foster these improvements, the roles of each Federal agency in carrying out the policies and programs, and the budgetary and personnel resources needed.

Subsection (d) requires consultation with a wide range of nongovernmental organizations in each country. Subsection (e) requires that the action plan be transmitted to the appropriate congressional committees, and that certain parts be published on the Internet. Subsection (f) requires that the action plans be coordinated with other relevant plans and strategies relating to development and conflict mitigation.

Sec. 3104. Human Rights and Democracy Fund. This section establishes a Human Rights and Democracy Fund to be administered by the Assistant Secretary of State for Democracy, Human Rights and Labor. The existing authority for this Fund, contained in section 664 of the Freedom Investment Act of 2002, is repealed in Title XII.

Subsection (b) establishes the purpose of the Fund, which is to protect and promote fundamental freedoms and internationally recognized human rights by: supporting defenders of human rights and advocates of democracy; assisting victims of human rights violations; preventing and responding to violence against women and girls; carrying out child protection compacts; and responding to emergencies and unanticipated opportunities in the areas of human rights and democracy.

Subsection (c) requires consultation with the Assistant USAID Administrator for Democratic and Civic Development in administering the Fund.

Sec. 3105. Role of Bureau of Democracy, Human Rights, and Labor. This section amends the State Department Basic Authorities Act of 1956 to update the duties and requirements for the Assistant Secretary of State for Democracy, Human Rights, and Labor (A/S-DRL), to include carrying out provisions of the GPA. It also requires that the A/S-DRL be consulted in the determinations of which countries shall receive U.S. foreign assistance and the nature of the assistance to be provided to each country. In addition, it mandates that the assignment of democracy officers abroad be made upon the recommendation of the A/S-DRL, in conjunction with the head of the relevant regional bureau.

Sec. 3106. Discrimination Related to Sexual Orientation. This section requires the A/S-DRL to designate an officer to be responsible for tracking violence, criminalization, and restrictions on the exercise of fundamental freedoms based on actual or perceived sexual orientation and gender identity. Subsection (b) requires the Secretary of State to encourage the governments of other countries to reform or repeal laws that criminalize homosexuality or otherwise restrict the exercise of fundamental freedoms by homosexual individuals and organizations. Subsection (c) amends the Foreign Service Act of 1980 to ensure that human rights training provided to Foreign Service Officers includes instruction on identifying violence, discrimination, and restrictions based on sexual orientation and gender identity.

Sec. 3107. Personnel Awards and Incentives. This section amends the ADVANCE Democracy Act of 2007 to make mandatory the expansion of the range of awards and incentives to encourage Foreign Service Officers to take assignments relating to human rights and democracy promotion.

SUBTITLE B—International Violence Against Women and Girls

This subtitle is derived largely from the International Violence Against Women Act of 2010, introduced by Reps. Delahunt and Poe and 25 others, and Sens. Kerry, Boxer, Snowe and Collins in the 111th Congress

Sec. 3201. Statement of Policy. This section states the policy of the United States to promote the equal participation of women in the political, economic and social lives of their countries, build the capacity of foreign countries to prevent and respond to violence against women and girls, ensure that all implementing partners take appropriate steps to prevent and respond to violence against women and girls, and systematically integrate efforts to prevent and respond to violence against women and girls into U.S. foreign policy and foreign assistance programs.

Sec. 3202. Duties of the Secretary of State. This section requires the Secretary to designate a senior official to be responsible for preparing the comprehensive international strategy to prevent and respond to violence against women and girls, collect and analyze data about such violence, and compile and disseminate information about effective methods of prevention and response.

Sec. 3203. Comprehensive International Strategy to Prevent and Respond to Violence Against Women and Girls. This section requires that, not later than 1 year after the date of enactment of this Act and every 5 years thereafter, the Secretary, with the assistance of the Administrator, shall develop a comprehensive, 5-year international strategy to prevent and respond to violence against women and girls internationally. The strategy must be submitted to the appropriate congressional committees and made available to the public.

Subsection (b) requires that the Secretary, in developing the strategy, consult with relevant Federal agencies, the Senior Policy Operating Group on Trafficking in Persons, and representatives of civil society organizations.

Subsection (c) lists the required elements of the strategy, including identifying 5-20 priority countries for which individual plans will be prepared. Subsection (d) lists 5 types of activities, of which at least 2 must be incorporated into each country plan. The activities include enhancing the capacity of the health sector to prevent and respond to violence against women and girls, developing and enforcing legal sanctions and protections, supporting efforts to change social norms, expanding girls' access to education, and increasing economic opportunities for women.

Sec. 3204. Assistance to Prevent and Respond to Violence Against Women and Girls Internationally. This section authorizes the use of funds made available for economic assistance to carry out the comprehensive international strategy and the country plans developed under section 3203.

Sec. 3205. Definitions. This section defines terms used in this subtitle, including “prevention and response” and “violence against women and girls”.

SUBTITLE C—RULE OF LAW

Sec. 3301. Findings. This section contains findings about the importance of responsible and effective criminal justice systems and the conditions under which the United States should provide assistance to foreign law enforcement agencies.

Sec. 3302. Global Rule of Law Policy Committee. This section requires the President to establish a Global Rule of Law Policy Committee, including the heads of all Federal agencies engaged in rule of law assistance, to promote coordination among the agencies and build capacity to provide such assistance effectively.

Subsection (c) gives the Committee authority to review any proposed legislative or legal advice to be provided by private contractors to foreign law enforcement agencies.

Subsection (d) requires, within 6 months of the date of enactment, the establishment of a plan for the coordination of U.S. rule of law assistance, including building capacity within the US government, utilizing capacity currently existing elsewhere, delineating the roles and responsibilities of the various Federal agencies, and establishing general policies and principles

for rule of law assistance. The plan would be transmitted to the appropriate congressional committees and made available on the internet.

Subsection (e) defines rule of law assistance as assistance under this or any other Act to combat crime, improve law enforcement, and strengthen the administration of justice in a foreign country.

Sec. 3303. Assistance for Rule of Law. This section replaces section 660 of the FAA and provides an affirmative authority for the training of foreign law enforcement agencies. Subsection (a) authorizes the President to provide training, advice, and nonlethal equipment to eligible foreign law enforcement agencies. It lists 19 specific purposes for which the assistance may be provided.

Subsection (b) authorizes the President to assist eligible foreign law enforcement agencies to improve the administration of justice in a partner country, and lists 8 illustrative activities through which this may be accomplished.

Subsection (c) states that a foreign law enforcement agency shall be eligible for assistance under this section if: the President determines and reports to the appropriate congressional committees at least 15 days in advance that such agency has demonstrated a commitment to improving protection of the security, human rights, and dignity of the civilian population; the assistance will be used to strengthen democratic control over the policy or prison authority; and such agency is not otherwise prohibited by any provision of this Act from receiving assistance.

Subsection (d) sets out the conditions on U.S. participation in foreign police actions. U.S. officers and employees (other than maritime law enforcement agents) are prohibited from directly effecting an arrest in any foreign country, except where taking direct action to protect life or safety under exigent, unanticipated circumstances. They are also prohibited from interrogating or being present during the interrogation of any U.S. person in any foreign country without the written consent of such person. United States Armed Forces carrying out their responsibilities under a Status of Forces Arrangement are exempt from this subsection.

Sec. 3304. Definition. This section defines the term “foreign law enforcement agency”.

SUBTITLE D—CHILD PROTECTION

This subtitle is derived largely from the Child Protection Compact Act, introduced by Reps. Smith (NJ) and 12 others in 2009, and by Sens. Boxer, Brownback and Cardin in 2010.

Sec. 3401. Findings. This section sets out findings relating to the provision of additional incentives to encourage countries to protect and rescue children subjected to severe forms of trafficking or sexual exploitation.

Sec. 3402. Child Protection Compacts. This section authorizes the Secretary, acting through the Office to Monitor and Combat Trafficking in Persons, and in consultation with relevant

bureaus, to enter into a compact with an eligible country to protect and rescue children subjected to severe forms of trafficking or sexual exploitation.

Subsection (c) defines eligible countries as developing countries that are Tier II or Tier II watchlist countries with a documented high prevalence of trafficking of children that have demonstrated political will and sustained commitment to undertake meaningful measures to address child trafficking.

Subsection (e) lists the required elements of a compact, including the specific objectives to be achieved, the responsibilities of each party, the programs or initiatives to be undertaken, the indicators of success, a multiyear financial plan, and a sustainability strategy.

Subsection (f) contains an illustrative list of programs and initiatives that may be conducted under a compact, including improving legal standards and practices, training anti-trafficking police and investigators, increasing public awareness of the risks and dangers, and providing rehabilitation and reintegration services for rescued children.

Sec. 3403. Authorization of Assistance. This section authorizes the Secretary to use Economic Assistance made available under this Act for the purposes of this subtitle. Entities which may be provided assistance are national, regional, and local governments, regional and international organizations, and nongovernmental organizations and private entities.

Sec. 3404. Suspension and Termination of Assistance. This section requires the Secretary to suspend or terminate assistance under section 3403 if the recipient country or entity is engaged in activities contrary to the national security interests of the United States, has engaged in a pattern of actions inconsistent with the eligibility criteria, or has failed to adhere to its responsibilities under a compact. The assistance may be reinstated if the Secretary determines that the country or entity has demonstrated a commitment to correcting the condition for which assistance was suspended or terminated. Suspensions, terminations, and reinstatements must be reported to the appropriate congressional committees.

Sec. 3405. Congressional Notification. This section requires that the Ambassador-at-Large of the State Department's Office to Monitor and Combat Trafficking in Persons consult with the appropriate congressional committees not later than 15 days prior to the start of negotiations on a compact, as well as not later than 10 days after entering into a compact. It also requires that regular monitoring reports are prepared and made available to the appropriate congressional committees, and that an independent impact evaluation is conducted upon completion of a compact.

Sec. 3406. Definitions. This section defines terms used in the subtitle, including "child protection", "compact", and "severe forms of trafficking".

TITLE IV: BUILDING AND REINFORCING STRATEGIC PARTNERSHIPS

Title IV streamlines and updates the security assistance (including Economic Support Funds) authorities of the current Foreign Assistance Act. It also incorporates, streamlines and updates the Arms Export Control Act, thereby placing all U.S. security assistance not administered by the Department of Defense under one authorizing statute.

Sec. 4001. Findings, sets forth the findings of Congress for security assistance.

Sec. 4002. Statement of Policy, declares the policy of the United States regarding the overarching purposes for U.S. security assistance under this Title.

Sec. 4003. Goals of Assistance. This section outlines the goals of U.S. security assistance under this Title, including: To improve the ability of the country or organization to meet its legitimate defense and internal security needs; To assist and encourage the country or organization to recognize and effectively address problems that threaten United States security, including terrorism, proliferation of weapons and dangerous technologies, environmental destruction, the spread of deadly disease, and transnational crime; and To protect civilian populations from violence, including criminal violence.

This section also mandates a biennial review and report in which the President, acting through the Secretary, shall review the extent to which U.S. assistance is promoting the foregoing goals, and requires the Secretary of State to report to the Committees on Foreign Affairs and Foreign Relations the results of this review.

SUBTITLE A—ECONOMIC SUPPORT FUND

Sec. 4101. Findings and Statement of Policy. This section sets out congressional findings regarding conflict, violence, and terrorism, and states the policy of the United States to deepen engagement with close allies and partners, and to develop relations with new partners, to prevent violent conflict, resolve underlying grievances fairly, and build sustainable peace.

Sec. 4102. Goal and Objectives. This section establishes the goal of assistance under this subtitle as expanding strategic partnerships to prevent violent conflict, resolve underlying grievances fairly, and build sustainable peace. The goal is to be pursued through 4 objectives: promoting and supporting peace agreements, increasing economic and political stability, facilitating participation in collective diplomatic and security efforts, and strengthening democratic governance.

Sec. 4103. Economic Support Fund. This section creates a fund, known as the Economic Support Fund (ESF), to carry out the goal and purposes of this subtitle. Subsection (b) clarifies the relationship between ESF and DSF, such that ESF should complement DSF, should be provided consistent with the policy directions, purposes and programs of DSF, and may be provided for countries in amounts that could not be justified for DSF. Subsection (c) makes the Secretary of State responsible for policy decisions and justifications for assistance under this

subtitle, in coordination with the Administrator. Subsection (d) requires that the annual congressional budget justification and foreign assistance database include information on cash transfers, balance-of-payments support, and project assistance under this subtitle. Subsection (e) prohibits the use of ESF for military or paramilitary purposes and from being carried out by military forces.

Sec. 4104. Cash Transfer Assistance. This section authorizes the use of cash grant transfers, balance-of-payments support, or other non-project assistance only to the extent and in the amounts justified to Congress. Such funds must be maintained in a separate account and not commingled with any other funds, and are not subject to commodity restrictions as defined in section 11001.

SUBTITLE B—SECURITY ASSISTANCE

CHAPTER 1—GENERAL AUTHORITIES

Sec. 4211. Authorization of Assistance. Based on section 503 of the FAA, this section authorizes the President to provide assistance under this subtitle to any country or organization that is eligible to receive such assistance in order to promote security in the country or region, on such terms and conditions as the President may determine. This includes acquiring defense articles or services from any source, providing by such articles and services by grant, assigning members of a U.S. Government department for non-combatant duties related to such assistance, or transferring funds appropriated for purposes under this title to be used for such assistance.

Sec. 4212. Conditions of Assistance. Based on section 505 of the FAA, this section authorizes the provision of assistance under this subtitle (including defense articles, services, or related training), to any country or organization if the country or organization has agreed that it will, among other obligations:

(1) not retransfer or allow use of any defense article, defense service, or related training so provided to it to anyone who is not an officer, employee, or agent of the country or organization without the consent of the President; and

(2) maintain the security of such articles, services, or related training and will provide substantially the same degree of security protection afforded to such articles, services, or related training by the U.S.

Subsection (b) includes a certification requirement regarding the retransfer of a defense article or service that otherwise would be subject to the requirements of section 4382 (congressional certification of sensitive foreign military sales and agreements).

Sec. 4213. Prohibition on Assistance. This section replaces Sec. 3 of the AECA. It prohibits security assistance under this subtitle, subtitle C on arms sales, or under predecessor Acts to any country or organization if the Secretary determines and notifies the appropriate congressional committees that, based on credible information, the country or organization uses or has misused such assistance —

(1) by using such articles or services for a purpose not authorized under section 4301 or pursuant to a specific agreement limiting use to a subset of such purposes;

(2) by transferring such articles or services to, or permitting any use of such assistance by, anyone not an officer, employee, or agent of the country or organization without the prior consent of the United States; or

(3) by failing to maintain the security of such articles or services.

The Secretary of State must inform the appropriate congressional committees promptly upon the receipt of credible information that a country or organization may have committed such a violation, and before the notification for any proposed arms sale to such country or organization is sent to Congress for review, so that Congress may consider the violation in determining whether such sale should proceed.

Once the Secretary has determined that the violation has ceased, and the country has assured the Secretary that there will be no recurrence and has taken steps to prevent a recurrence of the violation, assistance may be resumed. Finally, the Secretary may waive the prohibition on assistance upon notifying the appropriate congressional committees that such prohibition on assistance would have a significant adverse impact on the security of the United States.

Sec. 4213 also requires the Inspector General of the State Department for three years to annually review the performance of the Department in conducting investigations of possible violations, and to report to the appropriate congressional committees on such reviews. The Department has in the past been lax in conducting such investigations and reporting to Congress, as is currently required by Sec. 3 of the AECA.

CHAPTER 2—DRAWDOWN AUTHORITY

Sec. 4221. Authorization of Emergency Assistance. This section authorizes the President to draw articles and services from any Federal agency to meet an unforeseen emergency. The value of such articles and services cannot exceed a total of \$250 million in any fiscal year.

This section modifies its FAA counterpart (Sec. 506(a)(1)), which only authorizes the drawdown of defense articles and defense services from the stocks of the Department of Defense. An unforeseen emergency might require articles (other than defense articles) and services from other relevant agencies. Such assistance may be provided upon notification to the appropriate congressional committees, without a waiting period, similar to the current statutory authority. Section 4221 also increases the annual aggregate value by \$150 million from the current level of \$100 million in the current FAA section 506(a)(1).

Sec. 4222. Authorization of Non-emergency Assistance. This section, which reproduces the authority of current FAA section 506(a)(2), authorizes the President to draw articles and services from any Federal agency for purposes of providing assistance under this Act, to be administered by the Department of State; for assistance under the Migration and Refugee Assistance Act; to support location and repatriation of U.S. servicemembers remains from the Vietnam War. The value of such articles and services cannot exceed a total of \$250 million in any fiscal year. This authority can be used 15 days after notification to the appropriate congressional committees and is subject to the procedures applicable to reprogramming notifications (e.g., congressional review

and “holds”) as in current law. However, unlike current law, non-emergency drawdown assistance would be subject to the 15-day period. If assistance under these latter categories is on an emergency basis and cannot wait for the expiration of this 15-day period, the President is able to use the expanded assistance under section 4221.

Section 4222 also increases the annual aggregate value to \$250 million from the current level of \$100 million in the current FAA section 506(b).

Sec. 4223. Commercial Transportation and Related Services. This section reproduces current FAA section 506(c), which allows the use of commercial transportation services to provide drawdown assistance under this Chapter if such services are less expensive than U.S. Government services.

Sec. 4224. Report. This provision requires the Secretary of State to keep the appropriate congressional committees fully and currently informed of assistance provided under this Chapter, similar to that required in current FAA section 506(b)(2). Such report shall be also publish on the website of the Department of State for public information.

CHAPTER 3—LOANS OF DEFENSE ARTICLES

Sec. 4231. Loan Requirements. This provision authorizes the President to loan defense articles and defense services under section 4211, if (1) there is a bona fide reason, other than the shortage of funds, for providing such articles on a loan basis rather than on a grant basis; (2) there is a reasonable expectation that such articles will be returned to the United States Government department or agency making the loan at the end of the loan period; (3) the loan period is of fixed duration not exceeding five years, during which such article may be recalled for any reason by the United States; (4) the department or agency making the loan is reimbursed for the loan; and (5) the loan agreement provides that if a defense article is damaged, lost or destroyed while on loan, the country or organization will reimburse the United States for the cost of restoring or replacing the defense article. This section reproduces the authority granted to the President in section 503(b) of the FAA.

