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108TH CONGRESS
2D SESSION

S. 2845

AN ACT

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

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

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

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

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- Sec. 101. National Intelligence Authority.
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 Sec. 128. Chief Human Capital Officer of the National Intelligence Authority.
 Sec. 129. Chief Financial Officer of the National Intelligence Authority.
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- Sec. 141. Inspector General of the National Intelligence Authority.
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- Sec. 208. Report on implementation of recommendations of Defense Science Board on preventing and defending against clandestine nuclear attack.
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1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) The term “intelligence” includes foreign in-
4 telligence and counterintelligence.

5 (2) The term “foreign intelligence” means in-
6 formation relating to the capabilities, intentions, or
7 activities of foreign governments or elements thereof,
8 foreign organizations, or foreign persons, or inter-
9 national terrorist activities.

10 (3) The term “counterintelligence” means for-
11 eign intelligence gathered, and information gathering
12 and other activities conducted, to protect against es-
13 pionage, other intelligence activities, sabotage, or as-
14 sassinations conducted by or on behalf of foreign
15 governments or elements thereof, foreign organiza-
16 tions, or foreign persons, or international terrorist
17 activities, but does not include personnel, physical,
18 document, or communications security programs.

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

1 (A) The National Intelligence Authority.

2 (B) The Central Intelligence Agency.

3 (C) The National Security Agency.

4 (D) The Defense Intelligence Agency.

5 (E) The National Geospatial-Intelligence
6 Agency.

7 (F) The National Reconnaissance Office.

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

11 (H) The intelligence elements of the Army,
12 the Navy, the Air Force, the Marine Corps, the
13 Federal Bureau of Investigation, the Depart-
14 ment of Energy, and the Coast Guard.

15 (I) The Bureau of Intelligence and Re-
16 search of the Department of State.

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

19 (K) The elements of the Department of
20 Homeland Security concerned with the analysis
21 of intelligence information.

22 (L) Such other elements of any depart-
23 ment or agency as may be designated by the
24 President, or designated jointly by the National
25 Intelligence Director and the head of the de-

1 partment or agency concerned, as an element of
2 the intelligence community.

3 (5) The terms “national intelligence” and “in-
4 telligence related to the national security”—

5 (A) each refer to intelligence which per-
6 tains, as determined consistent with any guide-
7 lines issued by the President, to the interests of
8 more than one department or agency of the
9 Government; and

10 (B) do not refer to law enforcement activi-
11 ties conducted by the Federal Bureau of Inves-
12 tigation except to the extent provided for in
13 procedures agreed to by the National Intel-
14 ligence Director and the Attorney General, or
15 otherwise as expressly provided for in law.

16 (6) The term “National Intelligence Pro-
17 gram”—

18 (A)(i) refers to all national intelligence
19 programs, projects, and activities of the ele-
20 ments of the intelligence community;

21 (ii) includes all programs, projects, and ac-
22 tivities (whether or not pertaining to national
23 intelligence) of the National Intelligence Au-
24 thority, the Central Intelligence Agency, the
25 National Security Agency, the National

1 Geospatial-Intelligence Agency, the National
2 Reconnaissance Office, the Directorate of
3 Intelligence of the Federal Bureau of Inves-
4 tigation, and the Office of Information Analysis
5 of the Department of Homeland Security; and

6 (iii) includes any other program, project,
7 or activity of a department, agency, or element
8 of the United States Government relating to
9 national intelligence unless the National Intel-
10 ligence Director and the head of the depart-
11 ment, agency, or element concerned determine
12 otherwise; but

13 (B) except as provided in subparagraph
14 (A)(ii), does not refer to any program, project,
15 or activity of the military departments, includ-
16 ing any program, project, or activity of the De-
17 fense Intelligence Agency that is not part of the
18 National Foreign Intelligence Program as of
19 the date of the enactment of this Act, to ac-
20 quire intelligence principally for the planning
21 and conduct of joint or tactical military oper-
22 ations by the United States Armed Forces.

23 (7) The term “congressional intelligence com-
24 mittees” means—

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

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

5 (C) the Speaker of the House of Rep-
6 resentatives and the Majority Leader and the
7 Minority Leader of the House of Representa-
8 tives; and

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

11 (8) The term “certified intelligence officer”
12 means a professional employee of an element of the
13 intelligence community who meets standards and
14 qualifications set by the National Intelligence Direc-
15 tor.

16 **TITLE I—NATIONAL**
17 **INTELLIGENCE AUTHORITY**
18 **Subtitle A—National Intelligence**
19 **Authority**

20 **SEC. 101. NATIONAL INTELLIGENCE AUTHORITY.**

21 (a) INDEPENDENT ESTABLISHMENT.—There is here-
22 by established as an independent establishment in the ex-
23 ecutive branch of government the National Intelligence
24 Authority.

1 (b) COMPOSITION.—The National Intelligence Au-
2 thority is composed of the following:

3 (1) The Office of the National Intelligence Di-
4 rector.

5 (2) The elements specified in subtitle D.

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

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

11 (1) To unify and strengthen the efforts of the
12 intelligence community of the United States Govern-
13 ment.

14 (2) To ensure the organization of the efforts of
15 the intelligence community of the United States
16 Government in a joint manner relating to intel-
17 ligence missions rather than through intelligence col-
18 lection disciplines.

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

22 (4) To eliminate barriers that impede coordina-
23 tion of the intelligence, including counterterrorism
24 activities of the United States Government between
25 intelligence activities located abroad and intelligence

1 activities located abroad and foreign intelligence ac-
2 tivities located domestically while ensuring the pro-
3 tection of civil liberties.

4 (5) To establish clear responsibility and ac-
5 countability for counterterrorism and other intel-
6 ligence matters relating to the national security of
7 the United States.

8 (d) SEAL.—The National Intelligence Director shall
9 have a seal for the National Intelligence Authority. The
10 design of the seal is subject to the approval of the Presi-
11 dent. Judicial notice shall be taken of the seal.

12 **SEC. 102. NATIONAL INTELLIGENCE DIRECTOR.**

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

17 (b) INDIVIDUALS ELIGIBLE FOR NOMINATION.—Any
18 individual nominated for appointment as National Intel-
19 ligence Director shall have extensive national security ex-
20 pertise.

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

1 that the individual serving as National Intelligence Direc-
2 tor does so in an acting capacity.

3 (d) PRINCIPAL DUTIES AND RESPONSIBILITIES.—

4 The National Intelligence Director shall—

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

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

11 (3) serve as the head of the National Intel-
12 ligence Authority; and

13 (4) direct and oversee the National Intelligence
14 Program.

15 (e) GENERAL RESPONSIBILITIES AND AUTHORI-
16 TIES.—In carrying out the duties and responsibilities set
17 forth in subsection (c), the National Intelligence Director
18 shall have the responsibilities set forth in section 112 and
19 the authorities set forth in section 113 and other applica-
20 ble provisions of law.

1 **Subtitle B—Responsibilities and**
2 **Authorities of National Intel-**
3 **ligence Director**

4 **SEC. 111. PROVISION OF NATIONAL INTELLIGENCE.**

5 (a) IN GENERAL.—The National Intelligence Direc-
6 tor shall be responsible for providing national intel-
7 ligence—

8 (1) to the President;

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

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

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

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

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

21 **SEC. 112. RESPONSIBILITIES OF NATIONAL INTELLIGENCE**
22 **DIRECTOR.**

23 (a) IN GENERAL.—The National Intelligence Direc-
24 tor shall—

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

4 (A) providing to the heads of the depart-
5 ments containing agencies or elements within
6 the intelligence community and that have one or
7 more programs, projects, or activities within the
8 National Intelligence program, and to the heads
9 of such agencies and elements, guidance for de-
10 velopment of the National Intelligence Program
11 budget pertaining to such agencies or elements;

12 (B) developing and presenting to the Presi-
13 dent an annual budget for the National Intel-
14 ligence Program after consultation with the
15 heads of agencies or elements, and the heads of
16 their respective departments, under subpara-
17 graph (A);

18 (C) providing budget guidance to each ele-
19 ment of the intelligence community that does
20 not have one or more program, project, or ac-
21 tivity within the National Intelligence Program
22 regarding the intelligence and intelligence-re-
23 lated activities of such element; and

24 (D) participating in the development by
25 the Secretary of Defense of the annual budgets

1 for the military intelligence programs, projects,
2 and activities not included in the National In-
3 telligence Program;

4 (2) manage and oversee appropriations for the
5 National Intelligence Program, including—

6 (A) the execution of funds within the Na-
7 tional Intelligence Program;

8 (B) the reprogramming of funds appro-
9 priated or otherwise made available to the Na-
10 tional Intelligence Program; and

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

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

17 (4) establish collection and analysis require-
18 ments for the intelligence community following re-
19 ceipt of intelligence needs and requirements from the
20 consumers of national intelligence, determine collec-
21 tion and analysis priorities, issue and manage collec-
22 tion and analysis tasking, and resolve conflicts in the
23 tasking of elements of the intelligence community
24 within the National Intelligence Program, except as
25 otherwise agreed with the Secretary of Defense pur-

1 suant to the direction of the President, while ensur-
2 ing that the elements of the intelligence community
3 are able to conduct independent analyses so as to
4 achieve, to the maximum extent practicable, competi-
5 tive analyses;

6 (5) provide advisory tasking on the collection of
7 intelligence to elements of the United States Govern-
8 ment having information collection capabilities that
9 are not elements of the intelligence community;

10 (6) manage and oversee the National
11 Counterterrorism Center under section 143, and es-
12 tablish, manage, and oversee national intelligence
13 centers under section 144;

14 (7) establish requirements and priorities for for-
15 eign intelligence information to be collected under
16 the Foreign Intelligence Surveillance Act of 1978
17 (50 U.S.C. 1801 et seq.), and provide assistance to
18 the Attorney General to ensure that information de-
19 rived from electronic surveillance or physical
20 searches under that Act is disseminated so it may be
21 used efficiently and effectively for foreign intel-
22 ligence purposes, except that the Director shall have
23 no authority to direct, manage, or undertake elec-
24 tronic surveillance or physical search operations pur-

1 suant to that Act unless otherwise authorized by
2 statute or Executive order;

3 (8) develop and implement, in consultation with
4 the heads of other agencies or elements of the intel-
5 ligence community, and the heads of their respective
6 departments, personnel policies and programs appli-
7 cable to the intelligence community that—

8 (A) encourage and facilitate assignments
9 and details of personnel to the National
10 Counterterrorism Center under section 143, to
11 national intelligence centers under section 144,
12 and between elements of the intelligence com-
13 munity;

14 (B) set standards for education, training,
15 and career development of personnel of the in-
16 telligence community;

17 (C) encourage and facilitate the recruit-
18 ment and retention by the intelligence commu-
19 nity of highly qualified individuals for the effec-
20 tive conduct of intelligence activities;

21 (D) ensure that the personnel of the intel-
22 ligence community is sufficiently diverse for
23 purposes of the collection and analysis of intel-
24 ligence through the recruitment and training of

1 women, minorities, and individuals with diverse
2 ethnic, cultural, and linguistic backgrounds;

3 (E) make service in more than one element
4 of the intelligence community a condition of
5 promotion to such positions within the intel-
6 ligence community as the Director shall specify;

7 (F) ensure the effective management of in-
8 telligence community personnel who are respon-
9 sible for intelligence community-wide matters;

10 (G) provide for the effective management
11 of human capital within the intelligence commu-
12 nity, including—

13 (i) the alignment of human resource
14 policies and programs of the elements of
15 the intelligence community with the mis-
16 sions, goals, and organizational objectives
17 of such elements and of the intelligence
18 community overall;

19 (ii) the assessment of workforce char-
20 acteristics and future needs and the estab-
21 lishment of workforce development strate-
22 gies to meet those needs based on relevant
23 organizational missions and strategic
24 plans;

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

4 (iv) the alignment of expectations for
5 personnel performance with relevant orga-
6 nizational missions and strategic plans;

7 (H) are consistent with the public employ-
8 ment principles of merit and fitness set forth
9 under section 2301 of title 5, United States
10 Code; and

11 (I) include the enhancements required
12 under section 114;

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

16 (10) ensure that appropriate officials of the
17 United States Government and other appropriate in-
18 dividuals have access to a variety of intelligence as-
19 sessments and analytical views;

20 (11) direct an element or elements of the intel-
21 ligence community to conduct competitive analysis of
22 analytic products, particularly products having na-
23 tional importance;

24 (12) implement policies and procedures to en-
25 courage sound analytic methods and tradecraft

1 throughout the elements of the intelligence commu-
2 nity and to ensure that the elements of the intel-
3 ligence community regularly conduct competitive
4 analysis of analytic products, whether such products
5 are produced by or disseminated to such elements;

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

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

11 (15) establish requirements and procedures for
12 the dissemination of classified information by ele-
13 ments of the intelligence community;

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

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

1 (18) establish standards for information tech-
2 nology and communications for the intelligence com-
3 munity;

4 (19) ensure that the intelligence community
5 makes efficient and effective use of open-source in-
6 formation and analysis;

7 (20) ensure compliance by elements of the intel-
8 ligence community with the Constitution and all
9 laws, regulations, Executive orders, and imple-
10 menting guidelines of the United States applicable to
11 the intelligence and intelligence-related activities of
12 the United States Government, including the provi-
13 sions of the Constitution and all laws, regulations,
14 Executive orders, and implementing guidelines of the
15 United States applicable to the protection of the pri-
16 vacy and civil liberties of United States persons;

17 (21) eliminate waste and unnecessary duplica-
18 tion within the intelligence community; and

19 (22) perform such other functions as the Presi-
20 dent may direct.

21 (b) UNIFORM PROCEDURES FOR SENSITIVE COM-
22 PARTMENTED INFORMATION.—The President, acting
23 through the National Intelligence Director, shall establish
24 uniform standards and procedures for the grant of access

1 to sensitive compartmented information in accordance
2 with section 115.

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

6 (1) The personnel policies and programs devel-
7 oped and implemented under subsection (a)(8) with
8 respect to members of the uniformed services shall
9 be consistent with any other personnel policies and
10 standards applicable to the members of the uni-
11 formed services.

12 (2) It is the sense of the Senate that the Na-
13 tional Intelligence Director shall seek input from the
14 Secretary of Defense, the Secretaries of the military
15 departments, and, as appropriate, the Secretary of
16 Homeland Security in developing and implementing
17 such policies and programs.

18 (d) PERFORMANCE OF COMMON SERVICES.—(1) The
19 National Intelligence Director shall, in consultation with
20 the heads of departments and agencies of the United
21 States Government containing elements within the intel-
22 ligence community and with the Director of the Central
23 Intelligence Agency, direct and coordinate the perform-
24 ance by the elements of the intelligence community within
25 the National Intelligence Program of such services as are

1 of common concern to the intelligence community, which
2 services the National Intelligence Director determines can
3 be more efficiently accomplished in a consolidated manner.

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

7 (e) REGULATIONS.—The National Intelligence Direc-
8 tor may prescribe regulations relating to the discharge and
9 enforcement of the responsibilities of the Director under
10 this section.

11 **SEC. 113. AUTHORITIES OF NATIONAL INTELLIGENCE DI-**
12 **RECTOR.**

13 (a) ACCESS TO INTELLIGENCE.—Unless otherwise di-
14 rected by the President, the National Intelligence Director
15 shall have access to all intelligence collected by any depart-
16 ment, agency, or other element of the United States Gov-
17 ernment.

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

23 (1) providing to the heads of the departments
24 containing agencies or elements within the intel-
25 ligence community and that have one or more pro-

1 grams, projects, or activities within the National In-
2 telligence program, and to the heads of such agen-
3 cies and elements, guidance for development of the
4 National Intelligence Program budget pertaining to
5 such agencies or elements;

6 (2) developing and presenting to the President
7 an annual budget for the National Intelligence Pro-
8 gram after consultation with the heads of agencies
9 or elements, and the heads of their respective de-
10 partments, under paragraph (1), including, in fur-
11 therance of such budget, the review, modification,
12 and approval of budgets of the agencies or elements
13 of the intelligence community with one or more pro-
14 grams, projects, or activities within the National In-
15 telligence Program utilizing the budget authorities in
16 subsection (c)(1);

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

22 (4) participating in the development by the Sec-
23 retary of Defense of the annual budget for military
24 intelligence programs and activities outside the Na-
25 tional Intelligence Program;

1 (5) receiving the appropriations for the Na-
2 tional Intelligence Program as specified in sub-
3 section (d) and allotting and allocating funds to
4 agencies and elements of the intelligence community;
5 and

6 (6) managing and overseeing the execution by
7 the agencies or elements of the intelligence commu-
8 nity, and, if necessary, the modification of the an-
9 nual budget for the National Intelligence Program,
10 including directing the reprogramming and transfer
11 of funds, and the transfer of personnel, among and
12 between elements of the intelligence community
13 within the National Intelligence Program utilizing
14 the authorities in subsections (f) and (g).

15 (c) BUDGET AUTHORITIES.—(1)(A) In developing
16 and presenting an annual budget for the elements of the
17 intelligence community within the National Intelligence
18 Program under subsection (b)(1), the National Intel-
19 ligence Director shall coordinate, prepare, and present to
20 the President the annual budgets of those elements, in
21 consultation with the heads of those elements.

22 (B) If any portion of the budget for an element of
23 the intelligence community within the National Intel-
24 ligence Program is prepared outside the Office of the Na-
25 tional Intelligence Director, the Director—

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

3 (ii) may modify, or may require modifications,
4 of such budget to meet the requirements and prior-
5 ities of the Director before approving such budget
6 under clause (i).

7 (C) The budget of an agency or element of the intel-
8 ligence community with one or more programs, projects,
9 or activities within the National Intelligence Program may
10 not be provided to the President unless the Director has
11 first approved such budget as it pertains to those pro-
12 grams, projects, and activities within the National Intel-
13 ligence Program.

14 (2)(A) The Director shall provide guidance for the
15 development of the annual budgets for each agency or ele-
16 ment of the intelligence community that does not have any
17 program, project, or activity within the National Intel-
18 ligence Program.

19 (B) The heads of the agencies or elements of the in-
20 telligence community, and the heads of their respective de-
21 partments, referred to in subparagraph (A) shall coordi-
22 nate closely with the Director in the development of the
23 budgets of such agencies or elements, before the submis-
24 sion of their recommendations on such budgets to the
25 President.

1 (d) JURISDICTION OF FUNDS UNDER NIP.—(1) Not-
2 withstanding any other provision of law and consistent
3 with section 504 of the National Security Act of 1947 (50
4 U.S.C. 414), any amounts appropriated or otherwise made
5 available for the National Intelligence Program shall be
6 appropriated to the National Intelligence Authority and,
7 pursuant to subsection (e), under the direct jurisdiction
8 of the National Intelligence Director.

9 (2) The Director shall manage and oversee the execu-
10 tion by each element of the intelligence community of any
11 amounts appropriated or otherwise made available to such
12 element under the National Intelligence Program.

13 (e) ACCOUNTS FOR ADMINISTRATION OF NIP
14 FUNDS.—(1) The Secretary of the Treasury shall, in con-
15 sultation with the National Intelligence Director, establish
16 accounts for the funds under the jurisdiction of the Direc-
17 tor under subsection (d) for purposes of carrying out the
18 responsibilities and authorities of the Director under this
19 Act with respect to the National Intelligence Program.

20 (2) The National Intelligence Director shall—

21 (A) control and manage the accounts estab-
22 lished under paragraph (1); and

23 (B) with the concurrence of the Director of the
24 Office of Management and Budget, establish proce-

1 dures governing the use (including transfers and
2 reprogrammings) of funds in such accounts.

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

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

14 (4) The National Intelligence Director shall allot
15 funds deposited in an account established under para-
16 graph (1) directly to the elements of the intelligence com-
17 munity concerned in accordance with the procedures es-
18 tablished under paragraph (2)(B).

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

23 (6) Nothing in this subsection shall be construed to
24 impair or otherwise affect the authority granted by sub-

1 section (g)(3) or by section 5 or 8 of the Central Intel-
2 ligence Agency Act of 1949 (50 U.S.C. 403f, 403j).

3 (f) ROLE IN REPROGRAMMING OR TRANSFER OF NIP
4 FUNDS BY ELEMENTS OF INTELLIGENCE COMMUNITY.—

5 (1) No funds made available under the National Intel-
6 ligence Program may be reprogrammed or transferred by
7 any agency or element of the intelligence community with-
8 out the prior approval of the National Intelligence Direc-
9 tor except in accordance with procedures issued by the Di-
10 rector.

11 (2) The head of the department concerned shall con-
12 sult with the Director before reprogramming or transfer-
13 ring funds appropriated or otherwise made available to an
14 agency or element of the intelligence community that does
15 not have any program, project, or activity within the Na-
16 tional Intelligence Program.

17 (3) The Director shall, before reprogramming funds
18 appropriated or otherwise made available for an element
19 of the intelligence community within the National Intel-
20 ligence Program, consult with the head of the department
21 or agency having jurisdiction over such element regarding
22 such reprogramming.

23 (4)(A) The Director shall consult with the appro-
24 priate committees of Congress regarding modifications of

1 existing procedures to expedite the reprogramming of
2 funds within the National Intelligence Program.

3 (B) Any modification of procedures under subpara-
4 graph (A) shall include procedures for the notification of
5 the appropriate committees of Congress of any objection
6 raised by the head of a department or agency to a re-
7 programming proposed by the Director as a result of con-
8 sultations under paragraph (3).

9 (g) TRANSFER OR REPROGRAMMING OF FUNDS AND
10 TRANSFER OF PERSONNEL WITHIN NIP.—(1) In addi-
11 tion to any other authorities available under law for such
12 purposes, the National Intelligence Director, with the ap-
13 proval of the Director of the Office of Management and
14 Budget and after consultation with the heads of the de-
15 partments containing agencies or elements within the in-
16 telligence community to the extent their subordinate agen-
17 cies or elements are affected, with the heads of such subor-
18 dinate agencies or elements, and with the Director of the
19 Central Intelligence Agency to the extent the Central In-
20 telligence Agency is affected, may—

21 (A) transfer or reprogram funds appropriated
22 for a program within the National Intelligence Pro-
23 gram to another such program;

24 (B) review, and approve or disapprove, any pro-
25 posal to transfer or reprogram funds from appro-

1 priations that are not for the National Intelligence
2 Program to appropriations for the National Intel-
3 ligence Program;

4 (C) in accordance with procedures to be devel-
5 oped by the National Intelligence Director, transfer
6 personnel of the intelligence community funded
7 through the National Intelligence Program from one
8 element of the intelligence community to another ele-
9 ment of the intelligence community; and

10 (D) in accordance with procedures to be devel-
11 oped by the National Intelligence Director and the
12 heads of the departments and agencies concerned,
13 transfer personnel of the intelligence community not
14 funded through the National Intelligence Program
15 from one element of the intelligence community to
16 another element of the intelligence community.

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

19 (A) the funds or personnel are being trans-
20 ferred to an activity that is a higher priority intel-
21 ligence activity;

22 (B) the transfer does not involve a transfer of
23 funds to the Reserve for Contingencies; and

24 (C) the transfer does not exceed applicable ceil-
25 ings established in law for such transfers;

1 (D) the personnel are not uniformed; and

2 (E) uniformed services personnel, except that
3 the Director may transfer military positions or bil-
4 lets if such transfer is for a period not to exceed
5 three years; and

6 (E) nothing in section 143(i) or 144(f) shall be
7 construed to authorize the Director to specify or re-
8 quire the head of a department, agency, or element
9 of the United States Government to approve a re-
10 quest for the transfer, assignment, or detail of uni-
11 formed services personnel, except that the Director
12 may take such action with regard to military posi-
13 tions or billets if such transfer is for a period not
14 to exceed three years.

15 (3) Funds transferred under this subsection shall re-
16 main available for the same period as the appropriations
17 account to which transferred.

18 (4) Any transfer of funds under this subsection shall
19 be carried out in accordance with existing procedures ap-
20 plicable to reprogramming notifications for the appro-
21 priate congressional committees. Any proposed transfer
22 for which notice is given to the appropriate congressional
23 committees shall be accompanied by a report explaining
24 the nature of the proposed transfer and how it satisfies
25 the requirements of this subsection. In addition, the con-

1 gressional intelligence committees shall be promptly noti-
2 fied of any transfer of funds made pursuant to this sub-
3 section in any case in which the transfer would not have
4 otherwise required reprogramming notification under pro-
5 cedures in effect as of October 24, 1992.

6 (5)(A) The National Intelligence Director shall
7 promptly submit to the appropriate committees of Con-
8 gress a report on any transfer of personnel made pursuant
9 to this subsection. The Director shall include in any such
10 report an explanation of the nature of the transfer and
11 how it satisfies the requirements of this subsection.

12 (B) In this paragraph, the term “appropriate com-
13 mittees of Congress” means—

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

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

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

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

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

1 (III) the Committee on Armed Services of
2 the House of Representatives;

3 (iii) in the case of a transfer of personnel to or
4 from the Federal Bureau of Investigation—

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

7 (II) the Committee on the Judiciary of the
8 Senate; and

9 (III) the Committee on the Judiciary of
10 the House of Representatives; and

11 (iv) in the case of a transfer of personnel to or
12 from the Department of Homeland Security—

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

15 (II) the Committee on Governmental Af-
16 fairs of the Senate; and

17 (III) the Select Committee on Homeland
18 Security of the House of Representatives.

19 (h) INFORMATION TECHNOLOGY AND COMMUNICA-
20 TIONS.—(1) In conforming with section 206, in carrying
21 out section 112(a)(18), the National Intelligence Director
22 shall—

23 (A) establish standards for information tech-
24 nology and communications across the intelligence
25 community;

1 (B) develop an integrated information tech-
2 nology network and enterprise architecture for the
3 intelligence community, including interface stand-
4 ards for interoperability to enable automated infor-
5 mation-sharing among elements of the intelligence
6 community;

7 (C) maintain an inventory of critical informa-
8 tion technology and communications systems, and
9 eliminate unnecessary or duplicative systems;

10 (D) establish contingency plans for the intel-
11 ligence community regarding information technology
12 and communications; and

13 (E) establish policies, doctrine, training, and
14 other measures necessary to ensure that the intel-
15 ligence community develops an integrated informa-
16 tion technology and communications network that
17 ensures information-sharing.

18 (2) Consistent with section 206 and the Clinger-
19 Cohen Act (divisions D and E of Public Law 104–106;
20 110 Stat. 642), the Director shall take any action nec-
21 essary, including the setting of standards for information
22 technology and communications across the intelligence
23 community, to develop an integrated information tech-
24 nology and communications network that ensures informa-
25 tion-sharing across the intelligence community.

1 (i) COORDINATION WITH FOREIGN GOVERN-
2 MENTS.—In a manner consistent with section 207 of the
3 Foreign Service Act of 1980 (22 U.S.C. 3927), the Na-
4 tional Intelligence Director shall oversee and direct the Di-
5 rector of the Central Intelligence Agency in coordinating,
6 under section 103(f) of the National Security Act of 1947,
7 the relationships between elements of the intelligence com-
8 munity and the intelligence or security services of foreign
9 governments or international organizations on all matters
10 involving intelligence related to the national security.

11 (j) OPEN SOURCE INFORMATION COLLECTION.—The
12 National Intelligence Director shall establish and maintain
13 within the intelligence community an effective and effi-
14 cient open-source information collection capability.

15 (k) ACCESS TO INFORMATION.—Except as otherwise
16 directed by the President, the head of any department,
17 agency, or other element of the United States Government
18 shall promptly provide the National Intelligence Director
19 such information in the possession or under the control
20 of such element as the Director may request in order to
21 facilitate the exercise of the authorities and responsibilities
22 of the Director under this Act.

23 **SEC. 114. FUNDING OF INTELLIGENCE ACTIVITIES.**

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

1 able to an intelligence agency may be obligated or ex-
2 pended for an intelligence or intelligence-related activity
3 only if—

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

6 (B) in the case of funds from the Reserve for
7 Contingencies of the National Intelligence Director,
8 and consistent with the provisions of section 503 of
9 the National Security Act of 1947 (50 U.S.C. 413b)
10 concerning any significant anticipated intelligence
11 activity, the National Intelligence Director has noti-
12 fied the appropriate congressional committees of the
13 intent to make such funds available for such activity;
14 or

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

17 (i) the activity to be funded is a higher pri-
18 ority intelligence or intelligence-related activity;
19 and

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

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

5 (b) APPLICABILITY OF OTHER AUTHORITIES.—Not-
6 withstanding any other provision of this Act, appropriated
7 funds available to an intelligence agency may be obligated
8 or expended for an intelligence, intelligence-related, or
9 other activity only if such obligation or expenditure is con-
10 sistent with subsections (b), (c), and (d) of section 504
11 of the National Security Act of 1947 (50 U.S.C. 414).

12 (c) DEFINITIONS.—In this section:

13 (1) The term “intelligence agency” means any
14 department, agency, or other entity of the United
15 States involved in intelligence or intelligence-related
16 activities.

17 (2) The term “appropriate congressional com-
18 mittees” means—

19 (A)(i) the Permanent Select Committee on
20 Intelligence and the Committee on Appropria-
21 tions of the House of Representatives; and

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

1 (B) in the case of a transfer of funds to
2 or from, or a reprogramming within, the De-
3 partment of Defense—

4 (i) the committees and select commit-
5 tees referred to in subparagraph (A);

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

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

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

13 (i) the committees and select commit-
14 tees referred to in subparagraph (A);

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

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

19 (3) The term “specifically authorized by the
20 Congress” means that—

21 (A) the activity and the amount of funds
22 proposed to be used for that activity were iden-
23 tified in a formal budget request to the Con-
24 gress, but funds shall be deemed to be specifi-
25 cally authorized for that activity only to the ex-

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

4 (B) although the funds were not formally
5 requested, the Congress both specifically au-
6 thorized the appropriation of the funds for the
7 activity and appropriated the funds for the ac-
8 tivity.

9 **SEC. 115. ENHANCED PERSONNEL MANAGEMENT.**

10 (a) REWARDS FOR SERVICE IN CERTAIN POSI-
11 TIONS.—(1) The National Intelligence Director shall pre-
12 scribe regulations to provide incentives for service on the
13 staff of the national intelligence centers, on the staff of
14 the National Counterterrorism Center, and in other posi-
15 tions in support of the intelligence community manage-
16 ment functions of the Director.

17 (2) Incentives under paragraph (1) may include fi-
18 nancial incentives, bonuses, and such other awards and
19 incentives as the Director considers appropriate.

20 (b) ENHANCED PROMOTION FOR SERVICE UNDER
21 NID.—Notwithstanding any other provision of law, the
22 National Intelligence Director shall ensure that personnel
23 of an element of the intelligence community who are as-
24 signed or detailed to service under the National Intel-
25 ligence Director shall be promoted at rates equivalent to

1 or better than personnel of such element who are not so
2 assigned or detailed.

3 (c) JOINT CAREER MATTERS.—(1) In carrying out
4 section 112(a)(8), the National Intelligence Director shall
5 prescribe mechanisms to facilitate the rotation of per-
6 sonnel of the intelligence community through various ele-
7 ments of the intelligence community in the course of their
8 careers in order to facilitate the widest possible under-
9 standing by such personnel of the variety of intelligence
10 requirements, methods, and disciplines.

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

13 (A) The establishment of special occupational
14 categories involving service, over the course of a ca-
15 reer, in more than one element of the intelligence
16 community.

17 (B) The provision of rewards for service in posi-
18 tions undertaking analysis and planning of oper-
19 ations involving two or more elements of the intel-
20 ligence community.

21 (C) The establishment of requirements for edu-
22 cation, training, service, and evaluation that involve
23 service in more than one element of the intelligence
24 community.

1 (3) It is the sense of Congress that the mechanisms
2 prescribed under this subsection should, to the extent
3 practical, seek to duplicate within the intelligence commu-
4 nity the joint officer management policies established by
5 the Goldwater-Nichols Department of Defense Reorga-
6 nization Act of 1986 (Public Law 99–433) and the amend-
7 ments on joint officer management made by that Act.

8 **SEC. 116. SECURITY CLEARANCES.**

9 (a) IN GENERAL.—The President, in consultation
10 with the National Intelligence Director, the department,
11 agency, or element selected under (b), and other appro-
12 priate officials shall—

13 (1) establish uniform standards and procedures
14 for the grant of access to classified information for
15 employees and contractor personnel of the United
16 States Government who require access to such infor-
17 mation;

18 (2) ensure the consistent implementation of the
19 standards and procedures established under para-
20 graph (1) throughout the departments, agencies, and
21 elements of the United States Government and
22 under contracts entered into by such departments,
23 agencies, and elements;

24 (3) ensure that an individual who is granted or
25 continued eligibility for access to classified informa-

1 tion is treated by each department, agency, or ele-
2 ment of the executive branch as eligible for access to
3 classified information at that level for all purposes
4 of each such department, agency, or element, re-
5 gardless of which department, agency, or element of
6 the executive branch granted or continued the eligi-
7 bility of such individual for access to classified infor-
8 mation;

9 (4) establish uniform requirements and stand-
10 ards, including for security questionnaires, financial
11 disclosure requirements, and standards for admin-
12 istering polygraph examinations, to be utilized for
13 the performance of security clearance investigations,
14 including by the contractors conducting such inves-
15 tigations; and

16 (5) ensure that the database established under
17 subsection (b)(2)(B) meets the needs of the intel-
18 ligence community.

19 (b) PERFORMANCE OF SECURITY CLEARANCE INVES-
20 TIGATIONS.—(1) Not later than 45 days after the date of
21 the enactment of this Act, the President shall select a sin-
22 gle department, agency, or element of the executive branch
23 to conduct all security clearance investigations of employ-
24 ees and contractor personnel of the United States Govern-
25 ment who require access to classified information and to

1 provide and maintain all security clearances of such em-
2 ployees and contractor personnel.

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

5 (A) take all necessary actions to carry out
6 the requirements of this section, including en-
7 tering into a memorandum of understanding
8 with any agency carrying out responsibilities re-
9 lating to security clearances or security clear-
10 ance investigations before the date of the enact-
11 ment of this Act;

12 (B) as soon as practicable, establish and
13 maintain a single database for tracking security
14 clearance applications, security clearance inves-
15 tigation, and determinations of eligibility for
16 security clearances, which database shall incor-
17 porate applicable elements of similar databases
18 in existence on the date of the enactment of
19 this Act; and

20 (C) ensure that security clearance inves-
21 tigation are conducted in accordance with uni-
22 form standards and requirements established
23 under subsection (a)(4), including uniform se-
24 curity questionnaires and financial disclosure
25 requirements.

1 (c) ADJUDICATION AND GRANT OF SECURITY CLEAR-
2 ANCES.—(1) Each agency that adjudicates and grants se-
3 curity clearances as of the date of the enactment of this
4 Act may continue to adjudicate and grant security clear-
5 ances after that date.

6 (2) Each agency that adjudicates and grants security
7 clearances shall specify to the department, agency, or ele-
8 ment selected under subsection (b) the level of security
9 clearance investigation required for an individual under its
10 jurisdiction.

11 (3) Upon granting or continuing eligibility for access
12 to classified information to an individual under its juris-
13 diction, an agency that adjudicates and grants security
14 clearances shall submit to the department, agency, or ele-
15 ment selected under subsection (b) notice of that action,
16 including the level of access to classified information
17 granted.

18 (d) UTILIZATION OF PERSONNEL.—There shall be
19 transferred to the department, agency, or element selected
20 under subsection (b) any personnel of any executive agen-
21 cy whose sole function as of the date of the enactment
22 of this Act is the performance of security clearance inves-
23 tigations.

24 (e) TRANSITION.—The President shall take appro-
25 priate actions to ensure that the performance of security

1 clearance investigations under this section commences not
2 later than one year after the date of the enactment of this
3 Act.

4 **SEC. 117. NATIONAL INTELLIGENCE RESERVE CORPS.**

5 (a) ESTABLISHMENT.—The National Intelligence Di-
6 rector may provide for the establishment and training of
7 a National Intelligence Reserve Corps (in this section re-
8 ferred to as “National Intelligence Reserve Corps”) for the
9 temporary reemployment on a voluntary basis of former
10 employees of elements of the intelligence community dur-
11 ing periods of emergency, as determined by the Director.

12 (b) ELIGIBLE INDIVIDUALS.—An individual may par-
13 ticipate in the National Intelligence Reserve Corps only
14 if the individual previously served as a full time employee
15 of an element of the intelligence community.

16 (c) PERSONNEL STRENGTH LEVEL.—Congress shall
17 authorize the personnel strength level for the National In-
18 telligence Reserve Corps for each fiscal year.

19 (d) TERMS OF PARTICIPATION.—The National Intel-
20 ligence Director shall prescribe the terms and conditions
21 under which eligible individuals may participate in the Na-
22 tional Intelligence Reserve Corps.

23 (e) EXPENSES.—The National Intelligence Director
24 may provide members of the National Intelligence Reserve
25 Corps transportation and per diem in lieu of subsistence

1 for purposes of participating in any training that relates
 2 to service as a member of the Reserve Corps.

3 (f) TREATMENT OF ANNUITANTS.—(1) If an annu-
 4 itant receiving an annuity from the Civil Service Retire-
 5 ment and Disability Fund becomes temporarily reem-
 6 ployed pursuant to this section, such annuity shall not be
 7 discontinued thereby.

8 (2) An annuitant so reemployed shall not be consid-
 9 ered an employee for the purposes of chapter 83 or 84
 10 of title 5, United States Code.

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

17 **SEC. 118. APPOINTMENT AND TERMINATION OF CERTAIN**
 18 **OFFICIALS RESPONSIBLE FOR INTEL-**
 19 **LIGENCE-RELATED ACTIVITIES.**

20 (a) RECOMMENDATION OF NID IN CERTAIN AP-
 21 POINTMENT.—In the event of a vacancy in the position
 22 of Director of the Central Intelligence Agency, the Na-
 23 tional Intelligence Director shall recommend to the Presi-
 24 dent an individual for nomination to fill the vacancy.

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

6 (1) if the appointment to such position is made
7 by the President, any recommendation to the Presi-
8 dent to nominate or appoint an individual to such
9 position shall be accompanied by the recommenda-
10 tion of the National Intelligence Director with re-
11 spect to the nomination or appointment of such indi-
12 vidual to such position; and

13 (2) if the appointment to such position is made
14 by the head of the department containing such agen-
15 cy, organization, or element, the Director of the
16 Central Intelligence Agency, or a subordinate official
17 of such department or of the Central Intelligence
18 Agency, no individual may be appointed to such po-
19 sition without the concurrence of the National Intel-
20 ligence Director.

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

1 pointment, and supervision of the unitary executive
2 branch.

3 (d) RECOMMENDATION OF NID ON TERMINATION OF
4 SERVICE.—(1) The National Intelligence Director may
5 recommend to the President or the head of the department
6 or agency concerned the termination of service of any indi-
7 vidual serving in any position covered by this section.

8 (2) In the event the Director intends to recommend
9 to the President the termination of service of an individual
10 under paragraph (1), the Director shall seek the concur-
11 rence of the head of the department or agency concerned.
12 If the head of the department or agency concerned does
13 not concur in the recommendation, the Director may make
14 the recommendation to the President without the concur-
15 rence of the head of the department or agency concerned,
16 but shall notify the President that the head of the depart-
17 ment or agency concerned does not concur in the rec-
18 ommendation.

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

21 (A) by striking subsection (a);

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

1 (C) by striking “Director of Central Intel-
2 ligence” each place it appears and inserting “Na-
3 tional Intelligence Director”;

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

5 (i) in paragraph (1)—

6 (I) by striking “seek” and inserting
7 “obtain”; and

8 (II) by striking the second sentence;

9 and

10 (ii) in paragraph (2)—

11 (I) by redesignating subparagraphs

12 (B) and (C) as subparagraphs (C) and
13 (D), respectively; and

14 (II) by inserting after subparagraph

15 (A) the following new subparagraph (B):

16 “(B) The Director of the Defense Intelligence
17 Agency.”; and

18 (E) in paragraph (2) of subsection (b), as so re-
19 designated—

20 (i) by redesignating subparagraphs (B)

21 and (C) as subparagraphs (C) and (D), respec-
22 tively; and

23 (ii) by inserting after subparagraph (A)

24 the following new subparagraph (B):

1 “(B) The Director of the Defense Intelligence
2 Agency.”.

3 (2)(A) The heading of such section is amended by
4 striking “**consultation and**”.

5 (B) The table of sections at the beginning of sub-
6 chapter II of chapter 8 of such title is amended in the
7 item relating to section 201 by striking “consultation
8 and”.

9 **SEC. 119. RESERVE FOR CONTINGENCIES.**

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

15 (b) ELEMENTS.—The Reserve shall consist of the fol-
16 lowing elements:

17 (1) Amounts authorized to be appropriated to
18 the Reserve.

19 (2) Any amounts authorized to be transferred
20 to or deposited in the Reserve by law.

21 (c) AVAILABILITY.—Amounts in the Reserve shall be
22 available for such purposes as are provided by law. Any
23 use of funds from the Reserve shall be subject to the direc-
24 tion and approval of the National Intelligence Director
25 and in accordance with procedures issued by the Director.

1 (d) TRANSFER OF FUNDS OF RESERVE FOR CONTIN-
2 GENCIES OF CIA.—There shall be transferred to the Re-
3 serve for Contingencies all unobligated balances of the Re-
4 serve for Contingencies of the Central Intelligence Agency
5 as of the date of the enactment of this Act.

6 **Subtitle C—Office of the National**
7 **Intelligence Director**

8 **SEC. 121. OFFICE OF THE NATIONAL INTELLIGENCE DIREC-**
9 **TOR.**

10 (a) OFFICE OF NATIONAL INTELLIGENCE DIREC-
11 TOR.—There is within the National Intelligence Authority
12 an Office of the National Intelligence Director.

13 (b) FUNCTION.—The function of the Office of the
14 National Intelligence Director is to assist the National In-
15 telligence Director in carrying out the duties and respon-
16 sibilities of the Director under this Act, the National Secu-
17 rity Act of 1947 (50 U.S.C. 401 et seq.), and other appli-
18 cable provisions of law, and to carry out such other duties
19 as may be prescribed by the President or by law.

20 (c) COMPOSITION.—The Office of the National Intel-
21 ligence Director is composed of the following:

22 (1) The Principal Deputy National Intelligence
23 Director.

24 (2) Any Deputy National Intelligence Director
25 appointed under section 122(b).

1 (3) The National Intelligence Council.

2 (4) The General Counsel of the National Intel-
3 ligence Authority.

4 (5) The Officer for Civil Rights and Civil Lib-
5 erties of the National Intelligence Authority.

6 (6) The Privacy Officer of the National Intel-
7 ligence Authority.

8 (7) The Chief Information Officer of the Na-
9 tional Intelligence Authority.

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

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

14 (10) The Chief Scientist of the National Intel-
15 ligence Authority.

16 (11) The National Counterintelligence Execu-
17 tive (including the Office of the National Counter-
18 intelligence Executive).

19 (12) Such other offices and officials as may be
20 established by law or the Director may establish or
21 designate in the Office.

22 (d) STAFF.—(1) To assist the National Intelligence
23 Director in fulfilling the duties and responsibilities of the
24 Director, the Director shall employ and utilize in the Of-
25 fice of the National Intelligence Director a professional

1 staff having an expertise in matters relating to such duties
2 and responsibilities, and may establish permanent posi-
3 tions and appropriate rates of pay with respect to that
4 staff.

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

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

15 **SEC. 122. DEPUTY NATIONAL INTELLIGENCE DIRECTORS.**

16 (a) PRINCIPAL DEPUTY NATIONAL INTELLIGENCE
17 DIRECTOR.—(1) There is a Principal Deputy National In-
18 telligence Director who shall be appointed by the Presi-
19 dent, by and with the advice and consent of the Senate.

20 (2) In the event of a vacancy in the position of Prin-
21 cipal Deputy National Intelligence Director, the National
22 Intelligence Director shall recommend to the President an
23 individual for appointment as Principal Deputy National
24 Intelligence Director.

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

5 (4) The individual serving as Principal Deputy Na-
6 tional Intelligence Director may not, while so serving,
7 serve in any capacity in any other element of the intel-
8 ligence community, except to the extent that the individual
9 serving as Principal Deputy National Intelligence Director
10 is doing so in an acting capacity.

11 (5) The Principal Deputy National Intelligence Di-
12 rector shall assist the National Intelligence Director in
13 carrying out the duties and responsibilities of the Director.

14 (6) The Principal Deputy National Intelligence Di-
15 rector shall act for, and exercise the powers of, the Na-
16 tional Intelligence Director during the absence or dis-
17 ability of the National Intelligence Director or during a
18 vacancy in the position of National Director of Intel-
19 ligence.

20 (b) DEPUTY NATIONAL INTELLIGENCE DIREC-
21 TORS.—(1) There may be not more than four Deputy Na-
22 tional Intelligence Directors who shall be appointed by the
23 President.

24 (2) In the event of a vacancy in any position of Dep-
25 uty National Intelligence Director established under this

1 subsection, the National Intelligence Director shall rec-
2 ommend to the President an individual for appointment
3 to such position.

4 (3) Each Deputy National Intelligence Director ap-
5 pointed under this subsection shall have such duties, re-
6 sponsibilities, and authorities as the National Intelligence
7 Director may assign or are specified by law.

8 **SEC. 123. NATIONAL INTELLIGENCE COUNCIL.**

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

11 (b) COMPOSITION.—(1) The National Intelligence
12 Council shall be composed of senior analysts within the
13 intelligence community and substantive experts from the
14 public and private sector, who shall be appointed by, re-
15 port to, and serve at the pleasure of, the National Intel-
16 ligence Director.

17 (2) The Director shall prescribe appropriate security
18 requirements for personnel appointed from the private sec-
19 tor as a condition of service on the Council, or as contrac-
20 tors of the Council or employees of such contractors, to
21 ensure the protection of intelligence sources and methods
22 while avoiding, wherever possible, unduly intrusive re-
23 quirements which the Director considers to be unnecessary
24 for this purpose.

1 (c) DUTIES AND RESPONSIBILITIES.—(1) The Na-
2 tional Intelligence Council shall—

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

7 (B) evaluate community-wide collection and
8 production of intelligence by the intelligence commu-
9 nity and the requirements and resources of such col-
10 lection and production; and

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

14 (2) The National Intelligence Director shall ensure
15 that the Council satisfies the needs of policymakers and
16 other consumers of intelligence by ensuring that each na-
17 tional intelligence estimate under paragraph (1), and each
18 other National Intelligence Council product—

19 (A) states separately, and distinguishes be-
20 tween, the intelligence underlying such estimate or
21 product and the assumptions and judgments of ana-
22 lysts with respect to such intelligence and such esti-
23 mate or product;

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

1 (C) presents and explains alternative conclu-
2 sions, if any, with respect to the intelligence under-
3 lying such estimate or product and such estimate or
4 product, as the case may be; and

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

7 (d) SERVICE AS SENIOR INTELLIGENCE ADVISERS.—
8 Within their respective areas of expertise and under the
9 direction of the National Intelligence Director, the mem-
10 bers of the National Intelligence Council shall constitute
11 the senior intelligence advisers of the intelligence commu-
12 nity for purposes of representing the views of the intel-
13 ligence community within the United States Government.

14 (e) AUTHORITY TO CONTRACT.—Subject to the di-
15 rection and control of the National Intelligence Director,
16 the National Intelligence Council may carry out its respon-
17 sibilities under this section by contract, including con-
18 tracts for substantive experts necessary to assist the
19 Council with particular assessments under this section.

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

24 (g) AVAILABILITY OF COUNCIL AND STAFF.—(1)
25 The National Intelligence Director shall take appropriate

1 measures to ensure that the National Intelligence Council
2 and its staff satisfy the needs of policymaking officials and
3 other consumers of intelligence.

4 (2) The Council shall be readily accessible to policy-
5 making officials and other appropriate individuals not oth-
6 erwise associated with the intelligence community.

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

12 (i) NATIONAL INTELLIGENCE COUNCIL PRODUCT.—
13 For purposes of this section, the term “National Intel-
14 ligence Council product” includes a National Intelligence
15 Estimate and any other intelligence community assess-
16 ment that sets forth the judgment of the intelligence com-
17 munity as a whole on a matter covered by such product.

18 **SEC. 124. GENERAL COUNSEL OF THE NATIONAL INTEL-**
19 **LIGENCE AUTHORITY.**

20 (a) GENERAL COUNSEL OF NATIONAL INTEL-
21 LIGENCE AUTHORITY.—There is a General Counsel of the
22 National Intelligence Authority who shall be appointed
23 from civilian life by the President, by and with the advice
24 and consent of the Senate.

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

7 (c) SCOPE OF POSITION.—The General Counsel of
8 the National Intelligence Authority is the chief legal offi-
9 cer of the National Intelligence Authority.

10 (d) FUNCTIONS.—The General Counsel of the Na-
11 tional Intelligence Authority shall perform such functions
12 as the National Intelligence Director may prescribe.

13 **SEC. 125. OFFICER FOR CIVIL RIGHTS AND CIVIL LIB-**
14 **ERTIES OF THE NATIONAL INTELLIGENCE**
15 **AUTHORITY.**

16 (a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIB-
17 ERTIES OF NATIONAL INTELLIGENCE AUTHORITY.—
18 There is an Officer for Civil Rights and Civil Liberties
19 of the National Intelligence Authority who shall be ap-
20 pointed by the National Intelligence Director.

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

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

1 (1) assist the National Intelligence Director in
2 ensuring that the protection of civil rights and civil
3 liberties, as provided in the Constitution, laws, regu-
4 lations, and Executive orders of the United States,
5 is appropriately incorporated in—

6 (A) the policies and procedures developed
7 for and implemented by the National Intel-
8 ligence Authority;

9 (B) the policies and procedures regarding
10 the relationships among the elements of the in-
11 telligence community within the National Intel-
12 ligence Program; and

13 (C) the policies and procedures regarding
14 the relationships between the elements of the
15 intelligence community within the National In-
16 telligence Program and the other elements of
17 the intelligence community;

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

23 (3) review, investigate, and assess complaints
24 and other information indicating possible abuses of
25 civil rights or civil liberties, as provided in the Con-

1 stitution, laws, regulations, and Executive orders of
2 the United States, in the administration of the pro-
3 grams and operations of the Authority, and in the
4 relationships described in paragraph (1), unless, in
5 the determination of the Inspector General of the
6 National Intelligence Authority, the review, inves-
7 tigation, or assessment of a particular complaint or
8 information can better be conducted by the Inspec-
9 tor General;

10 (4) coordinate with the Privacy Officer of the
11 National Intelligence Authority to ensure that pro-
12 grams, policies, and procedures involving civil rights,
13 civil liberties, and privacy considerations are ad-
14 dressed in an integrated and comprehensive manner;
15 and

16 (5) perform such other duties as may be pre-
17 scribed by the Director or specified by law.

18 **SEC. 126. PRIVACY OFFICER OF THE NATIONAL INTEL-**
19 **LIGENCE AUTHORITY.**

20 (a) **PRIVACY OFFICER OF NATIONAL INTELLIGENCE**
21 **AUTHORITY.**—There is a Privacy Officer of the National
22 Intelligence Authority who shall be appointed by the Na-
23 tional Intelligence Director.

24 (b) **DUTIES.**—(1) The Privacy Officer of the National
25 Intelligence Authority shall have primary responsibility for

1 the privacy policy of the National Intelligence Authority
2 (including in the relationships among the elements of the
3 intelligence community within the National Intelligence
4 Program and the relationships between the elements of the
5 intelligence community within the National Intelligence
6 Program and the other elements of the intelligence com-
7 munity).

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

10 (A) assure that the use of technologies sustain,
11 and do not erode, privacy protections relating to the
12 use, collection, and disclosure of personal informa-
13 tion;

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

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

20 (D) coordinate with the Officer for Civil Rights
21 and Civil Liberties of the National Intelligence Au-
22 thority to ensure that programs, policies, and proce-
23 dures involving civil rights, civil liberties, and pri-
24 vacy considerations are addressed in an integrated
25 and comprehensive manner.

1 **SEC. 127. CHIEF INFORMATION OFFICER OF THE NATIONAL**
2 **INTELLIGENCE AUTHORITY.**

3 (a) CHIEF INFORMATION OFFICER OF NATIONAL IN-
4 TELLIGENCE AUTHORITY.—There is a Chief Information
5 Officer of the National Intelligence Authority who shall
6 be appointed by the National Intelligence Director.

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

9 (1) assist the National Intelligence Director in
10 implementing the responsibilities and executing the
11 authorities related to information technology under
12 paragraphs (17) and (18) of section 112(a) and sec-
13 tion 113(h); and

14 (2) perform such other duties as may be pre-
15 scribed by the Director or specified by law.

16 **SEC. 128. CHIEF HUMAN CAPITAL OFFICER OF THE NA-**
17 **TIONAL INTELLIGENCE AUTHORITY.**

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

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

24 (1) have the functions and authorities provided
25 for Chief Human Capital Officers under sections

1 1401 and 1402 of title 5, United States Code, with
2 respect to the National Intelligence Authority; and

3 (2) advise and assist the National Intelligence
4 Director in exercising the authorities and respon-
5 sibilities of the Director with respect to the work-
6 force of the intelligence community as a whole.

7 **SEC. 129. CHIEF FINANCIAL OFFICER OF THE NATIONAL IN-**
8 **TELLIGENCE AUTHORITY.**

9 (a) CHIEF FINANCIAL OFFICER OF NATIONAL IN-
10 TELLIGENCE AUTHORITY.—There is a Chief Financial Of-
11 ficer of the National Intelligence Authority who shall be
12 designated by the President, in consultation with the Na-
13 tional Intelligence Director.

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

18 (c) AUTHORITIES AND FUNCTIONS.—The Chief Fi-
19 nancial Officer of the National Intelligence Authority
20 shall—

21 (1) have such authorities, and carry out such
22 functions, with respect to the National Intelligence
23 Authority as are provided for an agency Chief Fi-
24 nancial Officer by section 902 of title 31, United
25 States Code, and other applicable provisions of law;

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

5 (3) assist the Director in participating in the
6 development by the Secretary of Defense of the an-
7 nual budget for military intelligence programs and
8 activities outside the National Intelligence Program;

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

12 (5) perform such other duties as may be pre-
13 scribed by the Director or specified by law.

14 (d) COORDINATION WITH NIA COMPTROLLER.—(1)
15 The Chief Financial Officer of the National Intelligence
16 Authority shall coordinate with the Comptroller of the Na-
17 tional Intelligence Authority in exercising the authorities
18 and performing the functions provided for the Chief Fi-
19 nancial Officer under this section.

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

1 (e) INTEGRATION OF FINANCIAL SYSTEMS.—Subject
2 to the supervision, direction, and control of the National
3 Intelligence Director, the Chief Financial Officer of the
4 National Intelligence Authority shall take appropriate ac-
5 tions to ensure the timely and effective integration of the
6 financial systems of the National Intelligence Authority
7 (including any elements or components transferred to the
8 Authority by this Act), and of the financial systems of the
9 Authority with applicable portions of the financial systems
10 of the other elements of the intelligence community, as
11 soon as possible after the date of the enactment of this
12 Act.

13 (f) PROTECTION OF ANNUAL FINANCIAL STATE-
14 MENT FROM DISCLOSURE.—The annual financial state-
15 ment of the National Intelligence Authority required
16 under section 3515 of title 31, United States Code—

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

20 **SEC. 130. CHIEF SCIENTIST OF THE NATIONAL INTEL-**
21 **LIGENCE AUTHORITY.**

22 (a) CHIEF SCIENTIST OF NATIONAL INTELLIGENCE
23 AUTHORITY.—There is a Chief Scientist of the National
24 Intelligence Authority who shall be appointed by the Na-
25 tional Intelligence Director.

1 (b) REQUIREMENT RELATING TO APPOINTMENT.—

2 An individual appointed as Chief Scientist of the National
3 Intelligence Authority shall have a professional back-
4 ground and experience appropriate for the duties of the
5 Chief Scientist.

6 (c) DUTIES.—The Chief Scientist of the National In-
7 telligence Authority shall—

8 (1) act as the chief representative of the Na-
9 tional Intelligence Director for science and tech-
10 nology;

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

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

17 (4) assist the Director on the science and tech-
18 nology elements of the budget of the National Intel-
19 ligence Authority; and

20 (5) perform other such duties as may be pre-
21 scribed by Director or by law.

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

1 Authority a National Intelligence Authority Science and
2 Technology Committee.

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

6 (3) The Committee shall—

7 (A) coordinate advances in research and devel-
8 opment related to intelligence; and

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

12 **SEC. 131. NATIONAL COUNTERINTELLIGENCE EXECUTIVE.**

13 (a) NATIONAL COUNTERINTELLIGENCE EXECU-
14 TIVE.—The National Counterintelligence Executive under
15 section 902 of the Counterintelligence Enhancement Act
16 of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402b
17 et seq.), as amended by section 310 of this Act, is a com-
18 ponent of the Office of the National Intelligence Director.

19 (b) DUTIES.—The National Counterintelligence Ex-
20 ecutive shall perform the duties provided in the Counter-
21 intelligence Enhancement Act of 2002, as so amended,
22 and such other duties as may be prescribed by the Na-
23 tional Intelligence Director or specified by law.

1 **Subtitle D—Additional Elements of**
 2 **National Intelligence Authority**

3 **SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTEL-**
 4 **LIGENCE AUTHORITY.**

5 (a) INSPECTOR GENERAL OF NATIONAL INTEL-
 6 LIGENCE AUTHORITY.—There is an Inspector General of
 7 the National Intelligence Authority. The Inspector Gen-
 8 eral of the National Intelligence Authority and the Office
 9 of the Inspector General of the National Intelligence Au-
 10 thority shall be subject to the provisions of the Inspector
 11 General Act of 1978 (5 U.S.C. App.).

12 (b) AMENDMENTS TO INSPECTOR GENERAL ACT OF
 13 1978 RELATING TO INSPECTOR GENERAL OF NATIONAL
 14 INTELLIGENCE AUTHORITY.—The Inspector General Act
 15 of 1978 (5 U.S.C. App.) is amended—

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

17 and

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

20 “SPECIAL PROVISIONS CONCERNING THE NATIONAL
 21 INTELLIGENCE AUTHORITY

22 “SEC. 8J. (a)(1) Notwithstanding the last 2 sen-
 23 tences of section 3(a), the Inspector General of the Na-
 24 tional Intelligence Authority (in this section referred to as
 25 the ‘Inspector General’) shall be under the authority, di-

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

7 “(2) With respect to information described in para-
8 graph (1), the Director may prohibit the Inspector Gen-
9 eral from initiating, carrying out, or completing any inves-
10 tigation, inspection, or audit, or from issuing any sub-
11 poena, if the Director determines that such prohibition is
12 necessary to preserve the vital national security interests
13 of the United States.

14 “(3) If the Director exercises the authority under
15 paragraph (1) or (2), the Director shall submit to the con-
16 gressional intelligence committees an appropriately classi-
17 fied statement of the reasons for the exercise of such au-
18 thority within 7 days.

19 “(4) The Director shall advise the Inspector General
20 at the time a report under paragraph (3) is submitted,
21 and, to the extent consistent with the protection of intel-
22 ligence sources and methods, provide the Inspector Gen-
23 eral with a copy of such report.

24 “(5) The Inspector General may submit to the con-
25 gressional intelligence committees any comments on a re-

1 port of which the Inspector General has notice under para-
2 graph (4) that the Inspector General considers appro-
3 priate.

4 “(b) In addition to the qualifications for the appoint-
5 ment of the Inspector General under section 3(a), the In-
6 spector General shall be appointed on the basis of prior
7 experience in the field of intelligence or national security.

8 “(c)(1)(A) In addition to the duties and responsibil-
9 ities of the Inspector General specified elsewhere in this
10 Act, the Inspector General shall, for the purpose stated
11 in subparagraph (B), provide policy direction for, and con-
12 duct, supervise, and coordinate audits and investigations
13 relating to—

14 “(i) the coordination and collaboration among
15 elements of the intelligence community within the
16 National Intelligence Program; and

17 “(ii) the coordination and collaboration between
18 elements of the intelligence community within the
19 National Intelligence Program and other elements of
20 the intelligence community.

21 “(B) The Inspector General shall conduct the activi-
22 ties described in subparagraph (A) to ensure that the co-
23 ordination and collaboration referred to in that paragraph
24 is conducted efficiently and in accordance with applicable
25 law and regulation.

1 “(C) Before undertaking any investigation, inspec-
2 tion, or audit under subparagraph (A), the Inspector Gen-
3 eral shall consult with any other inspector general having
4 responsibilities regarding an element of the intelligence
5 community whose activities are involved in the investiga-
6 tion, inspection, or audit for the purpose of avoiding dupli-
7 cation of effort and ensuring effective coordination and co-
8 operation.

9 “(2) In addition to the matters of which the Inspector
10 General is required to keep the Director and Congress
11 fully and currently informed under section 4(a), the In-
12 spector General shall—

13 “(A) keep the Director and Congress fully and
14 currently informed concerning—

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

18 “(ii) violations of law and regulations, vio-
19 lations of civil liberties and privacy, and fraud
20 and other serious problems, abuses, and defi-
21 ciencies that may occur in the coordination and
22 collaboration referred to in clauses (i) and (ii)
23 of paragraph (1)(A); and

1 “(B) report the progress made in implementing
2 corrective action with respect to the matters referred
3 to in subparagraph (A).

4 “(3) To enable the Inspector General to fully and ef-
5 fectively carry out the duties and responsibilities specified
6 in this Act, the Inspector General and the inspectors gen-
7 eral of the other elements of the intelligence community
8 shall coordinate their internal audit, inspection, and inves-
9 tigative activities to avoid duplication and ensure effective
10 coordination and cooperation.

11 “(4) The Inspector General shall take due regard for
12 the protection of intelligence sources and methods in the
13 preparation of all reports issued by the Inspector General,
14 and, to the extent consistent with the purpose and objec-
15 tive of such reports, take such measures as may be appro-
16 priate to minimize the disclosure of intelligence sources
17 and methods described in such reports.

18 “(d)(1) Each semiannual report prepared by the In-
19 specter General under section 5(a) shall—

20 “(A) include an assessment of the effectiveness
21 of all measures in place in the National Intelligence
22 Authority for the protection of civil liberties and pri-
23 vacy of United States persons; and

24 “(B) be transmitted by the Director to the con-
25 gressional intelligence committees.

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

3 “(A) the Inspector General shall report imme-
4 diately to the Director whenever the Inspector Gen-
5 eral becomes aware of particularly serious or fla-
6 grant problems, abuses, or deficiencies relating to—

7 “(i) the coordination and collaboration
8 among elements of the intelligence community
9 within the National Intelligence Program; and

10 “(ii) the coordination and collaboration be-
11 tween elements of the intelligence community
12 within the National Intelligence Program and
13 other elements of the intelligence community;
14 and

15 “(B) the Director shall transmit to the congres-
16 sional intelligence committees each report under sub-
17 paragraph (A) within 7 calendar days of receipt of
18 such report, together with such comments as the Di-
19 rector considers appropriate.

20 “(3) Any report required to be transmitted by the Di-
21 rector to the appropriate committees or subcommittees of
22 Congress under section 5(d) shall also be transmitted,
23 within the 7-day period specified in that section, to the
24 congressional intelligence committees.

25 “(4) In the event that—

1 “(A) the Inspector General is unable to resolve
2 any differences with the Director affecting the exe-
3 cution of the duties or responsibilities of the Inspec-
4 tor General;

5 “(B) an investigation, inspection, or audit car-
6 ried out by the Inspector General should focus on
7 any current or former National Intelligence Author-
8 ity official who holds or held a position in the Au-
9 thority that is subject to appointment by the Presi-
10 dent, by and with the advice and consent of the Sen-
11 ate, including such a position held on an acting
12 basis;

13 “(C) a matter requires a report by the Inspec-
14 tor General to the Department of Justice on possible
15 criminal conduct by a current or former official de-
16 scribed in subparagraph (B);

17 “(D) the Inspector General receives notice from
18 the Department of Justice declining or approving
19 prosecution of possible criminal conduct of any cur-
20 rent or former official described in subparagraph
21 (B); or

22 “(E) the Inspector General, after exhausting all
23 possible alternatives, is unable to obtain significant
24 documentary information in the course of an inves-
25 tigation, inspection, or audit,

1 the Inspector General shall immediately notify and submit
2 a report on such matter to the congressional intelligence
3 committees.

4 “(5) Pursuant to title V of the National Security Act
5 of 1947 (50 U.S.C. 413 et seq.), the Director shall submit
6 to the congressional intelligence committees any report or
7 findings and recommendations of an investigation, inspec-
8 tion, or audit conducted by the office which has been re-
9 quested by the Chairman or Ranking Minority Member
10 of either committee.

11 “(e)(1) In addition to the other authorities of the In-
12 spector General under this Act, the Inspector General
13 shall have access to any personnel of the National Intel-
14 ligence Authority, or any employee of a contractor of the
15 Authority, whose testimony is needed for the performance
16 of the duties of the Inspector General. Whenever such ac-
17 cess is, in the judgment of the Inspector General, unrea-
18 sonably refused or not provided, the Inspector General
19 shall report the circumstances to the Director without
20 delay.

21 “(2) Failure on the part of any employee or con-
22 tractor of the National Intelligence Authority to cooperate
23 with the Inspector General shall be grounds for appro-
24 priate administrative actions by the Director, including

1 loss of employment or termination of an existing contrac-
2 tual relationship.

3 “(3) Whenever, in the judgment of the Director, an
4 element of the intelligence community that is part of the
5 National Intelligence Program has unreasonably refused
6 or not provided information or assistance requested by the
7 Inspector General under paragraph (1) or (3) of section
8 6(a), the Director shall so inform the head of the element,
9 who shall promptly provide such information or assistance
10 to the Inspector General.

11 “(4) The level of classification or
12 compartmentalization of information shall not, in and of
13 itself, provide a sufficient rationale for denying the Inspec-
14 tor General access to any materials under section 6(a).

15 “(f) In addition to the authorities and requirements
16 in section 7 regarding the receipt of complaints by the In-
17 spector General—

18 “(1) the Inspector General is authorized to re-
19 ceive and investigate complaints or information from
20 any person concerning the existence of an activity
21 constituting a violation of laws, rules, or regulations,
22 or mismanagement, gross waste of funds, abuse of
23 authority, or a substantial and specific danger to the
24 public health and safety; and

1 “(2) once such complaint or information has
2 been received from an employee of the Federal Gov-
3 ernment—

4 “(A) the Inspector General shall not dis-
5 close the identity of the employee without the
6 consent of the employee, unless the Inspector
7 General determines that such disclosure is un-
8 avoidable during the course of the investigation
9 or the disclosure is made to an official of the
10 Department of Justice responsible for deter-
11 mining whether a prosecution should be under-
12 taken; and

13 “(B) no action constituting a reprisal, or
14 threat of reprisal, for making such complaint
15 may be taken by any employee in a position to
16 take such actions, unless the complaint was
17 made or the information was disclosed with the
18 knowledge that it was false or with willful dis-
19 regard for its truth or falsity.

20 “(g) In this section, the terms ‘congressional intel-
21 ligence committees’, ‘intelligence community’, and ‘Na-
22 tional Intelligence Program’ have the meanings given such
23 terms in section 2 of the National Intelligence Reform Act
24 of 2004.”.

1 (c) TECHNICAL AND CONFORMING AMENDMENTS TO
2 INSPECTOR GENERAL ACT OF 1978.—(1)(A) Section
3 8H(a)(1) of the Inspector General Act of 1978 (5 U.S.C.
4 App.) is further amended—

5 (i) by redesignating subparagraph (C) as sub-
6 paragraph (D); and

7 (ii) by inserting after subparagraph (B) the fol-
8 lowing new subparagraph (C):

9 “(C) An employee of the National Intelligence Au-
10 thority, of an entity other than the Authority who is as-
11 signed or detailed to the Authority, or of a contractor of
12 the Authority who intends to report to Congress a com-
13 plaint or information with respect to an urgent concern
14 may report the complaint or information to the Inspector
15 General of the National Intelligence Authority.”.

16 (B) In support of this paragraph, Congress makes
17 the findings set forth in paragraphs (1) through (6) of
18 section 701(b) of the Intelligence Community Whistle-
19 blower Protection Act of 1998 (title VII of Public Law
20 105–272; 5 U.S.C. App. 8H note).

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

23 (A) in section 8K, as redesignated by sub-
24 section (b)(1) of this section, by striking “8F or
25 8H” and inserting “8F, 8H, 8I, or 8J”; and

1 (B) in section 11—

2 (i) in paragraph (1), by inserting “the Na-
3 tional Intelligence Director;” after “the Attor-
4 ney General;”; and

5 (ii) in paragraph (2), by inserting “the Na-
6 tional Intelligence Authority,” after “the Na-
7 tional Aeronautics and Space Administration,”.

8 (d) SEPARATE BUDGET ACCOUNT.—The National
9 Intelligence Director shall, in accordance with procedures
10 to be issued by the Director in consultation with congress-
11 sional intelligence committees, include in the National In-
12 telligence Program budget a separate account for the Of-
13 fice of Inspector General of the National Intelligence Au-
14 thority.

15 (e) SENSE OF CONGRESS ON ADOPTION OF STAND-
16 ARDS OF REVIEW.—It is the sense of Congress that the
17 Inspector General of the National Intelligence Authority,
18 in consultation with other Inspectors General of the intel-
19 ligence community and the President’s Council on Integ-
20 rity and Efficiency, should adopt standards for review and
21 related precedent that are generally used by the intel-
22 ligence community for reviewing whistleblower reprisal
23 complaints made under sections 7 and 8J(f) of the Inspec-
24 tor General Act of 1978.

1 **SEC. 142. OMBUDSMAN OF THE NATIONAL INTELLIGENCE**

2 **AUTHORITY.**

3 (a) OMBUDSMAN OF NATIONAL INTELLIGENCE AU-
4 THORITY.—There is within the National Intelligence Au-
5 thority an Ombudsman of the National Intelligence Au-
6 thority who shall be appointed by the National Intelligence
7 Director.

8 (b) DUTIES.—The Ombudsman of the National Intel-
9 ligence Authority shall—

10 (1) counsel, arbitrate, or offer recommendations
11 on, and have the authority to initiate inquiries into,
12 real or perceived problems of politicization, biased
13 reporting, or lack of objective analysis within the
14 National Intelligence Authority, or any element of
15 the intelligence community within the National Intel-
16 ligence Program, or regarding any analysis of na-
17 tional intelligence by any element of the intelligence
18 community;

19 (2) monitor the effectiveness of measures taken
20 to deal with real or perceived politicization, biased
21 reporting, or lack of objective analysis within the
22 Authority, or any element of the intelligence commu-
23 nity within the National Intelligence Program, or re-
24 garding any analysis of national intelligence by any
25 element of the intelligence community; and

1 (3) conduct regular and detailed reviews of the
2 analytic product or products of the Authority, or any
3 element of the intelligence community within the
4 National Intelligence Program, or of any analysis of
5 national intelligence by any element of the intel-
6 ligence community, with such reviews to be con-
7 ducted so as to ensure that analysis is timely, objec-
8 tive, independent of political considerations, based
9 upon all sources available to the intelligence commu-
10 nity, and performed in a manner consistent with
11 sound analytic methods and tradecraft, including re-
12 views for purposes of determining whether or not—

13 (A) such product or products state sepa-
14 rately, and distinguish between, the intelligence
15 underlying such product or products and the
16 assumptions and judgments of analysts with re-
17 spect to the intelligence and such product or
18 products;

19 (B) such product or products describe the
20 quality and reliability of the intelligence under-
21 lying such product or products;

22 (C) such product or products present and
23 explain alternative conclusions, if any, with re-
24 spect to the intelligence underlying such prod-
25 uct or products;

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

4 (E) the analyst or analysts responsible for
5 such product or products had appropriate ac-
6 cess to intelligence information from all sources,
7 regardless of the source of the information, the
8 method of collection of the information, the ele-
9 ments of the intelligence community that col-
10 lected the information, or the location of such
11 collection.

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

15 (2) The Analytic Review Unit shall assist the Om-
16 budsman of the National Intelligence Authority in per-
17 forming the duties and responsibilities of the Ombudsman
18 set forth in subsection (b)(3).

19 (3) The Ombudsman shall provide the Analytic Re-
20 view Unit a staff who possess expertise in intelligence
21 analysis that is appropriate for the function of the Unit.

22 (4) In assisting the Ombudsman, the Analytic Review
23 Unit shall, subject to the direction and control of the Om-
24 budsman, conduct detailed evaluations of intelligence anal-
25 ysis by the following:

1 (A) The National Intelligence Council.

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

4 (C) To the extent involving the analysis of na-
5 tional intelligence, other elements of the intelligence
6 community.

7 (D) The divisions, offices, programs, officers,
8 and employees of the elements specified in subpara-
9 graphs (B) and (C).

10 (5)(A) The results of the evaluations under para-
11 graph (4) shall be provided to the congressional intel-
12 ligence committees and to appropriate heads of other de-
13 partments, agencies, and elements of the executive branch.

14 (B) The results of the evaluations under paragraph
15 (4) shall also be distributed as appropriate throughout the
16 intelligence community as a method for training intel-
17 ligence community analysts and promoting the develop-
18 ment of sound analytic methods and tradecraft. To ensure
19 the widest possible distribution of the evaluations, the
20 Analytic Review Unit shall, when appropriate, produce
21 evaluations at multiple classification levels.

22 (6) Upon completion of the evaluations under para-
23 graph (4), the Analytic Review Unit may make such rec-
24 ommendations to the National Intelligence Director and
25 to appropriate heads of the elements of the intelligence

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

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

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

23 (e) ANNUAL REPORTS.—The Ombudsman of the Na-
24 tional Intelligence Authority shall submit to the National

1 Intelligence Director and the congressional intelligence
2 committees on an annual basis a report that includes—

3 (1) the assessment of the Ombudsman of the
4 current level of politicization, biased reporting, or
5 lack of objective analysis within the National Intel-
6 ligence Authority, or any element of the intelligence
7 community within the National Intelligence Pro-
8 gram, or regarding any analysis of national intel-
9 ligence by any element of the intelligence commu-
10 nity;

11 (2) such recommendations for remedial meas-
12 ures as the Ombudsman considers appropriate; and

13 (3) an assessment of the effectiveness of reme-
14 dial measures previously taken within the intel-
15 ligence community on matters addressed by the Om-
16 budsman.

17 (f) REFERRAL OF CERTAIN MATTERS FOR INVES-
18 TIGATION.—In addition to carrying out activities under
19 this section, the Ombudsman of the National Intelligence
20 Authority may refer serious cases of misconduct related
21 to politicization of intelligence information, biased report-
22 ing, or lack of objective analysis within the intelligence
23 community to the Inspector General of the National Intel-
24 ligence Authority for investigation.

1 **SEC. 143. NATIONAL COUNTERTERRORISM CENTER.**

2 (a) NATIONAL COUNTERTERRORISM CENTER.—

3 There is within the National Intelligence Authority a Na-
4 tional Counterterrorism Center.

5 (b) DIRECTOR OF NATIONAL COUNTERTERRORISM

6 CENTER.—(1) There is a Director of the National
7 Counterterrorism Center, who shall be the head of the Na-
8 tional Counterterrorism Center, and who shall be ap-
9 pointed by the President, by and with the advice and con-
10 sent of the Senate.

11 (2) Any individual nominated for appointment as the
12 Director of the National Counterterrorism Center shall
13 have significant expertise in matters relating to the na-
14 tional security of the United States and matters relating
15 to terrorism that threatens the national security of the
16 United States.

17 (3) The individual serving as the Director of the Na-
18 tional Counterterrorism Center may not, while so serving,
19 serve in any capacity in any other element of the intel-
20 ligence community, except to the extent that the individual
21 serving as Director of the National Counterterrorism Cen-
22 ter is doing so in an acting capacity.

23 (c) SUPERVISION.—(1) The Director of the National
24 Counterterrorism Center shall report to the National In-
25 telligence Director on—

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

3 (B) the activities of the Directorate of Intel-
4 ligence of the National Counterterrorism Center
5 under subsection (g).

6 (2) The Director of the National Counterterrorism
7 Center shall report to the President and the National In-
8 telligence Director on the planning and progress of joint
9 counterterrorism operations.

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

12 (1) To develop and unify strategy for the civil-
13 ian and military counterterrorism efforts of the
14 United States Government.

15 (2) To integrate counterterrorism intelligence
16 activities of the United States Government, both in-
17 side and outside the United States.

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

20 (A) involve more than one department,
21 agency, or element of the executive branch (un-
22 less otherwise directed by the President); and

23 (B) include the mission, objectives to be
24 achieved, courses of action, parameters for such
25 courses of action, coordination of agency oper-

1 ational activities, recommendations for oper-
2 ational plans, and assignment of departmental
3 or agency responsibilities.

4 (4) To ensure that the collection of
5 counterterrorism intelligence, and the conduct of
6 counterterrorism operations, by the United States
7 Government are informed by the analysis of all-
8 source intelligence.

9 (e) DUTIES AND RESPONSIBILITIES OF DIRECTOR OF
10 NATIONAL COUNTERTERRORISM CENTER.—Notwith-
11 standing any other provision of law, at the direction of
12 the President, the National Security Council, and the Na-
13 tional Intelligence Director, the Director of the National
14 Counterterrorism Center shall—

15 (1) serve as the principal adviser to the Presi-
16 dent and the National Intelligence Director on inter-
17 agency counterterrorism planning and activities;

18 (2) provide unified strategic direction for the ci-
19 vilian and military counterterrorism efforts of the
20 United States Government and for the effective inte-
21 gration and deconfliction of counterterrorism intel-
22 ligence and operations across agency boundaries,
23 both inside and outside the United States;

24 (3) advise the President and the National Intel-
25 ligence Director on the extent to which the

1 counterterrorism program recommendations and
2 budget proposals of the departments, agencies, and
3 elements of the United States Government conform
4 to the priorities established by the President and the
5 National Security Council;

6 (4) in accordance with subsection (f), concur in,
7 or advise the President on, the selections of per-
8 sonnel to head the operating entities of the United
9 States Government with principal missions relating
10 to counterterrorism; and

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

14 (f) ROLE OF DIRECTOR OF NATIONAL
15 COUNTERTERRORISM CENTER IN CERTAIN APPOINT-
16 MENTS.—(1) In the event of a vacancy in a position re-
17 ferred to in paragraph (2), the head of the department
18 or agency having jurisdiction over the position shall obtain
19 the concurrence of the Director of the National
20 Counterterrorism Center before appointing an individual
21 to fill the vacancy or recommending to the President an
22 individual for nomination to fill the vacancy. If the Direc-
23 tor does not concur in the recommendation, the head of
24 the department or agency concerned may fill the vacancy
25 or make the recommendation to the President (as the case

1 may be) without the concurrence of the Director, but shall
2 notify the President that the Director does not concur in
3 the appointment or recommendation (as the case may be).