Sec. 4232. Cost of Loans. This section reproduces the directives of section 503(c)(1) of the FAA that, in the case of any loan of a defense article or defense service made under section 4211, there shall be a charge to the appropriation for security assistance for any fiscal year while such article or service is on loan in an amount based on (1) the out-of-pocket expenses authorized to be incurred in connection with such loan during such fiscal year; and (2) the depreciation which occurs during such year while such article is on loan.

Furthermore, this section retains the FAA exemption from the restrictions of this section for any defense article or defense services that has been acquired through funds made available for assistance under this title, such as Foreign Military Financing.

CHAPTER 4—STOCKPILING OF DEFENSE ARTICLES

Sec. 4241. General Authority. This section authorizes the President to set aside, reserve, or otherwise earmark defense articles in the inventory of the Department of Defense, consistent with the provisions of this Act, for future use by any foreign country that is a Strategic United States Ally (defined in Section 4411 as a member country of NATO, Australia, Japan, Israel, New Zealand, and South Korea).

The President shall notify the appropriate congressional committees, and the Armed Services committees, not later than 30 days before making such defense articles available to a foreign country. If the President determines that an emergency exists that requires making a defense article or defense articles available to a strategic U.S. ally, the President is authorized to make such defense article or defense articles available immediately upon notification to the appropriate congressional committees, along with the reasons for such determination.

Sec. 4242. Value of Defense Articles. This section limits the total value of defense articles to be set aside, reserved or otherwise earmarked under Section 4241 at \$300,000,000 for a fiscal year, of which up to \$200,000,000 may be made available for a stockpile for Israel.

CHAPTER 5—FOREIGN MILITARY FINANCING

Sec. 4251. General Authority. This section authorizes the President to finance the procurement of defense articles, defense services, and design and construction services by foreign countries and international organizations, on such terms and conditions as the President may determine consistent with the requirements of this chapter. In practice, this has been used as a grant program, in which funds appropriated for this authority are apportioned for the use of foreign countries to purchase U.S. defense articles and services.

Sec. 4252. Rule of Construction. This section provides that references in any law to credits extended under this chapter shall be deemed to include reference to participations in credits.

Sec. 4253. Audits. This section gives the Director of the Defense Security Assistance Agency, which manages the Foreign Military Sales program and use of Foreign Military Financing for such sales, the right to conduct audits of private firms that foreign countries have contracted with for services that will be purchased using some portion of their Foreign Military Financing allotment. In order to ensure that private firms use fair pricing – since U.S. taxpayer funds are proposed to be used – DSCA must have the ability to inspect and audit these contracts. Pricing reviews/audits are routinely done prior to approval of FMF funding of Direct Commercial Contracts (DCCs) if the contract meets the threshold (\$750K) requiring such reviews. Other audits are undertaken as required. The program could not be operated without audit rights to DCC contracts. Section 4253 replicates the authority under FAA section 23(f).

Sec. 4254. Cash Flow Financing. This section continues but restricts the existing FAA statutory authority in section 23(g) for “cash flow financing.” Cash flow financing allows a country to space-out its purchases of U.S. military goods and services over several years, rather

than allocating 100% of a new purchases during the fiscal year during which the appropriate amount of FMF is allocated. By so doing, a country can purchase more military goods and services over time than would otherwise be the case, and in service of a multi-year military development plan.

The drawback is that it makes it practically impossible to reduce FMF appropriations to that country during any fiscal year, especially if the FMF appropriations are significant, because to do so would likely cause default upon one or several existing contracts that are not yet completely paid for. Since most FMF-funded contracts are through the Foreign Military Sales (FMS) program, the actual contract with the U.S. manufacturer is with the United States Government, which directs the country's allocation of FMF to the manufacturer to fulfill the contract. Any cancellation of a contract will likely incur financial penalties, for which new appropriations or reprogramming of other U.S. funds would be required to pay.

Consequently, this provision restricts cash-flow financing to the two countries that currently are able to benefit from this authority – Israel and Egypt, which between them make up the lion's share of FMF allocations in any fiscal year.

CHAPTER 6—INTERNATIONAL MILITARY EDUCATION AND TRAINING

Sec. 4261. Purpose. This section outlines the purposes for the provision of military education and training activities to foreign countries under this chapter: (1) to foster better relations between the United States and foreign countries in furtherance of the goals of international peace and security; (2) to improve the ability of foreign countries better utilize their defense resources, thereby contributing to greater self-reliance by such countries; and (3) to increase their awareness of basic issues involving respect and observance of internationally recognized human rights, the importance of civilian oversight and authority over security and national defense forces, and of accountability of defense personnel to civilian governments and courts.

This section largely replicates its counterpart in the FAA, section 543, but also expands upon it by adding as purposes the promotion of respect and observance of civilian oversight and authority over security and national defense forces, and of accountability of defense personnel to civilian governments and courts.

Sec. 4262. Military Education and Training for Foreign Military and Defense Personnel.

This section replicates and expands upon the authority of section 541(a) of the FAA. It authorizes the Secretary of State to provide, on such terms and conditions as the Secretary may determine, military education and training to foreign military and defense personnel (which may also include civilian personnel of the country's ministry of defense.) Such education and training shall be designed to (1) contribute to greater cooperation with the United States on counternarcotics, counterterrorism, or counterproliferation efforts; and (2) foster greater respect for and understanding of democracy and the rule of law, civilian control of the military, and human rights. The selection of foreign military and defense personnel for by the Secretary of State shall be made in consultation with the Secretary of Defense.

The authority of section 541(a) of the FAA applies the first purpose – greater cooperation on counternarcotics, counterterrorism or counterproliferation – only to education and training given to civilian personnel that are not connected to the country’s defense ministry; section 4262 of this Act applies that purpose to military recipients of such assistance as well.

Sec. 4263. Military Education and Training for Foreign Civilian Personnel. This section replicates the authority of section 541(a) of the FAA to authorize the Secretary of State to provide, on such terms and conditions as the Secretary may determine, military education and training to foreign civilian personnel (legislators, representatives of civil society, and foreign governmental personnel of ministries other than defense), if such military education and training would contribute to (1) civilian, democratic control of the military; (2) responsible defense resource management; (3) cooperation between military and law enforcement personnel with respect to counternarcotics, counterterrorism, or counterproliferation activities; or (4) improved military justice systems and procedures in accordance with internationally recognized human rights.

Sec. 4264. Locations of Instruction. This section authorizes military education and training activities carried out under this chapter may be provided through (1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad; (2) attendance in special courses of instruction at schools and institutions of learning or research in the United States and abroad; and (3) observation and orientation visits to military facilities and related activities in the United States and abroad. Replicates the authority in Section 541(a) of the FAA.

Sec. 4265. Reimbursement. This section requires the Secretary of State to seek reimbursement for military education and training provided under this chapter from countries using Foreign Military Financing to purchase military education and training. The amount of reimbursement sought is to be comparable to the U.S. cost for education and training given to countries that receiving grants under this Chapter for such education and training. Replicates the authority in Sec. 541(b) of the FAA.

Sec. 4266. Exchange of Training and Related Support. This section authorizes the Secretary of State, in consultation with the Secretary of State, to enter into agreements with a foreign country or organization for the exchange of military and civilian personnel for exchanges for comparable training in either country. Logistical and other support services are also authorized to be provided to support such training. All training and support has to be provided within one year. If the foreign country or organization defaults on its commitment to provide comparable training to U.S. personnel, the Secretary of State shall require the country or organization to reimburse the United States for the full costs of the training and related support provided to the foreign personnel. This section is comparable to section 544 of the FAA.

CHAPTER 7—TRANSFER OF EXCESS DEFENSE ARTICLES

Sec. 4271. Transfer of Excess Defense Articles. This section authorizes the Secretary of State to transfer excess defense articles that have been designated by the Secretary of Defense as excess to the military needs of the United States (except for naval vessels subject to section 4275). This section is comparable to section 516(a) of the FAA, except this section confers this authority upon the Secretary of State, as the senior official for the furtherance of the foreign policy of the United States, rather than the President. This change is to ensure that transfers of excess defense equipment occur to further U.S. foreign policy objectives.

The Secretary may authorize the transfer of excess defense articles only if (1) such articles are drawn from existing stocks of the Department of Defense; (2) DoD funds for the procurement of defense equipment are not expended in connection with the transfer; (3) the transfer of such articles will not have, in the judgment of the Secretary of Defense, an adverse impact on the military readiness of the United States; (4) with respect to a proposed transfer of such articles on a grant basis, such a transfer is preferable to a transfer on a sales basis, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of a transfer on either a grant or sales basis; and (5) the transfer of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred.

This provision largely replicates the restrictions of section 516(b) of the FAA, but gives the Secretary of Defense the ability to judge whether any transfer of excess defense equipment will have an adverse impact on the military readiness of the U.S., rather than the President.

Sec. 4272. Terms of Transfers. This section sets several conditions for transfer of excess defense equipment: (1) transfers may occur without cost to the recipient country; (2) Department of Defense expenses related to such transfers do not have to be reimbursed; and (3) DoD funds may not be used for costs for crating, packing, handling, and transportation of excess defense articles; however, such funds may be used for transportation if the Secretary of State determines that it is in the national interest to do so, the total weight of the transfer does not exceed 50,000 pounds, and such transportation is accomplished on a space-available basis.

Sec. 4273. Advance Notification to Congress for Transfer of Certain Excess Defense Articles. This section requires the Secretary to notify the appropriate congressional committees before transferring any excess defense article valued (in terms of original acquisition cost) at \$10,000,000 or more, \$3 million more than required in the comparable section 516(f)(1) of the FAA. Such transfer cannot occur until 30 days have elapsed since the notification, which will be in accordance with procedures applicable to reprogramming notifications under section 9401.

Sec. 4274. Aggregate Annual Limitation. This section limits the total value of excess defense articles transferred in any fiscal year to no more than \$500 million, \$75 million more than under the comparable FAA section 516(g).

Sec. 4275. Restrictions and Conditions on Transfers of Naval Vessels. This section prohibits the transfer of any naval vessel that is in excess of 3,000 tons or that is less than 20 years of age, unless specifically authorized by law. A lease or loan of such a vessel under such a law may be made only in accordance with the provisions of this title. In the case of an authorization by law for the disposal of such a vessel that names a specific vessel as being authorized for such disposal, the Secretary of Defense may substitute another vessel of the same class, if the vessel substituted has virtually identical capabilities as the named vessel. A comparable requirement was instituted by section 824(b) of the National Defense Authorization Act for Fiscal Year 1994 (P.L. 103-160, 10 U.S.C. 7307), but as all such authorizations for transfer are in the primary jurisdiction of the Committee on Foreign Affairs and the Committee on Foreign Relations, this authority is replicated here.

This section also requires that any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 4272(c)).

Finally, section 4275 requires the Secretary to ensure that any repair or refurbishment of a vessel to be transferred is performed at a shipyard located in the United States, including a United States Navy shipyard.

CHAPTER 8—COOPERATIVE PROJECT AGREEMENTS

Sec. 4281. Authority to Enter into Cooperative Project Agreements. This section replicates the authority of section 27(a) of the AECA and authorizes the President to enter into a cooperative project agreement with a foreign country or countries to further the objectives of standardization, rationalization, and interoperability of the armed forces of the foreign country or countries and the United States, or to improve the conventional defense capabilities of the parties. Such agreement shall provide that each of the parties contribute to the cooperative project its fair share of the project's full costs – which may be in funds or in defense articles and services - and will receive an fair share of the results. No assistance under this Act to a foreign country can be used by such country to pay its share of the costs of a project.

Sec. 4282. Costs. This section authorizes the President to enter into contracts or incur other obligations for a cooperative project on behalf of the other parties, without charge to any appropriation or contract authorization, if each of the other parties to the cooperative project agreement agrees—

(1) to pay its equitable share of the contract or other obligation; and (2) to make such funds available in such amounts and at such times as may be required by the contract or other obligation and to pay any damages and costs that may accrue from the performance of or cancellation of the contract or other obligation in advance of the time such payments, damages, or costs are due.

This section, and other sections in this Chapter, generally replicate the authorities and restrictions in section 27 of the AECA. However, any exports that would otherwise be required to be notified

to Congress in accordance with Chapter 6 of this Act will not be exempted from such requirement, as is the case under section 27 of the AECA.

Sec. 4283. Charges. This section authorizes the President to reduce or waive the charge or charges which would otherwise be considered appropriate under section 4314 regarding arms sales (e.g., administrative expense, nonrecurring costs for research, development and production of major defense equipment, and ordinary inventory losses) if such sales are made as part of a cooperative project; and the other parties to the cooperative project agreement agree to reduce or waive corresponding charges.

Sec. 4284. Certification. This section requires the President to notify the Committees on Foreign Affairs and Foreign Relations and Armed Services not less than 30 days before a cooperative project agreement is signed on behalf of the United States and provide appropriate details.

Sec. 4285. Authority in Addition to Other Authorities. This section makes it clear that the authority under this section is in addition to the authority under sections 4311 and 4312 and under any other provision of law, as was stated in section 27(h) of the AECA.

CHAPTER 9—GLOBAL SECURITY CONTINGENCY FUND

Sec. 4291, Global Security Contingency Fund, would overhaul the Executive Branch's ability to respond to conflict and civil strife. It would enable the State Department and Defense Department to fuse funds to address complex, hybrid threats.

Subsection (a)(1) authorizes the Secretary of State, with the concurrence of the Secretary of Defense, to establish a fund known as the Global Security Contingency Fund. The fund would be composed of amounts contributed by the Departments, capped at \$300 million, for purposes described in subsection (b).

Subsection (a)(2)(B) provides that notwithstanding any other provision of law, amounts contributed to the fund shall be merged with amounts in the fund and shall be available for purposes of carrying out the program authorized under this subsection. In essence, funds contributed would be stripped of their restrictions or purposes and would be available for any purpose authorized through the other authorities. For example, funds contributed to the fund through chapter VI of title V of this Act for IMET could be expended for peacekeeping purposes pursuant to section 2023 of this Act, free of any of the restrictions imposed on those funds originally. Subsection (a)(3) requires that State and DoD each contribute to the fund in order for it to be activated, at a ratio of not less than one third from State and two thirds from DoD.

Subsection (b) lays out the criteria for eligible countries.

Subsection (c) lays out the purposes of the program, which includes both security and justice sector-focused assistance.

Subsection (d) spells out the authorities through which funds may be transferred into the funds. These authorities provide the overall scope of the fund. These funds include the counternarcotics and security assistance authorities of the two Departments. It also includes peacekeeping of the Department of State, along with the Complex Crisis and Stability Operations Fund authorized in this Act. The Secretaries may transfer funds from other accounts, such as ESF or DA, only upon the approval of the relevant committees. It is the intent that this fund eventually replace the authority provided to the Defense Department in section 1206 of Public Law 109-63 (“1206”) and become the primary mechanism through which the Departments will address complex threats.

Subsection (e) provides for the formulation and execution of the program, which mirrors the “dual key” process for section 1206 programs.

Subsection (f) makes clear that the programs authorized under the fund shall be jointly financed by the Departments, pursuant to the ratio provided in subsection (a) and shall be executed in the same manner in which the authorities described in subsection (d) are carried out.

Subsection (g) provides the procedures for congressional notification.

Subsection (h) clarifies that the GSCF does not constitute an extension of any of the authorities in section (d). Ideally, the GSCF will supplant section 1206 authority.

Section (i) authorizes amounts in the fund to be used for necessary administrative expenses.

Section (j) authorizes the head of any agency to detail personnel to the Department of State to carry out the purposes of the fund.

Section (k) establishes that the GSCF will terminate in three years after enactment of this Act.

SUBTITLE C—ARMS SALES AND RELATED ASSISTANCE

Sec. 4301. Control of Arms Exports and Imports. This section authorizes the President to control the import and the export of defense articles and defense services and to provide foreign policy guidance to U.S. persons involved in the export and import of such articles and services. It also authorizes the President to create the United States Munitions List (USML), which shall include those items which the President designates as defense articles and defense services. This section also authorizes the promulgation of regulations for the import and export of such articles and services.

Section 4301 also states that the sole purposes for which U.S. military sales or leases are authorized are those listed in section 4003.

This section therefore expands the purposes of arms sales from that in section 4 of the AECA, including with respect to the proliferation of dangerous technologies, environmental destruction, spread of deadly disease and transnational crime. In so doing, it rationalizes and aligns the

purposes of arms sales – currently directed by the AECA - with the provision of other forms of U.S. security assistance – currently directed by the FAA - as all are subject in this unified Act to the purposes under section 4003.

Decisions to issue export licenses are to ensure that the export of a defense article or defense service is justified in terms of its military utility related to the actual security threat by the recipient country, and will not—

- contribute to an arms race or regional instability;
- aid in the development of weapons of mass destruction;
- support domestic or international terrorism;
- increase the possibility of outbreak or escalation of conflict, either within or across the borders of the recipient country;
- prejudice the development of bilateral or multilateral arms control arrangements;
- adversely affect the arms control or nonproliferation policy of the United States;
- conflict with any international agreements, treaties or arrangements to which the United States is a party or adherent;
- support blackmarket or grey market trade in arms, either those transferred or obsolete arms to be replaced by the arms sale; or
- undermine the objectives and purposes to promote and protect human rights and democracy under title III of this Act.

This expands the restrictive conditions currently operative on the Executive under section 38(a)(2) of the AECA for potential arms sales. Where the AECA provision only requires the President to take into account the first five possible effects of any sale when deciding whether or not to issue a license for the sale, section 4301 of this Act strengthens that requirement so that such export decisions “shall ensure” that such negative effects will not occur as a result of a potential U.S. arms sale. Further, section 4301 adds four more conditions for such sale. For example, if a potential sale of a significant number of firearms to a country intending to replace obsolete models could result in those obsolete models being sold on a grey market to persons not under the control of that country’s government, the U.S. could require the country to destroy such obsolete weapons or place them under tighter security than would have otherwise been the case, in order to satisfy this restriction.

Finally, this section authorizes the President to require that any defense article or defense service be sold under this title as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and defense services keep the President (in practice, the Department of State) fully and currently informed of the progress and future prospects of such negotiations.