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

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

7 (B) The Assistant Director of the Federal Bu-
8 reau of Investigation in charge of the
9 Counterterrorism Division.

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

12 (D) The head of such other operating entities
13 of the United States Government having principal
14 missions relating to counterterrorism as the Presi-
15 dent may designate for purposes of this subsection.

16 (3) The President shall notify Congress of the des-
17 ignation of an operating entity of the United States Gov-
18 ernment under paragraph (2)(D) not later than 30 days
19 after the date of such designation.

20 (g) DIRECTORATE OF INTELLIGENCE.—(1) The Di-
21 rector of the National Counterterrorism Center shall es-
22 tablish and maintain within the National
23 Counterterrorism Center a Directorate of Intelligence.

24 (2) The Directorate shall utilize the capabilities of the
25 Terrorist Threat Integration Center (TTIC) transferred

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

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

9 (4) The Directorate shall—

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

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

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

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

1 of the intelligence community to conduct, competi-
2 tive analyses of intelligence products relating to sus-
3 pected terrorists, their organizations, and their capa-
4 bilities, plans, and intentions, particularly products
5 having national importance;

6 (E) implement policies and procedures to en-
7 courage coordination by all elements of the intel-
8 ligence community that conduct analysis of intel-
9 ligence regarding terrorism of all Directorate prod-
10 ucts of national importance and, as appropriate,
11 other products, before their final dissemination; and

12 (F) perform such other duties and functions as
13 the Director of the National Counterterrorism Cen-
14 ter may prescribe.

15 (h) DIRECTORATE OF PLANNING.—(1) The Director
16 of the National Counterterrorism Center shall establish
17 and maintain within the National Counterterrorism Cen-
18 ter a Directorate of Planning.

19 (2) The Directorate shall have primary responsibility
20 for developing interagency counterterrorism plans, as de-
21 scribed in subsection (d)(3).

22 (3) The Directorate shall—

23 (A) provide guidance, and develop strategy and
24 interagency plans, to counter terrorist activities

1 based on policy objectives and priorities established
2 by the National Security Council;

3 (B) develop interagency plans under subpara-
4 graph (A) utilizing input from personnel in other de-
5 partments, agencies, and elements of the United
6 States Government who have expertise in the prior-
7 ities, functions, assets, programs, capabilities, and
8 operations of such departments, agencies, and ele-
9 ments with respect to counterterrorism;

10 (C) assign responsibilities for counterterrorism
11 operations to the departments and agencies of the
12 United States Government (including the Depart-
13 ment of Defense, the Central Intelligence Agency,
14 the Federal Bureau of Investigation, the Depart-
15 ment of Homeland Security, and other departments
16 and agencies of the United States Government), con-
17 sistent with the authorities of such departments and
18 agencies;

19 (D) monitor the implementation of operations
20 assigned under subparagraph (C) and update inter-
21 agency plans for such operations as necessary;

22 (E) report to the President and the National
23 Intelligence Director on the compliance of the de-
24 partments, agencies, and elements of the United

1 States with the plans developed under subparagraph
2 (A); and

3 (F) perform such other duties and functions as
4 the Director of the National Counterterrorism Cen-
5 ter may prescribe.

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

8 (i) STAFF.—(1) The National Intelligence Director
9 may appoint deputy directors of the National
10 Counterterrorism Center to oversee such portions of the
11 operations of the Center as the National Intelligence Di-
12 rector considers appropriate.

13 (2) To assist the Director of the National
14 Counterterrorism Center in fulfilling the duties and re-
15 sponsibilities of the Director of the National
16 Counterterrorism Center under this section, the National
17 Intelligence Director shall employ in the National
18 Counterterrorism Center a professional staff having an ex-
19 pertise in matters relating to such duties and responsibil-
20 ities.

21 (3) In providing for a professional staff for the Na-
22 tional Counterterrorism Center under paragraph (2), the
23 National Intelligence Director may establish as positions
24 in the excepted service such positions in the Center as the
25 National Intelligence Director considers appropriate.

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

7 (5)(A) In order to meet the requirements in para-
8 graph (4), the National Intelligence Director shall, from
9 time to time—

10 (i) specify the transfers, assignments, and de-
11 tails of personnel funded within the National Intel-
12 ligence Program to the National Counterterrorism
13 Center from any other element of the intelligence
14 community that the National Intelligence Director
15 considers appropriate; and

16 (ii) in the case of personnel from a department,
17 agency, or element of the United States Government
18 and not funded within the National Intelligence Pro-
19 gram, request the transfer, assignment, or detail of
20 such personnel from the department, agency, or
21 other element concerned.

22 (B)(i) The head of an element of the intelligence com-
23 munity shall promptly effect any transfer, assignment, or
24 detail of personnel specified by the National Intelligence
25 Director under subparagraph (A)(i).

1 (ii) The head of a department, agency, or element of
2 the United States Government receiving a request for
3 transfer, assignment, or detail of personnel under sub-
4 paragraph (A)(ii) shall, to the extent practicable, approve
5 the request.

6 (C) Employees of Federally Funded Research and
7 Development Centers (as that term is defined in part 2
8 of the Federal Acquisition Regulation), including employ-
9 ees of the Department of Energy national laboratories who
10 are associated with field intelligence elements of the De-
11 partment of Energy, shall be eligible to serve under con-
12 tract or other mechanism with the National
13 Counterterrorism Center under this paragraph.

14 (6) Personnel employed in or assigned or detailed to
15 the National Counterterrorism Center under this sub-
16 section shall be under the authority, direction, and control
17 of the Director of the National Counterterrorism Center
18 on all matters for which the Center has been assigned re-
19 sponsibility and for all matters related to the accomplish-
20 ment of the missions of the Center.

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

1 (8) The supervisors of the staff of the National
2 Counterterrorism Center may, with the approval of the
3 National Intelligence Director, reward the staff of the
4 Center for meritorious performance by the provision of
5 such performance awards as the National Intelligence Di-
6 rector shall prescribe.

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

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

16 (j) SUPPORT AND COOPERATION OF OTHER AGEN-
17 CIES.—(1) The elements of the intelligence community
18 and the other departments, agencies, and elements of the
19 United States Government shall support, assist, and co-
20 operate with the National Counterterrorism Center in car-
21 rying out its missions under this section.

22 (2) The support, assistance, and cooperation of a de-
23 partment, agency, or element of the United States Govern-
24 ment under this subsection shall include, but not be lim-
25 ited to—

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

7 (B) cooperative work with the Director of the
8 National Counterterrorism Center to ensure that on-
9 going operations of such department, agency, or ele-
10 ment do not conflict with joint operations planned
11 by the Center;

12 (C) reports, upon request, to the Director of the
13 National Counterterrorism Center on the progress of
14 such department, agency, or element in imple-
15 menting responsibilities assigned to such depart-
16 ment, agency, or element through joint operations
17 plans; and

18 (D) the provision to the analysts of the Na-
19 tional Counterterrorism Center of electronic access
20 in real time to information and intelligence collected
21 by such department, agency, or element that is rel-
22 evant to the missions of the Center.

23 (3) In the event of a disagreement between the Na-
24 tional Intelligence Director and the head of a department,
25 agency, or element of the United States Government on

1 a plan developed or responsibility assigned by the National
2 Counterterrorism Center under this subsection, the Na-
3 tional Intelligence Director may either accede to the head
4 of the department, agency, or element concerned or notify
5 the President of the necessity of resolving the disagree-
6 ment.

7 **SEC. 144. NATIONAL COUNTERPROLIFERATION CENTER.**

8 (a) NATIONAL COUNTERPROLIFERATION CENTER.—

9 (1) Within one year of enactment of this Act there shall
10 be established within the National Intelligence Authority
11 a National Counterproliferation Center.

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

19 (b) DIRECTOR OF NATIONAL COUNTERPRO-
20 LIFERATION CENTER.—(1) There is a Director of the Na-
21 tional Counterproliferation Center, who shall be the head
22 of the National Counterproliferation Center, and who shall
23 be appointed by the President, by and with the advice and
24 consent of the Senate.

1 (2) Any individual nominated for appointment as the
2 Director of the National Counterproliferation Center shall
3 have significant expertise in matters relating to the na-
4 tional security of the United States and matters relating
5 to the proliferation of weapons of mass destruction, their
6 delivery systems, and related materials and technologies
7 that threaten the national security of the United States,
8 its interests, and allies.

9 (3) The individual serving as the Director of the Na-
10 tional Counterproliferation Center may not, while so serv-
11 ing, serve in any capacity in any other element of the intel-
12 ligence community, except to the extent that the individual
13 serving as Director of the National Counterproliferation
14 Center is doing so in an acting capacity.

15 (c) SUPERVISION.—(1) The Director of the National
16 Counterproliferation Center shall report to the National
17 Intelligence Director on the budget, personnel, activities,
18 and programs of the National Counterproliferation Cen-
19 ter.

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

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

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

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

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

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

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

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

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

1 (B) include the mission, objectives to be
2 achieved, courses of action, parameters for such
3 courses of action, coordination of agency oper-
4 ational activities, recommendations for oper-
5 ational activities, and assignment of national,
6 departmental, or agency responsibilities.

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

12 (e) DUTIES AND RESPONSIBILITIES OF DIRECTOR OF
13 NATIONAL COUNTERPROLIFERATION CENTER.—Notwith-
14 standing any other provision of law, at the direction of
15 the President and the National Intelligence Director, the
16 Director of the National Counterproliferation Center
17 shall—

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

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

1 operations across agency boundaries, both inside and
2 outside the United States, and with foreign govern-
3 ments;

4 (3) advise the President and the National Intel-
5 ligence Director on the extent to which the
6 counterproliferation program recommendations and
7 budget proposals of the departments, agencies, and
8 elements of the United States Government conform
9 to the policies and priorities established by the
10 President and the National Security Council;

11 (4) advise the President on the selections of
12 personnel to head the nonmilitary operating entities
13 of the United States Government with principal mis-
14 sions relating to counterproliferation;

15 (5) advise the President and the National Intel-
16 ligence Director on the science and technology re-
17 search and development requirements and priorities
18 of the counterproliferation programs and activities of
19 the United States Government; and

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

23 (f) DIRECTORATE OF INTELLIGENCE.—(1) The Di-
24 rector of the National Counterproliferation Center shall

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

3 (2) The Directorate shall have primary responsibility
4 within the United States Government for the analysis of
5 information regarding proliferators (including individuals,
6 entities, organizations, companies, and states) and their
7 networks, from all sources of intelligence, whether col-
8 lected inside or outside the United States.

9 (3) The Directorate shall—

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

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

18 (C) have primary responsibility within the
19 United States Government for net assessments and
20 warnings about weapons of mass destruction pro-
21 liferation threats, which assessments and warnings
22 shall be based on a comparison of the intentions and
23 capabilities of proliferators with assessed national
24 vulnerabilities and countermeasures;

1 (D) conduct through a separate office inde-
2 pendent analyses (commonly referred to as “red
3 teaming”) of intelligence collected and analyzed with
4 respect to proliferation; and

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

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

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

16 (3) The Directorate shall—

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

21 (B) develop plans under subparagraph (A) uti-
22 lizing input from personnel in other departments,
23 agencies, and elements of the United States Govern-
24 ment who have expertise in the priorities, functions,
25 assets, programs, capabilities, and operations of

1 such departments, agencies, and elements with re-
2 spect to counterproliferation;

3 (C) assign responsibilities and propose courses
4 of action for counterproliferation operations to the
5 departments and agencies of the United States Gov-
6 ernment (including the Department of Defense, the
7 Department of State, the Central Intelligence Agen-
8 cy, the Federal Bureau of Investigation, the Depart-
9 ment of Homeland Security, and other departments
10 and agencies of the United States Government), con-
11 sistent with the authorities of such departments and
12 agencies;

13 (D) monitor the implementation of operations
14 assigned under subparagraph (C) and update inter-
15 agency plans for such operations as necessary;

16 (E) report to the President and the National
17 Intelligence Director on the performance of the de-
18 partments, agencies, and elements of the United
19 States with regard to the plans developed under sub-
20 paragraph (A); and

21 (F) perform such other duties and functions as
22 the Director of the National Counterproliferation
23 Center may prescribe.

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

1 (h) STAFF.—(1) The National Intelligence Director
2 may appoint deputy directors of the National
3 Counterproliferation Center to oversee such portions of
4 the operations of the Center as the National Intelligence
5 Director considers appropriate.

6 (2) To assist the Director of the National
7 Counterproliferation Center in fulfilling the duties and re-
8 sponsibilities of the Director of the National Counter-
9 proliferation Center under this section, the National Intel-
10 ligence Director shall employ in the National
11 Counterproliferation Center a professional staff having an
12 expertise in matters relating to such duties and respon-
13 sibilities.

14 (3) In providing for a professional staff for the Na-
15 tional Counterproliferation Center under paragraph (2),
16 the National Intelligence Director may establish as posi-
17 tions in the excepted service such positions in the Center
18 as the National Intelligence Director considers appro-
19 priate.

20 (4) The National Intelligence Director shall ensure
21 that the analytical staff of the National Counterpro-
22 liferation Center is comprised primarily of experts from
23 elements in the intelligence community and from such
24 other personnel in the United States Government as the
25 National Intelligence Director considers appropriate.

1 (5)(A) In order to meet the requirements in para-
2 graph (4), the National Intelligence Director shall, from
3 time to time—

4 (i) specify the transfers, assignments, and de-
5 tails of personnel funded within the National Intel-
6 ligence Program to the National Counter-
7 proliferation Center from any element of the intel-
8 ligence community that the National Intelligence Di-
9 rector considers appropriate; and

10 (ii) in the case of personnel from a department,
11 agency, or element of the United States Government
12 and not funded within the National Intelligence Pro-
13 gram, request the transfer, assignment, or detail of
14 such personnel from the department, agency, or
15 other element concerned.

16 (B)(i) The head of an element of the intelligence com-
17 munity shall promptly effect any transfer, assignment, or
18 detail of personnel specified by the National Intelligence
19 Director under subparagraph (A)(i).

20 (ii) The head of a department, agency, or element of
21 the United States Government receiving a request for
22 transfer, assignment, or detail of personnel under sub-
23 paragraph (A)(ii) shall, to the extent practicable, approve
24 the request.

1 (6) Personnel employed in or assigned or detailed to
2 the National Counterproliferation Center under this sub-
3 section shall be under the authority, direction, and control
4 of the Director of the National Counterproliferation Cen-
5 ter on all matters for which the Center has been assigned
6 responsibility and for all matters related to the accom-
7 plishment of the missions of the Center.

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

12 (8) The supervisors of the staff of the National
13 Counterproliferation Center may, with the approval of the
14 National Intelligence Director, reward the staff of the
15 Center for meritorious performance by the provision of
16 such performance awards as the National Intelligence Di-
17 rector shall prescribe.

18 (9) The National Intelligence Director may delegate
19 to the Director of the National Counterproliferation Cen-
20 ter any responsibility, power, or authority of the National
21 Intelligence Director under paragraphs (1) through (8).

22 (10) The National Intelligence Director shall ensure
23 that the staff of the National Counterproliferation Center
24 has access to all databases and information maintained

1 by the elements of the intelligence community that are rel-
2 evant to the duties of the Center.

3 (i) SUPPORT AND COOPERATION OF OTHER AGEN-
4 CIES.—(1) The elements of the intelligence community
5 and the other departments, agencies, and elements of the
6 United States Government shall support, assist, and co-
7 operate with the National Counterproliferation Center in
8 carrying out its missions under this section.

9 (2) The support, assistance, and cooperation of a de-
10 partment, agency, or element of the United States Govern-
11 ment under this subsection shall include, but not be lim-
12 ited to—

13 (A) the implementation of interagency plans for
14 operations, whether foreign or domestic, that are de-
15 veloped by the National Counterproliferation Center
16 in a manner consistent with the laws and regulations
17 of the United States and consistent with the limita-
18 tion in subsection (g)(4);

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

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

1 formance of such department, agency, or element in
2 implementing responsibilities assigned to such de-
3 partment, agency, or element through joint oper-
4 ations plans; and

5 (D) the provision to the analysts of the Na-
6 tional Counterproliferation Center electronic access
7 in real time to information and intelligence collected
8 by such department, agency, or element that is rel-
9 evant to the missions of the Center.

10 (3) In the event of a disagreement between the Na-
11 tional Intelligence Director and the head of a department,
12 agency, or element of the United States Government on
13 a plan developed or responsibility assigned by the National
14 Counterproliferation Center under this subsection, the Na-
15 tional Intelligence Director may either accede to the head
16 of the department, agency, or element concerned or notify
17 the President of the necessity of resolving the disagree-
18 ment.

19 (j) DEFINITIONS.—In this section:

20 (1) The term “counterproliferation” means—

21 (A) activities, programs and measures for
22 interdicting (including deterring, preventing,
23 halting, and rolling back) the transfer or trans-
24 port (whether by air, land or sea) of weapons
25 of mass destruction, their delivery systems, and

1 related materials and technologies to and from
2 states and non-state actors (especially terrorists
3 and terrorist organizations) of proliferation con-
4 cern;

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

10 (C) activities, programs, and measures for
11 identifying, collecting, and analyzing informa-
12 tion and intelligence related to the transfer or
13 transport of weapons, systems, materials, and
14 technologies as described in subparagraph (A).

15 (2) “Counterproliferation” does not include—

16 (A) the Cooperative Threat reduction and
17 other threat reduction programs run or admin-
18 istered by the Department of Defense, Depart-
19 ment of Energy and Department of State;

20 (B) the nonproliferation efforts and activi-
21 ties of the United States government as they
22 apply to the implementation and management
23 of nonproliferation treaties, conventions, and re-
24 gimes, or;

1 (C) programs designed to protect members
2 of the Armed Forces from the employment of
3 weapons of mass destruction by developing and
4 fielding protective equipment, gear and cloth-
5 ing, and other means to enhance the surviv-
6 ability of Armed Forces personnel on the battle-
7 field.

8 (3) The term “states and non-state actors of
9 proliferation concern” refers to countries or entities
10 (including individuals, entities, organizations, com-
11 panies, and networks) that should be subject to
12 counterproliferation activities because of their ac-
13 tions or intent to engage in proliferation through—

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

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

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

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

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

3 (2) The President shall submit to Congress from time
4 to time such updates of the plans under paragraph (1)
5 (a) as the President considers appropriate. Each update
6 shall include such recommendations for legislative or ad-
7 ministrative action as the President considers appropriate
8 to improve the effectiveness of the National Counter-
9 proliferation Center consistent with its mission.

10 (1) CONSTRUCTION WITH CERTAIN CONDITIONS.—
11 Nothing in this section shall override recommendations
12 contained in the forthcoming final report of the Presi-
13 dent’s Commission on Weapons of Mass Destruction, es-
14 tablished by Executive Order in February 2004, that will
15 improve the effectiveness of the National Counter-
16 proliferation Center: *Provided*, That in the case of a con-
17 flict between the Weapons of Mass Destruction Commis-
18 sion’s final report and the National Counterproliferation
19 Center as established in this section, the Congress and the
20 President shall consider the Commission’s recommenda-
21 tions and act as soon as practicable thereafter to make
22 such modifications to statute as deemed necessary.

23 **SEC. 145. NATIONAL INTELLIGENCE CENTERS.**

24 (a) NATIONAL INTELLIGENCE CENTERS.—(1) The
25 National Intelligence Director may establish within the

1 National Intelligence Authority one or more centers (to
2 be known as “national intelligence centers”) to address
3 intelligence priorities established by the National Security
4 Council.

5 (2) Each national intelligence center established
6 under this section shall be assigned an area of intelligence
7 responsibility, whether expressed in terms of geographic
8 region, in terms of function, or in other terms.

9 (3) There may be established under this subsection
10 one or more national intelligence centers having intel-
11 ligence responsibility for the following:

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

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

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

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

21 (b) ESTABLISHMENT OF CENTERS.—(1) In estab-
22 lishing a national intelligence center, the National Intel-
23 ligence Director shall assign lead responsibility for admin-
24 istrative support for such center to an element of the intel-

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

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

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

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

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

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

21 (A) man­age the op­er­a­tions of the cen­ter;

22 (B) co­or­di­nate the pro­vi­sion of ad­min­is­tra­tion
23 and sup­port by the el­e­ment of the in­tel­li­gence com­
24 mu­nity with lead re­spon­si­bil­ity for the cen­ter under
25 sub­sec­tion (b)(1);

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

3 (D) seek such assistance from other depart-
4 ments, agencies, and elements of the United States
5 Government as is needed to fulfill the mission of the
6 center; and

7 (E) advise the National Intelligence Director of
8 the information technology, personnel, and other re-
9 quirements of the center for the performance of its
10 mission.

11 (4) The National Intelligence Director shall ensure
12 that the Director of a national intelligence center has suf-
13 ficient authority, direction, and control of the center and
14 the personnel of the center to effectively accomplish the
15 mission of the center.

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

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

1 sibility assigned to the center by the Director pursuant
2 to intelligence priorities established by the President—

3 (1) have primary responsibility for providing
4 all-source analysis of intelligence based upon intel-
5 ligence gathered both abroad and domestically;

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

9 (3) have primary responsibility for net assess-
10 ments and warnings;

11 (4) ensure that appropriate officials of the
12 United States Government and other appropriate of-
13 ficials have access to a variety of intelligence assess-
14 ments and analytical views;

15 (5) develop and unify strategy for the collection
16 and analysis of all-source intelligence;

17 (6) integrate intelligence collection and analysis,
18 both inside and outside the United States;

19 (7) at the discretion of the NID develop inter-
20 agency plans for the collection of all-source intel-
21 ligence, which plans shall—

22 (A) involve more than one department,
23 agency, or element of the executive branch (un-
24 less otherwise directed by the President); and

1 (B) include the mission, objectives to be
2 achieved, courses of action, parameters for such
3 courses of action, coordination of agencies intel-
4 ligence collection activities, recommendations
5 for intelligence collection plans, and assignment
6 of departmental or agency responsibilities;

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

10 (9) perform such other duties as the National
11 Intelligence Director shall specify.

12 (e) INFORMATION SHARING.—(1) The National Intel-
13 ligence Director shall ensure that the Directors of the na-
14 tional intelligence centers and the other elements of the
15 intelligence community undertake appropriate sharing of
16 intelligence analysis and plans for operations in order to
17 facilitate the activities of the centers, including through
18 the establishment of mechanisms for the sharing of infor-
19 mation and analysis among and between national intel-
20 ligence centers having adjacent or significantly inter-
21 related geographic regions or functional areas of intel-
22 ligence responsibility.

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

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

4 (B) coordinate with the Principal Deputy Na-
5 tional Intelligence Director regarding such activities.

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

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

13 (i) specify the transfers, assignments, and de-
14 tails of personnel funded within the National Intel-
15 ligence Program to a national intelligence center
16 from any other element of the intelligence commu-
17 nity that the National Intelligence Director considers
18 appropriate; and

19 (ii) in the case of personnel from a department,
20 agency, or element of the United States Government
21 not funded within the National Intelligence Pro-
22 gram, request the transfer, assignment, or detail of
23 such personnel from the department, agency, or
24 other element concerned.

1 (B)(i) The head of an element of the intelligence com-
2 munity shall promptly effect any transfer, assignment, or
3 detail of personnel specified by the National Intelligence
4 Director under subparagraph (A)(i).

5 (ii) The head of a department, agency, or element of
6 the United States Government receiving a request for
7 transfer, assignment, or detail of personnel under sub-
8 paragraph (A)(ii) shall, to the extent practicable, approve
9 the request.

10 (C) Employees of Federally Funded Research and
11 Development Centers (as that term is defined in part 2
12 of the Federal Acquisition Regulation), including employ-
13 ees of the Department of Energy national laboratories who
14 are associated with field intelligence elements of the De-
15 partment of Energy, shall be eligible to serve under con-
16 tract or other mechanism with a national intelligence cen-
17 ter under this paragraph.

18 (3) Personnel employed in or assigned or detailed to
19 a national intelligence center under this subsection shall
20 be under the authority, direction, and control of the Direc-
21 tor of the center on all matters for which the center has
22 been assigned responsibility and for all matters related to
23 the accomplishment of the mission of the center.

24 (4) Performance evaluations of personnel assigned or
25 detailed to a national intelligence center under this sub-

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

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

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

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

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

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

1 ment of each national intelligence center under this section
2 in order to determine whether or not such staffing or man-
3 agement remains appropriate for the accomplishment of
4 the mission of such center.

5 (3) The National Intelligence Director may at any
6 time recommend to the President a modification of the
7 area of intelligence responsibility assigned to a national
8 intelligence center under this section. The National Intel-
9 ligence Director shall make any such recommendation
10 through, and with the approval of, the National Security
11 Council.

12 (h) SEPARATE BUDGET ACCOUNT.—The National
13 Intelligence Director shall, in accordance with procedures
14 to be issued by the Director in consultation with the con-
15 gressional intelligence committees, include in the National
16 Intelligence Program budget a separate line item for each
17 national intelligence center under this section.

18 (i) TERMINATION.—(1) The National Intelligence Di-
19 rector may terminate a national intelligence center if the
20 National Intelligence Director determines that the center
21 is no longer required to meet an intelligence priority estab-
22 lished by the President.

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

1 **SEC. 145. OFFICE OF ALTERNATIVE ANALYSIS.**

2 (a) OFFICE OF ALTERNATIVE ANALYSIS.—There is
3 within the National Intelligence Authority an Office of Al-
4 ternative Analysis.

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

8 (c) INDEPENDENCE OF OFFICE.—The National In-
9 telligence Director shall take appropriate actions to ensure
10 the independence of the Office of Alternative Analysis in
11 its activities under this section.

12 (d) FUNCTION OF OFFICE.—(1) The Office of Alter-
13 native Analysis shall subject each National Intelligence
14 Estimate (NIE), before the completion of such estimate,
15 to a thorough examination of all facts, assumptions, ana-
16 lytic methods, and judgments utilized in or underlying any
17 analysis, estimation, plan, evaluation, or recommendation
18 contained in such estimate.

19 (2)(A) The Office may also subject any other intel-
20 ligence estimate, brief, survey, assessment, or report des-
21 ignated by the National Intelligence Director to a thor-
22 ough examination as described in paragraph (1).

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

1 mates, briefs, surveys, assessments or reports, if any, des-
2 ignated by the Director under subparagraph (A).

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

10 (B) In order to meet the purpose set forth in sub-
11 paragraph (A), the Office shall, unless otherwise directed
12 by the President, have access to all analytic products, field
13 reports, and raw intelligence of any element of the intel-
14 ligence community and such other reports and information
15 as the Director considers appropriate.

16 (4) The evaluation of an estimate or document under
17 this subsection shall be known as a “OAA analysis” of
18 such estimate or document.

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

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

4 **Subtitle E—Education and Train-**
5 **ing of Intelligence Community**
6 **Personnel**

7 **SEC. 151. FRAMEWORK FOR CROSS-DISCIPLINARY EDU-**
8 **CATION AND TRAINING.**

9 The National Intelligence Director shall establish an
10 integrated framework that brings together the educational
11 components of the intelligence community in order to pro-
12 mote a more effective and productive intelligence commu-
13 nity through cross-disciplinary education and joint train-
14 ing.

15 **SEC. 152. INTELLIGENCE COMMUNITY SCHOLARSHIP PRO-**
16 **GRAM.**

17 (a) DEFINITIONS.—In this section:

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

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

1 (3) PROGRAM.—The term “Program” means
2 the Intelligence Community Scholarship Program es-
3 tablished under subsection (b).

4 (b) ESTABLISHMENT.—

5 (1) IN GENERAL.—The National Intelligence
6 Director, in consultation with the head of each agen-
7 cy, shall establish a scholarship program (to be
8 known as the “Intelligence Community Scholarship
9 Program”) to award scholarships to individuals that
10 is designed to recruit and prepare students for civil-
11 ian careers in the intelligence community to meet
12 the critical needs of the intelligence community
13 agencies.

14 (2) SELECTION OF RECIPIENTS.—

15 (A) MERIT AND AGENCY NEEDS.—Individ-
16 uals shall be selected to receive scholarships
17 under this section through a competitive proc-
18 ess primarily on the basis of academic merit
19 and the needs of the agency.

20 (B) DEMONSTRATED COMMITMENT.—Indi-
21 viduals selected under this section shall have a
22 demonstrated commitment to the field of study
23 for which the scholarship is awarded.

24 (3) CONTRACTUAL AGREEMENTS.—To carry
25 out the Program the head of each agency shall enter

1 into contractual agreements with individuals selected
2 under paragraph (2) under which the individuals
3 agree to serve as full-time employees of the agency,
4 for the period described in subsection (h)(1), in posi-
5 tions needed by the agency and for which the indi-
6 viduals are qualified, in exchange for receiving a
7 scholarship.

8 (c) ELIGIBILITY.—In order to be eligible to partici-
9 pate in the Program, an individual shall—

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

16 (2) be a United States citizen; and

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

20 (d) APPLICATION.— An individual seeking a scholar-
21 ship under this section shall submit an application to the
22 National Intelligence Director at such time, in such man-
23 ner, and containing such information, agreements, or as-
24 surances as the Director may require.

1 (e) PROGRAMS AND FIELDS OF STUDY.—The Na-
2 tional Intelligence Director shall—

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

6 (2) update the list as necessary.

7 (f) SCHOLARSHIPS.—

8 (1) IN GENERAL.—The National Intelligence
9 Director may provide a scholarship under the Pro-
10 gram for an academic year if the individual applying
11 for the scholarship has submitted to the Director, as
12 part of the application required under subsection
13 (d), a proposed academic program leading to a de-
14 gree in a program or field of study on the list made
15 available under subsection (e).

16 (2) LIMITATION ON YEARS.—An individual may
17 not receive a scholarship under this section for more
18 than 4 academic years, unless the National Intel-
19 ligence Director grants a waiver.

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

23 (4) AMOUNT.—The dollar amount of a scholar-
24 ship under this section for an academic year shall be
25 determined under regulations issued by the National

1 Intelligence Director, but shall in no case exceed the
2 cost of tuition, fees, and other authorized expenses
3 as established by the Director.

4 (5) USE OF SCHOLARSHIPS.—A scholarship
5 provided under this section may be expended for tui-
6 tion, fees, and other authorized expenses as estab-
7 lished by the National Intelligence Director by regu-
8 lation.

9 (6) PAYMENT TO INSTITUTION OF HIGHER
10 EDUCATION.—The National Intelligence Director
11 may enter into a contractual agreement with an in-
12 stitution of higher education under which the
13 amounts provided for a scholarship under this sec-
14 tion for tuition, fees, and other authorized expenses
15 are paid directly to the institution with respect to
16 which the scholarship is provided.

17 (g) SPECIAL CONSIDERATION FOR CURRENT EM-
18 PLOYEES.—

19 (1) SET ASIDE OF SCHOLARSHIPS.—Notwith-
20 standing paragraphs (1) and (3) of subsection (c),
21 10 percent of the scholarships awarded under this
22 section shall be set aside for individuals who are em-
23 ployees of agencies on the date of enactment of this
24 section to enhance the education of such employees
25 in areas of critical needs of agencies.

1 (2) FULL- OR PART-TIME EDUCATION.—Em-
2 ployees who are awarded scholarships under para-
3 graph (1) shall be permitted to pursue under-
4 graduate or graduate education under the scholar-
5 ship on a full-time or part-time basis.

6 (h) EMPLOYEE SERVICE.—

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

14 (2) BEGINNING OF SERVICE.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), obligated service under para-
17 graph (1) shall begin not later than 60 days
18 after the individual obtains the educational de-
19 gree for which the scholarship was provided.

20 (B) DEFERRAL.—In accordance with regu-
21 lations established by the National Intelligence
22 Director, the Director or designee may defer
23 the obligation of an individual to provide a pe-
24 riod of service under paragraph (1) if the Di-

1 rector or designee determines that such a defer-
2 ral is appropriate.

3 (i) REPAYMENT.—

4 (1) IN GENERAL.—Scholarship recipients who
5 fail to maintain a high level of academic standing,
6 as defined by the National Intelligence Director, who
7 are dismissed from their educational institutions for
8 disciplinary reasons, or who voluntarily terminate
9 academic training before graduation from the edu-
10 cational program for which the scholarship was
11 awarded, shall be in breach of their contractual
12 agreement and, in lieu of any service obligation aris-
13 ing under such agreement, shall be liable to the
14 United States for repayment within 1 year after the
15 date of default of all scholarship funds paid to them
16 and to the institution of higher education on their
17 behalf under the agreement, except as provided in
18 subsection (j)(2). The repayment period may be ex-
19 tended by the Director when determined to be nec-
20 essary, as established by regulation.

21 (2) LIABILITY.—Scholarship recipients who, for
22 any reason, fail to begin or complete their service
23 obligation after completion of academic training, or
24 fail to comply with the terms and conditions of
25 deferment established by the National Intelligence

1 Director under subsection (h)(2)(B), shall be in
2 breach of their contractual agreement. When recipi-
3 ents breach their agreements for the reasons stated
4 in the preceding sentence, the recipient shall be lia-
5 ble to the United States for an amount equal to—

6 (A) the total amount of scholarships re-
7 ceived by such individual under this section;
8 and

9 (B) the interest on the amounts of such
10 awards which would be payable if at the time
11 the awards were received they were loans bear-
12 ing interest at the maximum legal prevailing
13 rate, as determined by the Treasurer of the
14 United States, multiplied by 3.

15 (j) CANCELLATION, WAIVER, OR SUSPENSION OF OB-
16 LIGATION.—

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

21 (2) WAIVER OR SUSPENSION.—The National
22 Intelligence Director shall prescribe regulations to
23 provide for the partial or total waiver or suspension
24 of any obligation of service or payment incurred by
25 an individual under the Program (or a contractual

1 agreement thereunder) whenever compliance by the
2 individual is impossible or would involve extreme
3 hardship to the individual, or if enforcement of such
4 obligation with respect to the individual would be
5 contrary to the best interests of the Government.

6 (k) REGULATIONS.—The National Intelligence Direc-
7 tor shall prescribe regulations necessary to carry out this
8 section.

9 **SEC. 153. ADDITIONAL EDUCATION AND TRAINING RE-**
10 **QUIREMENTS.**

11 (a) FINDINGS.—Congress makes the following find-
12 ings:

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

16 (2) Since September 11, 2001, the need for lan-
17 guage proficiency levels to meet required national se-
18 curity functions has been raised, and the ability to
19 comprehend and articulate technical and scientific
20 information in foreign languages has become critical.

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

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

1 (B) identify specific requirements for the range
2 of linguistic skills necessary for the intelligence com-
3 munity, including proficiency in scientific and tech-
4 nical vocabularies of critical foreign languages; and

5 (C) develop a comprehensive plan for the Au-
6 thority to meet such requirements through the edu-
7 cation, recruitment, and training of linguists.

8 (2) In carrying out activities under paragraph (1),
9 the Director shall take into account education grant pro-
10 grams of the Department of Defense and the Department
11 of Education that are in existence as of the date of the
12 enactment of this Act.

13 (3) Not later than one year after the date of the en-
14 actment of this Act, and annually thereafter, the Director
15 shall submit to Congress a report on the requirements
16 identified under paragraph (1), including the success of
17 the Authority in meeting such requirements. Each report
18 shall notify Congress of any additional resources deter-
19 mined by the Director to be required to meet such require-
20 ments.

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

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

1 ligen ce Authority who has responsibility for professional
2 intelligence training to periodically review and revise the
3 curriculum for the professional intelligence training of the
4 senior and intermediate level personnel of such element
5 or component in order to—

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

9 (2) prepare such personnel for duty with other
10 departments, agencies, and element of the intel-
11 ligence community.

12 **Subtitle F—Additional Authorities** 13 **of National Intelligence Authority**

14 **SEC. 161. USE OF APPROPRIATED FUNDS.**

15 (a) DISPOSAL OF PROPERTY.—(1) If specifically au-
16 thorized to dispose of real property of the National Intel-
17 ligence Authority under any law enacted after the date of
18 the enactment of this Act, the National Intelligence Direc-
19 tor shall, subject to paragraph (2), exercise such authority
20 in strict compliance with subchapter IV of chapter 5 of
21 title 40, United States Code.

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

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

7 **SEC. 162. ACQUISITION AND FISCAL AUTHORITIES.**

8 (a) ACQUISITIONS OF MAJOR SYSTEMS.—(1) For
9 each intelligence program within the National Intelligence
10 Program for the acquisition of a major system, the Na-
11 tional Intelligence Director shall—

12 (A) require the development and implementa-
13 tion of a program management plan that includes
14 cost, schedule, and performance goals and program
15 milestone criteria;

16 (B) serve as exclusive milestone decision
17 authority, except that with respect to Depart-
18 ment of Defense programs the Director shall
19 serve as milestone decision authority jointly
20 with the Secretary of Defense or the designee
21 of the Secretary; and

22 (C) periodically—

23 (i) review and assess the progress made to-
24 ward the achievement of the goals and mile-
25 stones established in such plan; and

1 (ii) submit to Congress a report on the re-
2 sults of such review and assessment.

3 (2) The National Intelligence Director shall prescribe
4 guidance for the development and implementation of pro-
5 gram management plans under this subsection. In pre-
6 scribing such guidance, the Director shall review Depart-
7 ment of Defense guidance on program management plans
8 for Department of Defense programs for the acquisition
9 of major systems and, to the extent feasible, incorporate
10 the principles of the Department of Defense guidance into
11 the Director's guidance under this subsection.

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

16 (4) If the National Intelligence Director and the Sec-
17 retary of Defense are unable to reach agreement on a mile-
18 stone decision under this subsection, the Director shall as-
19 sume milestone decision authority subject to review by the
20 President at the request of the Secretary.

21 (5) In this subsection:

22 (A) The term "intelligence program", with re-
23 spect to the acquisition of a major system, means a
24 program that—

1 (i) is carried out to acquire such major
2 system for an element of the intelligence com-
3 munity; and

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

6 (B) The term “major system” has the meaning
7 given such term in section 4(9) of the Federal Prop-
8 erty and Administrative Services Act of 1949 (41
9 U.S.C. 403(9)).

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

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

22 (A) by striking “or” at the end of paragraph
23 (18);

24 (B) by striking the period at the end of para-
25 graph (19) and inserting “; or”; and

1 (C) by adding at the end the following new
2 paragraph:

3 “(20) the National Intelligence Director.”.

4 (d) NATIONAL INTELLIGENCE DIRECTOR REPORT ON
5 ENHANCEMENT OF NSA AND NGLIA ACQUISITION AU-
6 THORITIES.—Not later than one year after the date of the
7 enactment of this Act, the National Intelligence Director
8 shall—

9 (1) review—

10 (A) the acquisition authority of the Direc-
11 tor of the National Security Agency; and

12 (B) the acquisition authority of the Direc-
13 tor of the National Geospatial-Intelligence
14 Agency; and

15 (2) submit to the Select Committee on Intel-
16 ligence and the Committee on Governmental Affairs
17 of the Senate and the Permanent Select Committee
18 on Intelligence and the Committee on Government
19 Reform of the House of Representatives a report
20 setting forth any recommended enhancements of the
21 acquisition authorities of the Director of the Na-
22 tional Security Agency and the Director of the Na-
23 tional Geospatial-Intelligence Agency that the Na-
24 tional Intelligence Director considers necessary.