CHAPTER 1—FOREIGN MILITARY SALES AND COOPERATION

Sec. 4311. General Authority. This section authorizes the President to sell defense articles and defense services from the stocks of the Department of Defense and the Coast Guard, or design and construction services, to a country or international organization if the country or international organization agrees to pay in United States dollars the actual value for a defense

article that is not to be replaced; the estimated cost of replacement of a defense article that is; and the full cost of a defense service, including design or construction service (unless the country is receiving IMET assistance or for any country that the President notifies the appropriate congressional committees that it is in the national interest to receive discounted training, in either case the country only pays the additional “incremental” costs for training services).

This section tracks the authority of section 21(a) of the AECA, but eliminates the latter’s designation of “high-income country” as being eligible for discounted training services at the President’s discretion; this section instead allows the President to make any country eligible for discounted training services if he determines that it is in the national interest to do so.

Sec. 4312. Procurement for Foreign Military Cash Sales. This section, which replicates the authorities and restrictions under section 22 of the AECA, authorizes the President to enter into contracts for the procurement of defense articles or defense services or design and construction services for sale to any foreign country or international organization if such country or international organization provides the United States Government with a “dependable undertaking” (A) to pay the full amount of such contract which will insure the United States Government against any loss on the contract; and (B) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract. Interest shall be charged on any net amount by which any such country or international organization is in arrears under all of its outstanding unliquidated dependable undertakings.

If the President determines that a country cannot pay for defense articles and defense services on a dependable undertaking-basis, the President may sell such articles and services on the basis of payment upon delivery or within 120 days of delivery, if the President certifies it is in the national interest of the United States to do so. However, the President also has to submit an emergency request to Congress for special authorization and appropriation of additional funds to finance such purchases. Funds appropriated to the Department of Defense may be used to meet payments required for these contracts, which shall be reimbursed by country payments subsequently received.

Procurement contracts made in implementation of sales under this section for defense articles and defense services shall have same pricing basis as such articles and services sold for DoD use.

Sec. 4313. Payments. This section generally requires that payment shall be made in advance or, if the President determines it to be in the national interest of the United States, upon delivery of the defense article or rendering of the defense service. In the latter instance, billings for sales may be dated and issued upon delivery of the defense article or rendering of the defense service and shall be due and payable upon receipt thereof by the purchasing country or international organization. Interest shall be charged on any net amount due and payable which is not paid within 60 days after the date of such billing. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the billing and shall be computed from the date of billing. The President

may extend such 60-day period to 120 days if the President determines that emergency requirements of the purchaser's need for the defense articles and services exceeds its ability to pay after 60 days, The President must submit this determination and a special emergency request for the authorization and appropriation of additional funds to finance such purchases to Congress.

Sec. 4314. Charges. This section outlines the types of charges to be made in connection with sales of defense articles and services, and the circumstances under which they can be waived. This section replicates the restrictions in section 21(e) of the AECA.

Letters of offer for the sale of defense articles or defense services that are shall include appropriate charges for (1) administrative services, (2) a proportionate amount of any nonrecurring costs of research, development, and production of major defense equipment (except for equipment wholly paid for either from funds transferred under section 4211(b)(3) or from funds made available on a nonrepayable basis under section 4251); and (3) the recovery of ordinary inventory losses associated with the sale from stock of defense articles that are being stored at the expense of the purchaser of such articles.

The President may waive the charges for administrative services that would otherwise be required in connection with any sale to a foreign country, if the President determines that a waiver is in the national security interests of the United States; and will facilitate the ability of that country to detect, deter, prevent, defeat, or counter terrorist activities, or participate in, or support, military operations, coalition operations, or stability operations of the United States. The President may also waive such charges in connection with any sale to the Maintenance and Supply Agency of NATO in support of a weapon system partnership agreement or a NATO/SHAPE project.

The President may reduce or waive the charge or charges for nonrecurring costs which would otherwise be considered appropriate for a particular sale if the President determines that such action would significantly advance U.S. interests in standardization with the armed forces of a foreign country that is a Strategic United States Ally, or would promote foreign procurement in the United States under coproduction arrangements; if imposition of the charge or charges likely would result in the loss of the sale; or in the case of a sale of major defense equipment that is also being procured for the use of U.S. Armed Forces, the waiver of the charge or charges would yield a savings to the United States due to reduced unit prices via economies of scale of production.

The President may waive, for particular sales of major defense equipment, any increase in a charge or charges for nonrecurring costs previously considered appropriate if the increase results from a correction of a good-faith estimate of the production quantity base that was used for calculating the charge or charges for purposes of such paragraph.

Sec. 4315. Non-Combat Duties of United States Personnel Supporting Foreign Military Sales. This section replicates the requirements of section 21(c) of the AECA. United States personnel performing defense services sold under this title may not perform any duties of

a combatant nature. Within 48 hours of the existence of, or a change in status of significant hostilities or terrorist acts or a series of such acts in such country which may endanger American lives or property the President shall submit to Congress a report, the identity of such country, a description of such hostilities or terrorist acts; and the number of members of the United States Armed Forces and civilian personnel that may be endangered by such hostilities or terrorist acts.

Sec. 4316. Public Information. As in section 21(f) of the AECA, this section requires that any contracts entered into between the United States and a foreign country under the authority of section 4311 or section 4312 shall be made available for public inspection to the fullest extent possible consistent with the national security of the United States. This section, however, imposes a new requirement that such information shall be posted upon the website of the Department of State in a timely fashion.

Sec. 4317. Standardization Agreements. This section reproduces the authority of section 21(g) authorizing the President to enter into North Atlantic Treaty Organization standardization agreements, and may also enter into such agreements with other Strategic United States Allies, for the cooperative furnishing of training on the basis of financial reciprocity. Such agreements must be promptly notified to the foreign affairs, armed services and appropriations committees of Congress.

Sec. 4318. Quality Assurance and Related Services. This section includes section 21(h) of the AECA authorizing the President to provide, without charge, quality assurance, inspection, contract administration services, data and cataloging services, and contract audit defense services in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services entered into under this Act on behalf of a strategic United States ally, if such government provides reciprocal services in accordance with an agreement; or in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services pursuant to the North Atlantic Treaty Organization Security Investment program in accordance with an agreement under which the foreign governments participating in such program provide such services, without charge, in connection with similar contracts or subcontracts.

Sec. 4319. Restriction on Sale of Defense Articles and Defense Services that Would Adversely Affect United States Combat Readiness. This section states that the President may not sell defense articles and defense services if such sale would have a significant adverse effect on the combat readiness of the Armed Forces of the United States. The President may waive this restriction upon his determination the negative impact is outweighed by the benefits to U.S. national security. The President must transmit this determination to the appropriate congressional committees and to the Committees on Armed Services of the House of the Representatives and the Senate.

This section expands on a similar provision in section 21(i) of the AECA, which urges the President to keep such sales to an “absolute minimum”, but does not otherwise restrict the President other than requiring a report to the Congress. Section 4319 requires that the benefits of such sale outweigh the harm.

Sec. 4320. Acquisition of Foreign-United States Origin Defense Articles.

This section authorizes the President to acquire a repairable defense article from a foreign country or international organization if it was previously transferred to such country or organization, is not an “end item,” and will be exchanged for a defense article of the same type that is in the stocks of the Department of Defense.

The President may exercise this authority only to the extent that the Department of Defense has a requirement for the defense article being returned; and has available sufficient funds authorized and appropriated for such purpose; or is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act (as in effect on the day before the date of the enactment of this Act) or this title; and has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act (as in effect on the day before the date of the enactment of this Act) or this title.

Sec. 4321. Return of Defense Articles. This section authorizes the President to accept the return of a defense article from a foreign country or international organization if such defense article (1) previously was transferred to such country or organization under this Act or predecessor Act or this title; (2) is not significant military equipment (as defined in section 4412); and (3) is in fully functioning condition without need of repair or rehabilitation.

The President may only use this authority if the Department of Defense needs the defense article and has available funds for such purpose; or if DoD wants to retransfer the article to another foreign government or international organization pursuant to a sale under this Act and has available funds provided by or on behalf of the foreign government or organization.

This section replicates the authority under section 21(m) of the AECA.

Sec. 4322. Sale of Minor and Obsolete Naval Vessels. This section sets the lower-limit for the sale value of minor and obsolete naval vessels- here, of 3,000 tons or less and 20 years of age - to be sold for foreign countries. Replicates the direction given in section 21(a)(2) of the AECA.

Sec. 4323. Annual Estimate and Justification for Sales Program. This section largely replicates the requirement in section 25 of the AECA for an annual report (also known as the “Javits Report”) to the appropriate congressional committees by February 1 forecasting all possible U.S. arms sales of \$7 Million or more for major weapons equipment, or \$25 million or more for other weapons equipment, for the current calendar year. Section 4323 narrows this provision by requiring a listing only of all “likely” sales, rather than any and all possible sales. In years past, the report has become unwieldy in length, as every wished-for item by a foreign government, or even separate parts of such government, has been included, even if in the judgment of the Department of State that such sale would be unlikely to occur.

Sec. 4324. Sales to United States Companies for Incorporation into End Items. This section replicates the authority of AECA section to allow the President to sell defense articles to U.S. companies for incorporation into end-items that will later be sold to a foreign country or organization under pursuant to an export license under this subtitle. The President is also authorized to sell defense services to such companies in support of sales of defense articles.

Sec. 4325: Fiscal Provisions Relating to Foreign Military Sales. This section replicates the restriction in section 37(a) of the AECA that any payments received under 4311 or 4324 shall be used to pay suppliers or refunds to purchasing countries, and cannot be used for financing sales credits offered to foreign countries. It also requires that, as in section 37(b), that repayments for any credits extended to foreign countries shall be transferred to the U.S. Treasury.

CHAPTER 2—ARMS EXPORT CONTROLS

Sec. 4331. Licensing Requirement for Exporting or Importing Defense Articles and Defense Services. This section requires that all defense articles, defense services, and design and construction services designated by the President under section 4301 may only be licensed for export or import in accordance with this title and regulations issued under this title. However, no license may be required for exports or imports made by or for a Federal department or agency for official use by Federal personnel of a department or agency of the United States Government; or for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means. Replicates the authority of section 38(a)(2) of the AECA.

Sec. 4332. Impact of Military Expenditures On Development. This section requires the Secretary of State to conduct an annual review of the military expenditures of developing countries and identify those which the Secretary has credible evidence to believe are diverting official development assistance from any source to military purposes; are devoting budgetary resources to arms purchases to a degree that materially interferes with their development; or are accumulating unsustainable levels of debt to finance arms purchases. The Secretary is also required to inform the appropriate congressional committees not annually of the results of the review.

Arms sales shall not be made to a country identified under this review, unless the Secretary determines, and reports to the appropriate congressional committees, that such country is no longer engaged in the actions which caused it to be included on the list; the Secretary determines, and reports to the appropriate congressional committees, that the identification was made upon faulty evidence; or the Secretary submits a numbered certification to the appropriate congressional committees in accordance with the procedures under section 4382.

This section expands upon a similar requirement in section 35 of the AECA by transferring the responsibility from the President to the Secretary of State; makes it an annual review rather than a “finding” by the President whenever it comes to the President’s attention; requires an annual report to Congress; and allows the sale of defense articles and services to the country so long as

the proposed sale is submitted for Congressional review, regardless of whether or not it would normally be required to be reviewed by Congress.

Sec. 4333. Requirement For Registration By Exporters. This section requires, as prescribed in regulations issued under section 4301, that every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under section 4301 shall register with the Department of State, and shall pay a registration fee which shall be prescribed by such regulations.

Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State for local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this Act, or predecessor Act, or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. However, this latter prohibition does not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture. This section replicates the requirement in AECA section 38(b)(1)(A)(i).

Sec. 4334. Identification of all Consignees and Freight Forwarders. This section mandates that the President require each applicant for a license to export an item on the United States Munitions List, to identify in the application all consignees and freight forwarders involved in the proposed export. Replicates the requirement in AECA section 38(g)(2).

Sec. 4335. Brokering Activities. This section requires that that every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President under section 4301 or of any foreign defense article or defense service shall register with the United States Government agency charged with the administration of this section and shall pay a registration fee. No person may engage in the business of brokering activities without a license, except for activities undertaken by or for an agency of the United States Government for use by an agency of the United States Government; or for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

Brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the sale, manufacture, export, or import of a defense article or defense service.

This prohibition does not apply to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this title or any other foreign assistance or sales program of the United States if such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of title 18, United States Code (including the requirement for

the listing of such firearms as curios or relics under section 921(a)(13) of that title); and (2) such foreign government certifies to the United States Government that such firearms are owned by such foreign government. This section replicates the provisions of section 38(b)(1)(A)(ii) of the AECA.

Sec. 4336. Foreign Persons. This section prohibits a license to export an item on the United States Munitions List from being issued to a foreign person (other than a foreign government or international organization). The President may require a license (or other form of authorization) before any item on the United States Munitions List is sold or otherwise transferred to the control or possession of a foreign person or a person acting on behalf of a foreign person. This section replicates the provisions of section 38(g)(5) of the AECA.

Sec. 4337. Review of United States Munitions List. This section requires the President to periodically review the items on the United States Munitions List to determine what items, if any, no longer warrant export controls under this title.

The President may not remove any item from the Munitions List until days after the date on which the President has provided notice of the proposed removal to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 9401. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law. This section replicates the requirements of section 38(f) of the AECA.

Sec. 4338. Licensing Of Missiles And Missile Equipment Or Technology. Section 4228 directs the Secretary of State, in consultation with the Secretary of Defense and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the United States Munitions List, a list of all items on the MTCR Annex the export of which is not controlled under section 6(l) of the Export Administration Act of 1979 (as continued in effect under the International Emergency Economic Powers Act) or similar provisions of any successor Act. Any license for export of an item on this list can be made only after the license application the Secretary of Defense for review.

This provision also requires the Secretary of State to report to Congress within 15 days after the issuance of a license (including any brokering license) for the export of items valued at less than \$50,000,000 that are controlled under this Act pursuant to United States obligations under the Missile Technology Control Regime and are goods or services that are intended to support the design, utilization, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex. This report shall also describe the licensed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. The requirement contained in the preceding sentence shall not apply to licenses for exports to countries that were members of the MTCR as of the date of enactment of this Act.

This section largely replicates the provisions of section 71 of the AECA, except updates the exclusion of MTCR Members in the preceding paragraph from those members as of April 17, 1987 to the current membership.

Sec. 4339. Special Licensing Authorization For Certain Exports To Strategic United States Allies. This section authorizes the President to provide special licensing authorization for exports of United States-manufactured spare and replacement parts or components listed in an application for such special licensing authorization in connection with defense items previously exported to a strategic United States ally, to be in effect for 5 years. This is intended to provide an umbrella license for spare and replacement parts to trusted allies. This provision is derived from the Defense Trade Controls Performance Improvement Act of 2007, introduced by Reps. Sherman, Manzullo, Crowley and Blunt in the 110th Congress.

Such an authorization may be issued only if (among other conditions) the recipient country certifies that the export of spare and replacement parts or components supports a defense item previously lawfully exported; the spare and replacement parts or components will be transferred to a defense agency of a country that is a previously approved end-user of the defense items, not a distributor or a foreign consignee; the parts or components will not to be used to materially enhance the defense items; and are specifically identified in the application. Further, an authorization may not be issued for purposes of establishing offshore procurement arrangements or producing defense articles offshore.

This authorization will only apply to spare and replacement parts or components with respect to which United States-origin content and manufacturing costs constitute at least 85 percent of the total content and manufacturing costs; foreign content is limited to content from countries eligible to receive exports of items on the United States Munitions List, were last substantially transformed in the United States, and are not classified as significant military equipment or listed on the Missile Technology Control Regime Annex.

Sec. 4340. Country Exemptions for Licensing of Defense Items for Export to Foreign Countries. This section allows the President to exempt a foreign country from the arms licensing requirements if the President has concluded a legally-binding bilateral agreement for such purpose, so long as it conforms to the conditions in this section. Such an agreement, shall, at a minimum, require the foreign country, as necessary, to revise its laws, policies and practices to establish an export control regime at least comparable to that of the United States, by requiring elements such as:

- conditions on the handling of all United States-origin defense items exported to the foreign country, including prior written U.S. approval for any re-exports;
- end-use and retransfer control commitments, including securing binding end-use and retransfer control commitments from all end-users with respect to such United States-origin defense items;
- establishment of a “watchlist” procedure comparable and full cooperation with U.S. law; enforcement agencies to allow for sharing of export and import documentation and background information on foreign businesses and individuals employed by or otherwise connected to those businesses; and

- establishment of a list of controlled defense items to ensure coverage of those items to be exported under the exemption.

This authority may be utilized 30 days after the date on which the President transmits to the appropriate congressional committees a notification that the United States has entered into a bilateral agreement with that foreign country satisfying all requirements set forth in this section; a description of the scope of the exemption, including a detailed summary of the defense articles, defense services, and related technical data covered by the exemption; and a determination by the Attorney General that the bilateral agreement requires the compilation and maintenance of sufficient documentation relating to the export of United States defense articles, defense services, and related technical data to facilitate law enforcement efforts to detect, prevent, and prosecute criminal violations of any provision of this subtitle. The requirements of this section do not apply to a licensing exemption for Canada, which is already in force.

CHAPTER 3—LEASES OF DEFENSE ARTICLES

Sec. 4351. Leasing Authority. This section allows the President to lease defense articles to a foreign country or international organization, individually and on a fiscal year basis and generally not to exceed five years, if the President determines that there are compelling foreign policy and national security reasons for leasing rather than selling such articles; are not needed by the U.S.; considers any negative effect on the U.S. industrial base by the lease in terms of lost sales; and the country or international organization will pay all costs, including depreciation and damage. The President may waive reimbursement for depreciation if the defense article has passed three-quarters of its normal service life, and it is important to the national security interest of the United States. This section replicates the authority of AECA section 61.

Sec. 4352. Certification for Leasing. This section requires the President to provide to the congressional committees on foreign affairs and armed services a written certification detailing the lease, including the type, quantity and value of defense articles to be leased, and a justification for the lease.

Sec. 4353. Congressional Review and Disapproval. This section requires that in the case of any agreement involving the lease or loan of any defense articles which are either major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at \$14,000,000 or more, or defense articles valued (in terms of their replacement cost less any depreciation in their value) at \$50,000,000 or more, the agreement may not be entered into or renewed if Congress, within the 15-day or 30-day period specified in section 4352(c)(1) or (2), as the case may be, enacts a joint resolution prohibiting the proposed lease or loan. If, however, such lease is with a Strategic United States Ally, this requirement only applies to major defense agreements of \$25 Million or more, or defense articles valued at \$100 Million or more. This section replicates the authority in section 63 of the AECA.

Sec. 4354. Application of other Provisions of Law. This section states that any reference to “sales of defense articles” under this subtitle in any provision of law restricting the countries or

organizations to which such sales may be made shall be deemed to include a reference to leases of defense articles under this chapter.

Sec. 4355. Loan of Materials, Supplies, and Equipment for Research and Development

Purposes. This section authorizes the Secretary of Defense, with the concurrence of the Secretary of State to loan to a country that is a strategic United States ally or a major United States ally materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary of Defense may accept as a loan or a gift from a country that is a strategic United States ally or a major United States ally material, supplies, or equipment for such purpose.

This section adds to the underlying provision in the AECA by requiring the concurrence of the Secretary of State, in her role as the primary official for overseeing security assistance under this Act and ensuring that such assistance is congruent with and supportive of U.S. foreign policy, before the Secretary of Defense can utilize this loan authority.

Sec. 4356. Special Leasing Authority. This section allows the authority of section 4251 to be used to provide financing to Israel and Egypt for procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including major defense equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under this subtitle. This section tracks the authority of section 23(a) of the AECA.

CHAPTER 4—RETRANSFERS OF UNITED STATES DEFENSE ARTICLES

Sec. 4361. Authority to Approve Retransfers. This section requires the Secretary of State not to give consent to any retransfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war previously transferred to one country to another country unless the United States itself would transfer the defense article to that country. This provision replicates the restriction found in section 3(a) of the AECA.

Sec. 4362. Demilitarization for Retransfer of Significant Defense Articles. This section prohibits the Secretary of State from consenting to the retransfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to retransfer agrees to demilitarize (that is, remove all specific military capabilities) such defense articles prior to transfer; or commits in writing to the United States Government that it will not transfer such defense articles if not demilitarized to any other foreign country or person without first obtaining the consent of the Secretary of State. This provision replicates the restriction found in section 3(a) of the AECA.

Sec. 4363. Proceeds of Sale of Retransferred Defense Articles. This section mandates that no defense article shall be furnished to any country or international organization on a grant basis unless such country shall have agreed that in disposing or transferring of any defense article

received under this title, the net proceeds of such sale will be paid to the United States. This provision replicates the restriction found in section 505(f) of the FAA.

Sec. 4364: Certification. This section prohibits the Secretary from transferring a defense article or defense serve that would be, if it were a sale, subject to the requirements regarding congressional certification of sensitive foreign military sales and agreements (sec. 4382), unless the Secretary submits a written certification. The certification must include information such as the name of the country or organization proposing to make such retransfer and the reasons for such proposed retransfer.

CHAPTER 5—ENFORCEMENT AND MONITORING OF ARMS SALES

Sec. 4371. General Authority. This section authorizes the President to exercise the same powers concerning violations and enforcement regarding violations of this subtitle which are conferred upon departments, agencies and officials by subsection (c), (d), (e), and (g) of section 11 of the Export Administration Act of 1979 and by subsections (a) and (c) of section 12 of such Act (as continued in effect under the International Emergency Economic Powers Act), subject to the same terms and conditions as are applicable to such powers under such Act.

However, section 11(c)(2)(B) of the Export Administration Act of 1979 (pertaining to notice and hearing before the imposition of any administrative sanction or civil penalty, including any civil penalty or any suspension or revocation of authority to export), shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary may assess civil penalties for violations of this Act and regulations prescribed thereunder. The Secretary may commence a civil action to recover such civil penalties. The names of the countries and the types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines that the release of such information would be contrary to the national interest. This provision replicates the restriction found in section 38(e) of the AECA.

Sec. 4372. Criminal and Civil Penalties. This section mandates that any person who willfully violates any provision of this Act relating to the export of defense articles and defense services, or any rule or regulation issued thereunder, shall upon conviction be fined for each violation not more than \$1,000,000, or imprisoned not more than 20 years, or both. This section also mandates that any person convicted of transferring small arms and light weapons to the countries in the Western Hemisphere in violation of this Act shall be fined between \$1 Million and \$3 Million, and imprisoned for not more than 20 years, or both.

This provision largely replicates the restriction found in section 38(c) of the AECA, but updates and doubles the maximum prison term from 10 to 20 years, as well as adds the additional penalties for illicit trafficking in small arms and light weapons in the Western Hemisphere.

Sec. 4373. Identification of Persons of Concern. This section requires the President to develop appropriate mechanisms to identify, in connection with the export licensing process under this subtitle persons who are the subject of an indictment for, or have been convicted of, a violation

under section 4372 and various other laws relating to national security, and authorizes the President to disapprove a license application to export by any such person. This provision replicates the restriction found in section 38(g)(1) of the AECA.

Sec. 4374. Standards to Identify High-Risk Exports. This section requires the Secretary of State to, in coordination with all appropriate agencies, develop standards for identifying high-risk defense articles for regular end-use verification. This provision replicates the restriction found in section 38(g)(7) of the AECA.

Sec. 4375. Requirement of Exporters to Report Shipment. This section mandates that a person to whom a license has been granted to export an item on the United States Munitions List shall, not later than 15 days after the item is exported, submit to the Department of State a report containing all shipment information, including a description of the item and the quantity, value, port of exit, and end-user and country of destination of the item. This provision replicates the restriction found in section 38(i) of the AECA.

Sec. 4376. End-Use Monitoring of Defense Articles and Defense Services. This section requires the President to establish a program that monitors the end-use of defense articles and defense services exported under this Act or predecessor Acts. Such program shall be in accordance with the standards that apply for identifying high-risk exports for regular end-use verification developed under section 4192 and designed to provide reasonable assurance that the recipient is complying with the requirements imposed by the United States Government with respect to use, transfers, and security of defense articles and defense services; and such articles and services are being used for the purposes for which they are provided. The President is required to annually report to the Congress on how this program is being implemented. This provision replicates the restriction found in section 40A of the AECA.

Sec. 4377. Fees of Military Sales Agents and Other Payments. This section requires the Secretary of State to require adequate and timely reporting on political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with sales of defense articles or defense services in order to solicit, promote, or otherwise to secure the conclusion of such sales.

This section also authorizes the Secretary to prohibit, limit, or prescribe conditions with respect to such contributions, gifts, commissions, and fees as the President determines will be in furtherance of the purposes of this Act. This provision replicates the restriction found in section 39 of the AECA, with the difference of authorizing the Secretary rather than the President.

Sec. 4378. Prohibition on Incentive Payments. This section prohibits any U.S. person from making any incentive payments for the purpose of satisfying, in whole or in part, any offset agreement with that country. The civil penalty for each violation of this section may not exceed \$500,000 or five times the amount of the prohibited incentive payment, whichever is greater. This provision replicates the restriction found in section 39A of the AECA.

CHAPTER 6—CONGRESSIONAL REVIEW OF ARMS SALES

Sec. 4381. Reports On Commercial And Governmental Military Exports; Congressional Action. This section requires the Secretary of State to transmit to the appropriate congressional committees not more than 60 days after the end of each fiscal quarter an unclassified report, and a classified addendum if necessary, summarizing various aspects of U.S. arms sales for the previous quarter.

Sec. 4382. Congressional Certification Of Sensitive Foreign Military Sales and Agreements. This section requires the Secretary of State to submit to the appropriate congressional committees a numbered certification with respect to any letter of offer to sell, or an application by a person for a license for the export of, the following defense articles and defense services, to a foreign country or international organization:

- (1) Major defense equipment of a type that have not been sold to such country or organization for \$25,000,000 or more;
- (2) Major defense equipment of a type that have been sold to such country or organization but are significantly different in terms of capability from those previously sold, for \$25,000,000 or more;
- (3) Fixed- or rotary-wing aircraft, whether flown remotely or by an onboard pilot; engines for same and sensitive components of such engines;
- 4) Radars;
- (5) Guided or ballistic missiles, regardless of mode of launch;
- (6) Firearms, Close Assault Weapons, and Combat Shotguns over \$1,000,000.
- (7) Night vision devices.
- (8) Naval vessels, both surface vessels (above 3,000 tons) and submersibles.
- (9) Toxicological Agents and associated equipment, for \$25,000,000 or more.
- (10) Tanks (including significant components) and armored vehicles.
- (11) Other defense articles and defense services for \$100,000,000 or more.
- (12) Design and construction services for 8 \$300,000,000 or more.

This section also requires detailed information to accompany such certifications, comparable to those required under section 36(b) and 36(c) of the AECA.

Section 4382 also sets various requirements for the submission of a numbered certification before a United States commercial technical assistance or manufacturing licensing agreement that involves the manufacture abroad of any sensitive military equipment is approved under section 4301, the Secretary shall transmit to the appropriate congressional committees an unclassified numbered certification with respect to such agreement.

Prior to the notification of a letter of offer, an application to export, or the conclusion of an commercial technical assistance agreement or a manufacturing license agreement, the Secretary shall consult with the appropriate congressional committees in keeping with the long-standing consultation practices of such committees. This section is significantly different from the requirements for arms sales certifications to Congress under the AECA. The AECA sets various dollar-value thresholds for notification to Congress of proposed sales of defense articles and

defense services, as a blunt but effective “catch-all” to ensure that the Congress will be able review all arms sales regardless of significance for their value, or harm, to U.S. foreign policy and national security interests. However, this casts an unnecessarily wide net.

Therefore, section 4382 attempts to enumerate the specific types of sensitive defense articles and services, under specific conditions, that Congress has the greatest interest in reviewing. For example, the first introduction of an advanced precision missile into the country is an appropriate occasion for the Congress to review whether such sale does or does not make sense, according to the purposes and considerations of arms sales set out in this Title. Subsequent sales of the same missile, if not objected to on the first occasion, should not have the same relevance for Congressional review. As such, Congress - and specifically the foreign affairs committees, as the committees of primary jurisdiction over U.S. arms sales – should be able to focus more time and attention toward sales of the most significance for the United States.

Sec. 4383. Upgrade or Enhancement. This section requires that the Secretary shall inform the appropriate congressional committees of any significant upgrade or enhancement to a defense article or defense service beyond that which was already described in a numbered certification to the Congress under this subtitle. If the enhancement or upgrade exceeds certain value thresholds, a new numbered certification must be submitted and subjected to the same Congressional review procedures required of new certifications under this Chapter.

Sec. 4384. Congressional Review Period and Disapproval. This section requires that any numbered certification submitted to the appropriate congressional committees for a letter of offer or a license to export under section 4348 may not be issued not earlier than—

- (1) in the case of a strategic United States ally, 15 legislative days after the date of submission of the certification;
- (2) in the case of any other country, 30 legislative days after the date of submission of the certification; and
- (3) in the case of a license for export of a commercial communications satellite for launch from, and by nationals of, the Russian Federation, Ukraine, or Kazakhstan, 15 legislative days after the date of submission of the certification.

This section also mandates that no letter of offer, or license to export, may be issued for any proposed sale subject to the provisions of this section if Congress enacts a joint resolution of disapproval for any such sale within the respective time periods specified above.

Sec. 4385. National Security Waiver of Congressional Review of Arms Sales. This section authorizes the President to waive the foregoing congressional notification requirements if the President informs the appropriate congressional committees that an emergency exists which requires a sale of a defense article or defense service under section 4348 in the national security interests of the United States. The President must set forth in a statement to Congress a detailed justification for the President’s determination, including a description of the emergency circumstances which necessitate the immediate issuance of the letter of offer and a discussion of the national security interests involved. This section replicates the comparable authority under section 3(d)(2) of the AECA.

Sec. 4386. Publication of Arms Sales Notifications. This section, like its counterpart section 36(f) of the AECA, requires the Secretary to publish arms sales notifications to the Congress in the Federal Register for public information.

Sec. 4387. Certification Requirement Relating to Israel's Qualitative Military Edge. This section, like section 36(h) of the AECA, requires that any certification relating to a proposed sale or export of defense articles or defense services under this chapter to any country in the Middle East other than Israel shall include an unclassified determination that the sale or export of the defense articles or defense services will not adversely affect Israel's qualitative military edge over military threats to Israel, but may also include a classified determination as well.

CHAPTER 7—LANDMINES, SMALL ARMS, AND LIGHT WEAPONS

Sec. 4391. Landmines. This section states that demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

Sec. 4392. Cluster Munitions. This section prohibits the furnishing of any security assistance for cluster munitions, or license for export of for cluster munitions, and transfer of cluster munitions or cluster munitions technology, unless (1) the submunitions of the cluster munitions, after arming, do not result in more than 1 percent unexploded ordnance across the range of intended operational environments; and (2) the agreement applicable to the assistance, transfer, or sale of such cluster munitions or cluster munitions technology specifies that the cluster munitions will only be used against clearly defined military targets and will not be used where civilians are known to be present or in areas normally inhabited by civilians; and the recipient agrees to immediately recover any unexploded submunitions, and to give assistance as necessary to any civilian injuries, that follow the use of such weapons in any area in which civilians are present.

SUBTITLE D—GENERAL ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 4401. General Provisions. This section enjoins the Executive, in carrying out this title, to place special emphasis on procurement in the United States. However, consideration shall also be given to coproduction or licensed production outside the United States of defense articles of United States origin when such production best serves the foreign policy, national security, and economy of the United States. This section also provides various factors to be considered in evaluating any sale proposed to be made pursuant to this title.

This section also details the responsibilities of the Secretary of Defense regarding certain provisions of this title, such as the determination of military end-item requirements, the

procurement of military equipment in a manner which permits its integration with service programs; the supervision of the training of foreign military personnel; the movement and delivery of military end-items; within the Department of Defense, the performance of any other functions with respect to sales and guaranties.

This section further requires termination clauses be included in contracts for sale under certain sections of this Title, and that each export license issued shall provide that such license may be revoked, suspended, or amended by the Secretary, without prior notice, whenever the Secretary deems such action to be advisable.

Sec. 4402. Administrative Expenses. This section states that funds made available under other provisions of law for the operations of United States Government agencies carrying out functions under this title shall be available for the administrative expenses incurred by such agencies under this title. It also sets out requirements for reimbursement for services under certain sections and limitations on official reception and representation expenses.

Sec. 4403. Detail Of Appropriate Personnel. This section authorizes the President to detail, as necessary, appropriate personnel from any department or agency of the United States Government to the Department of State on a nonreimbursable basis, to assist in the initial screening of applications for export licenses under this subtitle in order to determine the need for further review of those applications for foreign policy, national security, and law enforcement concerns.

Sec. 4404. Rule Of Construction. This section makes it clear that nothing in this title shall be construed as modifying in any way the provisions of the Atomic Energy Act of 1954 or section 7307 of title 10, United States Code.

Sec. 4405. Performance Goals For Processing Of Applications For Licenses To Export Items On United States Munitions List. This section requires the Secretary to establish and maintain goals regarding the processing time for review of each application for a license to export items on the United States Munitions List (other than a Manufacturing License Agreement; the processing time for review of each application for a commodity jurisdiction determination; and other standards. This provision, and the two that follow, are derived from the Defense Trade Controls Performance Improvement Act of 2007, introduced by Reps. Sherman, Manzullo, Crowley and Blunt in the 110th Congress.

Sec. 4406. Availability Of Information On The Status Of License Applications. This section requires the Secretary to make available to persons who have pending license applications under this chapter and the appropriate congressional committees the ability to access electronically current information on the status of each license application required to be submitted under this chapter.

Sec. 4407. Requirement to Ensure Adequate Staff And Resources for the Directorate of Defense Trade Controls of The Department Of State. This section requires the Secretary to

ensure that there are the necessary staff and resources to carry out this subtitle, including a minimum number of licensing officers.

Sec. 4408. Overseas Management Of Assistance And Sales Programs. This section authorizes the President to assign members of the United States Armed Forces, personnel of the Department of Defense, the Department of State, or any other department or agency of the United States, to a foreign country to perform security assistance functions. However, except for specific named countries, the number of members of the Armed Forces assigned to a foreign country in a fiscal year may not exceed 12 unless specifically authorized by Congress, unless the President waives such requirement on the basis that United States national interests require more to carry 3 out international security assistance programs 4 in the foreign country.

Sec. 4409. Designation Of Major United States Allies. This section details procedures for the President to designate “Major United States Allies”, a replacement designation for existing “Major Non-NATO Allies,” and with initial designations enumerating existing countries that are Major Non-NATO Ally (less Israel and South Korea, which have been redesignated as member countries of the designation “Strategic United States Allies”).

Sec. 4410. Depleted Uranium Ammunition. This section prohibits funds available for this Act to facilitate transfers of depleted uranium antitank shells to a country other than a Strategic United States Ally, a Major United States Ally, or Taiwan, unless the President determines that to do so is in the national security interest of the United States.

Sec. 4411. Definitions. This section sets various definitions for this Title.

TITLE V: COUNTERING TRANSNATIONAL THREATS

Title V sets out the basic authorities for nonproliferation activities, nuclear energy cooperation, counternarcotics programs, and counterterrorism authorities.

SUBTITLE A—NONPROLIFERATION AUTHORITIES

CHAPTER 1—NUCLEAR NONPROLIFERATION

Sec. 5111. Authorization of Assistance to Prohibit the Proliferation of Nuclear, Chemical, and Biological Weapons. This section replicates and combines the various sections of Chapter 9 of the FAA. It authorizes the President provide assistance to any country or organization in order to prohibit the proliferation of nuclear, chemical, and biological weapons and the means to deliver such weapons, through support of activities designed to enhance the nonproliferation capabilities of a country or organization by providing training and equipment to detect, deter, monitor, interdict, and counter proliferation; to strengthen the bilateral ties of the United States with a country or organization by offering assistance in this area of vital national security interest; to accomplish the activities and objectives set forth in sections 503 and 504 of the FREEDOM Support Act (22 U.S.C. 5853 and 5854), without regard to the limitation of those

sections to the independent states of the former Soviet Union; and to promote multilateral activities, including cooperation with international organizations, relating to nonproliferation.