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

10 **SEC. 163. PERSONNEL MATTERS.**

11 (a) IN GENERAL.—In addition to the authorities pro-
12 vided in section 114, the National Intelligence Director
13 may exercise with respect to the personnel of the National
14 Intelligence Authority any authority of the Director of the
15 Central Intelligence Agency with respect to the personnel
16 of the Central Intelligence Agency under the Central Intel-
17 ligence Agency Act of 1949 (50 U.S.C. 403a et seq.), and
18 other applicable provisions of law, as of the date of the
19 enactment of this Act to the same extent, and subject to
20 the same conditions and limitations, that the Director of
21 the Central Intelligence Agency may exercise such author-
22 ity with respect to personnel of the Central Intelligence
23 Agency.

24 (b) TERMINATION OF EMPLOYEES.—(1) Notwith-
25 standing any other provision of law, the National Intel-

1 ligen­ce Director may, in the discretion of the Director, ter-
2 minate the employ­ment of any officer or employ­ee of the
3 National Intelligence Authority whenever the Director
4 considers the termination of employ­ment of such officer
5 or employ­ee necessary or advis­able in the interests of the
6 United States.

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

13 (c) OTHER RIGHTS AND PROTECTIONS OF EMPLOY-
14 EES AND APPLICANTS.—Employ­ees and applic­ants for
15 employ­ment of the National Intelligence Authority shall
16 have the same rights and protections under the Authority
17 as employ­ees of the Central Intelligence Agency have
18 under the Central Intelligence Agency Act of 1949, and
19 other applic­able provisions of law, as of the date of the
20 enact­ment of this Act.

21 (d) REGULATIONS.—The National Intelligence Direc-
22 tor shall prescribe regulations on the applic­ation of the
23 author­ities, rights, and protections in and made applic­able
24 by subsections (a), (b), and (c), to the personnel of the
25 National Intelligence Authority.

1 **SEC. 164. ETHICS MATTERS.**

2 (a) POLITICAL SERVICE OF PERSONNEL.—Section
3 7323(b)(2)(B)(i) of title 5, United States Code, is amend-
4 ed—

5 (1) in subclause (XII), by striking “or” at the
6 end; and

7 (2) by inserting after subclause (XIII) the fol-
8 lowing new subclause:

9 “(XIV) the National Intelligence Author-
10 ity; or”.

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

14 (1) by inserting “(A)” after “(4)”;

15 (2) in subparagraph (A), as so designated, by
16 striking “the Director of Central Intelligence” and
17 inserting “the Director of the Central Intelligence
18 Agency”; and

19 (3) by adding at the end the following new sub-
20 paragraph:

21 “(B) In transmitting such listings for the National
22 Intelligence Authority, the National Intelligence Director
23 may delete the information described in subparagraphs
24 (A) and (C) of paragraphs (2) and (3) if the Director cer-
25 tifies in writing to the Secretary of State that the publica-

1 tion of such information could adversely affect United
2 States intelligence sources.”.

3 (c) EXEMPTION FROM FINANCIAL DISCLOSURES.—
4 Section 105(a)(1) of the Ethics in Government Act (5
5 U.S.C. App.) is amended by inserting “the National Intel-
6 ligence Authority,” before “the Central Intelligence Agen-
7 cy”.

8 **TITLE II—OTHER IMPROVE-**
9 **MENTS OF INTELLIGENCE AC-**
10 **TIVITIES**

11 **Subtitle A—Improvements of**
12 **Intelligence Activities**

13 **SEC. 201. AVAILABILITY TO PUBLIC OF CERTAIN INTEL-**
14 **LIGENCE FUNDING INFORMATION.**

15 (a) AMOUNTS REQUESTED EACH FISCAL YEAR.—
16 The President shall disclose to the public for each fiscal
17 year after fiscal year 2005 the aggregate amount of appro-
18 priations requested in the budget of the President for such
19 fiscal year for the National Intelligence Program.

20 (b) AMOUNTS AUTHORIZED AND APPROPRIATED
21 EACH FISCAL YEAR.—Congress shall disclose to the pub-
22 lic for each fiscal year after fiscal year 2005 the aggregate
23 amount of funds authorized to be appropriated, and the
24 aggregate amount of funds appropriated, by Congress for
25 such fiscal year for the National Intelligence Program.

1 (c) STUDY OF DISCLOSURE OF ADDITIONAL INFOR-
2 MATION.—(1) The National Intelligence Director shall
3 conduct a study to assess the advisability of disclosing to
4 the public amounts as follows:

5 (A) The aggregate amount of appropriations re-
6 quested in the budget of the President for each fis-
7 cal year for each element of the intelligence commu-
8 nity.

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

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

14 (A) address whether or not the disclosure to the
15 public of the information referred to in that para-
16 graph would harm the national security of the
17 United States; and

18 (B) take into specific account concerns relating
19 to the disclosure of such information for each ele-
20 ment of the intelligence community.

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

1 **SEC. 202. JOINT INTELLIGENCE COMMUNITY COUNCIL.**

2 Title I of the National Security Act of 1947 (50
3 U.S.C. 401 et seq.) is amended by inserting after section
4 101 the following new section:

5 “JOINT INTELLIGENCE COMMUNITY COUNCIL

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

9 “(b) MEMBERSHIP.—The Joint Intelligence Commu-
10 nity Council shall consist of the following:

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

13 “(2) The Secretary of State.

14 “(3) The Secretary of the Treasury.

15 “(4) The Secretary of Defense.

16 “(5) The Attorney General.

17 “(6) The Secretary of Energy.

18 “(7) The Secretary of Homeland Security.

19 “(8) Such other officers of the United States
20 Government as the President may designate from
21 time to time.

22 “(c) FUNCTIONS.—The Joint Intelligence Commu-
23 nity Council shall assist the National Intelligence Director
24 to in developing and implementing a joint, unified national
25 intelligence effort to protect national security by—

1 “(1) advising the Director on establishing re-
2 quirements, developing budgets, financial manage-
3 ment, and monitoring and evaluating the perform-
4 ance of the intelligence community, and on such
5 other matters as the Director may request; and

6 “(2) ensuring the timely execution of programs,
7 policies, and directives established or developed by
8 the Director.

9 “(d) MEETINGS.—The National Intelligence Director
10 shall convene regular meetings of the Joint Intelligence
11 Community Council.

12 “(e) ADVICE AND OPINIONS OF MEMBERS OTHER
13 THAN CHAIRMAN.—(1) A member of the Joint Intel-
14 ligence Community Council (other than the Chairman)
15 may submit to the Chairman advice or an opinion in dis-
16 agreement with, or advice or an opinion in addition to,
17 the advice presented by the National Intelligence Director
18 to the President or the National Security Council, in the
19 role of the Chairman as Chairman of the Joint Intelligence
20 Community Council. If a member submits such advice or
21 opinion, the Chairman shall present the advice or opinion
22 of such member at the same time the Chairman presents
23 the advice of the Chairman to the President or the Na-
24 tional Security Council, as the case may be.

1 “(2) The Chairman shall establish procedures to en-
2 sure that the presentation of the advice of the Chairman
3 to the President or the National Security Council is not
4 unduly delayed by reason of the submission of the indi-
5 vidual advice or opinion of another member of the Council.

6 “(f) RECOMMENDATIONS TO CONGRESS.—Any mem-
7 ber of the Joint Intelligence Community Council may
8 make such recommendations to Congress relating to the
9 intelligence community as such member considers appro-
10 priate.”.

11 **SEC. 203. IMPROVEMENT OF INTELLIGENCE CAPABILITIES**
12 **OF THE FEDERAL BUREAU OF INVESTIGA-**
13 **TION.**

14 (a) FINDINGS.—Congress makes the following find-
15 ings:

16 (1) The National Commission on Terrorist At-
17 tacks Upon the United States in its final report
18 stated that, under Director Robert Mueller, the Fed-
19 eral Bureau of Investigation has made significant
20 progress in improving its intelligence capabilities.

21 (2) In the report, the members of the Commis-
22 sion also urged that the Federal Bureau of Inves-
23 tigation fully institutionalize the shift of the Bureau
24 to a preventive counterterrorism posture.

1 (b) IMPROVEMENT OF INTELLIGENCE CAPABILI-
2 TIES.—The Director of the Federal Bureau of Investiga-
3 tion shall continue efforts to improve the intelligence capa-
4 bilities of the Federal Bureau of Investigation and to de-
5 velop and maintain within the Bureau a national intel-
6 ligence workforce.

7 (c) NATIONAL INTELLIGENCE WORKFORCE.—(1) In
8 developing and maintaining a national intelligence work-
9 force under subsection (b), the Director of the Federal Bu-
10 reau of Investigation shall, develop and maintain a special-
11 ized and integrated national intelligence workforce con-
12 sisting of agents, analysts, linguists, and surveillance spe-
13 cialists who are recruited, trained, and rewarded in a man-
14 ner which ensures the existence within the Federal Bureau
15 of Investigation an institutional culture with substantial
16 expertise in, and commitment to, the intelligence mission
17 of the Bureau.

18 (2) Each agent employed by the Bureau after the
19 date of the enactment of this Act shall receive basic train-
20 ing in both criminal justice matters and national intel-
21 ligence matters.

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

1 ingful assignments in criminal justice matters and in na-
2 tional intelligence matters.

3 (4) The Director shall—

4 (A) establish career positions in national intel-
5 ligence matters for agents, analysts, and related per-
6 sonnel of the Bureau; and

7 (B) in furtherance of the requirement under
8 subparagraph (A) and to the maximum extent prac-
9 ticable, afford agents, analysts, and related per-
10 sonnel of the Bureau the opportunity to work in the
11 career specialty selected by such agents, analysts,
12 and related personnel over their entire career with
13 the Bureau.

14 (5) The Director shall carry out a program to en-
15 hance the capacity of the Bureau to recruit and retain
16 individuals with backgrounds in intelligence, international
17 relations, language, technology, and other skills relevant
18 to the intelligence mission of the Bureau.

19 (6) The Director shall, to the maximum extent prac-
20 ticable, afford the analysts of the Bureau training and ca-
21 reer opportunities commensurate with the training and ca-
22 reer opportunities afforded analysts in other elements of
23 the intelligence community.

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

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

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

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

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

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

1 (e) DISCHARGE OF IMPROVEMENTS.—(1) The Direc-
2 tor of the Federal Bureau of Investigation shall carry out
3 subsections (b) through (d) through the head of the Direc-
4 torate of Intelligence of the Federal Bureau of Investiga-
5 tion.

6 (2) The Director of the Federal Bureau of Investiga-
7 tion shall carry out subsections (b) through (d) under the
8 joint guidance of the Attorney General and the National
9 Intelligence Director in a manner consistent with section
10 112(a)(8).

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

15 (1) Intelligence.

16 (2) Counterterrorism and counterintelligence.

17 (3) Criminal Enterprises/Federal Crimes.

18 (4) Criminal justice services.

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

24 (2) The Director shall include in each annual pro-
25 gram review of the Federal Bureau of Investigation that

1 is submitted to Congress a report on the progress made
2 by each field office of the Bureau during the period cov-
3 ered by such review in addressing Bureau and national
4 program priorities.

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

10 (4) Not later than 180 days after the date of the en-
11 actment of this Act, and every 12 months thereafter, the
12 Director shall submit to Congress a report on the progress
13 of the Bureau in implementing information-sharing prin-
14 ciples.

15 **SEC. 205. FEDERAL BUREAU OF INVESTIGATION INTEL-**
16 **LIGENCE CAREER SERVICE.**

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

20 (b) **ESTABLISHMENT OF FEDERAL BUREAU OF IN-**
21 **VESTIGATION INTELLIGENCE CAREER SERVICE.**—

22 (1) **IN GENERAL.**—The Director of the Federal
23 Bureau of Investigation, in consultation with the Di-
24 rector of the Office of Personnel Management—

1 (A) may establish positions for intelligence
2 analysts, without regard to chapter 51 of title
3 5, United States Code;

4 (B) shall prescribe standards and proce-
5 dures for establishing and classifying such posi-
6 tions; and

7 (C) may fix the rate of basic pay for such
8 positions, without regard to subchapter III of
9 chapter 53 of title 5, United States Code, if the
10 rate of pay is not greater than the rate of basic
11 pay payable for level IV of the Executive Sched-
12 ule.

13 (2) LEVELS OF PERFORMANCE.—Any perform-
14 ance management system established for intelligence
15 analysts shall have at least 1 level of performance
16 above a retention standard.

17 (c) REPORTING REQUIREMENT.—Not less than 60
18 days before the date of the implementation of authorities
19 authorized under this section, the Director of the Federal
20 Bureau of Investigation shall submit an operating plan de-
21 scribing the Director's intended use of the authorities
22 under this section to—

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

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

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

5 (4) the congressional intelligence committees;
6 and

7 (5) the Committees on the Judiciary of the Sen-
8 ate and the House of Representatives.

9 (d) ANNUAL REPORT.—Not later than December 31,
10 2005, and annually thereafter for 4 years, the Director
11 of the Federal Bureau of Investigation shall submit an an-
12 nual report of the use of the permanent authorities pro-
13 vided under this section during the preceding fiscal year
14 to—

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

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

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

21 (4) the congressional intelligence committees;
22 and

23 (5) the Committees on the Judiciary of the Sen-
24 ate and the House of Representatives.

1 **SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FED-**
2 **ERAL BUREAU OF INVESTIGATION.**

3 (a) DIRECTORATE OF INTELLIGENCE OF FEDERAL
4 BUREAU OF INVESTIGATION.—The element of the Federal
5 Bureau of Investigation known as of the date of the enact-
6 ment of this Act as the Office of Intelligence is hereby
7 redesignated as the Directorate of Intelligence of the Fed-
8 eral Bureau of Investigation.

9 (b) HEAD OF DIRECTORATE.—The head of the Di-
10 rectorate of Intelligence shall be the Executive Assistant
11 Director for Intelligence of the Federal Bureau of Inves-
12 tigation.

13 (c) RESPONSIBILITIES.—The Directorate of Intel-
14 ligence shall be responsible for the following:

15 (1) Supervision of all national intelligence pro-
16 grams, projects, and activities of the Bureau.

17 (2) The discharge by the Bureau of the require-
18 ments in section 105B of the National Security Act
19 of 1947 (50 U.S.C. 403–5b).

20 (3) The oversight of Bureau field intelligence
21 operations.

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

24 (5) Coordinating collection by the Bureau
25 against nationally-determined intelligence require-
26 ments.

1 (6) Strategic analysis.

2 (7) Intelligence program and budget manage-
3 ment.

4 (8) The intelligence workforce.

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

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

12 **SEC. 207. INFORMATION SHARING.**

13 (a) DEFINITIONS.—In this section:

14 (1) EXECUTIVE COUNCIL.—The term “Execu-
15 tive Council” means the Executive Council on Infor-
16 mation Sharing established under subsection (h).

17 (2) HOMELAND SECURITY INFORMATION.—The
18 term “homeland security information” means all in-
19 formation, whether collected, produced, or distrib-
20 uted by intelligence, law enforcement, military,
21 homeland security, or other activities relating to—

22 (A) the existence, organization, capabili-
23 ties, plans, intentions, vulnerabilities, means of
24 finance or material support, or activities of for-
25 eign or international terrorist groups or individ-

1 uals, or of domestic groups or individuals in-
2 volved in transnational terrorism;

3 (B) threats posed by such groups or indi-
4 viduals to the United States, United States per-
5 sons, or United States interests, or to those of
6 other nations;

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

9 (D) groups or individuals reasonably be-
10 lieved to be assisting or associated with such
11 groups or individuals.

12 (3) ENVIRONMENT.—The term “Environment”
13 means the Information Sharing Environment as de-
14 scribed under subsection (c).

15 (b) FINDINGS.—Consistent with the report of the Na-
16 tional Commission on Terrorist Attacks upon the United
17 States, Congress makes the following findings:

18 (1) The effective use of information, from all
19 available sources, is essential to the fight against
20 terror and the protection of our homeland. The big-
21 gest impediment to all-source analysis, and to a
22 greater likelihood of “connecting the dots”, is resist-
23 ance to sharing information.

24 (2) The United States Government has access
25 to a vast amount of information, including not only

1 traditional intelligence but also other government
2 databases, such as those containing customs or im-
3 migration information. However, the United States
4 Government has a weak system for processing and
5 using the information it has.

6 (3) In the period preceding September 11,
7 2001, there were instances of potentially helpful in-
8 formation that was available but that no person
9 knew to ask for; information that was distributed
10 only in compartmented channels, and information
11 that was requested but could not be shared.

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

18 (5) The current system, in which each intel-
19 ligence agency has its own security practices, re-
20 quires a demonstrated "need to know" before shar-
21 ing. This approach assumes that it is possible to
22 know, in advance, who will need to use the informa-
23 tion. An outgrowth of the cold war, such a system
24 implicitly assumes that the risk of inadvertent dis-
25 closure outweighs the benefits of wider sharing.

1 Such assumptions are no longer appropriate. Al-
2 though counterintelligence concerns are still real, the
3 costs of not sharing information are also substantial.
4 The current “need-to-know” culture of information
5 protection needs to be replaced with a “need-to-
6 share” culture of integration.

7 (6) A new approach to the sharing of intel-
8 ligence and homeland security information is ur-
9 gently needed. An important conceptual model for a
10 new “trusted information network” is the System-
11 wide Homeland Analysis and Resource Exchange
12 (SHARE) Network proposed by a task force of lead-
13 ing professionals assembled by the Markle Founda-
14 tion and described in reports issued in October 2002
15 and December 2003.

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

21 (c) INFORMATION SHARING ENVIRONMENT.—

22 (1) ESTABLISHMENT.—The President shall es-
23 tablish a trusted information network and secure in-
24 formation sharing environment to promote sharing
25 of intelligence and homeland security information in

1 a manner consistent with national security and the
2 protection of privacy and civil liberties, and based on
3 clearly defined and consistently applied policies and
4 procedures, and valid investigative, analytical or
5 operational requirements.

6 (2) ATTRIBUTES.—The Environment shall pro-
7 mote coordination, communication and collaboration
8 of people and information among all relevant Fed-
9 eral departments and agencies, State, tribal, and
10 local authorities, and relevant private sector entities,
11 including owners and operators of critical infrastruc-
12 ture, by using policy guidelines and technologies that
13 support—

14 (A) a decentralized, distributed, and co-
15 ordinated environment that connects existing
16 systems where appropriate and allows users to
17 share information among agencies, between lev-
18 els of government, and, as appropriate, with the
19 private sector;

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

23 (C) building upon existing systems capa-
24 bilities currently in use across the Government;

1 (D) utilizing industry best practices, in-
2 cluding minimizing the centralization of data
3 and seeking to use common tools and capabili-
4 ties whenever possible;

5 (E) employing an information access man-
6 agement approach that controls access to data
7 rather than to just networks;

8 (F) facilitating the sharing of information
9 at and across all levels of security by using pol-
10 icy guidelines and technologies that support
11 writing information that can be broadly shared;

12 (G) providing directory services for locat-
13 ing people and information;

14 (H) incorporating protections for individ-
15 uals' privacy and civil liberties;

16 (I) incorporating strong mechanisms for
17 information security and privacy and civil lib-
18 erties guideline enforcement in order to enhance
19 accountability and facilitate oversight, includ-
20 ing—

21 (i) multifactor authentication and ac-
22 cess control;

23 (ii) strong encryption and data protec-
24 tion;

25 (iii) immutable audit capabilities;

- 1 (iv) automated policy enforcement;
- 2 (v) perpetual, automated screening for
- 3 abuses of network and intrusions; and
- 4 (vi) uniform classification and han-
- 5 dling procedures;
- 6 (J) compliance with requirements of appli-
- 7 cable law and guidance with regard to the plan-
- 8 ning, design, acquisition, operation, and man-
- 9 agement of information systems;
- 10 (K) permitting continuous system up-
- 11 grades to benefit from advances in technology
- 12 while preserving the integrity of stored data;
- 13 and
- 14 (L) utilizing privacy-enhancing tech-
- 15 nologies that minimize the inappropriate dis-
- 16 semination and disclosure of personally identifi-
- 17 able information.

18 (d) IMMEDIATE ACTIONS.—Not later than 180 days

19 after the date of the enactment of this Act, the principal

20 officer as designated in subsection 206(g), in consultation

21 with the Executive Council, shall—

- 22 (1) submit to the President and to Congress a
- 23 description of the technological, legal, and policy
- 24 issues presented by the creation of the Environment

1 described in subsection (c), and the way in which
2 these issues will be addressed;

3 (2) establish electronic directory services to as-
4 sist in locating in the Federal Government intel-
5 ligence and homeland security information and peo-
6 ple with relevant knowledge about intelligence and
7 homeland security information; and

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

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

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

15 (C) identification of other information that
16 should be included in the Environment.

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

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

22 (A) for acquiring, accessing, sharing, and
23 using information, including guidelines to en-
24 sure that information is provided in its most
25 shareable form, such as by separating out data

1 from the sources and methods by which that
2 data are obtained; and

3 (B) issue guidelines on classification policy
4 and handling procedures across Federal agen-
5 cies, including commonly accepted processing
6 and access controls, in the course of which re-
7 view, the President may consider any comments
8 submitted by the Select Committee on Intel-
9 ligence, the Committee on Armed Services, the
10 Committee on Foreign Relations of the Senate,
11 and the Permanent Select Committee on Intel-
12 ligence, the Committee on Armed Services, and
13 the Committee on International Relations of the
14 House of Representatives regarding—

15 (i) the scope of the review the Presi-
16 dent should undertake in formulating the
17 guidelines under this subparagraph; and

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

20 (2) in consultation with the Privacy and Civil
21 Liberties Oversight Board established under section
22 211, issue guidelines that—

23 (A) protect privacy and civil liberties in the
24 development and use of the Environment; and

1 (B) shall be made public, unless, and only
2 to the extent that, nondisclosure is clearly nec-
3 essary to protect national security; and

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

7 (A) reducing disincentives to information
8 sharing, including overclassification of informa-
9 tion and unnecessary requirements for origi-
10 nator approval; and

11 (B) providing affirmative incentives for in-
12 formation sharing, such as the incorporation of
13 information sharing performance measures into
14 agency and managerial evaluations, and em-
15 ployee awards for promoting innovative infor-
16 mation sharing practices.

17 (f) ENTERPRISE ARCHITECTURE AND IMPLEMENTA-
18 TION PLAN.—Not later than 1 year after the date of the
19 enactment of this Act, the President shall submit to Con-
20 gress an enterprise architecture and implementation plan
21 for the Environment. The enterprise architecture and im-
22 plementation plan shall be prepared by the principal offi-
23 cer in consultation with the Executive Council and shall
24 include—

1 (1) a description of the parameters of the pro-
2 posed Environment, including functions, capabilities,
3 and resources;

4 (2) a delineation of the roles of the Federal de-
5 partments and agencies that will participate in the
6 development of the Environment, including identi-
7 fication of any agency that will build the infrastruc-
8 ture needed to operate and manage the Environment
9 (as distinct from the individual agency components
10 that are to be part of the Environment), with the
11 delineation of roles to be consistent with—

12 (A) the authority of the National Intel-
13 ligence Director under this Act to set standards
14 for information sharing and information tech-
15 nology throughout the intelligence community;
16 and

17 (B) the authority of the Secretary of
18 Homeland Security and the role of the Depart-
19 ment of Homeland Security in coordinating
20 with State, tribal, and local officials and the
21 private sector;

22 (3) a description of the technological require-
23 ments to appropriately link and enhance existing
24 networks and a description of the system design that
25 will meet these requirements;

1 (4) an enterprise architecture that—

2 (A) is consistent with applicable laws and
3 guidance with regard to planning, design, acqui-
4 sition, operation, and management of informa-
5 tion systems;

6 (B) will be used to guide and define the
7 development and implementation of the Envi-
8 ronment; and

9 (C) addresses the existing and planned en-
10 terprise architectures of the departments and
11 agencies participating in the Environment;

12 (5) a description of how privacy and civil lib-
13 erties will be protected throughout the design and
14 implementation of the Environment;

15 (6) objective, systemwide performance measures
16 to enable the assessment of progress toward achiev-
17 ing full implementation of the Environment;

18 (7) a plan, including a time line, for the devel-
19 opment and phased implementation of the Environ-
20 ment;

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

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

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

8 (11) proposals for any legislation that the Di-
9 rector of Management and Budget determines nec-
10 essary to implement the Environment.

11 (g) RESPONSIBILITIES OF EXECUTIVE COUNCIL FOR
12 INFORMATION SHARING ENVIRONMENT.—Not later than
13 120 days after the date of enactment, with notification
14 to Congress, the President shall designate an individual
15 as the principal officer responsible for information sharing
16 across the Federal government. That individual shall have
17 and exercise governmentwide authority and have manage-
18 ment expertise in enterprise architecture, information
19 sharing, and interoperability.

20 (1) ADDITIONAL DUTIES AND RESPONSIBIL-
21 ITIES.—

22 (A) IN GENERAL.—The principal officer
23 designated under this subsection, in consulta-
24 tion with the Executive Council, shall—

1 (i) implement and manage the Envi-
2 ronment;

3 (ii) develop and implement policies,
4 procedures, guidelines, rules, and stand-
5 ards as appropriate to foster the develop-
6 ment and proper operation of the Environ-
7 ment; and

8 (iii) assist, monitor, and assess the
9 implementation of the Environment by
10 Federal departments and agencies to en-
11 sure adequate progress, technological con-
12 sistency and policy compliance; and regu-
13 larly report the findings to Congress.

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

18 (i) take into account the varying mis-
19 sions and security requirements of agencies
20 participating in the Environment;

21 (ii) address development, implementa-
22 tion, and oversight of technical standards
23 and requirements;

24 (iii) address and facilitate information
25 sharing between and among departments

1 and agencies of the intelligence community,
2 the Department of Defense, the Homeland
3 Security community and the law enforce-
4 ment community;

5 (iv) address and facilitate information
6 sharing between Federal departments and
7 agencies and State, tribal and local govern-
8 ments;

9 (v) address and facilitate, as appro-
10 priate, information sharing between Fed-
11 eral departments and agencies and the pri-
12 vate sector;

13 (vi) address and facilitate, as appro-
14 priate, information sharing between Fed-
15 eral departments and agencies with foreign
16 partners and allies; and

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

19 (h) ESTABLISHMENT OF EXECUTIVE COUNCIL.—

20 There is established an Executive Council on Information
21 Sharing that shall assist the principal officer as designated
22 under subsection 206(g) in the execution of the duties
23 under this Act concerning information sharing.

24 (1) MEMBERSHIP.—The Executive Council shall

25 be chaired by the principal officer as designated in

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

3 (A) the Director of Management and
4 Budget;

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

7 (C) the Secretary of Defense or his des-
8 ignee;

9 (D) the Attorney General or his designee;

10 (E) the Secretary of State or his designee;

11 (F) the Director of the Federal Bureau of
12 Investigation or his designee;

13 (G) the National Intelligence Director or
14 his designee;

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

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

19 (J) representatives of State, tribal, and
20 local governments, to be appointed by the Presi-
21 dent; and

22 (K) individuals who are employed in pri-
23 vate businesses or nonprofit organizations that
24 own or operate critical infrastructure, to be ap-
25 pointed by the President.

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

3 (A) implementing and managing the Envi-
4 ronment;

5 (B) developing policies, procedures, guide-
6 lines, rules, and standards necessary to estab-
7 lish and implement the Environment;

8 (C) ensuring there is coordination among
9 departments and agencies participating in the
10 Environment in the development and implemen-
11 tation of the Environment;

12 (D) reviewing, on an ongoing basis, poli-
13 cies, procedures, guidelines, rules, and stand-
14 ards related to the implementation of the Envi-
15 ronment;

16 (E) establishing a dispute resolution proc-
17 ess to resolve disagreements among depart-
18 ments and agencies about whether particular
19 information should be shared and in what man-
20 ner; and

21 (F) considering input provided by persons
22 from outside the Federal government with sig-
23 nificant experience and expertise in policy, tech-
24 nical, and operational matters, including issues
25 of security, privacy, or civil liberties.

1 (3) INAPPLICABILITY OF FEDERAL ADVISORY
2 COMMITTEE ACT.—The Council shall not be subject
3 to the requirements of the Federal Advisory Com-
4 mittee Act (5 U.S.C. App.).

5 (4) REPORTS.—Not later than 1 year after the
6 date of the enactment of this Act, and annually
7 thereafter, the principal officer as designated in sec-
8 tion 206(g), shall submit a report to the President
9 and to Congress that shall include—

10 (A) a description of the activities and ac-
11 complishments of the Council in the preceding
12 year; and

13 (B) the number and dates of the meetings
14 held by the Council and a list of attendees at
15 each meeting.

16 (5) INFORMING THE PUBLIC.—The Executive
17 Council shall—

18 (A) make its reports to Congress available
19 to the public to the greatest extent that is con-
20 sistent with the protection of classified informa-
21 tion and applicable law; and

22 (B) otherwise inform the public of its ac-
23 tivities, as appropriate and in a manner con-
24 sistent with the protection of classified informa-
25 tion and applicable law.

1 (i) REPORTS.—

2 (1) IN GENERAL.—Not later than 15 months
3 after the date of the enactment of this Act, and
4 semiannually thereafter, the President shall submit
5 a report to Congress on the state of the Environ-
6 ment and of information sharing across the Federal
7 government.

8 (2) CONTENT.—Each report under this sub-
9 section shall include—

10 (A) a progress report on the extent to
11 which the Environment has been implemented,
12 including how the Environment has fared on
13 the governmentwide and agency-specific per-
14 formance measures and whether the perform-
15 ance goals set in the preceding year have been
16 met;

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

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

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

1 (E) the extent to which, in appropriate cir-
2 cumstances, all terrorism watch lists are avail-
3 able for combined searching in real time
4 through the Environment and whether there are
5 consistent standards for placing individuals on,
6 and removing individuals from, the watch lists,
7 including the availability of processes for cor-
8 recting errors;

9 (F) the extent to which unnecessary road-
10 blocks, impediments, or disincentives to infor-
11 mation sharing, including the inappropriate use
12 of paper-only intelligence products and require-
13 ments for originator approval, have been elimi-
14 nated;

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

17 (H) the extent to which classified informa-
18 tion is also made available through the Environ-
19 ment, in whole or in part, in unclassified form;

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

22 (i) are participating in the Environ-
23 ment;

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

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

3 (iv) are using the Environment to
4 communicate with each other;

5 (J) the extent to which—

6 (i) private sector data, including infor-
7 mation from owners and operators of crit-
8 ical infrastructure, is incorporated in the
9 Environment; and

10 (ii) the private sector is both pro-
11 viding and receiving information;

12 (K) where private sector data has been
13 used by the Government or has been incor-
14 porated into the Environment—

15 (i) the measures taken to protect sen-
16 sitive business information; and

17 (ii) where the data involves informa-
18 tion about individuals, the measures taken
19 to ensure the accuracy of such data;

20 (L) the measures taken by the Federal
21 government to ensure the accuracy of other in-
22 formation on the Environment and, in par-
23 ticular, the accuracy of information about indi-
24 viduals;

1 (M) an assessment of the Environment's
2 privacy and civil liberties protections, including
3 actions taken in the preceding year to imple-
4 ment or enforce privacy and civil liberties pro-
5 tections and a report of complaints received
6 about interference with an individual's privacy
7 or civil liberties; and

8 (N) an assessment of the security protec-
9 tions of the Environment.

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

14 (1) ensure full department or agency compli-
15 ance with information sharing policies, procedures,
16 guidelines, rules, and standards established for the
17 Environment under subsections (c) and (g);

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

21 (3) ensure full agency or department coopera-
22 tion in the development of the Environment and as-
23 sociated enterprise architecture to implement gov-
24 ernmentwide information sharing, and in the man-

1 agement and acquisition of information technology
2 consistent with applicable law.

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

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

11 (A) a strategic plan for implementation of
12 the Environment’s requirements within the de-
13 partment or agency;

14 (B) objective performance measures to as-
15 sess the progress and adequacy of the depart-
16 ment or agency’s information sharing efforts;
17 and

18 (C) budgetary requirements to integrate
19 the agency into the Environment, including pro-
20 jected annual expenditures for each of the fol-
21 lowing 5 years following the submission of the
22 report; and

23 (2) annually thereafter, reports including—

24 (A) an assessment of the progress of the
25 department or agency in complying with the

1 Environment's requirements, including how well
2 the agency has performed on the objective
3 measures developed under paragraph (1)(B);

4 (B) the agency's expenditures to imple-
5 ment and comply with the Environment's re-
6 quirements in the preceding year; and

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

10 (l) PERIODIC ASSESSMENTS.—

11 (1) COMPTROLLER GENERAL.—

12 (A) IN GENERAL.—Not later than 15
13 months after the date of the enactment of this
14 Act, and periodically thereafter, the Comptroller
15 General shall evaluate the implementation of
16 the Environment, both generally and, at the
17 discretion of the Comptroller General, within
18 specific departments and agencies, to determine
19 the extent of compliance with the Environ-
20 ment's requirements and to assess the effective-
21 ness of the Environment in improving informa-
22 tion sharing and collaboration and in protecting
23 privacy and civil liberties, and shall report to
24 Congress on the findings of the Comptroller
25 General.

1 (B) INFORMATION AVAILABLE TO THE
2 COMPTROLLER GENERAL.—Upon request by the
3 Comptroller General, information relevant to an
4 evaluation under subsection (a) shall be made
5 available to the Comptroller General under sec-
6 tion 716 of title 31, United States Code.

7 (C) CONSULTATION WITH CONGRESSIONAL
8 COMMITTEES.—If a record is not made avail-
9 able to the Comptroller General within a rea-
10 sonable time, before the Comptroller General
11 files a report under section 716(b)(1) of title
12 31, United States Code, the Comptroller Gen-
13 eral shall consult with the Select Committee on
14 Intelligence of the Senate, the Permanent Se-
15 lect Committee on Intelligence of the House of
16 Representatives, the Committee on Govern-
17 mental Affairs of the Senate, and the Com-
18 mittee on Government Reform of the House of
19 Representatives concerning the Comptroller’s
20 intent to file a report.

21 (2) INSPECTORS GENERAL.—The Inspector
22 General in any Federal department or agency that
23 possesses or uses intelligence or homeland security
24 information or that otherwise participates in the En-

1 vironment shall, at the discretion of the Inspector
2 General—

3 (A) conduct audits or investigations to—

4 (i) determine the compliance of that
5 department or agency with the Environ-
6 ment's requirements; and

7 (ii) assess the effectiveness of that de-
8 partment or agency in improving informa-
9 tion sharing and collaboration and in pro-
10 tecting privacy and civil liberties; and

11 (B) issue reports on such audits and inves-
12 tigations.

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

15 (1) \$50,000,000 to carry out this section for
16 fiscal year 2005; and

17 (2) such sums as are necessary to carry out this
18 section in each fiscal year thereafter, to be disbursed
19 and allocated in accordance with the Environment
20 implementation plan required by subsection (f).

21 **SEC. 207. ALTERNATIVE ANALYSES OF INTELLIGENCE BY**
22 **THE INTELLIGENCE COMMUNITY.**

23 (a) SENSE OF CONGRESS.—It is the sense of Con-
24 gress that the National Intelligence Director should con-
25 sider the advisability of establishing for each element of

1 the intelligence community an element, office, or compo-
2 nent whose purpose is the alternative analysis (commonly
3 referred to as a “red-team analysis”) of the information
4 and conclusions in the intelligence products of such ele-
5 ment of the intelligence community.

6 (b) REPORT.—(1) Not later than one year after the
7 date of the enactment of this Act, the National Intel-
8 ligence Director shall submit to Congress a report on the
9 actions taken to establish for each element of the intel-
10 ligence community an element, office, or component de-
11 scribed in subsection (a).

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

14 **SEC. 208. REPORT ON IMPLEMENTATION OF RECOMMENDA-**
15 **TIONS OF DEFENSE SCIENCE BOARD ON PRE-**
16 **VENTING AND DEFENDING AGAINST CLAN-**
17 **DESTINE NUCLEAR ATTACK.**

18 (a) FINDING.—Congress finds that the June 2004 re-
19 port of the Defense Science Board Task Force on Pre-
20 venting and Defending Against Clandestine Nuclear At-
21 tack—

22 (1) found that it would be easy for adversaries
23 to introduce and detonate a nuclear explosive clan-
24 destinely in the United States;

1 (2) found that clandestine nuclear attack and
2 defense against such attack should be treated as an
3 emerging aspect of strategic warfare and that those
4 matters warrant national and Department of De-
5 fense attention; and

6 (3) called for a serious national commitment to
7 a multidepartment program to create a multi-ele-
8 ment, layered, global, civil/military complex of sys-
9 tems and capabilities that can greatly reduce the
10 likelihood of a successful clandestine attack, achiev-
11 ing levels of protection effective enough to warrant
12 the effort.

13 (b) REPORT.—Not later than 6 months after the date
14 of the enactment of this Act, the Secretary of Defense
15 shall, in consultation with the Secretary of Energy, submit
16 to the Committees on Armed Services of the Senate and
17 the House of Representatives a report on the actions pro-
18 posed to be taken to address the recommendations of the
19 Defense Science Board Task Force on Preventing and De-
20 fending Against Clandestine Nuclear Attack.

1 **SEC. 209. USE OF UNITED STATES COMMERCIAL REMOTE**
2 **SENSING SPACE CAPABILITIES FOR IMAGERY**
3 **AND GEOSPATIAL INFORMATION REQUIRE-**
4 **MENTS.**

5 (a) IN GENERAL.—The National Intelligence Direc-
6 tor shall take actions to ensure, to the extent practicable,
7 the utilization of United States commercial remote sensing
8 space capabilities to fulfill the imagery and geospatial in-
9 formation requirements of the intelligence community.

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

13 (c) DEFINITIONS.—In this section, the terms “im-
14 agery” and “geospatial information” have the meanings
15 given such terms in section 467 of title 10, United States
16 Code.

17 **SEC. 210. PERMANENT AUTHORITY FOR PUBLIC INTEREST**
18 **DECLASSIFICATION BOARD.**

19 (a) IN GENERAL.—Section 710 of the Public Interest
20 Declassification Act of 2000 (title VII of Public Law 106–
21 567; 50 U.S.C. 435 note) is amended—

- 22 (1) by striking “(a) EFFECTIVE DATE.—”; and
23 (2) by striking subsection (b).

24 (b) CONFORMING AMENDMENT.—The head of such
25 section is amended by striking “; **SUNSET**”.

1 (c) LIMITATION ON FUNDS.—Notwithstanding any
2 other provision of this section, none of the funds provided
3 pursuant to subsection (m) may be obligated for deploy-
4 ment or implementation of the Environment unless the
5 guidelines and requirements under subsection (e) are sub-
6 mitted to Congress.

7 **Subtitle B—Privacy and Civil** 8 **Liberties**

9 **SEC. 211. PRIVACY AND CIVIL LIBERTIES OVERSIGHT** 10 **BOARD.**

11 (a) IN GENERAL.—There is established within the
12 Executive Office of the President a Privacy and Civil Lib-
13 erties Oversight Board (referred to in this subtitle as the
14 “Board”).

15 (b) FINDINGS.—Consistent with the report of the Na-
16 tional Commission on Terrorist Attacks Upon the United
17 States, Congress makes the following findings:

18 (1) In conducting the war on terrorism, the
19 Government may need additional powers and may
20 need to enhance the use of its existing powers.

21 (2) This shift of power and authority to the
22 Government calls for an enhanced system of checks
23 and balances to protect the precious liberties that
24 are vital to our way of life and to ensure that the

1 Government uses its powers for the purposes for
2 which the powers were given.

3 (c) PURPOSE.—The Board shall—

4 (1) analyze and review actions the executive
5 branch takes to protect the Nation from terrorism,
6 ensuring that the need for such actions is balanced
7 with the need to protect privacy and civil liberties;
8 and

9 (2) ensure that liberty concerns are appro-
10 priately considered in the development and imple-
11 mentation of laws, regulations, and policies related
12 to efforts to protect the Nation against terrorism.

13 (d) FUNCTIONS.—

14 (1) ADVICE AND COUNSEL ON POLICY DEVEL-
15 OPMENT AND IMPLEMENTATION.—The Board
16 shall—

17 (A) review proposed legislation, regula-
18 tions, and policies related to efforts to protect
19 the Nation from terrorism, including the devel-
20 opment and adoption of information sharing
21 guidelines under subsections (e) and (g) of sec-
22 tion 205;

23 (B) review the implementation of new and
24 existing legislation, regulations, and policies re-
25 lated to efforts to protect the Nation from ter-

1 rorism, including the implementation of infor-
2 mation sharing guidelines under subsections (e)
3 and (g) of section 205;

4 (C) advise the President and the depart-
5 ments, agencies, and elements of the executive
6 branch to ensure that privacy and civil liberties
7 are appropriately considered in the development
8 and implementation of such legislation, regula-
9 tions, policies, and guidelines; and

10 (D) in providing advice on proposals to re-
11 tain or enhance a particular governmental
12 power, consider whether the department, agen-
13 cy, or element of the executive branch has es-
14 tablished—

15 (i) that the need for the power is bal-
16 anced with the need to protect privacy and
17 civil liberties;

18 (ii) that there is adequate supervision
19 of the use by the executive branch of the
20 power to ensure protection of privacy and
21 civil liberties; and

22 (iii) that there are adequate guidelines
23 and oversight to properly confine its use.

24 (2) OVERSIGHT.—The Board shall continually
25 review—

1 (A) the regulations, policies, and proce-
2 dures, and the implementation of the regula-
3 tions, policies, and procedures, of the depart-
4 ments, agencies, and elements of the executive
5 branch to ensure that privacy and civil liberties
6 are protected;

7 (B) the information sharing practices of
8 the departments, agencies, and elements of the
9 executive branch to determine whether they ap-
10 propriately protect privacy and civil liberties
11 and adhere to the information sharing guide-
12 lines prescribed under subsections (e) and (g) of
13 section 205 and to other governing laws, regu-
14 lations, and policies regarding privacy and civil
15 liberties; and

16 (C) other actions by the executive branch
17 related to efforts to protect the Nation from
18 terrorism to determine whether such actions—

19 (i) appropriately protect privacy and
20 civil liberties; and

21 (ii) are consistent with governing
22 laws, regulations, and policies regarding
23 privacy and civil liberties.

24 (3) RELATIONSHIP WITH PRIVACY AND CIVIL
25 LIBERTIES OFFICERS.—The Board shall—

1 (A) review and assess reports and other in-
2 formation from privacy officers and civil lib-
3 erties officers described in section 212;

4 (B) when appropriate, make recommenda-
5 tions to such privacy officers and civil liberties
6 officers regarding their activities; and

7 (C) when appropriate, coordinate the ac-
8 tivities of such privacy officers and civil liberties
9 officers on relevant interagency matters.

10 (4) TESTIMONY.—The Members of the Board
11 shall appear and testify before Congress upon re-
12 quest.

13 (e) REPORTS.—

14 (1) IN GENERAL.—The Board shall—

15 (A) receive and review reports from privacy
16 officers and civil liberties officers described in
17 section 212; and

18 (B) periodically submit, not less than semi-
19 annually, reports—

20 (i)(I) to the appropriate committees of
21 Congress, including the Committees on the
22 Judiciary of the Senate and the House of
23 Representatives, the Committee on Govern-
24 mental Affairs of the Senate, the Com-
25 mittee on Government Reform of the

1 House of Representatives, the Select Com-
2 mittee on Intelligence of the Senate, and
3 the Permanent Select Committee on Intel-
4 ligence of the House of Representatives;
5 and

6 (II) to the President; and

7 (ii) which shall be in unclassified form
8 to the greatest extent possible, with a clas-
9 sified annex where necessary.

10 (2) CONTENTS.—Not less than 2 reports sub-
11 mitted each year under paragraph (1)(B) shall in-
12 clude—

13 (A) a description of the major activities of
14 the Board during the preceding period;

15 (B) information on the findings, conclu-
16 sions, and recommendations of the Board re-
17 sulting from its advice and oversight functions
18 under subsection (d);

19 (C) the minority views on any findings,
20 conclusions, and recommendations of the Board
21 resulting from its advice and oversight func-
22 tions under subsection (d); and

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

1 (i) the Board advised against imple-
2 mentation; and

3 (ii) notwithstanding such advice, ac-
4 tions were taken to implement.

5 (f) INFORMING THE PUBLIC.—The Board
6 shall—

7 (1) make its reports, including its reports to
8 Congress, available to the public to the greatest ex-
9 tent that is consistent with the protection of classi-
10 fied information and applicable law; and

11 (2) hold public hearings and otherwise inform
12 the public of its activities, as appropriate and in a
13 manner consistent with the protection of classified
14 information and applicable law.

15 (g) ACCESS TO INFORMATION.—

16 (1) AUTHORIZATION.—If determined by the
17 Board to be necessary to carry out its responsibil-
18 ities under this section, the Board is authorized to—

19 (A) have access from any department,
20 agency, or element of the executive branch, or
21 any Federal officer or employee, to all relevant
22 records, reports, audits, reviews, documents, pa-
23 pers, recommendations, or other relevant mate-
24 rial, including classified information consistent
25 with applicable law;

1 (B) interview, take statements from, or
2 take public testimony from personnel of any de-
3 partment, agency, or element of the executive
4 branch, or any Federal officer or employee;

5 (C) request information or assistance from
6 any State, tribal, or local government; and

7 (D) require, by subpoena issued at the di-
8 rection of a majority of the members of the
9 Board, persons (other than departments, agen-
10 cies, and elements of the executive branch) to
11 produce any relevant information, documents,
12 reports, answers, records, accounts, papers, and
13 other documentary or testimonial evidence.

14 (2) ENFORCEMENT OF SUBPOENA.—In the case
15 of contumacy or failure to obey a subpoena issued
16 under paragraph (1)(D), the United States district
17 court for the judicial district in which the subpoe-
18 naed person resides, is served, or may be found may
19 issue an order requiring such person to produce the
20 evidence required by such subpoena.

21 (3) AGENCY COOPERATION.—Whenever infor-
22 mation or assistance requested under subparagraph
23 (A) or (B) of paragraph (1) is, in the judgment of
24 the Board, unreasonably refused or not provided, the
25 Board shall report the circumstances to the head of

1 the department, agency, or element concerned with-
2 out delay. The head of the department, agency, or
3 element concerned shall ensure that the Board is
4 given access to the information, assistance, material,
5 or personnel the Board determines to be necessary
6 to carry out its functions.

7 (h) MEMBERSHIP.—

8 (1) MEMBERS.—The Board shall be composed
9 of a full-time chairman and 4 additional members,
10 who shall be appointed by the President, by and
11 with the advice and consent of the Senate.

12 (2) QUALIFICATIONS.—Members of the Board
13 shall be selected solely on the basis of their profes-
14 sional qualifications, achievements, public stature,
15 expertise in civil liberties and privacy, and relevant
16 experience, and without regard to political affiliation,
17 but in no event shall more than 3 members of the
18 Board be members of the same political party.

19 (3) INCOMPATIBLE OFFICE.—An individual ap-
20 pointed to the Board may not, while serving on the
21 Board, be an elected official, officer, or employee of
22 the Federal Government, other than in the capacity
23 as a member of the Board.

24 (4) TERM.—Each member of the Board shall
25 serve a term of six years, except that—

1 (A) a member appointed to a term of office
2 after the commencement of such term may
3 serve under such appointment only for the re-
4 mainder of such term;

5 (B) upon the expiration of the term of of-
6 fice of a member, the member shall continue to
7 serve until the member's successor has been ap-
8 pointed and qualified, except that no member
9 may serve under this subparagraph—

10 (i) for more than 60 days when Con-
11 gress is in session unless a nomination to
12 fill the vacancy shall have been submitted
13 to the Senate; or

14 (ii) after the adjournment sine die of
15 the session of the Senate in which such
16 nomination is submitted; and

17 (C) the members initially appointed under
18 this subsection shall serve terms of two, three,
19 four, five, and six years, respectively, from the
20 effective date of this Act, with the term of each
21 such member to be designated by the President.

22 (5) QUORUM AND MEETINGS.—After its initial
23 meeting, the Board shall meet upon the call of the
24 chairman or a majority of its members. Three mem-
25 bers of the Board shall constitute a quorum.

1 (i) COMPENSATION AND TRAVEL EXPENSES.—

2 (1) COMPENSATION.—

3 (A) CHAIRMAN.—The chairman shall be
4 compensated at the rate of pay payable for a
5 position at level III of the Executive Schedule
6 under section 5314 of title 5, United States
7 Code.

8 (B) MEMBERS.—Each member of the
9 Board shall be compensated at a rate of pay
10 payable for a position at level IV of the Execu-
11 tive Schedule under section 5315 of title 5,
12 United States Code, for each day during which
13 that member is engaged in the actual perform-
14 ance of the duties of the Board.

15 (2) TRAVEL EXPENSES.—Members of the
16 Board shall be allowed travel expenses, including per
17 diem in lieu of subsistence, at rates authorized for
18 persons employed intermittently by the Government
19 under section 5703(b) of title 5, United States Code,
20 while away from their homes or regular places of
21 business in the performance of services for the
22 Board.

23 (j) STAFF.—

24 (1) APPOINTMENT AND COMPENSATION.—The
25 Chairman, in accordance with rules agreed upon by

1 the Board, shall appoint and fix the compensation of
2 a full-time executive director and such other per-
3 sonnel as may be necessary to enable the Board to
4 carry out its functions, without regard to the provi-
5 sions of title 5, United States Code, governing ap-
6 pointments in the competitive service, and without
7 regard to the provisions of chapter 51 and sub-
8 chapter III of chapter 53 of such title relating to
9 classification and General Schedule pay rates, except
10 that no rate of pay fixed under this subsection may
11 exceed the equivalent of that payable for a position
12 at level V of the Executive Schedule under section
13 5316 of title 5, United States Code.

14 (2) **DETAILEES.**—Any Federal employee may
15 be detailed to the Board without reimbursement
16 from the Board, and such detailee shall retain the
17 rights, status, and privileges of the detailee’s regular
18 employment without interruption.

19 (3) **CONSULTANT SERVICES.**—The Board may
20 procure the temporary or intermittent services of ex-
21 perts and consultants in accordance with section
22 3109 of title 5, United States Code, at rates that do
23 not exceed the daily rate paid a person occupying a
24 position at level IV of the Executive Schedule under
25 section 5315 of such title.

1 (k) SECURITY CLEARANCES.—The appropriate de-
2 partments, agencies, and elements of the executive branch
3 shall cooperate with the Board to expeditiously provide the
4 Board members and staff with appropriate security clear-
5 ances to the extent possible under existing procedures and
6 requirements.

7 (1) TREATMENT AS AGENCY, NOT AS ADVISORY COM-
8 MITTEE.—The Board—

9 (1) is an agency (as defined in section 551(1)
10 of title 5, United States Code); and

11 (2) is not an advisory committee (as defined in
12 section 3(2) of the Federal Advisory Committee Act
13 (5 U.S.C. App.)).

14 **SEC. 212. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

15 (a) DESIGNATION AND FUNCTIONS.—The Attorney
16 General, the Secretary of Defense, the Secretary of State,
17 the Secretary of the Treasury, the Secretary of Health and
18 Human Services, the Secretary of Homeland Security, the
19 National Intelligence Director, the Director of the Central
20 Intelligence Agency, and the head of any other depart-
21 ment, agency, or element of the executive branch des-
22 igned by the Privacy and Civil Liberties Oversight
23 Board to be appropriate for coverage under this section
24 shall designate not less than 1 senior officer to—

1 (1) assist the head of such department, agency,
2 or element and other officials of such department,
3 agency, or element in appropriately considering pri-
4 vacy and civil liberties concerns when such officials
5 are proposing, developing, or implementing laws,
6 regulations, policies, procedures, or guidelines re-
7 lated to efforts to protect the Nation against ter-
8 rorism;

9 (2) periodically investigate and review depart-
10 ment, agency, or element actions, policies, proce-
11 dures, guidelines, and related laws and their imple-
12 mentation to ensure that such department, agency,
13 or element is adequately considering privacy and
14 civil liberties in its actions;

15 (3) ensure that such department, agency, or
16 element has adequate procedures to receive, inves-
17 tigate, respond to, and redress complaints from indi-
18 viduals who allege such department, agency, or ele-
19 ment has violated their privacy or civil liberties; and

20 (4) in providing advice on proposals to retain or
21 enhance a particular governmental power the officer
22 shall consider whether such department, agency, or
23 element has established—

1 (i) that the need for the power is bal-
2 anced with the need to protect privacy and
3 civil liberties;

4 (ii) that there is adequate supervision
5 of the use by such department, agency, or
6 element of the power to ensure protection
7 of privacy and civil liberties; and

8 (iii) that there are adequate guidelines
9 and oversight to properly confine its use.

10 (b) EXCEPTION TO DESIGNATION AUTHORITY.—

11 (1) PRIVACY OFFICERS.—In any department,
12 agency, or element referred to in subsection (a) or
13 designated by the Board, which has a statutorily
14 created privacy officer, such officer shall perform the
15 functions specified in subsection (a) with respect to
16 privacy.

17 (2) CIVIL LIBERTIES OFFICERS.—In any de-
18 partment, agency, or element referred to in sub-
19 section (a) or designated by the Board, which has a
20 statutorily created civil liberties officer, such officer
21 shall perform the functions specified in subsection
22 (a) with respect to civil liberties.

23 (c) SUPERVISION AND COORDINATION.—Each pri-
24 vacy officer or civil liberties officer described in subsection
25 (a) or (b) shall—

1 (1) report directly to the head of the depart-
2 ment, agency, or element concerned; and

3 (2) coordinate their activities with the Inspector
4 General of such department, agency, or element to
5 avoid duplication of effort.

6 (d) AGENCY COOPERATION.—The head of each de-
7 partment, agency, or element shall ensure that each pri-
8 vacy officer and civil liberties officer—

9 (1) has the information, material, and resources
10 necessary to fulfill the functions of such officer;

11 (2) is advised of proposed policy changes;

12 (3) is consulted by decision makers; and

13 (4) is given access to material and personnel
14 the officer determines to be necessary to carry out
15 the functions of such officer.

16 (e) REPRISAL FOR MAKING COMPLAINT.—No action
17 constituting a reprisal, or threat of reprisal, for making
18 a complaint or for disclosing information to a privacy offi-
19 cer or civil liberties officer described in subsection (a) or
20 (b), or to the Privacy and Civil Liberties Oversight Board,
21 that indicates a possible violation of privacy protections
22 or civil liberties in the administration of the programs and
23 operations of the Federal Government relating to efforts
24 to protect the Nation from terrorism shall be taken by
25 any Federal employee in a position to take such action,

1 unless the complaint was made or the information was dis-
2 closed with the knowledge that it was false or with willful
3 disregard for its truth or falsity.

4 (f) PERIODIC REPORTS.—

5 (1) IN GENERAL.—The privacy officers and civil
6 liberties officers of each department, agency, or ele-
7 ment referred to or described in subsection (a) or
8 (b) shall periodically, but not less than quarterly,
9 submit a report on the activities of such officers—

10 (A)(i) to the appropriate committees of
11 Congress, including the Committees on the Ju-
12 diciary of the Senate and the House of Rep-
13 resentatives, the Committee on Governmental
14 Affairs of the Senate, the Committee on Gov-
15 ernment Reform of the House of Representa-
16 tives, the Select Committee on Intelligence of
17 the Senate, and the Permanent Select Com-
18 mittee on Intelligence of the House of Rep-
19 resentatives;

20 (ii) to the head of such department, agen-
21 cy, or element; and

22 (iii) to the Privacy and Civil Liberties
23 Oversight Board; and

1 (B) which shall be in unclassified form to
2 the greatest extent possible, with a classified
3 annex where necessary.

4 (2) CONTENTS.—Each report submitted under
5 paragraph (1) shall include information on the dis-
6 charge of each of the functions of the officer con-
7 cerned, including—

8 (A) information on the number and types
9 of reviews undertaken;

10 (B) the type of advice provided and the re-
11 sponse given to such advice;

12 (C) the number and nature of the com-
13 plaints received by the department, agency, or
14 element concerned for alleged violations; and

15 (D) a summary of the disposition of such
16 complaints, the reviews and inquiries conducted,
17 and the impact of the activities of such officer.

18 (g) INFORMING THE PUBLIC.—Each privacy officer
19 and civil liberties officer shall—

20 (1) make the reports of such officer, including
21 reports to Congress, available to the public to the
22 greatest extent that is consistent with the protection
23 of classified information and applicable law; and

24 (2) otherwise inform the public of the activities
25 of such officer, as appropriate and in a manner con-

1 sistent with the protection of classified information
2 and applicable law.

3 (h) SAVINGS CLAUSE.—Nothing in this section shall
4 be construed to limit or otherwise supplant any other au-
5 thorities or responsibilities provided by law to privacy offi-
6 cers or civil liberties officers.

7 (i) PROTECTIONS FOR HUMAN RESEARCH SUB-
8 JECTS.—The Secretary of Homeland Security shall ensure
9 that the Department of Homeland Security complies with
10 the protections for human research subjects, as described
11 in part 46 of title 45, Code of Federal Regulations, or
12 in equivalent regulations as promulgated by such Sec-
13 retary, with respect to research that is conducted or sup-
14 ported by such Department.

15 **Subtitle C—Independence of** 16 **Intelligence Agencies**

17 **SEC. 221. INDEPENDENCE OF NATIONAL INTELLIGENCE DI-** 18 **RECTOR.**

19 (a) LOCATION OUTSIDE EXECUTIVE OFFICE OF THE
20 PRESIDENT.—The National Intelligence Director shall not
21 be located within the Executive Office of the President.

22 (b) PROVISION OF NATIONAL INTELLIGENCE.—The
23 National Intelligence Director shall provide to the Presi-
24 dent and Congress national intelligence that is timely, ob-

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

3 **SEC. 222. INDEPENDENCE OF INTELLIGENCE.**

4 (a) DIRECTOR OF NATIONAL COUNTERTERRORISM
5 CENTER.—The Director of the National Counterterrorism
6 Center shall provide to the President, Congress, and the
7 National Intelligence Director national intelligence related
8 to counterterrorism that is timely, objective, independent
9 of political considerations, and has not been shaped to
10 serve policy goals.

11 (b) DIRECTORS OF NATIONAL INTELLIGENCE CEN-
12 TERS.—Each Director of a national intelligence center es-
13 tablished under section 144 shall provide to the President,
14 Congress, and the National Intelligence Director intel-
15 ligence information that is timely, objective, independent
16 of political considerations, and has not been shaped to
17 serve policy goals.

18 (c) DIRECTOR OF CENTRAL INTELLIGENCE AGEN-
19 CY.—The Director of the Central Intelligence Agency shall
20 ensure that intelligence produced by the Central Intel-
21 ligence Agency is timely, objective, independent of political
22 considerations, and has not been shaped to serve policy
23 goals.

24 (d) NATIONAL INTELLIGENCE COUNCIL.—The Na-
25 tional Intelligence Council shall produce national intel-

1 ligence estimates for the United States Government that
2 are timely, objective, independent of political consider-
3 ations, and have not been shaped to serve policy goals.

4 **SEC. 223. INDEPENDENCE OF NATIONAL**
5 **COUNTERTERRORISM CENTER.**

6 No officer, department, agency, or element of the ex-
7 ecutive branch shall have any authority to require the Di-
8 rector of the National Counterterrorism Center—

9 (1) to receive permission to testify before Con-
10 gress; or

11 (2) to submit testimony, legislative rec-
12 ommendations, or comments to any officer or agency
13 of the United States for approval, comments, or re-
14 view prior to the submission of such recommenda-
15 tions, testimony, or comments to Congress if such
16 recommendations, testimony, or comments include a
17 statement indicating that the views expressed there-
18 in are those of the agency submitting them and do
19 not necessarily represent the views of the Adminis-
20 tration.

21 **SEC. 224. ACCESS OF CONGRESSIONAL COMMITTEES TO**
22 **NATIONAL INTELLIGENCE.**

23 (a) DOCUMENTS REQUIRED TO BE PROVIDED TO
24 CONGRESSIONAL COMMITTEES.—The National Intel-
25 ligence Director, the Director of the National

1 Counterterrorism Center, and the Director of a national
2 intelligence center shall provide to the committees and
3 Members of Congress specified in subsection (c), and any
4 other committee of Congress with jurisdiction over the
5 subject matter to which the information relates, all intel-
6 ligence assessments, intelligence estimates, sense of intel-
7 ligence community memoranda, and daily senior executive
8 intelligence briefs, other than the Presidential Daily Brief
9 and those reports prepared exclusively for the President.

10 (b) RESPONSE TO REQUESTS FROM CONGRESS RE-
11 QUIRED.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (3), in addition to providing material under
14 subsection (a), the National Intelligence Director,
15 the Director of the National Counterterrorism Cen-
16 ter, or the Director of a national intelligence center
17 shall, not later than 15 days after receiving a re-
18 quest for any intelligence assessment, report, or esti-
19 mate or other intelligence information from the com-
20 mittees and Members of Congress specified in sub-
21 section (c), or any other committee of Congress with
22 jurisdiction over the subject matter to which the in-
23 formation relates, make available to such committee
24 such intelligence assessment, report, or estimate or
25 other intelligence information.

1 (2) CERTAIN MEMBERS.—In addition to re-
2 requests described in paragraph (1), the National In-
3 telligence Director shall respond to requests from
4 the Chairman and Vice Chairman of the Select Com-
5 mittee on Intelligence of the Senate and the Chair-
6 man and Ranking Member of the Permanent Select
7 Committee on Intelligence of the House of Rep-
8 resentatives, the Speaker of the House of Represent-
9 atives and the Majority Leader and the Minority
10 Leader of the House of Representatives, and the
11 Majority Leader and the Minority Leader of the
12 Senate. Upon making a report covered by this para-
13 graph—

14 “(A) the Chairman, Vice Chairman, or
15 Ranking Member, as the case may be, of such
16 a committee shall notify the other of the Chair-
17 man, Vice Chairman, or Ranking Member, as
18 the case may be, of such committee of such re-
19 quest;

20 “(B) the Speaker of the House of Rep-
21 resentatives and the Majority Leader of the
22 House of Representatives or the Minority Lead-
23 er of the House of Representatives shall notify
24 the other or others, as the case may be, of such
25 request; and

1 “(C) the Majority Leader and Minority
2 Leader of the Senate shall notify the other of
3 such request.

4 (3) ASSERTIONS OF PRIVILEGE.—In response
5 to requests described under paragraph (1) or (2),
6 the National Intelligence Director, the Director of
7 the National Counterterrorism Center, or the Direc-
8 tor of a national intelligence center shall provide in-
9 formation, unless the President certifies that such
10 information is not being provided because the Presi-
11 dent is asserting a privilege pursuant to the United
12 States Constitution.

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

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

18 (2) the Permanent Select Committee on Intel-
19 ligence of the House of Representatives;

20 (3) the Speaker of the House of Representa-
21 tives and the Majority Leader and the Minority
22 Leader of the House of Representatives; and

23 (4) the Majority Leader and the Minority Lead-
24 er of the Senate.

1 **SEC. 225. COMMUNICATIONS WITH CONGRESS.**

2 (a) DISCLOSURE OF CERTAIN INFORMATION AU-
3 THORIZED.—

4 (1) IN GENERAL.—Employees of covered agen-
5 cies and employees of contractors carrying out ac-
6 tivities under classified contracts with covered agen-
7 cies may disclose information described in paragraph
8 (2) to the individuals referred to in paragraph (3)
9 without first reporting such information to the ap-
10 propriate Inspector General.

11 (2) COVERED INFORMATION.—

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

17 (i) a false or inaccurate statement to
18 Congress contained in any intelligence as-
19 sessment, report, or estimate; or

20 (ii) the withholding from Congress of
21 any intelligence information material to
22 any intelligence assessment, report, or esti-
23 mate.

24 (B) EXCEPTION.—Paragraph (1) does not
25 apply to information the disclosure of which is

1 prohibited by rule 6(e) of the Federal Rules of
2 Criminal Procedure.

3 (3) COVERED INDIVIDUALS.—

4 (A) IN GENERAL.—The individuals to
5 whom information in paragraph (2) may be dis-
6 closed are—

7 (i) a Member of a committee of Con-
8 gress having primary responsibility for
9 oversight of a department, agency, or ele-
10 ment of the United States Government to
11 which the disclosed information relates and
12 who is authorized to receive information of
13 the type disclosed;

14 (ii) the Speaker of the House of Rep-
15 resentatives and the Majority Leader and
16 the Minority Leader of the House of Rep-
17 resentatives;

18 (iii) the Majority Leader and the Mi-
19 nority Leader of the Senate;

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

23 (v) an employee of Congress who has
24 the appropriate security clearance and is

1 authorized to receive information of the
2 type disclosed.

3 (B) PRESUMPTION OF NEED FOR INFOR-
4 MATION.—An individual described in subpara-
5 graph (A) to whom information is disclosed
6 under paragraph (2) shall be presumed to have
7 a need to know such information.

8 (b) CONSTRUCTION WITH OTHER REPORTING RE-
9 QUIREMENTS.—Nothing in this section may be construed
10 to modify, alter, or otherwise affect—

11 (1) any reporting requirement relating to intel-
12 ligence activities that arises under this Act, the Na-
13 tional Security Act of 1947 (50 U.S.C. 401 et seq.),
14 or any other provision of law; or

15 (2) the right of any employee of the United
16 States Government to disclose to Congress in ac-
17 cordance with applicable law information not de-
18 scribed in this section.

19 (c) COVERED AGENCIES DEFINED.—In this section,
20 the term “covered agencies” means the following:

21 (1) The National Intelligence Authority, includ-
22 ing the National Counterterrorism Center.

23 (2) The Central Intelligence Agency.

24 (3) The Defense Intelligence Agency.

1 (4) The National Geospatial-Intelligence Agen-
2 cy.

3 (5) The National Security Agency.

4 (6) The Federal Bureau of Investigation.

5 (7) Any other Executive agency, or element or
6 unit thereof, determined by the President under sec-
7 tion 2302(a)(2)(C)(ii) of title 5, United States Code,
8 to have as its principal function the conduct of for-
9 foreign intelligence or counterintelligence activities.

10 **SEC. 226. CONGRESSIONAL APPEALS OF CLASSIFICATION**

11 **DECISIONS.**

12 (a) REDESIGNATION OF PUBLIC INTEREST DECLASSI-
13 FICATION BOARD AS INDEPENDENT NATIONAL SECUR-
14 RITY CLASSIFICATION BOARD.—(1) Subsection (a) of sec-
15 tion 703 of the Public Interest Declassification Act of
16 2000 (title VII of Public Law 10–567; 50 U.S.C. 435
17 note) is amended by striking “‘Public Interest Declassi-
18 fication Board’” and inserting “‘Independent National
19 Security Classification Board’”.

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

22 **“SEC. 703. INDEPENDENT NATIONAL SECURITY CLASSI-
23 FICATION BOARD.”**

24 (b) REVIEW OF CLASSIFICATION DECISIONS.—

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

6 (2) ACCESS.—The Board shall have access to
7 all documents or other materials that are classified
8 on the basis of containing national security informa-
9 tion.

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

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

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

22 (4) RECOMMENDATIONS.—

23 (A) IN GENERAL.—The Board may make
24 recommendations to the President regarding de-
25 cisions to classify all or portions of documents

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

4 (B) IMPLEMENTATION.—Upon receiving a
5 recommendation from the Board under sub-
6 paragraph (A), the President shall either—

7 (i) accept and implement such rec-
8 ommendation; or

9 (ii) not later than 60 days after re-
10 ceiving the recommendation if the Presi-
11 dent does not accept and implement such
12 recommendation, transmit in writing to
13 Congress justification for the President’s
14 decision not to implement such rec-
15 ommendation.

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

18 (6) EXECUTIVE AGENCY DEFINED.—In this sec-
19 tion, the term “Executive agency” has the meaning
20 given that term in section 105 of title 5, United
21 States Code .

1 **Subtitle D—Homeland Security**
2 **Civil Rights and Civil Liberties**
3 **Protection**

4 **SEC. 231. SHORT TITLE.**

5 This title may be cited as the “Homeland Security
6 Civil Rights and Civil Liberties Protection Act of 2004”.

7 **SEC. 232. MISSION OF DEPARTMENT OF HOMELAND SECU-**
8 **RITY.**

9 Section 101(b)(1) of the Homeland Security Act of
10 2002 (6 U.S.C. 111(b)(1)) is amended—

11 (1) in subparagraph (F), by striking “and”
12 after the semicolon;

13 (2) by redesignating subparagraph (G) as sub-
14 paragraph (H); and

15 (3) by inserting after subparagraph (F) the fol-
16 lowing:

17 “(G) ensure that the civil rights and civil
18 liberties of persons are not diminished by ef-
19 forts, activities, and programs aimed at secur-
20 ing the homeland; and”.

21 **SEC. 233. OFFICER FOR CIVIL RIGHTS AND CIVIL LIB-**
22 **ERTIES.**

23 Section 705(a) of the Homeland Security Act of 2002
24 (6 U.S.C. 345(a)) is amended—

1 (1) by amending the matter preceding para-
2 graph (1) to read as follows:

3 “(a) IN GENERAL.—The Officer for Civil Rights and
4 Civil Liberties, who shall report directly to the Secretary,
5 shall—”;

6 (2) by amending paragraph (1) to read as fol-
7 lows:

8 “(1) review and assess information concerning
9 abuses of civil rights, civil liberties, and profiling on
10 the basis of race, ethnicity, or religion, by employees
11 and officials of the Department;”;

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

14 (4) by adding at the end the following:

15 “(3) assist the Secretary, directorates, and of-
16 fices of the Department to develop, implement, and
17 periodically review Department policies and proce-
18 dures to ensure that the protection of civil rights
19 and civil liberties is appropriately incorporated into
20 Department programs and activities;

21 “(4) oversee compliance with constitutional,
22 statutory, regulatory, policy, and other requirements
23 relating to the civil rights and civil liberties of indi-
24 viduals affected by the programs and activities of
25 the Department;

1 “(5) coordinate with the Privacy Officer to en-
2 sure that—

3 “(A) programs, policies, and procedures in-
4 volving civil rights, civil liberties, and privacy
5 considerations are addressed in an integrated
6 and comprehensive manner; and

7 “(B) Congress receives appropriate reports
8 regarding such programs, policies, and proce-
9 dures; and

10 “(6) investigate complaints and information in-
11 dicating possible abuses of civil rights or civil lib-
12 erties, unless the Inspector General of the Depart-
13 ment determines that any such complaint or infor-
14 mation should be investigated by the Inspector Gen-
15 eral.”.

16 **SEC. 234. PROTECTION OF CIVIL RIGHTS AND CIVIL LIB-**
17 **ERTIES BY OFFICE OF INSPECTOR GENERAL.**

18 Section 8I of the Inspector General Act of 1978 (5
19 U.S.C. App.) is amended by adding at the end the fol-
20 lowing:

21 “(f)(1) The Inspector General of the Department of
22 Homeland Security shall designate a senior official within
23 the Office of Inspector General, who shall be a career
24 member of the civil service at the equivalent to the GS—

1 15 level or a career member of the Senior Executive Serv-
2 ice, to perform the functions described in paragraph (2).

3 “(2) The senior official designated under paragraph
4 (1) shall—

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

8 “(B) receive and review complaints and infor-
9 mation from any source alleging abuses of civil
10 rights and civil liberties by employees or officials of
11 the Department and employees or officials of inde-
12 pendent contractors or grantees of the Department;

13 “(C) initiate investigations of alleged abuses of
14 civil rights or civil liberties by employees or officials
15 of the Department and employees or officials of
16 independent contractors or grantees of the Depart-
17 ment;

18 “(D) ensure that personnel within the Office of
19 Inspector General receive sufficient training to con-
20 duct effective civil rights and civil liberties investiga-
21 tions;

22 “(E) consult with the Officer for Civil Rights
23 and Civil Liberties regarding—

24 “(i) alleged abuses of civil rights or civil
25 liberties; and

1 “(ii) any policy recommendations regarding
2 civil rights and civil liberties that may be found-
3 ed upon an investigation by the Office of In-
4 specter General;

5 “(F) provide the Officer for Civil Rights and
6 Civil Liberties with information regarding the out-
7 come of investigations of alleged abuses of civil
8 rights and civil liberties;

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

12 “(H) ensure that the Office of the Inspector
13 General publicizes and provides convenient public ac-
14 cess to information regarding—

15 “(i) the procedure to file complaints or
16 comments concerning civil rights and civil lib-
17 erties matters; and

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

21 “(I) inform the Officer for Civil Rights and
22 Civil Liberties of any weaknesses, problems, and de-
23 ficiencies within the Department relating to civil
24 rights or civil liberties.”.

1 **SEC. 235. PRIVACY OFFICER.**

2 Section 222 of the Homeland Security Act of 2002
3 (6 U.S.C. 142) is amended—

4 (1) in the matter preceding paragraph (1), by
5 inserting “, who shall report directly to the Sec-
6 retary,” after “in the Department”;

7 (2) in paragraph (4), by striking “and” at the
8 end;

9 (3) by redesignating paragraph (5) as para-
10 graph (6); and

11 (4) by inserting after paragraph (4) the fol-
12 lowing:

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

15 “(A) programs, policies, and procedures in-
16 volving civil rights, civil liberties, and privacy
17 considerations are addressed in an integrated
18 and comprehensive manner; and

19 “(B) Congress receives appropriate reports
20 on such programs, policies, and procedures;
21 and”.

1 **TITLE III—MODIFICATIONS OF**
2 **LAWS RELATING TO INTEL-**
3 **LIGENCE COMMUNITY MAN-**
4 **AGEMENT**

5 **Subtitle A—Conforming and Other**
6 **Amendments**

7 **SEC. 301. RESTATEMENT AND MODIFICATION OF BASIC AU-**
8 **THORITY ON THE CENTRAL INTELLIGENCE**
9 **AGENCY.**

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

14 “CENTRAL INTELLIGENCE AGENCY

15 “SEC. 102. (a) CENTRAL INTELLIGENCE AGENCY.—
16 There is a Central Intelligence Agency.

17 “(b) FUNCTION.—The function of the Central Intel-
18 ligence Agency is to assist the Director of the Central In-
19 telligence Agency in carrying out the responsibilities speci-
20 fied in section 103(d).

21 “DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

22 “SEC. 103. (a) DIRECTOR OF CENTRAL INTEL-
23 LIGENCE AGENCY.—There is a Director of the Central In-
24 telligence Agency who shall be appointed by the President,
25 by and with the advice and consent of the Senate.

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

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

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

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

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

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

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

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

1 other departments, agencies, or elements of the
2 United States Government which are authorized to
3 undertake such collection, ensure that the most ef-
4 fective use is made of resources and that appropriate
5 account is taken of the risks to the United States
6 and those involved in such collection; and

7 “(4) perform such other functions and duties
8 related to intelligence affecting the national security
9 as the President or the National Intelligence Direc-
10 tor may direct.

11 “(e) TERMINATION OF EMPLOYMENT OF CIA EM-
12 PLOYEES.—(1) Notwithstanding the provisions of any
13 other law, the Director of the Central Intelligence Agency
14 may, in the discretion of the Director, terminate the em-
15 ployment of any officer or employee of the Central Intel-
16 ligence Agency whenever the Director considers the termi-
17 nation of employment of such officer or employee nec-
18 essary or advisable in the interests of the United States.

19 “(2) Any termination of employment of an officer or
20 employee under paragraph (1) shall not affect the right
21 of the officer or employee to seek or accept employment
22 in any other department, agency, or element of the United
23 States Government if declared eligible for such employ-
24 ment by the Office of Personnel Management.

1 “(f) COORDINATION WITH FOREIGN GOVERN-
2 MENTS.—Under the direction of the National Intelligence
3 Director and in a manner consistent with section 207 of
4 the Foreign Service Act of 1980 (22 U.S.C. 3927), the
5 Director of the Central Intelligence Agency shall coordi-
6 nate the relationships between elements of the intelligence
7 community and the intelligence or security services of for-
8 eign governments or international organizations on all
9 matters involving intelligence related to the national secu-
10 rity.”

11 (b) TRANSFORMATION OF CENTRAL INTELLIGENCE
12 AGENCY.—The Director of the Central Intelligence Agen-
13 cy shall, in accordance with standards developed by the
14 Director in consultation with the National Intelligence Di-
15 rector—

16 (1) enhance the analytic, human intelligence,
17 and other capabilities of the Central Intelligence
18 Agency;

19 (2) develop and maintain an effective language
20 program within the Agency;

21 (3) emphasize the hiring of personnel of diverse
22 backgrounds for purposes of improving the capabili-
23 ties of the Agency;

24 (4) establish and maintain effective relation-
25 ships between human intelligence and signals intel-

1 ligence within the Agency at the operational level;
2 and

3 (5) achieve a more effective balance within the
4 Agency with respect to unilateral operations and liai-
5 son operations.

6 (c) REPORTS.—(1) Not later than 180 days after the
7 effective date of this section, and annually thereafter, the
8 Director of the Central Intelligence Agency shall submit
9 to the National Intelligence Director and the congressional
10 intelligence committees a report setting forth the fol-
11 lowing:

12 (A) A strategy for improving the conduct of
13 analysis (including strategic analysis) by the Central
14 Intelligence Agency, and the progress of the Agency
15 in implementing the strategy.

16 (B) A strategy for improving the human intel-
17 ligence and other capabilities of the Agency, and the
18 progress of the Agency in implementing the strategy,
19 including—

20 (i) the recruitment, training, equipping,
21 and deployment of personnel required to ad-
22 dress the current and projected threats to the
23 national security of the United States during
24 each of the 2-year, 5-year, and 10-year periods
25 beginning on the date of such report, including

1 personnel with the backgrounds, education, and
2 experience necessary for ensuring a human in-
3 telligence capability adequate for such projected
4 threats;

5 (ii) the achievement of a proper balance
6 between unilateral operations and liaison oper-
7 ations;

8 (iii) the development of language capabili-
9 ties (including the achievement of high stand-
10 ards in such capabilities by the use of financial
11 incentives and other mechanisms);

12 (iv) the sound financial management of the
13 Directorate of Operations; and

14 (v) the identification of other capabilities
15 required to address the current and projected
16 threats to the national security of the United
17 States during each of the 2-year, 5-year, and
18 10-year periods beginning on the date of such
19 report.

20 (C) In conjunction with the Director of the Na-
21 tional Security Agency, a strategy for achieving inte-
22 gration between signals and human intelligence ca-
23 pabilities, and the progress in implementing the
24 strategy.

1 (D) Metrics and milestones for measuring
2 progress in the implementation of each such strat-
3 egy.

4 (2)(A) The information in each report under para-
5 graph (1) on the element of the strategy referred to in
6 paragraph (1)(B)(i) shall identify the number and types
7 of personnel required to implement the strategy during
8 each period addressed in such report, include a plan for
9 the recruitment, training, equipping, and deployment of
10 such personal, and set forth an estimate of the costs of
11 such activities.