Sec. 5112. Education and Training to Enhance Nonproliferation and Export Control Capabilities. This section authorizes the Secretary to provide education and training to appropriate military and civilian personnel of foreign countries for the purpose of enhancing the nonproliferation and export control capabilities of such personnel through their attendance in special courses of instruction conducted by the United States.

Sec. 5113. Opposition of Withdrawal from treaty on the Non-Proliferation of Nuclear Weapons. This section declares that it is the policy of the United States to oppose the withdrawal of any country that is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and to use all political, economic, and diplomatic means at its disposal to deter, prevent, and sanction any such withdrawal from the Treaty. It also prohibits any U.S. assistance (other than humanitarian assistance) to a country that has withdrawn from the NPT, unless the President determines and notifies the appropriate congressional committees that such waiver is in the vital national security interest of the United States. Further, the United States shall seek the return of any material, equipment or components previously transferred to such country.

The NPT is the most-subscribed treaty in history, and the cornerstone of the global nuclear nonproliferation regime. However, if countries begin to withdraw for whatever reason, it could threaten a cascade of similar withdrawals, as the potential global threat of nuclear proliferation increases and states decide that they must develop nuclear weapons to protect themselves. This provision is meant to deter any NPT member country from taking such a dangerous action.

Sec. 5114. Matters Relating to International Atomic Energy Agency. This section requires the United States to pay its dues to the International Atomic Energy Agency (IAEA) at the beginning of the Agency's fiscal year, which starts January 1. The United States in the early 1980's deferred payment of its dues until the start of the U.S. fiscal year, with the next fiscal year's appropriation, thereby allowing a one-year savings. However, what was intended as a temporary measure has become permanent, and consequently, the IAEA is literally starved of a quarter of its operating funds for three-quarters of its fiscal year for the fiscal convenience of the United States. Unfortunately, other countries are also beginning to follow the U.S. example, making the funding problem worse.

The IAEA is of critical importance to the United States' national security. Its nuclear safeguards and inspections system is frequently the only insight countries get on the nuclear activities of countries of concern such as Iran. It operates as the international early-warning system that a country may be diverting civil nuclear material and technology to illicit military purposes. It must be fully supported, including by paying dues on time, to be effective.

Sec. 5115. Arms Control and Nonproliferation Scholarship Program. This section establishes the Arms Control and Nonproliferation Scholarship Program to award scholarships for the purpose of recruiting and preparing students for civilian careers in the fields of

nonproliferation, arms control, and international security to meet the critical needs of the Department of State.

CHAPTER 2—MISSILE NONPROLIFERATION

Sec. 5121, Licensing. This section requires the Secretary of State, in consultation with the Secretary of Defense and the heads of other appropriate Federal departments and agencies, to establish and maintain, as part of the United States Munitions List, a list of all items on the Missile Technology Control Regime (MTCR) Annex the export of which is not controlled under section 6(l) of the Export Administration Act of 1979 (as continued in effect under the International Emergency Economic Powers Act). It also sets standards for the review of applications to export items on such list, including requirements and procedures for review by the Secretary of Defense and the Secretary of Commerce.

Sec. 5122, Denial of the Transfer of Missile Equipment or Technology by United States Persons. This section authorizes the President to apply sanctions, including denial of the privilege to export, to a U.S. person that the President determines knowingly exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 4311 of this Act, section 5 or 6 of the Export Administration Act of 1979 (as continued in effect under the International Emergency Economic Powers Act), or any regulations or orders issued under any such provisions; conspires to, facilitates, or attempts to engage in such export, transfer, or trade.

Sec. 5123, Transfers of Missile Equipment or Technology by Foreign Persons. This section authorizes the President to impose sanctions on foreign persons that knowingly exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the acquisition, design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act, conspires to or attempts to engage in such export, transfer, or trade, or facilitates such export, transfer, or trade by any other person. Sanctions include denial of export privileges and denial of U.S. Government contracts.

Sec. 5124, Notification of Admittance of MTCR Adherents. This section requires the President to report to Congress on any U.S. action that results in a country becoming an adherent to the MTCR, including the rationale for such U.S. actions and an assessment of that country's nonproliferation policies, practices, and commitments. Such report shall also include the text of any agreements or understandings between the United States and such country regarding the terms and conditions of the country's adherence to the MTCR. This section further requires that at such times that the above-mentioned report is transmitted, the Director of National Intelligence shall submit to Congress a separate report containing any credible information indicating whether the country in the report has engaged in sanctionable activity within the previous two years.

Sec. 5125, Authority Relating To MTCR Adherents. This section provides that notwithstanding section 5123(b), the President may take the actions under section 5123(a)(2) under the circumstances described in section 5126(b)(2).

Sec. 5126, Definitions. This section sets definitions for this chapter.

CHAPTER 3—CHEMICAL AND BIOLOGICAL NONPROLIFERATION

Sec. 5131, Sanctions Against Certain Foreign Persons. This section authorizes the President to impose certain sanctions if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States, through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979 (as continued in effect under the International Emergency Economic Powers Act), to the efforts by any foreign country, project, or entity to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

Such countries, projects, or entities receiving assistance include any foreign country that the President determines has used chemical or biological weapons in violation of international law; used lethal chemical or biological weapons against its own nationals; or made substantial preparations to engage in such activities; any foreign country whose government is determined for purposes of section 6(j) of the export Administration Act of 1979 (as continued in effect under the International Emergency Economic Powers Act) to be a government that has repeatedly provided support for acts of international terrorism; or any other foreign country, project, or entity designated by the President for purposes of this section.

The sanctions include a prohibition on U.S. Government procurement of any goods and services from such foreign person, or importation into the United States of products produced by any such person.

The President shall not be required to impose such sanctions in the case of U.S. procurement of defense articles or defense service under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements; or if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or defense services, that the defense articles or defense services are essential, and that alternative sources are not readily or reasonably available; or if the President determines that such articles or services are essential to the national security under defense coproduction agreements. The President may also exercise a waiver of the sanctions if he determines that such waiver is important to the national security interests of the United States.

The President may terminate the application of any sanction imposed on any person pursuant to this section after 12 months,

SUBTITLE B COUNTER-NARCOTICS AUTHORITIES

Sec. 5201. Findings This section outlines basic findings about the international narcotics trade. The market for illicit narcotics has become increasingly intertwined with all international crime. The narcotics trade fuels corruption, undermines economic growth, and facilitates other illicit and destructive activities such as human and arms trafficking. Combating the narcotics trade requires international cooperation because the networks that promote it are transnational in nature. It is equally important for the U.S. to consistently evaluate its counter-narcotics efforts, given the magnitude of resources it devotes to such activities.

Sec. 5202. Statement of Policy. This section describes the U.S. policy on narcotics, which is to support international narcotics control programs that target the growth, manufacture and trafficking of illicit drugs. It also includes supporting programs and international cooperation to target money laundering and the diversion of precursor chemicals. It also states the policy of the U.S. is to use its voice and vote in multilateral development banks to encourage the development and implementation of counter-narcotics programs in the major illicit drug producing countries.

Sec. 5203. Goals and Objectives. This section provides the main goals and objectives of U.S. counter-narcotics and anti-crime assistance. The primary goal of this subtitle is to increase the capacity of countries to combat narcotics trafficking, money laundering, and transnational crimes. The objectives for achieving this goal are professionalizing and enhancing the capacity of the key law enforcement agencies of partner countries.

Sec. 5204. General Authorities. This section outlines general authorities related to counter narcotics assistance, including the authority of the President to conclude agreements that will facilitate the control of production, processing, transportation and distribution of narcotics, and other controlled substances. It also outlines the authority of the Secretary of State, notwithstanding any other provision of law, to furnish assistance to any country or international organization, on such terms as she may determine, to combat the international narcotics trade and related international crime. This section also reaffirms that the Secretary is responsible for the coordination and approval of all U.S. Government counter-narcotics efforts, to ensure that counter-narcotics programs across U.S. Government agencies complement each other.

The Secretary is instructed to monitor any use under this subtitle of herbicide for aerial eradication for its impact on the environment and health of individuals. If the Secretary determines that the use of herbicide is harmful to the environment or health of individuals, she will report that to Congress with recommendations the Secretary deems appropriate.

Sec. 5205. Authorization of the Bureau of Counternarcotics and Law Enforcement. This section formally authorizes the establishment of the Bureau of Counternarcotics and Law Enforcement. It formalizes the responsibilities of the Bureau to oversee programs related to counter-narcotics and anti-crime.

Sec. 5206. Use of Funds. Subsection (a) provides that funds transferred to and consolidated with funds appropriated to carry out this subtitle may be made available on such terms and conditions as are applicable to funds appropriated to carry out this subtitle, consistent with section 482(f) of the FAA (treatment of funds). Subsection (b) authorizes the Secretary to accept contributions from foreign governments to carry out the purposes of this subtitle, and it calls on recipient countries to bear a share of the costs of any narcotics control program, to ensure local commitment to the programs. Subsection (c) provides that individuals funded pursuant to this section may provide administrative assistance to personnel in the INL Bureau, except if such assistance would reduce the amount of funds available for foreign assistance. Subsection (d) establishes the notification procedures prior to a transfer of seized or forfeited property. Finally, subsection (d) authorizes the Secretary to receive non-lethal property from any U.S. Government department or agency to provide such property to a foreign government for the purposes of this subtitle.

Sec. 5207. Requirements Relating to Aircraft and Other Equipment. This section draws heavily on Section 484 of the Foreign Assistance Act. It requires that aircraft made available under this subtitle to a foreign country, or made available to a foreign country primarily for narcotics-related purposes under any other provision of law, must be made on a lease or loan basis, unless the Secretary determines that the requirement in this section would be contrary to the national interest and notifies the appropriate congressional committees of this determination. The Secretary must also take all reasonable steps to ensure that aircraft made available to foreign countries under this chapter are used only in ways consistent with the purposes for which such equipment was made available, except – consistent with section 11508 --- in the case of an emergency. The Secretary must maintain records on the use of any aircraft made available to a foreign country, and those records will be available upon request of the appropriate congressional committees.

Sec. 5208. Restrictions. This section imposes several restrictions on counternarcotics assistance, including a reiteration of the restriction in section 3303(d) on participation in foreign police actions. Other restrictions include: funds may not be used to procure weapons or ammunition, except for: the defensive arming of aircraft used for narcotics-related purposes; defensive purposes for employees or contract personnel of the Department of State doing work under this subtitle; and with the notification of the appropriate congressional committees prior to funding such procurements.

Funds for this subtitle may also not be used to acquire land or other real property for use by foreign military, paramilitary, or law enforcement forces, except for the leasing of property for less than two years or the acquisition of property for a training facility. Finally, funds for this subtitle may not be used for the construction of facilities for use by foreign military, paramilitary, or law enforcement forces unless they provide prior notification to the appropriate congressional committees, or the funding of such facility is less than \$750,000.

Sec. 5209. International Counter Narcotics Strategy. This section requires the Secretary to submit a counter-narcotics strategy to the appropriate congressional committees every four years. This strategy should define the objectives that the Department of State plans to target for each

region, sub-region, and country—as appropriate—over the subsequent four years. The strategy should outline how the State Department will coordinate and complement the activities of other bilateral and multilateral donors. It should define the role of each Federal department and agency. The report shall also include an estimate of the required human and financial resources over the next four years, as well as the amounts of money dedicated to similar purposes over the previous 4-year period and lessons-learned.

Finally, the strategy should include an analysis of key opportunities and challenges to achieving its goals in the subsequent four years, and a list of indicators to be used in an impact evaluation once the 4-year period is over.

Sec. 5210. Annual Narcotics Control Reports. This section outlines the annual report with key facts on narcotics control that Congress will receive. This report will include a list of the countries that are major drug-transit, drug producing, pre-cursor chemical source, and money laundering countries. The definitions for these terms are taken from Sec. 481 (e) of the Foreign Assistance Act, and are listed in this section.

The report will also include the amounts and types of assistance that each relevant agency or department is providing for international counter-narcotics programs. These agencies include the Department of Justice, the Department of Homeland Security, the Department of Defense, and the Coast Guard. This assistance report will cover the previous fiscal year, the current fiscal year, and request for the next fiscal year.

This report will include the annual herbicides for aerial eradication report, which assesses the impact of the herbicides on the environment, the health of individuals, and internal displacement of citizens in the affected country.

Finally, the report will include a list of all transfers made by the U.S. government to a foreign country for counter-narcotics purposes, as well as contributions made to the U.S. for counter-narcotics and the purposes for which such contributions were used.

Sec. 5211. Narcotics Strategy Evaluation. This section outlines the impact evaluation that will be done as a follow-up to the four-year strategy that the Secretary submits to Congress. The purpose of this evaluation is to determine the degree to which the goals of the strategy were met. This evaluation should provide valuable information to implementers and planners of future counter-narcotics programs.

Indicators that should be considered for incorporation into the impact evaluation relate to: Supply-side factors, such as drug production, value of that drug production, and size of the population involved; disruption of networks, such as drug seizures as a percentage of estimated total production, number of arrests and convictions of major organized crime figures; economic well-being and governance, such as perceptions of police competence, number of households that have left the illicit drug trade for licit opportunities.

Sec. 5212. Definition. This section defines “narcotic and psychotropic drugs and other controlled substances” as the same as is given by any applicable international narcotics control agreement or domestic law of the country or countries concerned.

SUBTITLE C—COUNTER-TERRORISM AUTHORITIES

Sec. 5301. Purposes. This section establishes the purposes of US counterterrorism assistance. It expands upon sections 571-574 in the FAA and includes assistance to build the capacity of foreign security personnel – traditionally limited to law enforcement personnel -- along with countering violent extremism, an increasing priority for the Department of State. These changes reflect the overall evolution of US Government counterterrorism efforts since September 11th. Although containing ungoverned spaces and helping partners fight terror is a key objective of assistance, the U.S. Government should focus on a spectrum of activities to ameliorate the conditions giving rise to extremism.

Sec. 5302. Assistance to Countries and Multilateral Organizations for Counterterrorism Activities. This section builds upon section 571 of the FAA and provides the scope of authorities for counterterrorism assistance. Subsection (a) provides that notwithstanding provisions of law that restrict assistance to foreign countries (other than “Leahy” and prohibitions on assistance to state sponsors of terror), the Secretary may provide assistance to build the security capacity of foreign partners and enhance partners’ ability to counter violent extremism. Assistance may include training services and the provision of equipment; countering violent extremism; and support and cooperation with foreign banking, regulatory, and other officials to counter the financing of terrorist activities.. These activities reflect the current scope of functions performed by the Office of the Coordinator for Counterterrorism and are an appropriate mission for the Department of State. Programs to counter violent extremism must be coordinated with the Administrator. .

Subsection (b) authorizes assistance to support multilateral organizations for international and regional counterterrorism programs. In contrast to the period when section 571 of the FAA came into being, the State Department today relies on a tight web of regional alliances to fight terror. The State Department initiated Regional Security Initiatives to bring partners together to share tactics and strategy, and multilateral organizations play a key role in this effort.

Subsection (c) replaces subsection 573(a) of the FAA. It authorizes any Federal agency to provide services and commodities, without charge to funds available to carry out this subtitle, to an eligible foreign country. Subsection (d) corresponds to subsection 573(b) of the FAA and requires consultation with the Assistant Secretary for Democracy, Human Rights, and Labor for programs conducted pursuant to this subtitle. This provision reiterates requirements in title III.

Sec. 5303. Counter-terrorism Responsibilities of the Department of State. This section authorizes a key recommendation of the QDDR – the establishment of a Bureau of Counterterrorism. State Department’s efforts in fighting terror have evolved tremendously since the days of Ronald Reagan, when the position of the Office of the Coordinator for

Counterterrorism (S/CT) was first established. Today S/CT not only coordinates policy, but implements major counterterrorism initiatives. Its staff rivals those of other bureaus, and its mission cuts across every major office in the Department. Elevating S/CT to a bureau reflects its heightened status in the Department and the overall significance of its mission.

Paragraph (a)(1) would amend the Basic Authorities Act of 1956 and increase the number of assistant secretaries from 24 to 25 to make room for a new Assistant Secretary of Counterterrorism. Paragraph (a)(2) would also amend the Basic Authorities Act and clarify that (1) the Secretary of State is responsible for the overall supervision (including policy oversight of resources) of counterterrorism activities; and (2) she may designate an Assistant Secretary to assist in such activities. To the extent counterterrorism requires, fundamentally, an individualized foreign policy approach with each country, the Secretary should be in the lead for the entire U.S. Government. This paragraph would also clarify that the Secretary of State may transfer any authority, duty, or function assigned to the Coordinator for Counterterrorism or to the Office of the Coordinator for Counterterrorism to the Assistant Secretary or other senior official designated by the Secretary of State or to the Bureau of Counterterrorism (as the case may be).

TITLE VI: SUSTAINING THE GLOBAL ENVIRONMENT

This subtitle builds upon and consolidates the authorities from the Enterprise for the Americas Initiative (Part IV), the Tropical Forest Conservation Act (Part V), and Debt-for-Nature Exchanges (chapter 7 of Part I) in the Foreign Assistance Act of 1961 as well as the Tropical Forest and Coral Conservation Act, introduced by Reps. Kirk and Hastings in the 111th Congress.

SUBTITLE A— DEBT-FOR-NATURE EXCHANGES

Sec. 6101. Findings and Statement of Policy. This section sets out findings related to the global environment. Poverty and economic pressures on the populations of developing countries have led to environmental degradation that exacerbate existing challenges and imperil long-term, sustainable development. Debt reduction can reduce economic pressures on developing countries and provide funds for environmental conservation and development. Identifying and developing economic benefits to local communities from sustainable use of the environment is critical to the protection of ecosystems and to overall development. Tropical forests provide a wide range of benefits to humankind by harboring a major share of Earth's biological and terrestrial resources. Coral reefs and associated coastal marine ecosystems provide a wide range of benefits to humankind by providing a major source of food and jobs for hundreds of millions of coastal residents.

It is the policy of the United States to work in cooperation with partner countries and nongovernmental organizations to protect and sustainably manage tropical forests, coral reefs, and other natural ecosystems, including through debt-for-nature exchanges.