12 (B) If as of the date of a report under paragraph
13 (1), a proper balance does not exist between unilateral op-
14 erations and liaison operations, such report shall set forth
15 the steps to be taken to achieve such balance.

16 (C) The information in each report under paragraph
17 (1) on the element of the strategy referred to in paragraph
18 (1)(B)(v) shall identify the other capabilities required to
19 implement the strategy during each period addressed in
20 such report, include a plan for developing such capabili-
21 ties, and set forth an estimate of the costs of such activi-
22 ties.

1 **SEC. 302. CONFORMING AMENDMENTS RELATING TO**
2 **ROLES OF NATIONAL INTELLIGENCE DIREC-**
3 **TOR AND DIRECTOR OF THE CENTRAL INTEL-**
4 **LIGENCE AGENCY.**

5 (a) NATIONAL SECURITY ACT OF 1947.—(1) The
6 National Security Act of 1947 (50 U.S.C. 401 et seq.)
7 is amended by striking “Director of Central Intelligence”
8 each place it appears in the following provisions and in-
9 serting “National Intelligence Director”:

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

11 (B) Section 101(h)(2)(A) (50 U.S.C.
12 402(h)(2)(A)).

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

14 (D) Section 101(i)(2)(A) (50 U.S.C.
15 402(i)(2)(A)).

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

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

18 (G) Section 105(b)(6)(A) (50 U.S.C. 403–
19 5(b)(6)(A)).

20 (H) Section 105B(a)(1) (50 U.S.C. 403–
21 5b(a)(1)).

22 (I) Section 105B(b) (50 U.S.C. 403–5b(b)).

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

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

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

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

- 1 (N) Section 113(b)(2)(A) (50 U.S.C.
2 404h(b)(2)(A)).
- 3 (O) Section 114(a)(1) (50 U.S.C. 404i(a)(1)).
- 4 (P) Section 114(b)(1) (50 U.S.C. 404i(b)(1)).
- 5 (R) Section 115(a)(1) (50 U.S.C. 404j(a)(1)).
- 6 (S) Section 115(b) (50 U.S.C. 404j(b)).
- 7 (T) Section 115(c)(1)(B) (50 U.S.C.
8 404j(c)(1)(B)).
- 9 (U) Section 116(a) (50 U.S.C. 404k(a)).
- 10 (V) Section 117(a)(1) (50 U.S.C. 404l(a)(1)).
- 11 (W) Section 303(a) (50 U.S.C. 405(a)), both
12 places it appears.
- 13 (X) Section 501(d) (50 U.S.C. 413(d)).
- 14 (Y) Section 502(a) (50 U.S.C. 413a(a)).
- 15 (Z) Section 502(c) (50 U.S.C. 413a(c)).
- 16 (AA) Section 503(b) (50 U.S.C. 413b(b)).
- 17 (BB) Section 504(a)(2) (50 U.S.C. 414(a)(2)).
- 18 (CC) Section 504(a)(3)(C) (50 U.S.C.
19 414(a)(3)(C)).
- 20 (DD) Section 504(d)(2) (50 U.S.C. 414(d)(2)).
- 21 (EE) Section 506A(a)(1) (50 U.S.C. 415a–
22 1(a)(1)).
- 23 (FF) Section 603(a) (50 U.S.C. 423(a)).
- 24 (GG) Section 702(a)(1) (50 U.S.C. 432(a)(1)).

1 (HH) Section 702(a)(6)(B)(viii) (50 U.S.C.
2 432(a)(6)(B)(viii)).

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

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

6 (KK) Section 703(a)(6)(B)(viii) (50 U.S.C.
7 432a(a)(6)(B)(viii)).

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

10 (MM) Section 704(a)(1) (50 U.S.C.
11 432b(a)(1)).

12 (NN) Section 704(f)(2)(H) (50 U.S.C.
13 432b(f)(2)(H)).

14 (OO) Section 704(g)(1) (50 U.S.C.
15 432b(g)(1)), both places it appears.

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

17 (QQ) Section 1102(a)(1) (50 U.S.C.
18 442a(a)(1)).

19 (RR) Section 1102(b)(1) (50 U.S.C.
20 442a(b)(1)).

21 (SS) Section 1102(c)(1) (50 U.S.C.
22 442a(c)(1)).

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

1 (2) That Act is further amended by striking “of Cen-
2 tral Intelligence” each place it appears in the following
3 provisions:

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

5 (B) Section 105B(a)(2) (50 U.S.C. 403–
6 5b(a)(2)).

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

9 (3) That Act is further amended by striking “Direc-
10 tor” each place it appears in the following provisions and
11 inserting “National Intelligence Director”:

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

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

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

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

17 (D) Section 1001(d)(1)(B) (50 U.S.C.
18 441g(d)(1)(B)).

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

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

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

3 (A) in subsection (a), by striking “Operational
4 files of the Central Intelligence Agency may be ex-
5 empted by the Director of Central Intelligence” and
6 inserting “The Director of the Central Intelligence
7 Agency, with the coordination of the National Intel-
8 ligence Director, may exempt operational files of the
9 Central Intelligence Agency”; and

10 (B) in subsection (g)(1), by striking “Director
11 of Central Intelligence” and inserting “Director of
12 the Central Intelligence Agency and the National In-
13 telligence Director”.

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

16 “ADDITIONAL ANNUAL REPORTS FROM THE NATIONAL
17 INTELLIGENCE DIRECTOR”.

18 (b) CENTRAL INTELLIGENCE AGENCY ACT OF
19 1949.—(1) Section 1 of the Central Intelligence Agency
20 Act of 1949 (50 U.S.C. 403a) is amended—

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

23 (B) by striking paragraph (2), as so redesign-
24 dated, and inserting the following new paragraph
25 (2):

1 “(2) ‘Director’ means the Director of the Central In-
2 telligence Agency; and”.

3 (2) That Act (50 U.S.C. 403a et seq.) is further
4 amended by striking “Director of Central Intelligence”
5 each place it appears in the following provisions and in-
6 serting “National Intelligence Director”:

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

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

10 (3) That Act is further amended by striking “of Cen-
11 tral Intelligence” in each of the following provisions:

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

13 (A) Section 16(c)(1)(B) (50 U.S.C.
14 403p(c)(1)(B)).

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

16 (C) Section 20(e) (50 U.S.C. 403t(e)).

17 (4) That Act is further amended by striking “Direc-
18 tor of Central Intelligence” each place it appears in the
19 following provisions and inserting “Director of the Central
20 Intelligence Agency”:

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

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

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

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

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

2 (c) CENTRAL INTELLIGENCE AGENCY RETIREMENT
3 ACT.—Section 101 of the Central Intelligence Agency Re-
4 tirement Act (50 U.S.C. 2001) is amended by striking
5 paragraph (2) and inserting the following new paragraph
6 (2):

7 “(2) DIRECTOR.—The term ‘Director’ means
8 the Director of the Central Intelligence Agency.”.

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

13 “(1) the term ‘Director’ means the Director of
14 the Central Intelligence Agency;”.

15 (e) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF
16 1978.—(1) The Foreign Intelligence Surveillance Act of
17 1978 (50 U.S.C. 1801 et seq.) is amended by striking “Di-
18 rector of Central Intelligence” each place it appears and
19 inserting “National Intelligence Director”.

20 (f) CLASSIFIED INFORMATION PROCEDURES ACT.—
21 Section 9(a) of the Classified Information Procedures Act
22 (5 U.S.C. App.) is amended by striking “Director of Cen-
23 tral Intelligence” and inserting “National Intelligence Di-
24 rector”.

25 (g) INTELLIGENCE AUTHORIZATION ACTS.—

1 (1) PUBLIC LAW 103–359.—Section 811(c)(6)(C)
2 of the Counterintelligence and Security Enhance-
3 ments Act of 1994 (title VIII of Public Law 103–
4 359) is amended by striking “Director of Central In-
5 telligence” and inserting “National Intelligence Di-
6 rector”.

7 (2) PUBLIC LAW 107–306.—(A) The Intelligence
8 Authorization Act for Fiscal Year 2003 (Public Law
9 107–306) is amended by striking “Director of Cen-
10 tral Intelligence, acting as the head of the intel-
11 ligence community,” each place it appears in the fol-
12 lowing provisions and inserting “National Intel-
13 ligence Director”:

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

15 (ii) Section 343(a)(1) (50 U.S.C. 404n–
16 2(a)(1))

17 (B) Section 341 of that Act (50 U.S.C. 404n–
18 1) is amended by striking “Director of Central Intel-
19 ligence, acting as the head of the intelligence com-
20 munity, shall establish in the Central Intelligence
21 Agency” and inserting “National Intelligence Direc-
22 tor shall establish within the Central Intelligence
23 Agency”.

1 (C) Section 352(b) of that Act (50 U.S.C. 404–
2 3 note) is amended by striking “Director” and in-
3 sserting “National Intelligence Director”.

4 (3) PUBLIC LAW 108–177.—(A) The Intelligence
5 Authorization Act for Fiscal Year 2004 (Public Law
6 108–177) is amended by striking “Director of Cen-
7 tral Intelligence” each place it appears in the fol-
8 lowing provisions and inserting “National Intel-
9 ligence Director”:

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

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

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

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

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

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

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

18 (B) Section 319(f)(2) of that Act (50 U.S.C.
19 403 note) is amended by striking “Director” the
20 first place it appears and inserting “National Intel-
21 ligence Director”.

22 (C) Section 404 of that Act (18 U.S.C. 4124
23 note) is amended by striking “Director of Central
24 Intelligence” and inserting “Director of the Central
25 Intelligence Agency”.

1 **SEC. 303. OTHER CONFORMING AMENDMENTS.**

2 (a) NATIONAL SECURITY ACT OF 1947.—(1) Section
3 101(j) of the National Security Act of 1947 (50 U.S.C.
4 402(j)) is amended by striking “Deputy Director of Cen-
5 tral Intelligence” and inserting “Principal Deputy Na-
6 tional Intelligence Director”.

7 (2) Section 112(d)(1) of that Act (50 U.S.C.
8 404g(d)(1)) is amended by striking “section 103(c)(6) of
9 this Act” and inserting “section 112(a)(14) of the Na-
10 tional Intelligence Reform Act of 2004”.

11 (3) Section 116(b) of that Act (50 U.S.C. 404k(b))
12 is amended by striking “to the Deputy Director of Central
13 Intelligence, or with respect to employees of the Central
14 Intelligence Agency, the Director may delegate such au-
15 thority to the Deputy Director for Operations” and insert-
16 ing “to the Principal Deputy National Intelligence Direc-
17 tor, or, with respect to employees of the Central Intel-
18 ligence Agency, to the Director of the Central Intelligence
19 Agency”.

20 (4) Section 504(a)(2) of that Act (50 U.S.C.
21 414(a)(2)) is amended by striking “Reserve for Contin-
22 gencies of the Central Intelligence Agency” and inserting
23 “Reserve for Contingencies”.

24 (5) Section 506A(b)(1) of that Act (50 U.S.C. 415a-
25 1(b)(1)) is amended by striking “Office of the Deputy Di-

1 rector of Central Intelligence” and inserting “Office of the
2 National Intelligence Director”.

3 (6) Section 701(c)(3) of that Act (50 U.S.C.
4 431(c)(3)) is amended by striking “or the Office of the
5 Director of Central Intelligence” and inserting “the Office
6 of the Director of the Central Intelligence Agency, or the
7 Office of the National Intelligence Director”.

8 (7) Section 1001(b) of that Act (50 U.S.C. 441g(b))
9 is amended by striking “Assistant Director of Central In-
10 telligence for Administration” and inserting “Office of the
11 National Intelligence Director”.

12 (b) CENTRAL INTELLIGENCE AGENCY ACT OF
13 1949.—Section 6 of the Central Intelligence Agency Act
14 of 1949 (50 U.S.C. 403g) is amended by striking “section
15 103(e)(7) of the National Security Act of 1947 (50 U.S.C.
16 403–3(c)(7))” and inserting “section 112(a)(14) of the
17 National Intelligence Reform Act of 2004”.

18 (c) CENTRAL INTELLIGENCE AGENCY RETIREMENT
19 ACT.—Section 201(e) of the Central Intelligence Agency
20 Retirement Act (50 U.S.C. 2011(c)) is amended by strik-
21 ing “paragraph (6) of section 103(e) of the National Secu-
22 rity Act of 1947 (50 U.S.C. 403–3(c)) that the Director
23 of Central Intelligence” and inserting “section 112(a)(14)
24 of the National Intelligence Reform Act of 2004 that the
25 National Intelligence Director”.

1 (d) INTELLIGENCE AUTHORIZATION ACTS.—

2 (1) PUBLIC LAW 107–306.—Section 343(c) of
3 the Intelligence Authorization Act for Fiscal Year
4 2003 (Public Law 107–306; 50 U.S.C. 404n–2(c)) is
5 amended by striking “section 103(c)(6) of the Na-
6 tional Security Act of 1947 (50 U.S.C. 403–
7 3((c)(6))” and inserting “section 112(a)(14) of the
8 National Intelligence Reform Act of 2004”.

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

13 (A) in subsection (g), by striking “Assist-
14 ant Director of Central Intelligence for Analysis
15 and Production” and inserting “Principal Dep-
16 uty National Intelligence Director”; and

17 (B) in subsection (h)(2)(C), by striking
18 “Assistant Director” and inserting “Principal
19 Deputy National Intelligence Director”.

20 **SEC. 304. MODIFICATION OF COUNTERINTELLIGENCE AND**
21 **NATIONAL INTELLIGENCE UNDER NATIONAL**
22 **SECURITY ACT OF 1947.**

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

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

3 “(3) The term ‘counterintelligence’ means for-
4 eign intelligence gathered, and information gathering
5 activities conducted, to protect against espionage,
6 other intelligence activities, sabotage, or assassina-
7 tions conducted by or on behalf of foreign govern-
8 ments or elements thereof, foreign organizations, or
9 foreign persons, or international terrorist activi-
10 ties.”; and

11 (2) in paragraph (5)(B)—

12 (A) by striking “counterintelligence or”;

13 and

14 (B) by striking “expressly provided for in
15 this title” and insert “expressly provided for in
16 law”.

17 **SEC. 305. ELEMENTS OF INTELLIGENCE COMMUNITY**
18 **UNDER NATIONAL SECURITY ACT OF 1947.**

19 Paragraph (4) of section 3 of the National Security
20 Act of 1947 (50 U.S.C. 401a) is amended to read as fol-
21 lows:

22 “(4) The term ‘intelligence community’ includes
23 the following:

24 “(A) The National Intelligence Authority.

25 “(B) The Central Intelligence Agency.

1 “(C) The National Security Agency.

2 “(D) The Defense Intelligence Agency.

3 “(E) The National Geospatial-Intelligence
4 Agency.

5 “(F) The National Reconnaissance Office.

6 “(G) Other offices within the Department
7 of Defense for the collection of specialized na-
8 tional intelligence through reconnaissance pro-
9 grams.

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

14 “(I) The Bureau of Intelligence and Re-
15 search of the Department of State.

16 “(J) The Office of Intelligence and Anal-
17 ysis of the Department of the Treasury.

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

22 “(L) Such other elements of any depart-
23 ment or agency as may be designated by the
24 President, or designated jointly by the National
25 Intelligence Director and the head of the de-

1 partment or agency concerned, as an element of
2 the intelligence community.”.

3 **SEC. 306. REDESIGNATION OF NATIONAL FOREIGN INTEL-**
4 **LIGENCE PROGRAM AS NATIONAL INTEL-**
5 **LIGENCE PROGRAM.**

6 (a) REDESIGNATION.—Section 3 of the National Se-
7 curity Act of 1947 (50 U.S.C. 401a), as amended by this
8 Act, is further amended—

9 (1) by striking paragraph (6); and

10 (2) by redesignating paragraph (7) as para-
11 graph (6).

12 (b) CONFORMING AMENDMENTS.—(1) The National
13 Security Act of 1947, as amended by this Act, is further
14 amended by striking “National Foreign Intelligence Pro-
15 gram” each place it appears in the following provisions
16 and inserting “National Intelligence Program”:

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

18 (B) Section 105(a)(3) (50 U.S.C. 403–5(a)(3)).

19 (C) Section 506(a) (50 U.S.C. 415a(a)).

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

24 (c) HEADING AMENDMENTS.—(1) The heading of
25 section 105 of that Act is amended to read as follows:

1 “RESPONSIBILITIES OF THE SECRETARY OF DEFENSE
2 PERTAINING TO THE NATIONAL INTELLIGENCE PRO-
3 GRAM”.

4 (2) The heading of section 506 of that Act is amend-
5 ed to read as follows:

6 “SPECIFICITY OF NATIONAL INTELLIGENCE PROGRAM
7 BUDGET AMOUNTS FOR COUNTERTERRORISM,
8 COUNTERPROLIFERATION, COUNTERNARCOTICS, AND
9 COUNTERINTELLIGENCE”.

10 **SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBIL-**
11 **ITIES OF SECRETARY OF DEFENSE PER-**
12 **TAINING TO NATIONAL INTELLIGENCE PRO-**
13 **GRAM.**

14 Section 105(a) of the National Security Act of 1947
15 (50 U.S.C. 403–5(a)) is amended—

16 (1) in paragraph (1), by striking “ensure” and
17 inserting “assist the Director in ensuring”; and

18 (2) in paragraph (2), by striking “appropriate”.

19 **SEC. 308. REPEAL OF SUPERSEDED AUTHORITIES.**

20 (a) APPOINTMENT OF CERTAIN INTELLIGENCE OF-
21 FICIALS.—Section 106 of the National Security Act of
22 1947 (50 U.S.C. 403–6) is repealed.

23 (b) COLLECTION TASKING AUTHORITY.—Section
24 111 of the National Security Act of 1947 (50 U.S.C. 404f)
25 is repealed.

1 **SEC. 309. CONFORMING AMENDMENTS ON FUNDING OF IN-**
2 **TELLIGENCE ACTIVITIES.**

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

5 (1) in subsection (a)(3)—

6 (A) in subparagraph (A), by adding “and”
7 at the end;

8 (B) by striking subparagraph (B); and

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

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

13 “(2) the term ‘appropriate congressional com-
14 mittees’ means—

15 “(A)(i) the Permanent Select Committee
16 on Intelligence and the Committee on Appro-
17 priations of the House of Representatives; and

18 “(ii) the Select Committee on Intelligence
19 and the Committee on Appropriations of the
20 Senate;

21 “(B) in the case of a transfer of funds to
22 or from, or a reprogramming within, the De-
23 partment of Defense—

24 “(i) the committees and select com-
25 mittees referred to in subparagraph (A);

1 “(ii) the Committee on Armed Serv-
2 ices of the House of Representatives; and

3 “(iii) the Committee on Armed Serv-
4 ices of the Senate; and

5 “(C) in the case of a transfer of funds to
6 or from, or a reprogramming within, the Fed-
7 eral Bureau of Investigation—

8 “(i) the committees and select com-
9 mittees referred to in subparagraph (A);

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

12 “(iii) the Committee on the Judiciary
13 of the Senate; and”.

14 **SEC. 310. MODIFICATION OF DEFINITION OF CONGRES-**
15 **SIONAL INTELLIGENCE COMMITTEES UNDER**
16 **NATIONAL SECURITY ACT OF 1947.**

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

20 “(7) The term ‘congressional intelligence com-
21 mittees’ means—

22 “(A) the Select Committee on Intelligence
23 of the Senate;

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

1 “(C) the Speaker of the House of Rep-
2 representatives and the Majority Leader and the
3 Minority Leader of the House of Representa-
4 tives; and

5 “(D) the Majority Leader and the Minority
6 Leader of the Senate.”.

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

10 “(2) the term ‘appropriate congressional com-
11 mittees’ means—

12 “(A) the Select Committee on Intelligence
13 and the Committee on Appropriations of the
14 Senate;

15 “(B) the Permanent Select Committee on
16 Intelligence and the Committee on Appropria-
17 tions of the House of Representatives;

18 “(C) the Speaker of the House of Rep-
19 representatives and the Majority Leader and the
20 Minority Leader of the House of Representa-
21 tives; and

22 “(D) the Majority Leader and the Minority
23 Leader of the Senate;”.

1 **SEC. 311. CLERICAL AMENDMENTS TO NATIONAL SECURITY**2 **ACT OF 1947.**

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

5 (1) by inserting after the item relating to sec-
6 tion 101 the following new item:

“Sec. 101A. Joint Intelligence Community Council.”;

7 (2) by striking the items relating to sections
8 102 through 104 and inserting the following new
9 items:

“Sec. 102. Central Intelligence Agency.

“Sec. 103. Director of the Central Intelligence Agency.”;

10 (3) by striking the item relating to section 105
11 and inserting the following new item:

“Sec 105. Responsibilities of the Secretary of Defense pertaining to the Na-
tional Intelligence Program.”;

12 (4) by striking the item relating to section 114
13 and inserting the following new item:

“Sec. 114. Additional annual reports from the National Intelligence Director.”;

14 and

15 (5) by striking the item relating to section 506
16 and inserting the following new item:

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

1 **SEC. 312. MODIFICATION OF AUTHORITIES RELATING TO**
2 **NATIONAL COUNTERINTELLIGENCE EXECU-**
3 **TIVE.**

4 (a) APPOINTMENT OF NATIONAL COUNTERINTEL-
5 LIGENCE EXECUTIVE.—Section 902(a) of the Counter-
6 intelligence Enhancement Act of 2002 (title IX of Public
7 Law 107–306; 116 Stat., 2432; 50 U.S.C. 402b) is
8 amended—

9 (1) by striking “President” and inserting “Na-
10 tional Intelligence Director”; and

11 (2) by striking “Director of Central Intel-
12 ligence” and inserting “Director of the Central In-
13 telligence Agency”.

14 (b) COMPONENT OF OFFICE OF NATIONAL INTEL-
15 LIGENCE DIRECTOR.—Such section is further amended—

16 (1) by redesignating subsections (b) and (c) as
17 subsections (c) and (d), respectively; and

18 (2) by inserting after subsection (a) the fol-
19 lowing new subsection (b):

20 “(b) COMPONENT OF OFFICE OF NATIONAL INTEL-
21 LIGENCE DIRECTOR.—The National Counterintelligence
22 Executive is a component of the Office of the National
23 Intelligence Director under subtitle C of the National In-
24 telligence Reform Act of 2004.”.

1 (c) DUTIES.—Subsection (d) of such section, as re-
2 designated by subsection (a)(1) of this section, is amended
3 by adding at the end the following new paragraph:

4 “(5) To perform such other duties as may be
5 provided under section 132(b) of the National Intel-
6 ligence Reform Act of 2004.”.

7 (d) OFFICE OF NATIONAL COUNTERINTELLIGENCE
8 EXECUTIVE.—Section 904 of the Counterintelligence En-
9 hancement Act of 2002 (116 Stat. 2434; 50 U.S.C. 402c)
10 is amended—

11 (1) by striking “Office of the Director of Cen-
12 tral Intelligence” each place it appears in sub-
13 sections (c) and (l)(1) and inserting “Office of the
14 National Intelligence Director”;

15 (2) by striking “Director of Central Intel-
16 ligence” each place it appears in subsections (e)(4),
17 (e)(5), (h)(1), and (h)(2) and inserting “National
18 Intelligence Director”; and

19 (3) in subsection (m), by striking “Director of
20 Central Intelligence” and inserting “National Intel-
21 ligence Director, the Director of the Central Intel-
22 ligence Agency”.

1 **SEC. 313. CONFORMING AMENDMENT RELATING TO CHIEF**
2 **FINANCIAL OFFICER OF THE NATIONAL IN-**
3 **TELLIGENCE AUTHORITY.**

4 Section 901(b)(1) of title 31, United States Code, is
5 amended by adding at the end the following new subpara-
6 graph:

7 “(Q) The National Intelligence Authority.”.

8 **Subtitle B—Transfers and**
9 **Terminations**

10 **SEC. 321. TRANSFER OF OFFICE OF DEPUTY DIRECTOR OF**
11 **CENTRAL INTELLIGENCE FOR COMMUNITY**
12 **MANAGEMENT.**

13 (a) **TRANSFER.**—There shall be transferred to the
14 Office of the National Intelligence Director the staff of
15 the Office of the Deputy Director of Central Intelligence
16 for Community Management as of the date of the enact-
17 ment of this Act, including all functions and activities dis-
18 charged by the Office of the Deputy Director of Central
19 Intelligence for Community Management as of that date.

20 (b) **ADMINISTRATION.**—The National Intelligence Di-
21 rector shall administer the staff of the Office of the Dep-
22 uty Director of Central Intelligence for Community Man-
23 agement after the date of the enactment of this Act as
24 a component of the Office of the National Intelligence Di-
25 rector under section 121(d).

1 **SEC. 322. TRANSFER OF NATIONAL COUNTERINTEL-**
2 **LIGENCE EXECUTIVE.**

3 (a) TRANSFER.—There shall be transferred to the
4 Office of the National Intelligence Director the National
5 Counterintelligence Executive and the Office of the Na-
6 tional Counterintelligence Executive under the Counter-
7 intelligence Enhancement Act of 2002 (title IX of Public
8 Law 107–306; 50 U.S.C. 402b et seq.), as amended by
9 section 309 of this Act, including all functions and activi-
10 ties discharged by the National Counterintelligence Execu-
11 tive and the Office of the National Counterintelligence Ex-
12 ecutive as of the date of the enactment of this Act.

13 (b) ADMINISTRATION.—The National Intelligence Di-
14 rector shall treat the National Counterintelligence Execu-
15 tive, and administer the Office of the National Counter-
16 intelligence Executive, after the date of the enactment of
17 this Act as components of the Office of the National Intel-
18 ligence Director under section 121(c).

19 **SEC. 323. TRANSFER OF TERRORIST THREAT INTEGRATION**
20 **CENTER.**

21 (a) TRANSFER.—There shall be transferred to the
22 National Counterterrorism Center the Terrorist Threat
23 Integration Center (TTIC), including all functions and ac-
24 tivities discharged by the Terrorist Threat Integration
25 Center as of the date of the enactment of this Act.

1 (b) ADMINISTRATION.—The Director of the National
2 Counterterrorism Center shall administer the Terrorist
3 Threat Integration Center after the date of the enactment
4 of this Act as a component of the Directorate of Intel-
5 ligence of the National Counterterrorism Center under
6 section 143(g)(2).

7 **SEC. 324. TERMINATION OF CERTAIN POSITIONS WITHIN**
8 **THE CENTRAL INTELLIGENCE AGENCY.**

9 (a) TERMINATION.—The positions within the Central
10 Intelligence Agency referred to in subsection (b) are here-
11 by abolished.

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

15 (1) The Deputy Director of Central Intelligence
16 for Community Management.

17 (2) The Assistant Director of Central Intel-
18 ligence for Collection.

19 (3) The Assistant Director of Central Intel-
20 ligence for Analysis and Production.

21 (4) The Assistant Director of Central Intel-
22 ligence for Administration.

1 **Subtitle C—Other Transition**
2 **Matters**

3 **SEC. 331. EXECUTIVE SCHEDULE MATTERS.**

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

7 “National Intelligence Director.”.

8 (b) EXECUTIVE SCHEDULE LEVEL II.—Section 5313
9 of title 5, United States Code, is amended—

10 (1) by striking the item relating to the Director
11 of Central Intelligence; and

12 (2) by adding at the end the following new
13 items:

14 “The Director of the Central Intelligence Agen-
15 cy”.

16 “Deputy National Intelligence Directors (5).

17 “Director of the National Counterterrorism
18 Center.”.

19 (c) EXECUTIVE SCHEDULE LEVEL III.—Section
20 5314 of title 5, United States Code, is amended by strik-
21 ing the item relating to the Deputy Directors of Central
22 Intelligence and inserting the following new item:

23 “Deputy Director of the Central Intelligence
24 Agency.”.

1 (d) EXECUTIVE SCHEDULE LEVEL IV.—Section
2 5315 of title 5, United States Code, is amended by strik-
3 ing the item relating to the Assistant Directors of Central
4 Intelligence.

5 **SEC. 332. PRESERVATION OF INTELLIGENCE CAPABILITIES.**

6 The National Intelligence Director, the Director of
7 the Central Intelligence Agency, and the Secretary of De-
8 fense shall jointly take such actions as are appropriate to
9 preserve the intelligence capabilities of the United States
10 during the establishment of the National Intelligence Au-
11 thority under this Act.

12 **SEC. 333. REORGANIZATION.**

13 (a) REORGANIZATION.—The National Intelligence
14 Director may, with the approval of the President and after
15 consultation with the department, agency, or element con-
16 cerned, allocate or reallocate functions among the officers
17 of the National Intelligence Program, and may establish,
18 consolidate, alter, or discontinue organizational units with-
19 in the Program, but only after providing notice of such
20 action to Congress, which shall include an explanation of
21 the rationale for the action.

22 (b) LIMITATION.—The authority under subsection (a)
23 does not extend to any action inconsistent with law.

1 (c) CONGRESSIONAL REVIEW.—An action may be
2 taken under the authority under subsection (a) only with
3 the approval of the following:

4 (1) Each of the congressional intelligence com-
5 mittees.

6 (2) Each of the Committee on Governmental
7 Affairs of the Senate and the Committee on Govern-
8 ment Reform of the House of Representatives.

9 **SEC. 334. NATIONAL INTELLIGENCE DIRECTOR REPORT ON**
10 **IMPLEMENTATION OF INTELLIGENCE COM-**
11 **MUNITY REFORM.**

12 Not later than one year after the date of the enact-
13 ment of this Act, the National Intelligence Director shall
14 submit to Congress a report on the progress made in the
15 implementation of this Act, including the amendments
16 made by this Act. The report shall include a comprehen-
17 sive description of the progress made, and may include
18 such recommendations for additional legislative or admin-
19 istrative action as the Director considers appropriate.

20 **SEC. 335. COMPTROLLER GENERAL REPORTS ON IMPLE-**
21 **MENTATION OF INTELLIGENCE COMMUNITY**
22 **REFORM.**

23 (a) REPORTS.—(1) Not later than two years after the
24 date of the enactment of this Act, the Comptroller General
25 of the United States shall submit to Congress a com-

1 prehensive report on the implementation of this Act and
2 the amendments made by this Act.

3 (2) The Comptroller General may submit to Congress
4 at any time during the two-year period beginning on the
5 date of the enactment of this Act, such reports on the
6 progress made in the implementation of this Act and the
7 amendments made by this Act as the Comptroller General
8 considers appropriate.

9 (b) REPORT ELEMENTS.—Each report under sub-
10 section (a) shall include the following:

11 (1) The assessment of the Comptroller General
12 of the progress made in the implementation of this
13 Act (and the amendments made by this Act) as of
14 the date of such report.

15 (2) A description of any delays or other short-
16 falls in the implementation of this Act that have
17 been identified by the Comptroller General.

18 (3) Any recommendations for additional legisla-
19 tive or administrative action that the Comptroller
20 General considers appropriate.

21 (c) AGENCY COOPERATION.—Each department,
22 agency, and element of the United States Government
23 shall cooperate with the Comptroller General in the assess-
24 ment of the implementation of this Act, and shall provide
25 the Comptroller General timely and complete access to rel-

1 evant documents in accordance with section 716 of title
2 31, United States Code.

3 **SEC. 336. NATIONAL INTELLIGENCE COUNCIL REPORT ON**
4 **METHODOLOGIES UTILIZED FOR NATIONAL**
5 **INTELLIGENCE ESTIMATES.**

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

10 (1) The methodologies utilized for the initiation,
11 drafting, publication, coordination, and dissemina-
12 tion of the results of National Intelligence Estimates
13 (NIEs).

14 (2) Such recommendations as the Council con-
15 siders appropriate regarding improvements of the
16 methodologies utilized for National Intelligence Esti-
17 mates in order to ensure the timeliness of such Esti-
18 mates and ensure that such Estimates address the
19 national security and intelligence priorities and ob-
20 jectives of the President and the National Intel-
21 ligence Director.

22 (b) FORM.—The report under subsection (a) shall be
23 submitted in an unclassified form, but may include a clas-
24 sified annex.

1 **SEC. 337. NATIONAL INTELLIGENCE DIRECTOR REPORT ON**
2 **NATIONAL COUNTERTERRORISM CENTER.**

3 (a) REPORT.—Not later than one year after the date
4 of the establishment of the National Counterterrorism
5 Center under section 143, the National Intelligence Direc-
6 tor shall submit to Congress a report evaluating the effec-
7 tiveness of the Center in achieving its primary missions
8 under subsection (d) of that section.

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

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

14 (2) An assessment of the effectiveness of the
15 authorities of the Center in contributing to the
16 achievement of its primary missions, including au-
17 thorities relating to personnel and staffing, funding,
18 information sharing, and technology.

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

22 (4) An assessment of the extent to which the
23 Center provides an appropriate model for the estab-
24 lishment of national intelligence centers under sec-
25 tion 144.

1 (c) FORM.—The report under subsection (a) shall be
2 submitted in an unclassified form, but may include a clas-
3 sified annex.

4 **SEC. 338. COMPONENTS OF NATIONAL INTELLIGENCE PRO-**
5 **GRAM.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of this Act, the National Intelligence Program shall
8 consist of all programs, projects, and activities that are
9 part of the National Foreign Intelligence Program as of
10 the effective date of this section.

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

15 (A) The programs, projects, and activities with-
16 in the Joint Military Intelligence Program as of the
17 effective date of this section.

18 (B) The programs, projects, and activities with-
19 in the Tactical Intelligence and Related Activities
20 program as of the effective date of this section.

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

1 mands, and the portions of the sensitive compart-
2 mented communications systems that support com-
3 ponents of the Department of Defense.

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

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

13 (B) Upon completion of the review under paragraph
14 (1) of the programs, projects, and activities referred to
15 in paragraph (1)(C), the Director shall submit to the
16 President recommendations regarding the programs,
17 projects, or activities, if any, referred to in paragraph
18 (1)(C) to be included in the National Intelligence Pro-
19 gram, together with any comments that the Secretary of
20 Defense considers appropriate.

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

1 (4)(A) The review under paragraph (1) with respect
2 to the programs, projects, and activities referred to in sub-
3 paragraphs (A) and (B) of paragraph (1) shall be com-
4 pleted not later than one year after the effective date of
5 this section.

6 (B) Upon completion of the review under paragraph
7 (1) of the programs, projects, and activities referred to
8 in subparagraphs (A) and (B) of paragraph (1), the Direc-
9 tor shall submit to the President recommendations regard-
10 ing the programs, projects, or activities, if any, referred
11 to in such subparagraphs to be included in the National
12 Intelligence Program, together with any comments that
13 the Secretary of Defense considers appropriate.

14 **SEC. 339. GENERAL REFERENCES.**

15 (a) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD
16 OF INTELLIGENCE COMMUNITY.—Any reference to the
17 Director of Central Intelligence or the Director of the Cen-
18 tral Intelligence Agency in the Director's capacity as the
19 head of the intelligence community in any law, regulation,
20 document, paper, or other record of the United States
21 shall be deemed to be a reference to the National Intel-
22 ligence Director.

23 (b) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD
24 OF CIA.—Any reference to the Director of Central Intel-
25 ligence or the Director of the Central Intelligence Agency

1 in the Director's capacity as the head of the Central Intel-
2 ligence Agency in any law, regulation, document, paper,
3 or other record of the United States shall be deemed to
4 be a reference to the Director of the Central Intelligence
5 Agency.

6 (c) OFFICE OF THE DEPUTY DIRECTOR OF CENTRAL
7 INTELLIGENCE FOR COMMUNITY MANAGEMENT.—Any
8 reference to the Office of the Deputy Director of Central
9 Intelligence for Community Management in any law, regu-
10 lation, document, paper, or other record of the United
11 States shall be deemed to be a reference to the staff of
12 such office within the Office of the National Intelligence
13 Director under section 121.

14 **Subtitle D—Effective Date**

15 **SEC. 341. EFFECTIVE DATE.**

16 (a) IN GENERAL.—Except as provided in subsections
17 (b), (c), and (d), titles I through III of this Act, and the
18 amendments made by such titles, shall take effect 180
19 days after the date of the enactment of this Act.

20 (b) SPECIFIED EFFECTIVE DATES.—(1) The provi-
21 sions of section 206 shall take effect as provided in such
22 provisions.

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

1 (c) EARLIER EFFECTIVE DATE.—In order to safe-
2 guard the national security of the United States through
3 rapid implementation of titles I through III of this Act
4 while also ensuring a smooth transition in the implementa-
5 tion of such titles, the President may provide that titles
6 I through III of this Act (including the amendments made
7 by such titles), or one or more particular provisions of
8 such titles (including the amendments made by such provi-
9 sion or provisions), shall take effect on such date that is
10 earlier than the date otherwise provided under subsection
11 (a) as the President shall specify.

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

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

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

4 (1) notify Congress of the exercise of such au-
5 thority; and

6 (2) publish in the Federal Register notice of the
7 earlier or delayed effective date or dates involved, in-
8 cluding each provision (and amendment) covered by
9 such earlier or delayed effective date.

10 **Subtitle E—Other Matters**

11 **SEC. 351. SEVERABILITY.**

12 If any provision of this Act, or an amendment made
13 by this Act, or the application of such provision to any
14 person or circumstance is held invalid, the remainder of
15 this Act, or the application of such provision to persons
16 or circumstances other than those to which such provision
17 is held invalid, shall not be affected thereby.

18 **SEC. 352. AUTHORIZATION OF APPROPRIATIONS.**

19 There are specifically authorized to be appropriated
20 for fiscal year 2005 such sums as may be necessary to
21 carry out this Act and the amendments made by this Act.

1 **TITLE IV—TRANSPORTATION**
2 **SECURITY**

3 **SEC. 401. WATCHLISTS FOR PASSENGERS ABOARD VES-**
4 **SELS.**

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

8 (1) implement a procedure under which the De-
9 partment of Homeland Security compares informa-
10 tion about passengers and crew who are to be car-
11 ried aboard a cruise ship with a comprehensive, con-
12 solidated database containing information about
13 known or suspected terrorists and their associates;

14 (2) use the information obtained by comparing
15 the passenger and crew information with the infor-
16 mation in the database to prevent known or sus-
17 pected terrorists and their associates from boarding
18 such vessels or to subject them to specific additional
19 security scrutiny, through the use of “no transport”
20 and “automatic selectee” lists or other means; and

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

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

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

4 (c) MAINTAINING THE ACCURACY AND INTEGRITY OF
5 THE “NO TRANSPORT” AND “AUTOMATIC SELECTEE”
6 LISTS.—

7 (1) WATCHLIST DATABASE.—The Secretary of
8 Homeland Security, in consultation with the Direc-
9 tor of the Federal Bureau of Investigations, shall de-
10 sign guidelines, policies, and operating procedures
11 for the collection, removal, and updating of data
12 maintained, or to be maintained, in the watchlist
13 database described in subsection (a)(1) that are de-
14 signed to ensure the accuracy and integrity of the
15 databases.

16 (2) ACCURACY OF ENTRIES.—In developing the
17 “no transport” and “automatic selectee” lists under
18 subsection (a)(1), the Secretary of Homeland Secu-
19 rity shall establish a simple and timely method for
20 correcting erroneous entries, for clarifying informa-
21 tion known to cause false hits or misidentification
22 errors, and for updating relevant information that is
23 dispositive in the passenger and crew screening proc-
24 ess. The Secretary shall also establish a process to
25 provide an individual whose name is confused with,

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

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

8 **TITLE V—AIR CARGO SAFETY**

9 **SEC. 501. SHORT TITLE.**

10 This title may be cited as the “Air Cargo Security
 11 Improvement Act”.

12 **SEC. 502. INSPECTION OF CARGO CARRIED ABOARD PAS-** 13 **SENGER AIRCRAFT.**

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

16 “(f) CARGO.—

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

21 “(A) passenger aircraft operated by an air
 22 carrier or foreign air carrier in air transpor-
 23 tation or intrastate air transportation; or

24 “(B) all-cargo aircraft in air transpor-
 25 tation and intrastate air transportation.

1 basis at shipping facilities for cargo transported in air
2 transportation to the United States.”.

3 (b) ADDITIONAL INSPECTORS.—The Secretary may
4 increase the number of inspectors as necessary to imple-
5 ment the requirements of title 49, United States Code,
6 as amended by this subtitle.

7 (c) CONFORMING AMENDMENT.—The chapter anal-
8 ysis for chapter 449 of title 49, United States Code, is
9 amended by adding at the end the following:

“44925. Regular inspections of air cargo shipping facilities”.

10 **SEC. 504. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.**

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

14 **“§ 44926. Air cargo security**

15 “(a) DATABASE.—The Secretary of Homeland Secu-
16 rity shall establish an industry-wide pilot program data-
17 base of known shippers of cargo that is to be transported
18 in passenger aircraft operated by an air carrier or foreign
19 air carrier in air transportation or intrastate air transpor-
20 tation. The Secretary shall use the results of the pilot pro-
21 gram to improve the known shipper program.

22 “(b) INDIRECT AIR CARRIERS.—

23 “(1) RANDOM INSPECTIONS.—The Secretary
24 shall conduct random audits, investigations, and in-
25 spections of indirect air carrier facilities to deter-

1 mine if the indirect air carriers are meeting the se-
2 curity requirements of this title.

3 “(2) ENSURING COMPLIANCE.—The Secretary
4 may take such actions as may be appropriate to pro-
5 mote and ensure compliance with the security stand-
6 ards established under this title.

7 “(3) NOTICE OF FAILURES.—The Secretary
8 shall notify the Secretary of Transportation of any
9 indirect air carrier that fails to meet security stand-
10 ards established under this title.

11 “(4) WITHDRAWAL OF SECURITY PROGRAM AP-
12 PROVAL.—The Secretary may issue an order amend-
13 ing, modifying, suspending, or revoking approval of
14 a security program of an indirect air carrier that
15 fails to meet security requirements imposed by the
16 Secretary if such failure threatens the security of air
17 transportation or commerce. The affected indirect
18 air carrier shall be given notice and the opportunity
19 to correct its noncompliance unless the Secretary de-
20 termines that an emergency exists. Any indirect air
21 carrier that has the approval of its security program
22 amended, modified, suspended, or revoked under this
23 section may appeal the action in accordance with
24 procedures established by the Secretary under this
25 title.

1 “(5) INDIRECT AIR CARRIER.—In this sub-
2 section, the term ‘indirect air carrier’ has the mean-
3 ing given that term in part 1548 of title 49, Code
4 of Federal Regulations.

5 “(c) CONSIDERATION OF COMMUNITY NEEDS.—In
6 implementing air cargo security requirements under this
7 title, the Secretary may take into consideration the ex-
8 traordinary air transportation needs of small or isolated
9 communities and unique operational characteristics of car-
10 riers that serve those communities.”.

11 (b) ASSESSMENT OF INDIRECT AIR CARRIER PRO-
12 GRAM.—The Secretary of Homeland Security shall assess
13 the security aspects of the indirect air carrier program
14 under part 1548 of title 49, Code of Federal Regulations,
15 and report the result of the assessment, together with any
16 recommendations for necessary modifications of the pro-
17 gram to the Senate Committee on Commerce, Science, and
18 Transportation and the House of Representatives Com-
19 mittee on Transportation and Infrastructure within 60
20 days after the date of enactment of this Act. The Sec-
21 retary may submit the report and recommendations in
22 classified form.

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

1 tation and the House of Representatives Committee on
2 Transportation and Infrastructure on random screening,
3 audits, and investigations of air cargo security programs
4 based on threat assessments and other relevant informa-
5 tion. The report may be submitted in classified form.

6 (d) CONFORMING AMENDMENT.—The chapter anal-
7 ysis for chapter 449 of title 49, United States Code, as
8 amended by section 3, is amended by adding at the end
9 the following:

“44926. Air cargo security”.

10 **SEC. 505. TRAINING PROGRAM FOR CARGO HANDLERS.**

11 The Secretary of Homeland Security shall establish
12 a training program for any persons that handle air cargo
13 to ensure that the cargo is properly handled and safe-
14 guarded from security breaches.

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

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

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

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

4 (2) background security checks for all employ-
5 ees with access to the air operations area;

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

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

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

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

15 (c) CONFIDENTIAL INDUSTRY REVIEW AND COM-
16 MENT.—

17 (1) CIRCULATION OF PROPOSED PROGRAM.—

18 The Secretary shall—

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

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

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

6 (3) FINAL PROGRAM.—The Secretary of Home-
7 land Security shall issue a final program under sub-
8 section (a) not later than 90 days after the last date
9 on which comments may be provided under para-
10 graph (2). The final program shall contain time
11 frames for the plans to be implemented by each air
12 carrier or employer to which it applies.

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

18 **SEC. 507. PASSENGER IDENTIFICATION VERIFICATION.**

19 (a) PROGRAM REQUIRED.—The Secretary of Home-
20 land Security may establish and carry out a program to
21 require the installation and use at airports in the United
22 States of the identification verification technologies the
23 Secretary considers appropriate to assist in the screening
24 of passengers boarding aircraft at such airports.

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

7 (c) COMMENCEMENT.—If the Secretary determines
8 that the implementation of such a program is appropriate,
9 the installation and use of identification verification tech-
10 nologies under the program shall commence as soon as
11 practicable after the date of that determination.

12 **TITLE VI—AVIATION SECURITY**

13 **SEC. 601. IMPROVED PILOT LICENSES.**

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

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

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

23 (3) are capable of accommodating a digital pho-
24 tograph, a biometric measure, or other unique iden-
25 tifier that provides a means of—

1 (A) ensuring its validity; and

2 (B) revealing whether any component or
3 security feature of the license has been com-
4 promised.

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

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

12 **SEC. 602. AIRCRAFT CHARTER CUSTOMER PRESCREENING.**

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

18 (1) request the Transportation Security Admin-
19 istration to compare information about any indi-
20 vidual seeking to charter an aircraft, and any pas-
21 sengers proposed to be transported aboard the air-
22 craft, with a comprehensive, consolidated database
23 or watchlist containing information about known or
24 suspected terrorists and their associates; and

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

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

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

12 (2) an individual denied access to an aircraft is
13 given an opportunity to consult the Transportation
14 Security Administration for the purpose of cor-
15 recting mis-identification errors, resolve confusion
16 resulting from names that are the same as or similar
17 to names on available government watchlists, and
18 address other information that is alleged to be erro-
19 neous, that may have resulted in the denial.

20 (c) TRANSFER.—The Secretary shall assess proce-
21 dures to transfer responsibility for conducting reviews of
22 any appropriate government watchlists under this section
23 from persons engaged in the business of chartering air
24 carriers to the public to the Secretary.

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

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

11 **SEC. 603. AIRCRAFT RENTAL CUSTOMER PRESCREENING.**

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

17 (1) request the Transportation Security Admin-
18 istration to compare information about any indi-
19 vidual seeking to rent an aircraft, and any pas-
20 sengers proposed to be transported aboard the air-
21 craft, with a comprehensive, consolidated database
22 or watchlist containing information about known or
23 suspected terrorists and their associates; and

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

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

6 (1) the Transportation Security Administration
7 does not disclose information to any person engaged
8 in the business of renting aircraft other than wheth-
9 er an individual compared against government
10 watchlists constitutes a flight security or terrorism
11 risk; and

12 (2) an individual denied access to an aircraft is
13 given an opportunity to consult the Transportation
14 Security Administration for the purpose of cor-
15 recting mis-identification errors, resolve confusion
16 resulting from names that are the same as or similar
17 to names on available government watchlists, and
18 address other information that is alleged to be erro-
19 neous, that may have resulted in the denial.

20 (c) TRANSFER.—The Secretary shall assess proce-
21 dures to transfer responsibility for conducting reviews of
22 any appropriate government watchlists under this section
23 from persons engaged in the business of renting aircraft
24 to the public to the Secretary.

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

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

11 **SEC. 604. REPORT ON RENTAL AND CHARTER CUSTOMER**
12 **PRESCREENING PROCEDURES.**

13 (a) IN GENERAL.—Within 12 months after the date
14 of enactment of this Act, the Secretary of Homeland Secu-
15 rity shall transmit a report to Congress on the feasibility
16 of extending the requirements of section —02, section
17 —03, or both sections to apply to aircraft with a max-
18 imum certificated takeoff weight of 12,500 pounds or less.

19 (b) ISSUES ADDRESSED.—The report shall—

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

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

1 (3) examine the operational impact of proposed
2 procedures on the commercial viability of that seg-
3 ment of charter and rental aviation operations.

4 **SEC. 605. AVIATION SECURITY STAFFING.**

5 (a) STAFFING LEVEL STANDARDS.—

6 (1) DEVELOPMENT OF STANDARDS.—Within 90
7 days after the date of enactment of this Act, the
8 Secretary of Homeland Security, in consultation
9 with the Secretary of Transportation and Federal
10 Security Directors, shall develop standards for deter-
11 mining the appropriate aviation security staffing
12 standards for all commercial airports in the United
13 States necessary—

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

16 (B) to ensure that the average aviation se-
17 curity-related delay experienced by airline pas-
18 sengers is minimized.

19 (2) GAO ANALYSIS.—The Comptroller General
20 shall, as soon as practicable after the date on which
21 the Secretary of Homeland Security has developed
22 standards under paragraph (1), conduct an expe-
23 dited analysis of the standards for effectiveness, ad-
24 ministrability, ease of compliance, and consistency
25 with the requirements of existing law.

1 (3) REPORT TO CONGRESS.—Within 120 days
2 after the date of enactment of this Act, the Sec-
3 retary of Homeland Security and the Comptroller
4 General shall transmit a report to the Senate Com-
5 mittee on Commerce, Science, and Transportation
6 and the House of Representatives Committee on
7 Transportation and Infrastructure on the standards
8 developed under paragraph (1), together with rec-
9 ommendations for further improving the efficiency
10 and effectiveness of the screening process, including
11 the use of maximum time delay goals of no more
12 than 10 minutes on the average.

13 (b) INTEGRATION OF FEDERAL AIRPORT WORK-
14 FORCE AND AVIATION SECURITY.—The Secretary of
15 Homeland Security shall conduct a study of the feasibility
16 of combining operations of Federal employees involved in
17 screening at commercial airports and aviation security re-
18 lated functions under the aegis of the Department of
19 Homeland Security in order to coordinate security-related
20 activities, increase the efficiency and effectiveness of those
21 activities, and increase commercial air transportation se-
22 curity.

23 **SEC. 606. IMPROVED AIR CARGO AND AIRPORT SECURITY.**

24 (a) IN GENERAL.—There are authorized to be appro-
25 priated to the Secretary of Homeland Security for the use

1 of the Transportation Security Administration, in addition
2 to any amounts otherwise authorized by law, for the pur-
3 pose of improving aviation security related to the transpor-
4 tation of cargo on both passenger aircraft and all-cargo
5 aircraft—

6 (1) \$200,000,000 for fiscal year 2005;

7 (2) \$200,000,000 for fiscal year 2006; and

8 (3) \$200,000,000 for fiscal year 2007.

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

11 (1) IN GENERAL.—The Secretary shall establish
12 and carry out a grant program to facilitate the de-
13 velopment, testing, purchase, and deployment of
14 next-generation air cargo security technology. The
15 Secretary shall establish such eligibility criteria, es-
16 tablish such application and administrative proce-
17 dures, and provide for such matching funding re-
18 quirements, if any, as may be necessary and appro-
19 priate to ensure that the technology is deployed as
20 fully and as rapidly as practicable.

21 (2) RESEARCH AND DEVELOPMENT; DEPLOY-
22 MENT.—To carry out paragraph (1), there are au-
23 thorized to be appropriated to the Secretary for re-
24 search and development related to next-generation
25 air cargo security technology as well as for deploy-

1 ment and installation of next-generation air cargo
2 security technology, such sums are to remain avail-
3 able until expended—

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

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

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

7 (c) AUTHORIZATION FOR EXPIRING AND NEW
8 LOIs.—

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

15 (2) PERIOD OF REIMBURSEMENT.—Notwith-
16 standing any other provision of law, the Secretary
17 may provide that the period of reimbursement under
18 any letter of intent may extend for a period not to
19 exceed 10 years after the date that the Secretary
20 issues such letter, subject to the availability of ap-
21 propriations. This paragraph applies to letters of in-
22 tent issued under section 44923 of title 49, United
23 States Code, or section 367 of the Department of
24 Transportation and Related Agencies Appropriation
25 Act, 2003 (49 U.S.C. 47110 note).

1 (d) REPORTS.—The Secretary shall transmit an an-
2 nual report for fiscal year 2005, fiscal year 2006, and fis-
3 cal year 2007 to the Senate Committee on Commerce,
4 Science, and Transportation and the House of Represent-
5 atives Committee on Transportation and Infrastructure
6 on—

7 (1) the progress being made toward, and the
8 status of, deployment and installation of next-gen-
9 eration air cargo security technology under sub-
10 section (b); and

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

14 **SEC. 607. AIR CARGO SECURITY MEASURES.**

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

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

24 (1) promulgate regulations requiring the evalua-
25 tion of indirect air carriers and ground handling

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

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

7 (c) INCREASED CARGO INSPECTIONS.—Within 1 year
8 after the date of enactment of this Act, the Secretary of
9 Homeland Security shall require that the percentage of
10 cargo screened or inspected is at least two-fold the per-
11 centage that is screened or inspected as of September 30,
12 2004.

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

16 **“§ 44925. All-cargo aircraft security**

17 “(a) ACCESS TO FLIGHT DECK.—Within 180 days
18 after the date of enactment of this Act, the Administrator
19 of the Transportation Security Administration, in coordi-
20 nation with the Federal Aviation Administrator, shall—

21 “(1) issue an order (without regard to the pro-
22 visions of chapter 5 of title 5)—

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

1 portation or intrastate air transportation main-
2 tain a barrier, which may include the use of a
3 hardened cockpit door, between the aircraft
4 flight deck and the aircraft cargo compartment
5 sufficient to prevent unauthorized access to the
6 flight deck from the cargo compartment, in ac-
7 cordance with the terms of a plan presented to
8 and accepted by the Administrator of the
9 Transportation Security Administration in con-
10 sultation with the Federal Aviation Adminis-
11 trator; and

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

15 “(2) take such other action, including modifica-
16 tion of safety and security procedures and flight
17 deck redesign, as may be necessary to ensure the
18 safety and security of the flight deck.

19 “(b) SCREENING AND OTHER MEASURES.—Within 1
20 year after the date of enactment of this Act, the Adminis-
21 trator of the Transportation Security Administration, in
22 coordination with the Federal Aviation Administrator,
23 shall issue an order (without regard to the provisions of
24 chapter 5 of title 5) requiring—

1 “(1) all-cargo aircraft operators engaged in air
2 transportation or intrastate air transportation to
3 physically screen each person, and that person’s bag-
4 gage and personal effects, to be transported on an
5 all-cargo aircraft engaged in air transportation or
6 intrastate air transportation;

7 “(2) each such aircraft to be physically
8 searched before the first leg of the first flight of the
9 aircraft each day, or, for inbound international oper-
10 ations, at aircraft operator’s option prior to the de-
11 parture of any such flight for a point in the United
12 States; and

13 “(3) each such aircraft that is unattended over-
14 night to be secured or sealed or to have access
15 stairs, if any, removed from the aircraft.

16 “(c) ALTERNATIVE MEASURES.—The Administrator
17 of the Transportation Security Administration, in coordi-
18 nation with the Federal Aviation Administrator, may au-
19 thorize alternative means of compliance with any require-
20 ment imposed under this section.”.

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

“44925. All-cargo aircraft security.”.

1 **SEC. 608. EXPLOSIVE DETECTION SYSTEMS.**

2 (a) IN-LINE PLACEMENT OF EXPLOSIVE-DETECTION
3 EQUIPMENT.—Within 180 days after the date of enact-
4 ment of this Act, the Secretary of Homeland Security shall
5 establish a schedule for replacing trace-detection equip-
6 ment used for in-line baggage screening purposes as soon
7 as practicable where appropriate with explosive detection
8 system equipment. The Secretary shall notify the Senate
9 Committee on Commerce, Science, and Transportation
10 and the House of Representatives Committee on Trans-
11 portation and Infrastructure of the schedule and provide
12 an estimate of the impact of replacing such equipment,
13 facility modification and baggage conveyor placement, on
14 aviation security-related staffing needs and levels.

15 (b) NEXT GENERATION EDS.—There are authorized
16 to be appropriated to the Secretary of Homeland Security
17 for the use of the Transportation Security Administration
18 \$100,000,000, in addition to any amounts otherwise au-
19 thorized by law, for the purpose of research and develop-
20 ment of next generation explosive detection systems for
21 aviation security under section 44913 of title 49, United
22 States Code. The Secretary shall develop a plan and guide-
23 lines for implementing improved explosive detection sys-
24 tem equipment.

25 (c) PORTAL DETECTION SYSTEMS.—There are au-
26 thorized to be appropriated to the Secretary of Homeland

1 Security for the use of the Transportation Security Ad-
2 ministration \$250,000,000, in addition to any amounts
3 otherwise authorized by law, for research and development
4 and installation of portal detection systems or similar de-
5 vices for the detection of biological, radiological, and explo-
6 sive materials. The Secretary of Homeland Security shall
7 establish a pilot program at not more than 10 commercial
8 service airports to evaluate the use of such systems.

9 (d) REPORTS.—The Secretary shall transmit an an-
10 nual report to the Senate Committee on Commerce,
11 Science, and Transportation and the House of Represent-
12 atives Committee on Transportation and Infrastructure on
13 research and development projects funded under sub-
14 section (b) or (c), and the pilot program established under
15 subsection (c), including cost estimates for each phase of
16 such projects and total project costs.

17 **SEC. 609. AIR MARSHAL PROGRAM.**

18 (a) CROSS-TRAINING.—The Secretary of Homeland
19 Security shall transmit to the Senate Committee on Com-
20 merce, Science, and Transportation and the House of Rep-
21 resentatives Committee on Transportation and Infrastruc-
22 ture a report on the potential for cross-training of individ-
23 uals who serve as air marshals and on the need for pro-
24 viding contingency funding for air marshal operations.

1 (b) AUTHORIZATION OF ADDITIONAL APPROPRIA-
2 TIONS.—There are authorized to be appropriated to the
3 Secretary of Homeland Security for the use of Inspections
4 and Customs Enforcement, in addition to any amounts
5 otherwise authorized by law, for the deployment of Federal
6 Air Marshals under section 44917 of title 49, United
7 States Code, \$83,000,000 for the 3 fiscal year period be-
8 ginning with fiscal year 2005, such sums to remain avail-
9 able until expended.

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

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

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

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

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

3 (3) recommendations on how to improve the in-
4 volvement and participation of the airlines in the
5 baggage screening and handling processes and better
6 coordinate the activities of Federal baggage screen-
7 ers with airline operations.

8 **SEC. 611. REPORT ON IMPLEMENTATION OF GAO HOME-**
9 **LAND SECURITY INFORMATION SHARING**
10 **RECOMMENDATIONS.**

11 Within 30 days after the date of enactment of this
12 Act, the Secretary of Homeland Security, after consulta-
13 tion with the heads of Federal departments and agencies
14 concerned, shall transmit to the Senate Committee on
15 Commerce, Science, and Transportation and the House of
16 Representatives Committee on Transportation and Infra-
17 structure a report on implementation of recommendations
18 contained in the General Accounting Office's report titled
19 "Homeland Security: Efforts To Improve Information
20 Sharing Need To Be Strengthened" (GAO-03-760), Au-
21 gust, 2003.

22 **SEC. 612. AVIATION SECURITY RESEARCH AND DEVELOP-**
23 **MENT.**

24 (a) BIOMETRICS.—There are authorized to be appro-
25 priated to the Secretary of Homeland Security for the use

1 of the Transportation Security Administration
2 \$20,000,000, in addition to any amounts otherwise au-
3 thorized by law, for research and development of biometric
4 technology applications to aviation security.

5 (b) BIOMETRICS CENTERS OF EXCELLENCE.—There
6 are authorized to be appropriated to the Secretary of
7 Homeland Security for the use of the Transportation Se-
8 curity Administration \$1,000,000, in addition to any
9 amounts otherwise authorized by law, for the establish-
10 ment of competitive centers of excellence at the national
11 laboratories.

12 **SEC. 613. PERIMETER ACCESS TECHNOLOGY.**

13 There are authorized to be appropriated to the Sec-
14 retary of Homeland Security \$100,000,000 for airport pe-
15 rimeter security technology, fencing, security contracts,
16 vehicle tagging, and other perimeter security related oper-
17 ations, facilities, and equipment, such sums to remain
18 available until expended.

19 **SEC. 614. BEREAVEMENT FARES.**

20 (a) IN GENERAL.—Chapter 415 of title 49, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

23 **“§ 41512. Bereavement fares.**

24 “Air carriers shall offer, with appropriate documenta-
25 tion, bereavement fares to the public for air transportation

1 in connection with the death of a relative or other relation-
2 ship (as determined by the air carrier) and shall make
3 such fares available, to the greatest extent practicable, at
4 the lowest fare offered by the air carrier for the flight for
5 which the bereavement fare is requested.”.

6 (b) CONFORMING AMENDMENT.—The chapter anal-
7 ysis for chapter 415 is amended by inserting after the item
8 relating to section 41511 the following:

“41512. Bereavement fares”.

9 **SEC. 615. REVIEW AND REVISION OF PROHIBITED ITEMS**
10 **LIST.**

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

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

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

19 **SEC. 616. REPORT ON PROTECTING COMMERCIAL AIR-**
20 **CRAFT FROM THE THREAT OF MAN-PORT-**
21 **ABLE AIR DEFENSE SYSTEMS.**

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

1 tecting commercial aircraft from the threat of man-port-
2 able air defense systems (referred to in this section as
3 “MANPADS”).

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

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

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

14 (3) An assessment of the effectiveness and fea-
15 sibility of the systems to protect commercial aircraft
16 under consideration by the Under Secretary for
17 Science and Technology for use in phase II of the
18 counter-MANPADS development and demonstration
19 program.

20 (4) A justification for the schedule of the imple-
21 mentation of phase II of the counter-MANPADS de-
22 velopment and demonstration program.

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

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

3 (A) either active or passive;

4 (B) employed by the Armed Forces; or

5 (C) being assessed or employed by other
6 countries.

7 (6) An assessment of alternate technological ap-
8 proaches to address such threat, including ground-
9 based systems.

10 (7) A discussion of issues related to any con-
11 tractor liability associated with the installation or
12 use of technology or systems on commercial aircraft
13 to address such threat.

14 (8) A description of the strategies that the Sec-
15 retary may employ to acquire any technology or sys-
16 tems selected for use on commercial aircraft at the
17 conclusion of phase II of the counter-MANPADS de-
18 velopment and demonstration program, including—

19 (A) a schedule for purchasing and install-
20 ing such technology or systems on commercial
21 aircraft; and

22 (B) a description of—

23 (i) the priority in which commercial
24 aircraft will be equipped with such tech-
25 nology or systems;

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

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

7 (iv) the cost to operate and support
8 such technology or systems on a commer-
9 cial aircraft.

10 (9) A description of the plan to expedite the use
11 of technology or systems on commercial aircraft to
12 address the threat posed by MANPADS if intel-
13 ligence or events indicate that the schedule for the
14 use of such technology or systems, including the
15 schedule for carrying out development and dem-
16 onstration programs by the Secretary, should be ex-
17 pedited.

18 (10) A description of the efforts of the Sec-
19 retary to survey and identify the areas at domestic
20 and foreign airports where commercial aircraft are
21 most vulnerable to attack by MANPADS.

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

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

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

8 **SEC. 617. SCREENING DEVICES TO DETECT CHEMICAL AND**
9 **PLASTIC EXPLOSIVES.**

10 Not later than 90 days after the date of enactment
11 of this Act, the Secretary of Homeland Security shall pro-
12 vide to the Senate Committee on Commerce, Science, and
13 Transportation a report on the current status of efforts,
14 and the additional needs, regarding passenger and carry-
15 on baggage screening equipment at United States airports
16 to detect explosives, including in chemical and plastic
17 forms. The report shall include the cost of and timetable
18 for installing such equipment and any recommended legis-
19 lative actions.

20 **SEC. 618. REPORTS ON THE FEDERAL AIR MARSHALS PRO-**
21 **GRAM.**

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

1 sified report on the number of individuals serving only as
2 sworn Federal air marshals. Such report shall include the
3 number of Federal air marshals who are women, minori-
4 ties, or employees of departments or agencies of the
5 United States Government other than the Department of
6 Homeland Security, the percentage of domestic and inter-
7 national flights that have a Federal air marshal aboard,
8 and the rate at which individuals are leaving service as
9 Federal air marshals.

10 **SEC. 619. SECURITY OF AIR MARSHAL IDENTITY.**

11 (a) IN GENERAL.—The Secretary of the Department
12 of Homeland Security shall designate individuals and par-
13 ties to whom Federal air marshals shall be required to
14 identify themselves.

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

20 **SEC. 620. SECURITY MONITORING CAMERAS FOR AIRPORT**
21 **BAGGAGE HANDLING AREAS.**

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

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

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

11 **SEC. 621. EFFECTIVE DATE.**

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

14 **TITLE VII—OTHER MATTERS**

15 **SEC. 701. RESPONSIBILITIES AND FUNCTIONS OF CON-**
16 **SULAR OFFICERS.**

17 (a) INCREASED NUMBER OF CONSULAR OFFICERS.—
18 The Secretary of State, in each of fiscal years 2006
19 through 2009, may increase by 150 the number of posi-
20 tions for consular officers above the number of such posi-
21 tions for which funds were allotted for the preceding fiscal
22 year.

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

1 (1) IMMIGRANT VISAS.—Subsection (b) of sec-
2 tion 222 of the Immigration and Nationality Act (8
3 U.S.C. 1202) is amended by adding at the end the
4 following: “All immigrant visa applications shall be
5 reviewed and adjudicated by a consular officer.”.

6 (2) NONIMMIGRANT VISAS.—Subsection (d) of
7 such section is amended by adding at the end the
8 following: “All nonimmigrant visa applications shall
9 be reviewed and adjudicated by a consular officer.”.

10 (c) TRAINING FOR CONSULAR OFFICERS IN DETEC-
11 TION OF FRAUDULENT DOCUMENTS.—Section 305(a) of
12 the Enhanced Border Security and Visa Entry Reform Act
13 of 2002 (8 U.S.C. 1734(a)) is amended by adding at the
14 end the following: “As part of the consular training pro-
15 vided to such officers by the Secretary of State, such offi-
16 cers shall also receive training in detecting fraudulent doc-
17 uments and general document forensics and shall be re-
18 quired as part of such training to work with immigration
19 officers conducting inspections of applicants for admission
20 into the United States at ports of entry.”.

21 (d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

22 (1) SURVEY REGARDING DOCUMENT FRAUD.—
23 The Secretary of State, in coordination with the Sec-
24 retary of Homeland Security, shall conduct a survey
25 of each diplomatic and consular post at which visas

1 are issued to assess the extent to which fraudulent
2 documents are presented by visa applicants to con-
3 sular officers at such posts.

4 (2) REQUIREMENT FOR SPECIALIST.—

5 (A) IN GENERAL.—Not later than July 31,
6 2005, the Secretary of State shall, in coordina-
7 tion with the Secretary of Homeland Security,
8 identify the diplomatic and consular posts at
9 which visas are issued that experience the
10 greatest frequency of presentation of fraudulent
11 documents by visa applicants. The Secretary of
12 State shall assign or designate at each such
13 post at least one full-time anti-fraud specialist
14 employed by the Department of State to assist
15 the consular officers at each such post in the
16 detection of such fraud.

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

1 **SEC. 702. INCREASE IN FULL-TIME BORDER PATROL**
2 **AGENTS.**

3 In each of fiscal years 2006 through 2010, the Sec-
4 retary of Homeland Security shall, subject to the avail-
5 ability of appropriations for such purpose, increase by not
6 less than 1,000 the number of positions for full-time active
7 duty border patrol agents within the Department of
8 Homeland Security above the number of such positions for
9 which funds were made available during the preceding fis-
10 cal year. Of the additional border patrol agents, in each
11 fiscal year not less than 20 percent of such agents shall
12 be assigned to duty stations along the northern border of
13 the United States.

14 **SEC. 703. INCREASE IN FULL-TIME IMMIGRATION AND CUS-**
15 **TOMS ENFORCEMENT INVESTIGATORS.**

16 In each of fiscal years 2006 through 2010, the Sec-
17 retary of Homeland Security shall, subject to the avail-
18 ability of appropriations for such purpose, increase by not
19 less than 800 the number of positions for full-time active
20 duty investigators within the Department of Homeland
21 Security investigating violations of immigration laws (as
22 defined in section 101(a)(17) of the Immigration and Na-
23 tionality Act (8 U.S.C. 1101(a)(17)) above the number of
24 such positions for which funds were made available during
25 the preceding fiscal year.

1 **TITLE VIII—VISA**
2 **REQUIREMENTS**

3 **SEC. 801. IN PERSON INTERVIEWS OF VISA APPLICANTS.**

4 (a) REQUIREMENT FOR INTERVIEWS.—Section 222
5 of the Immigration and Nationality Act (8 U.S.C. 1202)
6 is amended by adding at the end the following new sub-
7 section:

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

11 “(1) who is at least 12 years of age and not
12 more than 65 years of age to submit to an in person
13 interview with a consular officer unless the require-
14 ment for such interview is waived—

15 “(A) by a consular official and such alien
16 is within that class of nonimmigrants enumer-
17 ated in section 101(a)(15)(A) or 101(a)(15)(G)
18 or is granted a diplomatic visa on a diplomatic
19 passport or on the equivalent thereof;

20 “(B) by a consular official and such alien
21 is applying for a visa—

22 “(i) not more than 12 months after
23 the date on which the alien’s prior visa ex-
24 pired;

1 “(ii) for the classification under sec-
2 tion 101(a)(15) for which such prior visa
3 was issued;

4 “(iii) from the consular post located
5 in the country in which the alien is a na-
6 tional; and

7 “(iv) the consular officer has no indi-
8 cation that the alien has not complied with
9 the immigration laws and regulations of
10 the United States; or

11 “(C) by the Secretary of State if the Sec-
12 retary determines that such waiver is—

13 “(i) in the national interest of the
14 United States; or

15 “(ii) necessary as a result of unusual
16 circumstances; and

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

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

22 “(B) was previously refused a visa, unless
23 such refusal was overcome or a waiver of ineli-
24 gibility has been obtained;

1 “(C) is listed in the Consular Lookout and
2 Support System (or successor system at the De-
3 partment of State);

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

7 “(i) within that class of non-
8 immigrants enumerated in section
9 101(a)(15)(A) or 101(a)(15)(G); and

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

13 “(E) is identified as a member of a group
14 or sector that the Secretary of State deter-
15 mines—

16 “(i) poses a substantial risk of sub-
17 mitting inaccurate information in order to
18 obtain a visa;

19 “(ii) has historically had visa applica-
20 tions denied at a rate that is higher than
21 the average rate of such denials; or

22 “(iii) poses a security threat to the
23 United States.”.

1 **SEC. 802. VISA APPLICATION REQUIREMENTS.**

2 Section 222(c) of the Immigration and Nationality
3 Act (8 U.S.C. 1202(c)) is amended by inserting “The alien
4 shall provide complete and accurate information in re-
5 sponse to any request for information contained in the ap-
6 plication.” after the second sentence.

7 **SEC. 803. EFFECTIVE DATE.**

8 Notwithstanding section 341 or any other provision
9 of this Act, this title shall take effect 90 days after date
10 of the enactment of this Act.

11 **TITLE IX—ADVANCED TECH-**
12 **NOLOGY NORTHERN BORDER**
13 **SECURITY PILOT PROGRAM**

14 **SEC. 901. ESTABLISHMENT.**

15 The Secretary of Homeland Security may carry out
16 a pilot program to test various advanced technologies that
17 will improve border security between ports of entry along
18 the northern border of the United States.

19 **SEC. 902. PROGRAM REQUIREMENTS.**

20 (a) **REQUIRED FEATURES.**—The Secretary of Home-
21 land Security shall design the pilot program under this
22 title to have the following features:

23 (1) Use of advanced technological systems, in-
24 cluding sensors, video, and unmanned aerial vehicles,
25 for border surveillance.

1 (2) Use of advanced computing and decision in-
2 tegration software for—

3 (A) evaluation of data indicating border in-
4 cursions;

5 (B) assessment of threat potential; and

6 (C) rapid real-time communication, moni-
7 toring, intelligence gathering, deployment, and
8 response.

9 (3) Testing of advanced technology systems and
10 software to determine best and most cost-effective
11 uses of advanced technology to improve border secu-
12 rity.

13 (4) Operation of the program in remote
14 stretches of border lands with long distances be-
15 tween 24-hour ports of entry with a relatively small
16 presence of United States border patrol officers.

17 (5) Capability to expand the program upon a
18 determination by the Secretary that expansion would
19 be an appropriate and cost-effective means of im-
20 proving border security.

21 (b) COORDINATION WITH OTHER AGENCIES.—The
22 Secretary of Homeland Security shall ensure that the op-
23 eration of the pilot program under this title—

1 (1) is coordinated among United States, State
2 and local, and Canadian law enforcement and border
3 security agencies; and

4 (2) includes ongoing communication among
5 such agencies.

6 **SEC. 903. ADMINISTRATIVE PROVISIONS.**

7 (a) **PROCUREMENT OF ADVANCED TECHNOLOGY.**—
8 The Secretary of Homeland Security may enter into con-
9 tracts for the procurement or use of such advanced tech-
10 nologies as the Secretary determines appropriate for the
11 pilot program under this title.

12 (b) **PROGRAM PARTNERSHIPS.**—In carrying out the
13 pilot program, the Secretary of Homeland Security may
14 provide for the establishment of cooperative arrangements
15 for participation in the pilot program by such participants
16 as law enforcement and border security agencies referred
17 to in section 402(b), institutions of higher education, and
18 private sector entities.

19 **SEC. 904. REPORT.**

20 (a) **REQUIREMENT FOR REPORT.**—Not later than
21 one year after the date of the enactment of this Act, the
22 Secretary of Homeland Security shall submit to Congress
23 a report on the pilot program under this title.

24 (b) **CONTENT.**—The report under subsection (a) shall
25 include the following matters:

1 (1) A discussion of the implementation of the
2 pilot program, including the experience under the
3 pilot program.

4 (2) A recommendation regarding whether to ex-
5 pand the pilot program along the entire northern
6 border of the United States and a timeline for the
7 implementation of the expansion.

8 **SEC. 905. AUTHORIZATION OF APPROPRIATIONS.**

9 There is authorized to be appropriated such sums as
10 may be necessary to carry out the pilot program under
11 this title.

12 **TITLE X—911 COMMISSION**
13 **IMPLEMENTATION ACT OF 2004**
14 **Subtitle A—The Role of Diplomacy,**
15 **Foreign Aid, and the Military in**
16 **the War on Terrorism**

17 **SEC. 1001. FINDINGS.**

18 Consistent with the report of the National Commis-
19 sion on Terrorist Attacks Upon the United States, Con-
20 gress makes the following findings:

21 (1) Long-term success in the war on terrorism
22 demands the use of all elements of national power,
23 including diplomacy, military action, intelligence,
24 covert action, law enforcement, economic policy, for-
25 eign aid, public diplomacy, and homeland defense.

1 (2) To win the war on terrorism, the United
2 States must assign to economic and diplomatic capa-
3 bilities the same strategic priority that is assigned to
4 military capabilities.

5 (3) The legislative and executive branches of
6 the Government of the United States must commit
7 to robust, long-term investments in all of the tools
8 necessary for the foreign policy of the United States
9 to successfully accomplish the goals of the United
10 States.

11 (4) The investments referred to in paragraph
12 (3) will require increased funding to United States
13 foreign affairs programs in general, and to priority
14 areas as described in this title in particular.

15 **SEC. 1002. TERRORIST SANCTUARIES.**

16 (a) FINDINGS.—Consistent with the report of the Na-
17 tional Commission on Terrorist Attacks Upon the United
18 States, Congress makes the following findings:

19 (1) Complex terrorist operations require loca-
20 tions that provide such operations sanctuary from
21 interference by government or law enforcement per-
22 sonnel.

23 (2) A terrorist sanctuary existed in Afghanistan
24 before September 11, 2001.

1 (3) The terrorist sanctuary in Afghanistan pro-
2 vided direct and indirect value to members of al
3 Qaeda who participated in the terrorist attacks on
4 the United States on September 11, 2001, and in
5 other terrorist operations.

6 (4) Terrorist organizations have fled to some of
7 the least governed and most lawless places in the
8 world to find sanctuary.

9 (5) During the 21st century, terrorists are fo-
10 cusing on remote regions and failing states as loca-
11 tions to seek sanctuary.

12 (b) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that—

14 (1) the United States Government should iden-
15 tify and prioritize locations that are or that could be
16 used as terrorist sanctuaries;

17 (2) the United States Government should have
18 a realistic strategy that includes the use of all ele-
19 ments of national power to keep possible terrorists
20 from using a location as a sanctuary;

21 (3) the United States Government should reach
22 out, listen to, and work with countries in bilateral
23 and multilateral fora to prevent locations from be-
24 coming sanctuaries and to prevent terrorists from
25 using locations as sanctuaries; and

1 (4) regions of specific concern where United
2 States foreign assistance should be targeted to assist
3 governments in efforts to prevent the use of such re-
4 gions as terrorist sanctuaries are South Asia, South-
5 east Asia, West Africa, the Horn of Africa, North
6 and North Central Africa, the Arabian peninsula,
7 Central and Eastern Europe, and South America;

8 **SEC. 1003. ROLE OF PAKISTAN IN COUNTERING TER-**
9 **RORISM.**

10 (a) FINDINGS.—Consistent with the report of the Na-
11 tional Commission on Terrorist Attacks Upon the United
12 States, Congress makes the following findings:

13 (1) The Government of Pakistan has a critical
14 role to perform in the struggle against Islamist ter-
15 rorism.

16 (2) The endemic poverty, widespread corrup-
17 tion, and frequent ineffectiveness of government in
18 Pakistan create opportunities for Islamist recruit-
19 ment.

20 (3) The poor quality of education in Pakistan
21 is particularly worrying, as millions of families send
22 their children to madrassahs, some of which have
23 been used as incubators for violent extremism.

24 (4) The vast unpoliced regions in Pakistan
25 make the country attractive to extremists seeking

1 refuge and recruits and also provide a base for oper-
2 ations against coalition forces in Afghanistan.

3 (5) A stable Pakistan, with a moderate, respon-
4 sible government that serves as a voice of tolerance
5 in the Muslim world, is critical to stability in the re-
6 gion.

7 (6) There is a widespread belief among the peo-
8 ple of Pakistan that the United States has long
9 treated them as allies of convenience.