Sec. 6102. Definitions. This section defines terms used in this subtitle, including “administering body,” “partner country,” “Debt-for-Nature Agreement,” “Debt-for-Nature Facility,” “Debt-for-Nature Fund,” and “eligible country.”

Sec. 6103. Establishment of the Facility. This section establishes a “Debt-for-Nature Facility” in the Treasury Department to administer debt reduction under this subtitle.

Sec. 6104. Eligibility for Benefits. This section sets requirements for a country to be eligible for benefits under this subtitle that are: democratically elected; not supporting acts of international terrorism; not engaging in consistent patterns of human rights violations; making progress towards an International Monetary Fund arrangement and, as appropriate, a World Bank or International Development Association adjustment loan; and an agreement with commercial bank lenders, if appropriate, on a satisfactory financing program.

Sec. 6105. Authority to Engage in Debt-for-Nature Swaps and Debt Buybacks. This section authorizes debt-for nature swaps, which are agreements that normally involve a non-governmental organization and a debtor country that is repaying a loan to the U.S. government. In a swap, the NGO will buy a country’s debt from the U.S. government at a reduced rate. The NGO then restructures the debt agreement with the debtor government in exchange for the government providing funds towards eligible activities defined in section 6108.

This section also authorizes debt buybacks, which are agreements where a debtor country buys its outstanding loan at a reduced rate. Then the lesser of either 40 percent of the reduced discounted price or the difference between the reduced discounted price and the face value of the debt is placed in a fund towards eligible activities defined in section 6108. For example, if the value of the debt was \$1 million, 40 percent will be \$400,000, and if the discounted price is \$250,000 then \$250,000 would be placed towards section 6108 eligible activities.

The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

Sec. 6106. Reduction of Debt Owed to the United States as a Result of Concessional Loans or Credits Under This Act and Certain Other Provisions of Law. This section authorizes the President to reduce outstanding debt under this Act, the Foreign Assistance Act of 1961, or predecessor foreign economic assistance legislation. Debt reduction is pursuant to the direction of the Debt-for-Nature- Facility in section 6103 and a Debt-for Nature Agreement in section 6107.

The principal amount of new obligations shall be repaid in U.S. dollars and deposited in the U.S. Government account established for principal repayments. New obligations should bear interest at a concessional rate. Interest on payments shall be paid in local currency and deposited in the Debt-for-Nature Fund.

Sec. 6107. Debt-for-Nature Agreement. This section authorizes the Secretary of State to enter into a Debt-for-Nature agreement with an eligible country. An agreement requires: the establishment of a Fund or usage of an existing fund created under previous law; the partner country to make prompt disbursements; maintain the value of the local currency in terms of U.S. dollars; reasonable provisions for the enforcement of the agreement; and establishment of criteria for grants consistent with eligible activities in section 6108.

Under this section, amounts disbursed by the Fund would be administered by a body under the laws of the partner country. The body would be composed of individuals representing the U.S. government, partner country government; and environmental NGOs, local community development NGOs; as well as scientific and academic institutions in the partner country. The administering body would be responsible for receiving proposals and providing grants; managing the program; consulting with local communities; auditing financial statements; granting the Government Accountability Office access to their books; and presenting an annual plan for the upcoming year and report on activities during the previous year.

Grants can be made to environmental, forestry, conservation and indigenous peoples organizations in the partner country; appropriate local or regional entities; or, in exceptional circumstances, the partner country government. Priority would be given to local NGOs that involve local communities in their planning and execution.

Any grant over \$250,000 shall be subject to approval by the governments of the United States and partner country.

Requires Congressional notification before the United States enters into an agreement.

Sec. 6108. Eligible Activities. This section allows for grants to be made for conservation of land and marine animal and plant species; establishment of protected areas; development and implementation to address the effects of climate change on environmental resources; training to improve conservation capacity of partner countries; and research and identification of medicinal uses of plant life to treat human diseases, illnesses, and health related concerns.

Sec. 6109. Debt-for-Nature Fund. This section requires the establishment of a Debt-for-Nature Fund to receive payments of interest and principal on new obligations.

Sec. 6110. Responsibilities to the Congress. This section requires consultation with appropriate congressional committees on a periodic basis to review the operation of the Facility. It requires an annual report by December 31 of every year concerning the Debt-for-Nature Facility under this subtitle. The report shall include a description of the activities taken under a Facility, any agreement entered into; report on debt-for-nature funds established; and a description of grants provided by administering bodies.

Sec. 6111. General Savings Clause. This section maintains existing agreements under the Enterprise for the Americas Initiative or the Tropical Forest Conservation Act subject to the terms and conditions under such an agreement.

SUBTITLE B—COMMERCIAL DEBT-FOR-NATURE EXCHANGES

This subtitle continues authorities for Debt-for-Nature Exchanges (chapter 7 of Part I) in the Foreign Assistance Act of 1961 and aligns the eligible activities with those in Subtitle A.

Sec. 6201. Commercial Debt-for-Nature Exchange Defined. This section defines Commercial Debt-for-Nature Exchange as the cancellation or redemption of foreign debt in exchange for the government providing local currency for eligible conservation or environmental protection as described in section 6123 and/or the government’s financial resource or policy commitment to take certain specified actions to ensure the restoration, protection, or sustainable use of natural resources within that country.

Sec. 6202. Authorization for Commercial Debt Exchanges. This section authorizes the Administrator to provide grants to nongovernmental organizations for the purchase of discounted commercial debt of a foreign government as part of a commercial debt-for-nature exchange. A grantee or a subgrantee may keep the interest earned on a commercial-debt-for-nature exchange while the disbursement is pending as well as interest for approved program purposes.

Sec. 6203. Eligible Projects. This section directs the Administrator to seek to ensure that commercial debt-for-nature exchanges under this subtitle are in line with eligible activities in section 6108. The Administrator shall also seek to identify areas that due to an imminent threat are in particular need of immediate attention to prevent the loss of unique biological life or valuable ecosystems.

Sec. 6204. Eligible Countries. This section lists country eligibility requirements. Countries must meet the requirements of section 6104 and if the Administrator determines the country is fully committed to the long-term viability of the program or project; has prepared a long-term plan or a private conservation group has prepared a long-term plan; and has a government agency or local NGO with the capacity and commitment to oversee the long-term viability of the program or project.

Sec. 6205. Prohibition. This section prohibits the U.S. Government from accepting title or interest on any land in a foreign country.

TITLE VII: EXPANDING PROSPERITY THROUGH TRADE AND INVESTMENT

Title VII integrates U.S. investment and trade assistance with development goals to help countries that are taking the right steps to help themselves but nonetheless need specialized programs to attract and retain private investment.

Sec. 7001. Findings. This section finds that sustaining the impact of U.S. development assistance requires that developmentally beneficial investment be stimulated, which in turn requires U.S. programs to improve the investment climate in developing countries and to

increase exports by such countries. Increasing loans to such countries is counterproductive, given existing high debt levels.

Sec. 7002. Authority for Coordination. This section requires the Development Policy Committee (see Title I) identify which countries would benefit from U.S. programs to improve investments, as part of developing country plans.

For the identified countries, the Committee is required to assess the country's existing ability to attract and retain private investment, the improvements necessary to increase inward investment and how U.S. programs could contribute to those improvements. The assessments are included in the overall country plans.

To carry out improvements in the investment climate, the Committee may direct the use of resources and programs of USAID, OPIC, TDA and MCC.

SUBTITLE A—OVERSEAS PRIVATE INVESTMENT CORPORATION

Sec. 7101. Creation and Purpose. This section creates OPIC as a government-owned corporation, to mobilize U.S. private capital for the economic and social development of less developed countries, complementing U.S. foreign policy and development assistance goals. OPIC shall operate under the policy guidance of the Secretary of State and the Development Policy Committee.

This section also establishes the primary purpose of OPIC to carry out the strategies and country plans under Title I. OPIC is required to coordinate with the Development Policy Committee. OPIC is authorized to conduct financing, insurance and reinsurance on a self-sustaining basis; authorizes use of private credit institutions to mobilize capital to carry out the Corporation's mission to expand private enterprise and market-based economies; requires adherence to risk management principles.

Sec. 7102. Prohibitions and Restrictions. This section lists prohibitions and restrictions on OPIC activities. OPIC is prohibited from insuring or financing any project that would reduce U.S. employment or exports, or would negatively affect the environment, health or safety; from insuring or financing any project that would negatively affect human rights, employment, living standard, social welfare or culture of any person in the country where the project would occur.

OPIC is required to determine that the country where the project would occur is taking steps to protect internationally-recognized worker rights. Requires OPIC-insured or –financed investors to commit to adhere to internationally-recognized labor rights, specifically ILO core labor standards.

OPIC is also required to obtain environmental impact assessments when a proposed project is likely to have adverse environmental impacts and that OPIC-supported projects adhere to the Extractive Industries Transparency Initiative.

Sec. 7103. Capital of the Corporation. This section provides continuing authority for the Secretary of the Treasury to hold the existing capital stock of the Corporation.

Sec. 7104. Organization and Management. This section authorizes the OPIC Board of Directors, President, Executive Vice President and other officers and authorizes the Board to exercise all powers of the Corporation. This section also provides for 15 Board members, 7 of which are specified federal officials and 8 of which are private citizens with specified expertise. All are subject to Senate confirmation, as are the President and Executive Vice President. This section also provides for Board member compensation.

This section also outlines the duties of the President and Executive Vice President and authorizes 20 employees to be employed outside of Civil Service provisions.

Sec. 7105. Investment Insurance and Other Programs. This section authorizes OPIC to issue insurance against losses due to war, expropriation and currency inconvertibility and related business interruption; authorizes risk-sharing arrangements; limits OPIC total insurance risk exposure to no more than 10 percent to any investor; and requires 60-day advance notice to Congress of all proposed insurance for business interruption.

This section also authorizes OPIC to issue guarantees of loans and other investments, subject to a series of restrictions; authorizes OPIC to make direct loans in support of U.S. small businesses engaged in projects consistent with OPIC's mission and prohibits loans for oil and gas projects; authorizes OPIC to support private investment consistent with OPIC's mission.

This section further authorizes OPIC to support special projects and programs, such as financial and advisory support that provides technical, professional, or managerial assistance in the development of human resources, skills, technology, and capital savings; authorizes OPIC to engage in reinsurance and related functions; authorizes OPIC to issue local currency guarantees for financing of projects with particular developmental benefits; and requires OPIC Board to hold at least one public hearing annually.

Sec. 7106. Issuing Authority; Direct Loan Authority; Discharge of Liabilities. This section limits total OPIC contingent liability for insurance and financing to \$50 billion and authorizes OPIC to apply receipts from its insurance activities to meet costs of its financing activities; authorizes a non-credit revolving fund at the Treasury to provide for payment of liabilities; provides for payment of liabilities first from the fund and secondarily from funds appropriated to the fund; authorizes OPIC to issue debt obligations to the Treasury to obtain necessary funds to meet liabilities.

Sec. 7107. Income and Revenues. This section authorizes OPIC to retain receipts and apply them to the purposes of the Corporation.

Sec. 7108. General Provisions Relating to Insurance, Guaranty, and Financing Program. This section generally requires OPIC to enter into an agreement with the government of any country where OPIC provides insurance or financing; requires OPIC to determine that there are

sufficient protections in a country of OPIC's interests; provides the full faith and credit of the U.S. for all OPIC insurance and financing commitments; authorizes OPIC to charge fees for its insurance and financing commitments and establishes that fees generated by OPIC financing commitments are subject to provisions of the Federal Credit Reform Act; provides that fees generated by OPIC insurance commitments shall be available to meet OPIC liabilities; limits all OPIC commitments to a maximum of 20 years; limits OPIC's compensation for insurance or guarantees to the value of the investment that OPIC has insured or financed; prohibits compensation for losses when violations of the Foreign Corrupt Practices Act are found; requires OPIC to adhere to the environmental standards of the World Bank and to notify host governments when OPIC-supported projects are environmentally-sensitive; and establishes penalties for defrauding OPIC.

Sec. 7109. General Provisions and Powers. This section requires an independent audit at least every 3 years; authorizes GAO to conduct audits, as necessary; provides customary corporate authorities, e.g. corporate seal, etc.; requires development impact assessments for all OPIC-supported projects; and requires OPIC to take into account State Department human rights reports.

Sec. 7110. Reports to the Congress. This section requires an annual report to Congress, to include impact assessments of the impact of OPIC-supported projects on U.S. employment and exports; and requires each OPIC-supported project to be assessed for U.S. employment and exports effects.

Sec. 7111. Definitions. This section defines terms used in this title, including "eligible investor," "expropriation," "investment," "local financial institution," "noncredit account revolving fund," "noncredit activities," "predecessor guaranty authority," and "United States person."

SUBTITLE B—UNITED STATES TRADE AND DEVELOPMENT AGENCY.

Sec. 7201. United States Trade and Development Agency. This section authorizes USTDA to facilitate U.S. private sector participation in development projects consistent with U.S. development assistance goals until Title I, under the foreign policy guidance of the Secretary of State and the Development Policy Committee; and to provide funds for technical assistance, feasibility studies, engineering studies and related activities for U.S. private sector participation in development assistance under this Act.

This section also requires USTDA to seek reimbursement from entities that are successful in using USTDA funds to participate in projects; provides for USTDA Director, officers and employees; requires annual report and annual independent audit; and authorizes a GAO audit.

SUBTITLE C—ENTERPRISE FUNDS

Sec. 7301. Findings, This section establishes findings that enterprise funds are an effective means of fostering growth in support of U.S. development goals.

Sec. 7302. Purposes. This section establishes the purposes of enterprise funds to support private sector growth through loans, insurance, investments, guarantees, grants, etc. by a fund to promote sustainable economic activity.

Sec. 7303. Authority to Designate Enterprise Funds. This section authorizes the USAID Administrator to designate private not-for-profit organizations to operate as enterprise funds and receive U.S. funds, establishes enterprise fund boards, and authorizes the USAID Administrator to use appropriated funds to make grants to enterprise funds.

This section also requires an agreement between USAID and an enterprise fund to govern use of funds and disposition of assets; and requires advance notification to Congress and public disclosure within one year.

Sec. 7304. GAO Reports. This section requires a GAO assessment every 3 years.

Sec. 7305. Operation Provisions. This section requires enterprise funds to take into account internationally recognized human and worker rights; authorizes enterprise funds to raise additional capital through public offerings and private placements; imposes restrictions on compensation and benefits for fund personnel; requires annual independent audits; authorizes GAO audits; and requires annual reports.

Sec. 7306. Best Practices and Procedures. This section encourages funds to adopt best practices and procedures, pursuant to the SEED Act.

Sec. 7307. Experience of Other Enterprise Funds. This section requires USAID Administrator to ensure that funds apply the experience of funds under the SEED Act.

TITLE XIII – TO BE INSERTED AT A LATER DATE

This title contains country and region-specific foreign assistance guidelines, policy statements, authorities, restrictions, and directives.

TITLE IX—STRATEGIC PLANNING, MONITORING AND EVALUATION, AND REPORTING

Title IX improves the transparency, accountability and oversight of foreign assistance by setting out overall requirements for strategies, evaluations, reports and notifications. Subtitle A is composed of strategic planning requirements; Subtitle B is devoted to monitoring and evaluation; Subtitle C mandates regular and recurring reports; and Subtitle D sets out congressional notification procedures.

SUBTITLE A – STRATEGIC PLANNING

Sec. 9101. Quadrennial Diplomacy and Development Review. This section requires that the Secretary and the Administrator, not later than December 15, 2014 and every 4 years thereafter, complete a comprehensive examination of U.S. diplomacy and development efforts, known as the Quadrennial Diplomacy and Development Review (QDDR). Subsection (a) lists key elements of the review, such as the nature of the global challenges and opportunities facing the United States, key objectives and missions for U.S. foreign policy and foreign assistance, and a plan, budget, and timetable for implementing the recommendations of the review. Subsection (b) requires that the appropriate congressional committees, a variety of civil society groups, and appropriate international organizations and partner countries be consulted during the review. Subsection (c) requires that the QDDR be transmitted to the appropriate congressional committees and made available to the public on the Internet, and specifies additional elements to be included in the report.

Sec. 9102. Comprehensive Workforce and Human resources Strategy. This section requires that the Administrator develop and transmit to the appropriate congressional committees, every 5 years, a comprehensive workforce and human resources strategy for USAID. Subsection (b) lists the required components of the report, including the number, types and level of specialists and generalists projected to be needed in each functional and geographic area, an analysis of workloads and competencies of existing staff, the impact of projected retirement and attrition rates, the steps needed to recruit, retain and develop the necessary professional expertise, and the program, policy and budget assumptions on which the strategy is based. Subsection (e) provides authority to hire up to 30 mid-career professionals in each of the first 3 fiscal years after the date of enactment if the Administrator certifies that such hiring is necessary to meet USAID workforce requirements in the plan.

SUBTITLE B – MONITORING AND EVALUATION

Sec. 9201. Monitoring and Evaluation of United States Foreign Assistance. This section requires the President to develop and implement a rigorous system to monitor and evaluate the effectiveness and efficiency of United States foreign assistance. Subsection (b) lists the required components of the system, including a method of coordinating evaluation activities across Federal agencies and a process for consulting with relevant stakeholders. Subsection (c) lists actions that the President shall require the head of each Federal agency implementing programs under this Act to take, such as establishing measurable and meaningful performance objectives, establishing an organizational unit with adequate staff and resources to oversee evaluation activities, establishing a process for applying the findings and results of monitoring and evaluation activities, establishing a policy for the publication of program evaluations, and developing an annual evaluation plan. Subsection (d) requires that the evaluation plans required under subsection (c) are submitted to the appropriate congressional committees and published on the Internet. Subsection (e) requires that evaluation activities be carried out, to the extent feasible and appropriate, by or with the participation of organizations in the partner country.

Sec. 9202. Human Rights Impact of United States Security Assistance. This section requires the Secretary to monitor the use of defense articles, defense services, and military education and training provided under this Act, collect and analyze data about specific equipment, technology,

units and individuals implicated in violations of human rights in partner countries, evaluate the human rights impact of U.S. security assistance, and incorporate the results into decisions regarding the provision of foreign assistance.

Subsection (b) requires that the Secretary of Defense develop and maintain a database containing records for each foreign military and defense ministry civilian participant in military education and training activities conducted under this Act, and to make the database available to the Secretary of State.

Subsection (c) requires an annual report describing any involvement of a foreign military education and training participant in a violation of internationally recognized human rights.

Subsection (d) authorizes the use of up to 1 percent of the funds made available under Titles IV and V to be made available to carry out this section.

SUBTITLE C – REPORTING REQUIREMENTS

Sec. 9301. Transparency and Accountability in Budgeting. This section requires the Secretary, the Administrator, and the MCC CEO to maintain a public, online database of information about foreign assistance programs. Subsection (b) sets out the required content of the database, including the objectives, indicators, obligations and expenditures for each project and activity, as well as the overhead and administrative costs for each overseas mission. It also requires that the database be operational within 6 months of enactment, and sets out rules for the entry of new data, modifications, and reports in lieu of inclusion. Subsection (c) states the sense of Congress that the President should fully engage with and participate in the International Aid Transparency Initiative (IATI), and requires that the database include and be harmonized with information provided to IATI and the OECD’s Development Assistance Committee.

Sec. 9302. Congressional Budget Justification. This section requires that the President prepare and annually submit to Congress a report justifying the resources requested for all U.S. foreign assistance programs. The report must contain a description of each planned country, regional, or centrally-funded program for the coming fiscal year, and the rationale for each program; the dollar amount of each program for the current, previous, and coming fiscal years; and a description of the results achieved in the previous 1 to 5 fiscal years.

Sec. 9303. Report on Allocation of Assistance Under This Act. This section requires that, not less than 30 days after a foreign operations appropriation is enacted, the President shall notify Congress of the allocations for each foreign country, international organization, regional program, and centrally-funded program.

Sec. 9304. Security Assistance Database. This section requires the Secretary of State to maintain an online database, which may be combined with the database required under section 9301, containing the dollar value and quantity of defense articles, defense services, and international military education and training provided to each country. The database must also include: the provision of law under which the articles, services, and education or training was

provided; the dollar value, quantity, and end user of semiautomatic assault weapons and spare parts for such weapons; and the types of training, number of personnel trained, units of operation and location of training. The database is required to be operative not later than 180 days after enactment of this Act and made publicly available on the Internet.

Sec. 9305. Classification of Reports. This section, which is substantially similar to section 634B of the FAA, requires that all information contained in any report required under this Act be provided in unclassified form and made available to the public, unless otherwise specifically provided by law. Subsection (b) allows information to be provided in classified form if the President determines that publication of a specific item of information in any such report would be detrimental to the security of the United States.

SUBTITLE D – CONGRESSIONAL NOTIFICATION PROCEDURES

Sec. 9401. Notification of Program Changes. This section sets out the requirements for congressional notification of reprogrammings. Unless the appropriate congressional committees are notified at least 15 days in advance, no funds may be obligated for a country, international organization, regional program or centrally-funded program that is: not justified in the congressional budget justification (CBJ) for that year; more than 10 percent in excess of amounts allocated for that year; for a strategy or objective not justified; for a cash transfer; or for the provision of major defense equipment not justified.

Subsection (b) exempts OPIC, USTDA, the development credit authority, transition initiatives, the complex crisis, stabilization, and prevention fund, and humanitarian assistance from the reprogramming notification requirement.

Subsection (c) provides a waiver if the President determines that doing so is necessitated by emergency circumstances, notifies the appropriate congressional committees not later than 3 days after taking the action, and explains the circumstances necessitating the waiver.

Sec. 9402. Congressional Notification Parity. This section requires that the authorizing committees are notified to the same degree and with the same conditions as the appropriations committees on any matter relating to foreign assistance.

Sec. 9403. Presidential Findings and Determinations. This section requires that when a Presidential finding or determination is required under this Act, such finding or determination shall be reduced to writing and signed by the President, and published on the Internet and in the Federal Register. If the President concludes that publication of such information would be harmful to U.S. national security, the President must at least publish a statement that a determination or finding has been made, including the names and section of the Act under which it was made.

TITLE X – TO BE INSERTED AT A LATER DATE.

This title contains restrictions and limitations on U.S. foreign assistance, such as prohibitions on assistance for abortion and forced sterilization, and prohibitions on aid to governments that engage in a consistent pattern of gross violations of internationally recognized human rights, transfer nuclear enrichment equipment or nuclear explosive devices, or assist terrorist states. It also includes Presidential transfer and waiver authorities.

TITLE XI: ORGANIZATION, MANAGEMENT, AND HUMAN RESOURCES

Title XI elevates and strengthens USAID by restoring its policy and budget functions and clarifies the roles and relationships of key officials involved in the provision of foreign assistance. It also provides the basic personnel and administrative authorities necessary to carry out programs under this Act.

Sec. 11001. Definitions. This section defines terms used in this title, including “commodity,” “federal employee,” “federal personnel,” and “local entity.”

SUBTITLE A—ORGANIZATION

CHAPTER 1—EXERCISE AND COORDINATION OF FUNCTIONS

Sec. 11101. Delegations; Regulations. This section authorizes the President to delegate functions to other officials, and authorizes such officials to issue rules and regulations to carry out such functions.

Sec. 11102. Role of the Secretary of State. This section establishes the responsibilities of the Secretary of State for “the continuous supervision, overall coordination, and general direction of United States foreign assistance”, including all forms of military assistance.

Sec. 11103. Role of the Chief of Mission. This section establishes the responsibilities of the U.S. Ambassador to a foreign country for the continuous supervision, overall coordination, and general direction of all activities, resources, and programs of the United States Government in the country of assignment, except for personnel under military command.

Sec. 11104. Role of the Secretary of Defense. This section establishes the responsibilities of the Secretary of Defense with respect to assistance under this Act, including the determination of military end-item requirements, the procurement of military equipment, the monitoring of end-use of military equipment, the supervision of foreign military training, the movement and delivery of military equipment, and the designation of excess defense articles.

Sec. 11105. Office for Global Women’s Issues. This section establishes within the Office of the Secretary of State an Office for Global Women’s Issues, to be headed by an Ambassador-At-Large who reports directly to the Secretary. The purpose of the office is to coordinate U.S. efforts regarding gender integration and women’s empowerment, and the Ambassador is given

the duties of: coordinating and advising on policies and programs, designing and implementing limited projects; promoting gender analysis; directing resources; and representing the United States in relevant diplomatic forums. Subsection (d) requires the heads of all bureaus and offices of the State Department, USAID and MCC to report to the Ambassador annually on their programs, policies and practices to integrate gender. This provision is derived from the International Violence Against Women Act of 2010, introduced by Reps. Delahunt and Poe and 25 others in the 111th Congress.

Sec. 11106. Bureau for Energy Resources. This section creates a new State Department Bureau for Energy Resources, with its own Assistant Secretary, in place of the Coordinator for International Energy Affairs, as proposed in the QDDR.

Sec. 11107. Bureau of Oceans, Environment and Science. This section corrects the name of the Bureau of Oceans, Environment and Science in a 1973 appropriations act and in the Clean Air Act.

CHAPTER 2—UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Sec. 11201. United States Agency for International Development. This section establishes USAID as an independent U.S. government agency under the continuous supervision, overall coordination, and general direction of the Secretary of State, with the mandate to reduce global poverty and alleviate human suffering. Subsection (c) requires the appointment by the President of an Administrator and authorizes up to 2 Deputy Administrators and 13 Assistant Administrators, among which shall be Assistant Administrators for: Policy, Planning and Learning; Food Security; Democratic and Civic Development; and Economic Growth, Environment, and Energy. It also requires that Assistant Administrators be nominated for a specific position, such that they may not be transferred from one bureau to another without reconfirmation. Subsection (d) makes technical corrections to the name of the agency in existing provisions of law.

Sec. 11202. Role of the Administrator. This section establishes the role of the Administrator for carrying out USAID's mandate and for coordinating all U.S. development-related activities. Subsection (b) makes the Administrator the chief development advisor to the Secretary of State. Subsection (c) states that the President should invite the Administrator to participate in all appropriate meetings of the National Security Council, as recommended in the QDDR. Subsection (d) states that the Administrator should be responsible, in consultation with the Assistant Secretary of State for International Organization Affairs, for the coordination and direction of U.S. policy toward all development-related agencies of the United Nations. Subsection (e) states that the President should appoint the Administrator to serve as alternate U.S. Governor of three multilateral development banks, as proposed in the QDDR.

Sec. 11203. Overseas Missions. This section grants authority to the Administrator to maintain USAID missions outside the United States, each to be headed by Mission Director who may be compensated in accordance with the Foreign Service Act, up to the level of an Ambassador. It urges the Secretary of State to give favorable consideration to request by the Administrator to

waive collocation requirements. Subsection (d) establishes the responsibilities of the Mission Director to serve as the primary development and humanitarian advisor to the Chief of Mission, to coordinate preparation of the Country Development Cooperation Strategy, and to supervise and direct U.S. development cooperation with and humanitarian operations in the partner country. Subsection (e) authorizes the appointment of a foreign assistance coordinator by the State Department in a given country, but only if the coordinator is responsible for the full range of economic and security assistance programs in that country.

Sec. 11204. Chairman of OECD Development Assistance Committee. This section authorizes the appointment of a U.S. citizen to serve as Chairman of the Development Assistance Committee of the Organization for Economic Cooperation and Development, once such individual is elected to the position by members of the OECD. It establishes compensation and allowances identical to those in current law, section 631(c) of the FAA.

Sec. 11205. Responsibilities of the Inspector General of the United States Agency for International Development. This section expands the authority of the USAID Inspector General to cover the African Development Foundation, the Inter-American Foundation, the Millennium Challenge Corporation, the Office of the Global AIDS Coordinator, the Overseas Private Investment Corporation, and the United States Trade and Development Agency. Currently, several of these agencies are not subject to the audit and investigative activities of any Inspector General, or are subject to such activities only if they request and pay for them.

SUBTITLE B—MANAGEMENT AND PROGRAM ADMINISTRATION

CHAPTER 1—OPERATING EXPENSES AND ADMINISTRATIVE AUTHORITIES

Sec. 11301. Operating expenses of the United States Agency for International Development. This section makes a major change to the way USAID's operating expenses are currently calculated and budgeted. Rather than treating operating expenses separately from program expenses, it ensures that they stay in proportion to one another. Subsection (a) authorizes the use of up to 10 percent of total funds managed by USAID to be used for operating expenses.

Subsection (b) authorizes an additional 1 percent of funds under management to be used for capital investments, such as overseas construction and procurement and enhancement of information technology.

Subsection (c) requires that the annual congressional budget justification contain an estimate of the total funds under management and a detailed operating expenses budget. Subsection (d) requires that the appropriate congressional committees be kept currently informed of the status of obligations under this section.

Sec. 11302. Authorized Uses of Funds. This section defines what is meant by operating expenses and authorizes the use of funds for these purposes. All compensation, training, benefits, travel, motor vehicles, land, facilities, furniture, equipment, and services in the United States are considered operating expenses, including those of Personal Services Contractors and

institutional contractors. Similar expenses for personnel abroad are considered program expenses, as they currently are for contractors and grantees. Subsection (b) requires that all new facilities constructed in the U.S. and abroad conform to Federal codes and standards regarding access for persons with disabilities.

Sec. 11303. Operating Expenses of the Office of the Inspector General. This section authorizes operating expenses of USAID's Inspector General, to the extent and in the amounts authorized and appropriated for such purposes. It also authorizes the payment of necessary increases in compensation and benefits authorized by law.

Sec. 11304. Administrative Authorities of the Department of Defense. This section authorizes the DOD to use funds under the act for administrative expenses, reimbursements and facilities maintenance as currently authorized in section 636(g) of the FAA.

Sec. 11305. Working Capital Fund. This section contains a new authority, requested by USAID, to allow its procurement office to charge a fee of up to 1 percent to those using its services in order to fund the hiring of additional contracting officers and to finance procurement reform. At the end of each fiscal year, amounts in the Fund in excess of \$100 million would be transferred to the new Emergency Humanitarian Response Fund, created in section 1905.

Sec. 11306. Suspension and Debarment. This section requires the President to issue and enforce regulations determining the eligibility of any person to receive funds made available under this act, including providing for the suspension of those under investigation and the debarment of those who commit serious violations. Subsection (c) defines the circumstances for debarment consistent with government-wide OMB guidance.

Sec. 11307. Termination Expenses. This section establishes the authorities to pay the costs of winding up programs that have been terminated, including expenses for completion of training of students, the assumption of liabilities under contracts, and the re-obligation of amounts terminated. Termination of assistance does not require the termination of guarantee commitments.

Sec. 11308. Prohibition on Certain First-Class Travel. This section prohibits the use of funds under the Act for first-class travel by Federal personnel.

CHAPTER 2—ASSISTANCE AUTHORITIES AND PROGRAM EXPENSES

Sec. 11401. General Assistance Authorities. This section sets out general authorities regarding the provision of grants, loans and guarantees and the terms and conditions under which they are provided.

Sec. 11402. Authority to Conduct Reimbursable Programs. This section authorizes federal agencies to furnish articles and services on an advance-of-funds or reimbursement basis.

Sec. 11403. Retention of Interest. This section provides a new authority to the Administrator to provide grants of up to \$5 million to international organizations and to local entities that allow for such organizations and entities to retain the interest they earn on funds advanced. The interest may be used only for the purposes of the grant, and is subject to audit by USAID. Agreements under this section must be listed on the USAID website.

Sec. 11404. Marking and Branding of Economic Assistance and Humanitarian Assistance. This section clarifies and expands the requirements relating to the marking of economic and humanitarian assistance. It requires that all such assistance, regardless of the agency or implementing office, be identified as “From the American People” with a representation of the American flag, and no other logos, references or pictures. There is an exception on a case-by-case basis if the Chief of Mission determines that such marking would jeopardize the health, safety or human rights of implementing partners or beneficiaries, or would be detrimental to the achievement of overall U.S. foreign policy objectives in the country. The Secretary of State may make an exception on a country-by-country basis by determining and reporting to Congress that marking of assistance in that country would be detrimental to the achievement of overall U.S. foreign policy objectives in the country. The requirement does not apply to office space, living quarters, or personal effects of implementing partners.

Sec. 11405. Reductions in Designated Funds. This section allows the proportional reduction of earmarks if the amounts appropriated for a provision are less than the amounts authorized for that provision. It also allows for reprogramming of earmarked funds if compliance with the earmark is made impossible by law or a change in circumstances. Such reprogrammings are subject to congressional notification.

Sec. 11406. Requirement for Authorization of Appropriations. This section prohibits the appropriation of funds to carry out this Act unless specifically authorized in law, or in excess of the amount authorized by law.

Sec. 11407. Unexpended Balances. This section allows unexpended balances of funds made available under the Foreign Assistance Act to remain available for the same general purposes under this Act.

Sec. 11408. Authority for Extended Period of Availability of Appropriations. This section authorizes amounts appropriated to carry out this Act to remain available until expended, unless otherwise specified.

Sec. 11409. Support for Regional, International and Nongovernmental Organizations. This section authorizes the Administrator to support programs, projects, and activities of, and provide technical assistance to, regional, international, and nongovernmental organizations. Such support and assistance is in addition to assessed and voluntary contributions authorized under other provisions of law.

C H A P T E R 3—P R O C U R E M E N T, D I S P O S I T I O N, T R A N S P O R T A T I O N A N D V A L U A T I O N O F A R T I C L E S

Sec. 11501. Procurement Standards and Procedures. Subsection (a) requires that funds made available under this Act be used for procurement only in the United States, the recipient country, or developing countries. Procurements may be made in other countries only if the articles and services are not available in the U.S., the recipient country, or developing countries, or if the President determines that such procurement is necessary to meet unforeseen circumstances or to avoid impairment of foreign assistance objectives.

Subsection (b) prohibits the purchase of bulk commodities at prices higher than the prevailing market price in the United States, adjusted for differences in the cost of transportation, quality, and terms of payment, except in emergency situations.

Subsection (c) prohibits the use of assistance to establish or expand production of commodities or extraction of minerals for export by a foreign country, if such commodity or mineral is likely to be in surplus on world markets and will cause substantial injury to U.S. producers of the same or similar commodities or minerals. There are exceptions if the overall benefits to the United States are likely to outweigh the injury to U.S. producers, or if the foreign country is a low-income country and the commodity or mineral would contribute substantially to the reduction of poverty.

Sec. 11502. Local Procurement. This section is a new authority, requested by USAID, to award contracts in which competition is limited to local entities. This authority only applies to awards of less than \$5 million.

Sec. 11503. United States Competitiveness. This section is a new requirement that all solicitations under the Act over \$5 million be advertised on a centralized website, regardless of where the contract is to be performed. It also requires that in countries with nonconvertible or highly unstable currencies, U.S. solicitations may be bid and contracts awarded in U.S. dollars. Finally, the President is required to establish procedures to ensure that U.S. diplomatic and consular posts assist U.S. firms in obtaining local licenses and permits, and ensure that U.S. firms are not disadvantaged in the solicitation and bid evaluation process.

Sec. 11504. Allocation or Transfer of Funds and Reimbursement Among Agencies. This section authorizes the transfer of funds between Federal agencies and the procurement of articles and services by one agency from another, and provides for the reimbursement of agencies for such procurements. It also authorizes the establishment of bank accounts for the purposes of furnishing assistance under this Act, and sets out rules regarding accounting for expenditures, the management of funds, and the performance of audits.

Sec. 11505. Retention and Use of Certain Items and Funds. This section authorizes the retention, transfer and use by Federal agencies of articles procured to carry out this Act, and establishes rules regarding their disposal and the crediting of proceeds.

Sec. 11506. Foreign and Domestic Excess Property. This section authorizes the use of excess and other available property in lieu of procurement of new items wherever practicable, provides

authority to acquire excess property, and establishes rules and conditions regarding the accounting, repayment, and use of excess property. These provisions do not apply to the Department of Defense.

Sec. 11507. Ocean Freight Differential. This section authorizes the use of funds to pay for all or part of the differential between rates charged by U.S.-flag vessels and foreign-flag vessel charter for the transportation of foreign assistance. The amount of the differential is determined by the Secretary of Transportation, or in the case of food assistance, by the Secretary of Transportation in consultation with the Secretary of Agriculture and the USAID Administrator. Fresh fruit is exempted from the requirements of the Merchant Marine Act relating to ocean transportation on U.S. flag vessels.

Sec. 11508. Use of Aircraft for Additional Purposes. This section allows the use of aircraft procured for narcotics control purposes to be used for any other program, country or region if the Secretary determines and notifies the appropriate congressional committees that the aircraft are no longer needed for the original purposes, or that there is an emergency need for the aircraft elsewhere. Subsection (d) requires that all aircraft purchased or leased under this Act be coordinated by the relevant Chief of Mission, made available for the transportation of State Department and USAID personnel, and made available for official travel for other agencies on a reimbursable basis, or without reimbursement on a space-available basis.

Sec. 11509. Streamlining and Review of Procurement Process. This section states that in order to streamline the procurement process, the Administrator should undertake a number of steps to simplify and standardize solicitations, improve training, increase transparency and expand consultation with the public and implementing partners. Subsection (b) requires the Administrator to ensure an appropriate balance between contracts and grants by issuing a public policy and guidelines regarding the use of each type of instrument and training Agency personnel in their application. Subsection (c) recommends that the Administrator convene an Advisory Committee to assist in updating Agency procedures and regulations. Subsection (d) requires that the Administrator convene an inter-agency working group to harmonize procurement rules, regulations, policies and practices in carrying out development and humanitarian assistance. Subsection (e) requires that the Administrator apply the same public rulemaking procedures to grants that are applicable to contracts.

Sec. 11510. Overseas Procurement Flexibility. This section, requested by the State Department, would provide State with authority to waive the laws and regulations applicable to domestic contracting when the Department contracts overseas for local goods, services and utilities and determines that it could not reasonably meet the needs of a post or facility for such goods and services by use of other available authorities. The Secretary would be required to issue guidance addressing use of the waiver authority provided by this section. The guidance would provide for use of waivers on an exception basis and require that waivers be approved in writing by the Department's Procurement Executive. Any actions over \$2 million would also be approved in writing by the Department's Chief Acquisition Officer. Neither approval could be delegated. This waiver authority would not apply to procurements from U.S. domestic sources for shipment and use overseas.

Sec. 11511. Local Guard Contracts Abroad. This section, requested by the State Department, authorizes the award of local guard contracts abroad on the basis of best value as determined by a cost-technical tradeoff analysis, rather than solely based on the lowest price technically acceptable. It also provides a 10 percent preference for qualified U.S. bidders on such contracts.

C H A P T E R 4—USE OF FOREIGN CURRENCIES

Sec. 11601. Separate Accounts for Local Currencies. This section requires that local currencies generated as a result of assistance programs are deposited in a separate account, pursuant to an agreement on the terms and conditions for the use of such currencies. Subsection (c) establishes permissible uses for local currencies. Subsection (d) sets procedures for disposal of foreign currencies upon termination of assistance programs. Subsection (e) requires that the annual congressional budget justification include a report on the uses of foreign currencies in applicable countries.

Sec. 11602. Use of Certain Foreign Currencies. This section authorizes the use of U.S.-owned foreign currencies to provide assistance under this Act, and defines the foreign currencies that may be used for assistance. Subsection (c) authorizes the Secretary of Treasury to sell excess foreign currencies to other U.S. government agencies to pay their obligations outside the U.S. Subsection (d) states that it is the responsibility of the government that owns the foreign currencies, with the concurrence of the relevant inspector general, to audit the use of such currencies.

Sec. 11603. Accounting and Valuation of Foreign Currencies. This section assigns to the Secretary of Treasury responsibility for the valuation and accounting of foreign credits and currencies owed to or owned by the United States, and to establish the exchange rates for reporting such credits and currencies.

SUBTITLE C – HUMAN RESOURCES

C H A P T E R 1—PERSONNEL AND BENEFITS

Sec. 11701. Employment of Personnel. This section authorizes the President to employ such Federal personnel as are necessary to carry out this Act. Subsection (b) authorizes USAID to hire up to 110 employees outside the civil service, 51 of whom may be compensated at a rate higher than that applicable to GS-15. Subsection (c) authorizes the hiring of up to 8 employees of the Department of Defense to carry out this Act, at a rate higher than GS-15. Subsection (d) authorizes the President to employ or assign individuals to perform functions under this Act outside the U.S., and establishes their compensation and reemployment rights.

Sec. 11702. Experts and Consultants. This section authorizes the employment of experts and consultants for the performance of functions under this Act, and establishes their compensation rates and retirement rights.

Sec. 11703. Prohibition of Discrimination against Federal personnel. This section prohibits the President from taking into account, when assigning Federal personnel to carry out the provisions of this Act, the individual's race, sex, religion, national origin, sexual orientation, or gender identity. Such assignments shall be made solely on the basis of ability and relevant experience.

Subsection (a) also prohibits any agency from taking into account the exclusionary policies or practices of a foreign government when employing or assigning Federal personnel to carry out the Act, and requires that contracts under the Act contain a provision prohibiting implementing partners from taking into account the exclusionary policies or practices of a foreign government when employing or assigning personnel to carry out the Act.

Subsection (b) prohibits assistance to any government or organization that, as a matter of law, regulation, policy or practice, excludes any United States person from participating in the furnishing of assistance on the basis of sex, race, religion, national origin, sexual orientation or gender identity.

Subsection (c) creates an exception to the prohibition in subsection (b) if the President determines that extraordinary circumstances exist which necessitate the provision of such assistance, and that it is in the national interest of the United States to provide such assistance. The President must transmit to the appropriate congressional committees, prior to providing the assistance, a report detailing the facts and circumstances of the exclusion, the response of the U.S. government, the results of such response, the extraordinary circumstances necessitating the assistance, and the nature and amount of assistance to be provided.

Sec. 11704. Foreign Service Limited Appointments. This section provides authority to the Administrator to convert up to 200 personal services contractors in the United States and overseas to Foreign Service officers for a limited 5-year term. Subsection (d) authorizes the extension of individuals hired by USAID on limited appointments to be extended for a period of up to 4 years.

Sec. 11705. Technical Advisors. This section authorizes the Administrator to reimburse Federal and State agencies, institutions of higher education, and private and voluntary organizations for the full costs of individuals detailed or assigned to, or contracted by, USAID to carry out this Act.

Sec. 11706. Personal Services Contractors for USAID. This section authorizes the Administrator to employ personal services contractors (PSCs) abroad, and to hire up to 40 PSCs in the United States for the purpose of providing direct, interim support for new or expanded overseas programs and activities. The salaries and expenses of PSCs employed in the United States are to be considered as USAID operating expenses.

Sec. 11707. Personal Services Contractors for the Department of State. This section authorizes the establishment at the Department of State of a pilot program, terminating at the end

of 2014, for the hiring of up to 200 PSCs domestically and abroad. It sets out the conditions for exercising this authority and establishes the employment status of such PSCs.

Sec. 11708. Hiring Authority of Inspector General of the United States Agency for International Development. This section, requested by the USAID Inspector General, authorizes the employment of PSCs outside the U.S., as long as the number of PSCs does not exceed 5 percent of the IG's total authorized workforce. The authority may be exercised only upon a certification by the IG that it is impractical to recruit a sufficient number of direct-hire employees.

Sec. 11709. Public Availability of Consulting Contracts. This section requires that any contract for consulting services issued with funds made available under this Act shall be a matter of public record and subject to public inspection.

Sec. 11710. Senior Foreign Service Requirement. This section amends the Foreign Service Act of 1980 to require that, beginning 3 years from the date of enactment of this provision, Foreign Service officers at State and USAID must serve at least one rotation in a functional bureau or office in order to be promoted into the Senior Foreign Service.

Sec. 11711. Pay parity for Criminal Investigators. This section, requested by the USAID Inspector General, allows Foreign Service officers who serve as criminal investigators to receive the same pay as other criminal investigators who serve in the same posts.

CHAPTER 2—DETAILS, FELLOWSHIPS, AND EXCHANGES

Sec. 11801. Details to Foreign Governments and International Organizations. This section authorizes Federal agencies to detail employees to foreign governments and to international organizations, so long as such detail does not require the taking of an oath of allegiance to another government or the acceptance of compensation or benefits from a foreign country. It also provides for the status of federal employees detailed, including retention of benefits, allowances, and terms of detail.

Sec. 11802. Details to United States Government Agencies. This section authorizes Federal agencies to detail employees to other Federal agencies for the purposes of improving cooperation and collaboration between agencies, rendering technical, scientific or professional advice, or providing training and professional development, in furtherance of the purposes of this Act. Receiving agencies are required to reimburse detailing agencies unless the details are for a period of less than 1 year, there is parity in the number of employees detailed to and from each agency, and not more than 10 employees are detailed from each agency in a fiscal year.

Subsection (c) authorizes the detail of up to 5 employees of the State Department and 5 employees of USAID to individual members and committees of Congress.

Sec. 11803. Science and Technology Fellowship Programs. This section, requested by the State Department, provides the State Department with authority to institutionalize the Jefferson

Science Fellows program, and provide similar support as appropriate for other science fellowship programs. It amends the Foreign Relations Authorization Act of 1979 to make clear that stipends paid to fellows under grants made by the Department are not to be considered “compensation” by the federal government, and that the payment by outside sources of the salary and benefits of science and technology fellows to science fellows who serve as unpaid consultants therefore does not violate 18 U.S.C. § 209.

Sec. 11804. Foreign Relations Exchange Programs. This section authorizes the Secretary of State to establish exchange programs under which employees of the Department of State may be assigned for up to 1 year to a foreign government or international entity that provides for a reciprocal assignment. The salary and benefits of individuals participating in the exchange continue to be paid by their home governments or entities during the exchange period, and the foreign participants are not considered Federal employees.

Sec. 11805. Guidelines for Rotational Assignments. This section requires that the Administrator establish career guidelines for Foreign and Civil Service Officers that incorporate interagency, intergovernmental, or international organization rotational assignments; do not penalize employees for such assignments; and consider such assignments as a factor for promotion into the Senior Foreign Service and Senior Executive Service.

CHAPTER 3—TRAINING AND PROFESSIONAL DEVELOPMENT

Sec. 11901. Training of Federal Personnel. This section authorizes Federal agencies to pay the costs of training employees at any State, local, public or private organization to carry out activities under this Act, and identifies the accounts from which such training costs are to be paid.

Sec. 11902. Career Development. This section requires the Secretary and the Administrator to implement and maintain a comprehensive career-long program of professional training for State and USAID personnel. Subsection (b) requires that each year, not less than 10 percent of personnel must receive professional training or participate in details, exchanges, fellowships, scholarships, or other opportunities for professional development.

Subsection (c) amends the Foreign Service Act of 1980 to clarify that the Foreign Service Institute must meet the training needs of all foreign affairs agencies, and is made available to their personnel on an equal basis.

Subsection (d) expands an authority of the Foreign Service Act of 1980 to contract with individuals to provide training not only for language instruction, but also for other training support purposes.

Subsection (e) requires the Secretary and Administrator to establish a set of mandatory training requirements for promotion into the Senior Foreign Service.

Subsection (f) requires that the Secretary and Administrator evaluate the effectiveness of all training and professional development programs for their respective agencies within 2 years of enactment and every 5 years thereafter. The results of such evaluations shall be made publicly available on the Internet.

Sec. 11903. Language Skills Development. This section requires the Secretary and the Administrator to develop a system for increasing the number and percentage of Foreign Service Officers at State and USAID who are proficient in the official language of the country of assignment. Subsection (b) lists required elements of the system, including establishing language designated positions, identifying critical language needs, and setting clear and measurable performance goals and objectives. A report on the system must be transmitted to the appropriate congressional committees not later than 1 year after enactment, with implementation reports one year after that and for each of the next two years thereafter.

TITLE XII: AMENDMENTS AND REPEALS

Title XII updates other provisions of law to make them consistent with the Global Partnerships Act. Subtitle A makes amendments to other laws; Subtitle B repeals other laws; and Subtitle C contains savings provisions to ensure an orderly transition of authorities.

SUBTITLE A—AMENDMENTS

Sec. 12101. Amendments Relating to Assistance to Combat HIV/AIDS, Tuberculosis, and Malaria. This section takes what was previously the text of sections 104A, 104B and 104C of the FAA and reinserts them into the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003, which originally added them into the FAA. It also makes conforming changes to that Act to correct obsolete references to the FAA.

Sec. 12102. Amendments to the Millennium Challenge Act of 2003. This section makes three major amendments to the Millennium Challenge Act of 2003 that were requested by the Millennium Challenge Corporation.

Subsection (a) allows for the extension of a compact from the current 5-year limit to a maximum of 7 years if: the compact was signed prior to the date of enactment of this Act, the Board determines that a project included in the compact cannot be completed within 5 years, the Board approves the extension; and the appropriate congressional committees are notified.

Subsection (b) allows for entry into concurrent and subsequent compacts with an eligible country. For a concurrent compact, the country must be making significant, consistent progress in implementing its existing compact, and the new compact must broaden or strengthen the impact of the existing compact. For a subsequent compact, the country must have made significant, consistent progress in implementing the terms of prior compacts, and must agree to contribute at least 7.5 percent (for a low-income country) or 15 percent (for a lower-middle income country) of the total amount of the subsequent compact. A concurrent compact must be

signed not later than 2 years after the signing of the earlier compact, and funding for both must be committed at the same time. There is an overall limit of 15 years of compact funding to any country, and the notification and consultation requirements that apply to new compacts also apply to concurrent and subsequent compacts. These changes apply to all compacts in effect before, on, or after the date of enactment.

Subsection (c) provides for greater stability in the candidate pool by redefining the income categories and maintaining a country's income classification during a transition period. It defines a low income country as being among the 75 lowest per capita income countries as identified by the World Bank, and a lower middle income country as being below the World Bank's lower middle income country threshold but not among the 75 lowest per capita countries. It also states that any candidate country whose per capita income changes in a given fiscal year, such that the country's income classification as "low income" or "lower middle income" changes, shall retain its candidacy at the former income category for the year of such transition and the two subsequent fiscal years.

Subsection (d) makes conforming changes and technical corrections to the Millennium Challenge Act of 2003.

SUBTITLE B - REPEALS

Sec. 12201. Repeal of Laws Incorporated in This Act. This section repeals the following laws and provisions which are incorporated in or subsumed by this Act:

- (1) The Foreign Assistance Act of 1961.
- (2) The Arms Export Control Act.
- (3) Sections 664 and 665 of the Freedom Investment Act of 2002, relating to the Human Rights and Democracy Fund and reports on actions taken by the United States to encourage respect for human rights, which are subsumed by sections 3104 and 3102 of this Act, respectively.
- (4) Sections 2121 and 2122 of the ADVANCE Democracy Act of 2007, relating to country-specific strategies for promoting democracy and translation of human rights reports, which are subsumed by sections 3103 and 3102 of this Act, respectively.
- (5) Section 7307 of title 10, U.S. Code, relating to disposal to foreign nations of larger or newer naval vessels, which is incorporated in section 4285 of this Act.
- (6) Section 12001 of the Department of Defense Appropriations Act, 2005.

Sec. 12202. Repeal of Laws Inconsistent with This Act. This section repeals 3 sections of the Foreign Affairs Reform and Restructuring Act of 1998 which are inconsistent with the provisions of this Act. The sections pertain to the reorganization of USAID, the relationship between the USAID Administrator and the Secretary of State, and the authority to provide non-reimbursable details from USAID to the Department of State.

Sec. 12203. Repeal of Obsolete Provisions of Law. This section repeals 44 laws which are obsolete, some going back to the 1960s. About half of them were recommended for repeal in the Peace, Prosperity and Democracy Act proposed by the Clinton administration in 1994.

Sec. 12204. Repeal of Unnecessary Reporting Requirements. This section repeals 14 unnecessary, duplicative or obsolete reporting requirements, as requested by the administration:

- (1) Report on steps taken by the newly independent states of the former Soviet Union concerning violations of territorial integrity.
- (2) Semiannual report on acquisition and major security upgrades.
- (3) Annual report on assistance to the independent states of the former Soviet Union.
- (4) Annual report on the Support for East European Democracy (SEED) program.
- (5) Report on interdiction of aircraft engaged in illicit drug trafficking.
- (6) Report on workforce planning for Foreign Service personnel.
- (7) Report on use of fuel by North Korea and deployment of DPRK military forces and steps to reduce.
- (8) 4 separate reports, on DOD alternative development activities in Colombia, activities of U.S. businesses carrying out counternarcotics activities in Colombia, the German foundation “Remembrance, Responsibility, and the Future”, and Russian Federation debt reduction for nonproliferation.
- (9) Report on conflict in Sudan.
- (10) Report on implementation of the Partnership for Peace.
- (11) Annual report on grants by the Soviet-East European Studies Advisory Committee.

SUBTITLE C—SAVINGS PROVISIONS

Sec. 12301. References to Former Authorities. This section identifies the sections in this Act that correspond to particular sections of the Foreign Assistance Act of 1961 – most notably sections 116(d), 632, 634, 634A, and 653 – and deems that references to those sections shall be deemed to be references to the appropriate sections of this Act.

Sec. 12302. Repeal of Provisions Amending Other Laws. This provision clarifies that the repeal by this Act of any provision of law that amended or repealed another provision of law does not affect in any way that amendment or repeal.

Sec. 12303. Savings Provisions. This section provides for an orderly transition from the Foreign Assistance Act to the Global Partnerships Act.

Subsection (a) provides that all determinations, authorizations, regulations, orders, contracts, agreements and other actions taken under provisions of law repealed by this Act shall continue in full force and effect.

Subsection (b) provides that compliance with conditions contained in provisions repealed by this Act shall be deemed to constitute compliance with substantially similar conditions imposed under this Act.

Subsection (c) authorizes funds available pursuant to provisions of law repealed by this Act to remain available for their original purposes.

Subsection (d) deems references in law to provisions repealed by this Act to be references to corresponding provisions of this Act, as may be appropriate.

Subsection (e) clarifies that the repeal by this Act of any provision regarding the Presidential appointment of an individual to a position, and the reenactment of that provision in substantially identical form in this Act, does not require reappointment of the individual holding that position.

Subsection (f) states that guarantees and loans made under former authorities of law shall continue to be subject to the provisions and conditions under which they were originally issued.