10 (b) SENSE OF CONGRESS.—It is the sense of Con-
11 gress that—

12 (1) the United States should make a long-term
13 commitment to fostering a stable and secure future
14 in Pakistan, as long as its leaders remain committed
15 to combating extremists and extremism, ending the
16 proliferation of weapons of mass destruction, secur-
17 ing its borders, and gaining internal control of all its
18 territory while pursuing policies that strengthen civil
19 society, promote moderation and advance socio-eco-
20 nomic progress;

21 (2) Pakistan should make sincere efforts to
22 transition to democracy, enhanced rule of law, and
23 robust civil institutions, and United States policy to-
24 ward Pakistan should promote such a transition;

1 (3) the United States assistance to Pakistan
2 should be maintained at the overall levels requested
3 by the President for fiscal year 2005;

4 (4) the United States should support the Gov-
5 ernment of Pakistan with a comprehensive effort
6 that extends from military aid to support for better
7 education;

8 (5) the United States Government should de-
9 vote particular attention and resources to assisting
10 in the improvement of the quality of education in
11 Pakistan; and

12 (6) the Government of Pakistan should devote
13 additional resources of such Government to expand-
14 ing and improving modern public education in Paki-
15 stan.

16 **SEC. 1004. AID TO AFGHANISTAN.**

17 (a) FINDINGS.—Consistent with the report of the Na-
18 tional Commission on Terrorist Attacks Upon the United
19 States, Congress makes the following findings:

20 (1) The United States and its allies in the
21 international community have made progress in pro-
22 moting economic and political reform within Afghan-
23 istan, including the establishment of a central gov-
24 ernment with a democratic constitution, a new cur-
25 rency, and a new army, the increase of personal

1 freedom, and the elevation of the standard of living
2 of many Afghans.

3 (2) A number of significant obstacles must be
4 overcome if Afghanistan is to become a secure and
5 prosperous democracy, and such a transition de-
6 pends in particular upon—

7 (A) improving security throughout the
8 country;

9 (B) disarming and demobilizing militias;

10 (C) curtailing the rule of the warlords;

11 (D) promoting equitable economic develop-
12 ment;

13 (E) protecting the human rights of the
14 people of Afghanistan;

15 (F) holding elections for public office; and

16 (G) ending the cultivation and trafficking
17 of narcotics.

18 (3) The United States and the international
19 community must make a long-term commitment to
20 addressing the deteriorating security situation in Af-
21 ghanistan and the burgeoning narcotics trade, en-
22 demic poverty, and other serious problems in Af-
23 ghanistan in order to prevent that country from re-
24 lapsing into a sanctuary for international terrorism.

25 (b) SENSE OF CONGRESS.—

1 (1) ACTIONS FOR AFGHANISTAN.—It is the
2 sense of Congress that the Government of the
3 United States should take, with respect to Afghani-
4 stan, the following actions:

5 (A) Working with other nations to obtain
6 long-term security, political, and financial com-
7 mitments and fulfillment of pledges to the Gov-
8 ernment of Afghanistan to accomplish the ob-
9 jectives of the Afghanistan Freedom Support
10 Act of 2002 (22 U.S.C. 7501 et seq.), especially
11 to ensure a secure, democratic, and prosperous
12 Afghanistan that respects the rights of its citi-
13 zens and is free of international terrorist orga-
14 nizations.

15 (B) Using the voice and vote of the United
16 States in relevant international organizations,
17 including the North Atlantic Treaty Organiza-
18 tion and the United Nations Security Council,
19 to strengthen international commitments to as-
20 sist the Government of Afghanistan in enhanc-
21 ing security, building national police and mili-
22 tary forces, increasing counter-narcotics efforts,
23 and expanding infrastructure and public serv-
24 ices throughout the country.

1 (C) Taking appropriate steps to increase
2 the assistance provided under programs of the
3 Department of State and the United States
4 Agency for International Development through-
5 out Afghanistan and to increase the number of
6 personnel of those agencies in Afghanistan as
7 necessary to support the increased assistance.

8 (2) REVISION OF AFGHANISTAN FREEDOM SUP-
9 PORT ACT OF 2002.—It is the sense of Congress that
10 Congress should, in consultation with the President,
11 update and revise, as appropriate, the Afghanistan
12 Freedom Support Act of 2002.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—

14 (1) IN GENERAL.—There are authorized to be
15 appropriated to the President for each of the fiscal
16 years 2005 through 2009 such sums as may be nec-
17 essary to provide assistance for Afghanistan, unless
18 otherwise authorized by Congress, for the following
19 purposes:

20 (A) For development assistance under sec-
21 tions 103, 105, and 106 of the Foreign Assist-
22 ance Act of 1961 (22 U.S.C. 2151a, 2151c, and
23 2151d).

24 (B) For children’s health programs under
25 the Child Survival and Health Program Fund

1 under section 104 of the Foreign Assistance
2 Act of 1961 (22 U.S.C. 2151b).

3 (C) For economic assistance under the
4 Economic Support Fund under chapter 4 of
5 part II of the Foreign Assistance Act of 1961
6 (22 U.S.C. 2346 et seq.).

7 (D) For international narcotics and law
8 enforcement under section 481 of the Foreign
9 Assistance Act of 1961 (22 U.S.C. 2291).

10 (E) For nonproliferation, anti-terrorism,
11 demining, and related programs.

12 (F) For international military education
13 and training under section 541 of the Foreign
14 Assistance Act of 1961 (22 U.S.C. 2347).

15 (G) For Foreign Military Financing Pro-
16 gram grants under section 23 of the Arms Ex-
17 port Control Act (22 U.S.C. 2763).

18 (H) For peacekeeping operations under
19 section 551 of the Foreign Assistance Act of
20 1961 (22 U.S.C. 2348).

21 (2) CONDITIONS FOR ASSISTANCE.—Assistance
22 provided by the President under this subsection—

23 (A) shall be consistent with the Afghani-
24 stan Freedom Support Act of 2002; and

1 (B) shall be provided with reference to the
2 “Securing Afghanistan’s Future” document
3 published by the Government of Afghanistan.

4 **SEC. 1005. THE UNITED STATES-SAUDI ARABIA RELATION-**
5 **SHIP.**

6 (a) FINDINGS.—Consistent with the report of the Na-
7 tional Commission on Terrorist Attacks Upon the United
8 States, Congress makes the following findings:

9 (1) Despite a long history of friendly relations
10 with the United States, Saudi Arabia has been a
11 problematic ally in combating Islamist extremism.

12 (2) Cooperation between the Governments of
13 the United States and Saudi Arabia has traditionally
14 been carried out in private.

15 (3) Counterterrorism cooperation between the
16 Governments of the United States and Saudi Arabia
17 has improved significantly since the terrorist bomb-
18 ing attacks in Riyadh, Saudi Arabia, on May 12,
19 2003, especially cooperation to combat terror groups
20 operating inside Saudi Arabia.

21 (4) The Government of Saudi Arabia is now
22 pursuing al Qaeda within Saudi Arabia and has
23 begun to take some modest steps toward internal re-
24 form.

1 (5) Nonetheless, the Government of Saudi Ara-
2 bia has been at times unresponsive to United States
3 requests for assistance in the global war on Islamist
4 terrorism.

5 (6) The Government of Saudi Arabia has not
6 done all it can to prevent nationals of Saudi Arabia
7 from funding and supporting extremist organizations
8 in Saudi Arabia and other countries.

9 (b) SENSE OF CONGRESS.—It is the sense of Con-
10 gress that—

11 (1) the problems in the relationship between the
12 United States and Saudi Arabia must be confronted
13 openly, and the opportunities for cooperation be-
14 tween the countries must be pursued openly by those
15 governments;

16 (2) both governments must build a relationship
17 that they can publicly defend and that is based on
18 other national interests in addition to their national
19 interests in oil;

20 (3) this relationship should include a shared
21 commitment to political and economic reform in
22 Saudi Arabia;

23 (4) this relationship should also include a
24 shared interest in greater tolerance and respect for
25 other cultures in Saudi Arabia and a commitment to

1 fight the violent extremists who foment hatred in the
2 Middle East; and

3 (5) the Government of Saudi Arabia must do
4 all it can to prevent nationals of Saudi Arabia from
5 funding and supporting extremist organizations in
6 Saudi Arabia and other countries.

7 **SEC. 1006. EFFORTS TO COMBAT ISLAMIST TERRORISM.**

8 (a) FINDINGS.—Consistent with the report of the Na-
9 tional Commission on Terrorist Attacks Upon the United
10 States, Congress makes the following findings:

11 (1) While support for the United States has
12 plummeted in the Islamic world, many negative
13 views are uninformed, at best, and, at worst, are in-
14 formed by coarse stereotypes and caricatures.

15 (2) Local newspapers in Islamic countries and
16 influential broadcasters who reach Islamic audiences
17 through satellite television often reinforce the idea
18 that the people and Government of the United
19 States are anti-Muslim.

20 (b) SENSE OF CONGRESS.—It is the sense of Con-
21 gress that—

22 (1) the Government of the United States should
23 offer an example of moral leadership in the world
24 that includes a commitment to treat all people hu-

1 manely, abide by the rule of law, and be generous
2 to the people and governments of other countries;

3 (2) the United States should cooperate with
4 governments of Islamic countries to foster agree-
5 ment on respect for human dignity and opportunity,
6 and to offer a vision of a better future that includes
7 stressing life over death, individual educational and
8 economic opportunity, widespread political participa-
9 tion, contempt for indiscriminate violence, respect
10 for the rule of law, openness in discussing dif-
11 ferences, and tolerance for opposing points of view;

12 (3) the United States should encourage reform,
13 freedom, democracy, and opportunity for Arabs and
14 Muslims and promote moderation in the Islamic
15 world; and

16 (4) the United States should work to defeat ex-
17 tremist ideology in the Islamic world by providing
18 assistance to moderate Arabs and Muslims to com-
19 bat extremist ideas.

20 **SEC. 1007. UNITED STATES POLICY TOWARD DICTATOR-**
21 **SHIPS.**

22 (a) FINDING.—Consistent with the report of the Na-
23 tional Commission on Terrorist Attacks Upon the United
24 States, Congress finds that short-term gains enjoyed by
25 the United States through cooperation with repressive dic-

1 tatorships have often been outweighed by long-term set-
2 backs for the stature and interests of the United States.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

5 (1) United States foreign policy should promote
6 the value of life and the importance of individual
7 educational and economic opportunity, encourage
8 widespread political participation, condemn indis-
9 criminate violence, and promote respect for the rule
10 of law, openness in discussing differences among
11 people, and tolerance for opposing points of view;
12 and

13 (2) the United States Government must prevail
14 upon the governments of all predominantly Muslim
15 countries, including those that are friends and allies
16 of the United States, to condemn indiscriminate vio-
17 lence, promote the value of life, respect and promote
18 the principles of individual education and economic
19 opportunity, encourage widespread political partici-
20 pation, and promote the rule of law, openness in dis-
21 cussing differences among people, and tolerance for
22 opposing points of view.

1 **SEC. 1008. PROMOTION OF UNITED STATES VALUES**
2 **THROUGH BROADCAST MEDIA.**

3 (a) FINDINGS.—Consistent with the report of the Na-
4 tional Commission on Terrorist Attacks Upon the United
5 States, Congress makes the following findings:

6 (1) Although the United States has dem-
7 onstrated and promoted its values in defending Mus-
8 lims against tyrants and criminals in Somalia, Bos-
9 nia, Kosovo, Afghanistan, and Iraq, this message is
10 not always clearly presented and understood in the
11 Islamic world.

12 (2) If the United States does not act to vigor-
13 ously define its message in the Islamic world, the
14 image of the United States will be defined by Is-
15 lamic extremists who seek to demonize the United
16 States.

17 (3) Recognizing that many Arab and Muslim
18 audiences rely on satellite television and radio, the
19 United States Government has launched promising
20 initiatives in television and radio broadcasting to the
21 Arab world, Iran, and Afghanistan.

22 (b) SENSE OF CONGRESS.—It is the sense of Con-
23 gress that—

24 (1) the United States must do more to defend
25 and promote its values and ideals to the broadest
26 possible audience in the Islamic world;

1 (2) United States efforts to defend and promote
2 these values and ideals are beginning to ensure that
3 accurate expressions of these values reach large au-
4 diences in the Islamic world and should be robustly
5 supported;

6 (3) the United States Government could and
7 should do more to engage the Muslim world in the
8 struggle of ideas; and

9 (4) the United States Government should more
10 intensively employ existing broadcast media in the
11 Islamic world as part of this engagement.

12 (c) AUTHORIZATIONS OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the President for
14 each of the fiscal years 2005 through 2009 such sums as
15 may be necessary to carry out United States Government
16 broadcasting activities under the United States Informa-
17 tion and Educational Exchange Act of 1948 (22 U.S.C.
18 1431 et seq.), the United States International Broad-
19 casting Act of 1994 (22 U.S.C. 6201 et seq.), and the
20 Foreign Affairs Reform and Restructuring Act of 1998
21 (22 U.S.C. 6501 et seq.), and to carry out other activities
22 under this section consistent with the purposes of such
23 Acts, unless otherwise authorized by Congress.

1 **SEC. 1009. EXPANSION OF UNITED STATES SCHOLARSHIP**
2 **AND EXCHANGE PROGRAMS IN THE ISLAMIC**
3 **WORLD.**

4 (a) FINDINGS.—Consistent with the report of the Na-
5 tional Commission on Terrorist Attacks Upon the United
6 States, Congress makes the following findings:

7 (1) Exchange, scholarship, and library pro-
8 grams are effective ways for the United States Gov-
9 ernment to promote internationally the values and
10 ideals of the United States.

11 (2) Exchange, scholarship, and library pro-
12 grams can expose young people from other countries
13 to United States values and offer them knowledge
14 and hope.

15 (b) SENSE OF CONGRESS.—It is the sense of Con-
16 gress that the United States should expand its exchange,
17 scholarship, and library programs, especially those that
18 benefit people in the Arab and Muslim worlds.

19 (c) AUTHORITY TO EXPAND EDUCATIONAL AND
20 CULTURAL EXCHANGES.—The President is authorized to
21 substantially expand the exchange, scholarship, and li-
22 brary programs of the United States, especially such pro-
23 grams that benefit people in the Arab and Muslim worlds.

24 (d) AVAILABILITY OF FUNDS.—Of the amounts au-
25 thorized to be appropriated for educational and cultural
26 exchange programs in each of the fiscal years 2005

1 through 2009, there is authorized to be made available
2 to the Secretary of State such sums as may be necessary
3 to carry out programs under this section, unless otherwise
4 authorized by Congress.

5 **SEC. 1010. INTERNATIONAL YOUTH OPPORTUNITY FUND.**

6 (a) FINDINGS.—Consistent with the report of the Na-
7 tional Commission on Terrorist Attacks Upon the United
8 States, Congress makes the following findings:

9 (1) Education that teaches tolerance, the dig-
10 nity and value of each individual, and respect for
11 different beliefs is a key element in any global strat-
12 egy to eliminate Islamist terrorism.

13 (2) Education in the Middle East about the
14 world outside that region is weak.

15 (3) The United Nations has rightly equated lit-
16 eracy with freedom.

17 (4) The international community is moving to-
18 ward setting a concrete goal of reducing by half the
19 illiteracy rate in the Middle East by 2010, through
20 the implementation of education programs targeting
21 women and girls and programs for adult literacy,
22 and by other means.

23 (5) To be effective, efforts to improve education
24 in the Middle East must also include—

1 (A) support for the provision of basic edu-
2 cation tools, such as textbooks that translate
3 more of the world's knowledge into local lan-
4 guages and local libraries to house such mate-
5 rials; and

6 (B) more vocational education in trades
7 and business skills.

8 (6) The Middle East can benefit from some of
9 the same programs to bridge the digital divide that
10 already have been developed for other regions of the
11 world.

12 (b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

13 (1) ESTABLISHMENT.—The President shall es-
14 tablish an International Youth Opportunity Fund to
15 provide financial assistance for the improvement of
16 public education in the Middle East.

17 (2) INTERNATIONAL PARTICIPATION.—The
18 President shall seek the cooperation of the inter-
19 national community in establishing and generously
20 supporting the Fund.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the President for the
23 establishment of the International Youth Opportunity
24 Fund, in addition to any amounts otherwise available for
25 such purpose, such sums as may be necessary for each

1 of the fiscal years 2005 through 2009, unless otherwise
2 authorized by Congress.

3 **SEC. 1011. THE USE OF ECONOMIC POLICIES TO COMBAT**
4 **TERRORISM.**

5 (a) FINDINGS.—Consistent with the report of the Na-
6 tional Commission on Terrorist Attacks Upon the United
7 States, Congress makes the following findings:

8 (1) While terrorism is not caused by poverty,
9 breeding grounds for terrorism are created by back-
10 ward economic policies and repressive political re-
11 gimes.

12 (2) Policies that support economic development
13 and reform also have political implications, as eco-
14 nomic and political liberties are often linked.

15 (3) The United States is working toward cre-
16 ating a Middle East Free Trade Area by 2013 and
17 implementing a free trade agreement with Bahrain,
18 and free trade agreements exist between the United
19 States and Israel and the United States and Jordan.

20 (4) Existing and proposed free trade agree-
21 ments between the United States and Islamic coun-
22 tries are drawing interest from other countries in
23 the Middle East region, and Islamic countries can
24 become full participants in the rules-based global
25 trading system, as the United States considers low-

1 ering its barriers to trade with the poorest Arab
2 countries.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

5 (1) a comprehensive United States strategy to
6 counter terrorism should include economic policies
7 that encourage development, open societies, and op-
8 portunities for people to improve the lives of their
9 families and to enhance prospects for their children’s
10 future;

11 (2) one element of such a strategy should en-
12 compass the lowering of trade barriers with the
13 poorest countries that have a significant population
14 of Arab or Muslim individuals;

15 (3) another element of such a strategy should
16 encompass United States efforts to promote eco-
17 nomic reform in countries that have a significant
18 population of Arab or Muslim individuals, including
19 efforts to integrate such countries into the global
20 trading system; and

21 (4) given the importance of the rule of law in
22 promoting economic development and attracting in-
23 vestment, the United States should devote an in-
24 creased proportion of its assistance to countries in
25 the Middle East to the promotion of the rule of law.

1 **SEC. 1012. MIDDLE EAST PARTNERSHIP INITIATIVE.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
3 authorized to be appropriated for each of the fiscal years
4 2005 through 2009 such sums as may be necessary for
5 the Middle East Partnership Initiative, unless otherwise
6 authorized by Congress.

7 (b) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that, given the importance of the rule of law and
9 economic reform to development in the Middle East, a sig-
10 nificant portion of the funds authorized to be appropriated
11 under subsection (a) should be made available to promote
12 the rule of law in the Middle East.

13 **SEC. 1013. COMPREHENSIVE COALITION STRATEGY FOR**
14 **FIGHTING TERRORISM.**

15 (a) FINDINGS.—Consistent with the report of the Na-
16 tional Commission on Terrorist Attacks Upon the United
17 States, Congress makes the following findings:

18 (1) Almost every aspect of the counterterrorism
19 strategy of the United States relies on international
20 cooperation.

21 (2) Since September 11, 2001, the number and
22 scope of United States Government contacts with
23 foreign governments concerning counterterrorism
24 have expanded significantly, but such contacts have
25 often been ad hoc and not integrated as a com-
26 prehensive and unified approach.

1 (b) INTERNATIONAL CONTACT GROUP ON
2 COUNTERTERRORISM.—

3 (1) SENSE OF CONGRESS.—It is the sense of
4 Congress that the President—

5 (A) should seek to engage the leaders of
6 the governments of other countries in a process
7 of advancing beyond separate and uncoordi-
8 nated national counterterrorism strategies to
9 develop with those other governments a com-
10 prehensive coalition strategy to fight Islamist
11 terrorism; and

12 (B) to that end, should seek to establish
13 an international counterterrorism policy contact
14 group with the leaders of governments pro-
15 viding leadership in global counterterrorism ef-
16 forts and governments of countries with sizable
17 Muslim populations, to be used as a ready and
18 flexible international means for discussing and
19 coordinating the development of important
20 counterterrorism policies by the participating
21 governments.

22 (2) AUTHORITY.—The President is authorized
23 to establish an international counterterrorism policy
24 contact group with the leaders of governments re-
25 ferred to in paragraph (1) for purposes as follows:

1 (A) To develop in common with such other
2 countries important policies and a strategy that
3 address the various components of international
4 prosecution of the war on terrorism, including
5 policies and a strategy that address military
6 issues, law enforcement, the collection, analysis,
7 and dissemination of intelligence, issues relating
8 to interdiction of travel by terrorists,
9 counterterrorism-related customs issues, finan-
10 cial issues, and issues relating to terrorist sanc-
11 tuaries.

12 (B) To address, to the extent (if any) that
13 the President and leaders of other participating
14 governments determine appropriate, such long-
15 term issues as economic and political reforms
16 that can contribute to strengthening stability
17 and security in the Middle East.

18 **SEC. 1014. TREATMENT OF FOREIGN PRISONERS.**

19 (a) FINDINGS.—Consistent with the report of the Na-
20 tional Commission on Terrorist Attacks Upon the United
21 States, Congress makes the following findings:

22 (1) Carrying out the global war on terrorism re-
23 quires the development of policies with respect to the
24 detention and treatment of captured international
25 terrorists that are adhered to by all coalition forces.

1 (2) Article 3 of the Convention Relative to the
2 Treatment of Prisoners of War, done at Geneva Au-
3 gust 12, 1949 (6 UST 3316) was specifically de-
4 signed for cases in which the usual rules of war do
5 not apply, and the minimum standards of treatment
6 pursuant to such Article are generally accepted
7 throughout the world as customary international
8 law.

9 (b) POLICY.—The policy of the United States is as
10 follows:

11 (1) It is the policy of the United States to treat
12 all foreign persons captured, detained, interned or
13 otherwise held in the custody of the United States
14 (hereinafter “prisoners”) humanely and in accord-
15 ance with standards that the United States would
16 consider legal if perpetrated by the enemy against
17 an American prisoner.

18 (2) It is the policy of the United States that all
19 officials of the United States are bound both in war-
20 time and in peacetime by the legal prohibition
21 against torture, cruel, inhuman or degrading treat-
22 ment.

23 (3) If there is any doubt as to whether pris-
24 oners are entitled to the protections afforded by the
25 Geneva Conventions, such prisoners shall enjoy the

1 protections of the Geneva Conventions until such
2 time as their status can be determined pursuant to
3 the procedures authorized by Army Regulation 190–
4 8, Section 1–6.

5 (4) It is the policy of the United States to expe-
6 ditiously prosecute cases of terrorism or other crimi-
7 nal acts alleged to have been committed by prisoners
8 in the custody of the United States Armed Forces
9 at Guantanamo Bay, Cuba, in order to avoid the in-
10 definite detention of prisoners, which is contrary to
11 the legal principles and security interests of the
12 United States.

13 (c) REPORTING.—The Department of Defense shall
14 submit to the appropriate congressional committees:

15 (1) A quarterly report providing the number of
16 prisoners who were denied Prisoner of War (POW)
17 status under the Geneva Conventions and the basis
18 for denying POW status to each such prisoner.

19 (2) A report setting forth—

20 (A) the proposed schedule for military
21 commissions to be held at Guantanamo Bay,
22 Cuba; and

23 (B) the number of individuals currently
24 held at Guantanamo Bay, Cuba, the number of
25 such individuals who are unlikely to face a mili-

1 tary commission in the next six months, and
2 each reason for not bringing such individuals
3 before a military commission.

4 (3) All International Committee of the Red
5 Cross reports, completed prior to the enactment of
6 this Act, concerning the treatment of prisoners in
7 United States custody at Guantanamo Bay, Cuba,
8 Iraq, and Afghanistan. Such ICRC reports should be
9 provided, in classified form, not later than 15 days
10 after enactment of this Act.

11 (4) A report setting forth all prisoner interroga-
12 tion techniques approved by officials of the United
13 States.

14 (d) ANNUAL TRAINING REQUIREMENT.—The De-
15 partment of Defense shall certify that all Federal employ-
16 ees and civilian contractors engaged in the handling or in-
17 terrogating of prisoners have fulfilled an annual training
18 requirement on the laws of war, the Geneva Conventions
19 and the obligations of the United States under inter-
20 national humanitarian law.

21 (e) PROHIBITION ON TORTURE OR CRUEL, INHU-
22 MANE, OR DEGRADING TREATMENT OR PUNISHMENT.—

23 (1) IN GENERAL.—No prisoner shall be subject
24 to torture or cruel, inhumane, or degrading treat-

1 ment or punishment that is prohibited by the Con-
2 stitution, laws, or treaties of the United States.

3 (2) RELATIONSHIP TO GENEVA CONVEN-
4 TIONS.—Nothing in this section shall affect the sta-
5 tus of any person under the Geneva Conventions or
6 whether any person is entitled to the protections of
7 the Geneva Conventions.

8 (f) RULES, REGULATIONS, AND GUIDELINES.—

9 (1) REQUIREMENT.—Not later than 180 days
10 after the date of the enactment of this Act, the Sec-
11 retary and the Director shall prescribe the rules,
12 regulations, or guidelines necessary to ensure com-
13 pliance with the prohibition in subsection (e)(1) by
14 all personnel of the United States Government and
15 by any person providing services to the United
16 States Government on a contract basis.

17 (2) REPORT TO CONGRESS.—The Secretary and
18 the Director shall submit to Congress the rules, reg-
19 ulations, or guidelines prescribed under paragraph
20 (1), and any modifications to such rules, regulations,
21 or guidelines—

22 (A) not later than 30 days after the effec-
23 tive date of such rules, regulations, guidelines,
24 or modifications; and

1 (B) in a manner and form that will protect
2 the national security interests of the United
3 States.

4 (g) REPORTS ON POSSIBLE VIOLATIONS.—

5 (1) REQUIREMENT.—The Secretary and the Di-
6 rector shall each submit, on a timely basis and not
7 less than twice each year, a report to Congress on
8 the circumstances surrounding any investigation of a
9 possible violation of the prohibition in subsection
10 (e)(1) by United States Government personnel or by
11 a person providing services to the United States
12 Government on a contract basis.

13 (2) FORM OF REPORT.—A report required
14 under paragraph (1) shall be submitted in a manner
15 and form that—

16 (A) will protect the national security inter-
17 ests of the United States; and

18 (B) will not prejudice any prosecution of
19 an individual involved in, or responsible for, a
20 violation of the prohibition in subsection (e)(1).

21 (h) REPORT ON A COALITION APPROACH TOWARD
22 THE DETENTION AND HUMANE TREATMENT OF CAP-
23 TURED TERRORISTS.—Not later than 180 days after the
24 date of the enactment of this Act, the President shall sub-
25 mit to Congress a report describing the efforts of the

1 United States Government to develop an approach toward
2 the detention and humane treatment of captured inter-
3 national terrorists that will be adhered to by all countries
4 that are members of the coalition against terrorism.

5 (i) DEFINITIONS.—In this section:

6 (1) CRUEL, INHUMANE, OR DEGRADING TREAT-
7 MENT OR PUNISHMENT.—The term “cruel, inhu-
8 mane, or degrading treatment or punishment”
9 means the cruel, unusual, and inhumane treatment
10 or punishment prohibited by the fifth amendment,
11 eighth amendment, or fourteenth amendment to the
12 Constitution.

13 (2) DIRECTOR.—The term “Director” means
14 the National Intelligence Director.

15 (3) GENEVA CONVENTIONS.—The term “Gene-
16 va Conventions” means—

17 (A) the Convention for the Amelioration of
18 the Condition of the Wounded and Sick in
19 Armed Forces in the Field, done at Geneva Au-
20 gust 12, 1949 (6 UST 3114);

21 (B) the Convention for the Amelioration of
22 the Condition of the Wounded, Sick, and Ship-
23 wrecked Members of Armed Forces at Sea,
24 done at Geneva August 12, 1949 (6 UST
25 3217);

1 (C) the Convention Relative to the Treat-
2 ment of Prisoners of War, done at Geneva Au-
3 gust 12, 1949 (6 UST 3316); and

4 (D) the Convention Relative to the Protec-
5 tion of Civilian Persons in Time of War, done
6 at Geneva August 12, 1949 (6 UST 3516).

7 (4) SECRETARY.—The term “Secretary” means
8 the Secretary of Defense.

9 (5) TORTURE.—The term “torture” has the
10 meaning given that term in section 2340 of title 18,
11 United States Code.

12 **SEC. 1015. PROLIFERATION OF WEAPONS OF MASS DE-**
13 **STRUCTION.**

14 (a) FINDINGS.—Consistent with the report of the Na-
15 tional Commission on Terrorist Attacks Upon the United
16 States, Congress makes the following findings:

17 (1) Al Qaeda and other terror groups have tried
18 to acquire or make weapons of mass destruction
19 since 1994 or earlier.

20 (2) The United States doubtless would be a
21 prime target for use of any such weapon by al
22 Qaeda.

23 (3) Although the United States Government has
24 supported the Cooperative Threat Reduction, Global
25 Threat Reduction Initiative, and other nonprolifera-

1 tion assistance programs, nonproliferation experts
2 continue to express deep concern about the adequacy
3 of such efforts to secure weapons of mass destruc-
4 tion and related materials that still exist in Russia
5 other countries of the former Soviet Union, and
6 around the world.

7 (4) The cost of increased investment in the pre-
8 vention of proliferation of weapons of mass destruc-
9 tion and related materials is greatly outweighed by
10 the potentially catastrophic cost to the United States
11 of the use of such weapons by terrorists.

12 (5) The Cooperative Threat Reduction, Global
13 Threat Reduction Initiative, and other nonprolifera-
14 tion assistance programs are the United States pri-
15 mary method of preventing the proliferation of
16 weapons of mass destruction and related materials
17 from Russia and the states of the former Soviet
18 Union, but require further expansion, improvement,
19 and resources.

20 (6) Better coordination is needed within the ex-
21 ecutive branch of government for the budget devel-
22 opment, oversight, and implementation of the Coop-
23 erative Threat Reduction, Global Threat Reduction
24 Initiative, and other nonproliferation assistance pro-
25 grams, and critical elements of such programs are

1 operated by the Departments of Defense, Energy,
2 and State.

3 (7) The effective implementation of the Cooper-
4 ative Threat Reduction, Global Threat Reduction
5 Initiative, and other nonproliferation assistance pro-
6 grams in the countries of the former Soviet Union
7 is hampered by Russian behavior and conditions on
8 the provision of assistance under such programs that
9 are unrelated to bilateral cooperation on weapons
10 dismantlement.

11 (b) SENSE OF CONGRESS.—It is the sense of Con-
12 gress that—

13 (1) maximum effort to prevent the proliferation
14 of weapons of mass destruction and related mate-
15 rials, wherever such proliferation may occur, is war-
16 ranted;

17 (2) the Cooperative Threat Reduction, Global
18 Threat Reduction Initiative, and other nonprolifera-
19 tion assistance programs should be expanded, im-
20 proved, accelerated, and better funded to address the
21 global dimensions of the proliferation threat; and

22 (3) the Proliferation Security Initiative is an
23 important counterproliferation program that should
24 be expanded to include additional partners.

1 (c) COOPERATIVE THREAT REDUCTION, GLOBAL
2 THREAT REDUCTION INITIATIVE, AND OTHER NON-
3 PROLIFERATION ASSISTANCE PROGRAMS.—In this section,
4 the term “Cooperative Threat Reduction, Global Threat
5 Reduction Initiative, and other nonproliferation assistance
6 programs” includes—

7 (1) the programs specified in section 1501(b) of
8 the National Defense Authorization Act for Fiscal
9 Year 1997 (Public Law 104–201; 50 U.S.C. 2362
10 note);

11 (2) the activities for which appropriations are
12 authorized by section 3101(a)(2) of the National De-
13 fense Authorization Act for Fiscal Year 2004 (Pub-
14 lic Law 108–136; 117 Stat. 1742);

15 (3) the Department of State program of assist-
16 ance to science centers;

17 (4) the Global Threat Reduction Initiative of
18 the Department of Energy; and

19 (5) a program of any agency of the Federal
20 Government having the purpose of assisting any for-
21 eign government in preventing nuclear weapons, plu-
22 tonium, highly enriched uranium, or other materials
23 capable of sustaining an explosive nuclear chain re-
24 action, or nuclear weapons technology from becom-
25 ing available to terrorist organizations.

1 (d) STRATEGY AND PLAN.—

2 (1) STRATEGY.—Not later than 180 days after
3 the date of the enactment of this Act, the President
4 shall submit to Congress—

5 (A) a comprehensive strategy for expand-
6 ing and strengthening the Cooperative Threat
7 Reduction, Global Threat Reduction Initiative,
8 and other nonproliferation assistance programs;
9 and

10 (B) an estimate of the funding necessary
11 to execute such strategy.

12 (2) PLAN.—The strategy required by paragraph
13 (1) shall include a plan for securing the nuclear
14 weapons and related materials that are the most
15 likely to be acquired or sought by, and susceptible
16 to becoming available to, terrorist organizations, in-
17 cluding—

18 (A) a prioritized list of the most dangerous
19 and vulnerable sites;

20 (B) measurable milestones for improving
21 United States nonproliferation assistance pro-
22 grams;

23 (C) a schedule for achieving such mile-
24 stones; and

1 (D) initial estimates of the resources nec-
2 essary to achieve such milestones under such
3 schedule.

4 **SEC. 1016. FINANCING OF TERRORISM.**

5 (a) FINDINGS.—Consistent with the report of the Na-
6 tional Commission on Terrorist Attacks Upon the United
7 States, Congress makes the following findings:

8 (1) While efforts to designate and freeze the as-
9 sets of terrorist financiers have been relatively un-
10 successful, efforts to target the relatively small num-
11 ber of al Qaeda financial facilitators have been valu-
12 able and successful.

13 (2) The death or capture of several important
14 financial facilitators has decreased the amount of
15 money available to al Qaeda, and has made it more
16 difficult for al Qaeda to raise and move money.

17 (3) The capture of al Qaeda financial
18 facilitators has provided a windfall of intelligence
19 that can be used to continue the cycle of disruption.

20 (4) The United States Government has rightly
21 recognized that information about terrorist money
22 helps in understanding terror networks, searching
23 them out, and disrupting their operations.

24 (b) SENSE OF CONGRESS.—It is the sense of Con-
25 gress that—

1 (1) a critical weapon in the effort to stop ter-
2 rorist financing should be the targeting of terrorist
3 financial facilitators by intelligence and law enforce-
4 ment agencies; and

5 (2) efforts to track terrorist financing must be
6 paramount in United States counter-terrorism ef-
7 forts.

8 (c) REPORT ON TERRORIST FINANCING.—

9 (1) IN GENERAL.—Not later than 180 days
10 after the date of the enactment of this Act, the
11 President shall submit to Congress a report evalu-
12 ating the effectiveness of United States efforts to
13 curtail the international financing of terrorism.

14 (2) CONTENTS.—The report required by para-
15 graph (1) shall evaluate and make recommendations
16 on—

17 (A) the effectiveness of efforts and meth-
18 ods to the identification and tracking of ter-
19 rorist financing;

20 (B) ways to improve multinational and
21 international governmental cooperation in this
22 effort;

23 (C) ways to improve the effectiveness of fi-
24 nancial institutions in this effort;

1 (D) the adequacy of agency coordination,
2 nationally and internationally, including inter-
3 national treaties and compacts, in this effort
4 and ways to improve that coordination; and

5 (E) recommendations for changes in law
6 and additional resources required to improve
7 this effort.

8 **SEC. 1017. REPORT TO CONGRESS.**

9 (a) **REQUIREMENT FOR REPORT.**—Not later than
10 180 days after the date of the enactment of this Act, the
11 President shall submit to Congress a report on the activi-
12 ties of the Government of the United States to carry out
13 the provisions of this title.

14 (b) **CONTENT.**—The report required under this sec-
15 tion shall include the following:

16 (1) **TERRORIST SANCTUARIES.**—A description
17 of the strategy of the United States to address and,
18 where possible, eliminate terrorist sanctuaries, in-
19 cluding—

20 (A) a description of actual and potential
21 terrorist sanctuaries, together with an assess-
22 ment of the priorities of addressing and elimi-
23 nating such sanctuaries;

1 (B) an outline of strategies for disrupting
2 or eliminating the security provided to terrorists
3 by such sanctuaries;

4 (C) a description of efforts by the United
5 States Government to work with other countries
6 in bilateral and multilateral fora to address or
7 eliminate actual or potential terrorist sanc-
8 tuaries and disrupt or eliminate the security
9 provided to terrorists by such sanctuaries; and

10 (D) a description of long-term goals and
11 actions designed to reduce the conditions that
12 allow the formation of terrorist sanctuaries,
13 such as supporting and strengthening host gov-
14 ernments, reducing poverty, increasing eco-
15 nomic development, strengthening civil society,
16 securing borders, strengthening internal secu-
17 rity forces, and disrupting logistics and commu-
18 nications networks of terrorist groups.

19 (2) SUPPORT FOR PAKISTAN.—A description of
20 the efforts of the United States Government to sup-
21 port Pakistan and encourage moderation in that
22 country, including—

23 (A) an examination of the desirability of
24 establishing a Pakistan Education Fund to di-
25 rect resources toward improving the quality of

1 secondary schools in Pakistan, and an examina-
2 tion of the efforts of the Government of Paki-
3 stan to fund modern public education;

4 (B) recommendations on the funding nec-
5 essary to provide various levels of educational
6 support;

7 (C) an examination of the current composi-
8 tion and levels of United States military aid to
9 Pakistan, together with any recommendations
10 for changes in such levels and composition that
11 the President considers appropriate; and

12 (D) an examination of other major types of
13 United States financial support to Pakistan, to-
14 gether with any recommendations for changes
15 in the levels and composition of such support
16 that the President considers appropriate.

17 (3) SUPPORT FOR AFGHANISTAN.—

18 (A) SPECIFIC OBJECTIVES.—A description
19 of the strategy of the United States to provide
20 aid to Afghanistan during the 5-year period be-
21 ginning on the date of enactment of this Act,
22 including a description of the resources nec-
23 essary during the next 5 years to achieve spe-
24 cific objectives in Afghanistan in the following
25 areas:

- 1 (i) Fostering economic development.
- 2 (ii) Curtailing the cultivation of
3 opium.
- 4 (iii) Achieving internal security and
5 stability.
- 6 (iv) Eliminating terrorist sanctuaries.
- 7 (v) Increasing governmental capabili-
8 ties.
- 9 (vi) Improving essential infrastructure
10 and public services.
- 11 (vii) Improving public health services.
- 12 (viii) Establishing a broad-based edu-
13 cational system.
- 14 (ix) Promoting democracy and the
15 rule of law.
- 16 (x) Building national police and mili-
17 tary forces.
- 18 (B) PROGRESS.—A description of—
- 19 (i) the progress made toward achiev-
20 ing the objectives described in clauses (i)
21 through (x) of subparagraph (A); and
- 22 (ii) any shortfalls in meeting such ob-
23 jectives and the resources needed to fully
24 achieve such objectives.

1 (4) COLLABORATION WITH SAUDI ARABIA.—A
2 description of the strategy of the United States for
3 expanding collaboration with the Government of
4 Saudi Arabia on subjects of mutual interest and of
5 importance to the United States, including a de-
6 scription of—

7 (A) the utility of the President under-
8 taking a periodic, formal, and visible high-level
9 dialogue between senior United States Govern-
10 ment officials of cabinet level or higher rank
11 and their counterparts in the Government of
12 Saudi Arabia to address challenges in the rela-
13 tionship between the two governments and to
14 identify areas and mechanisms for cooperation;

15 (B) intelligence and security cooperation
16 between the United States and Saudi Arabia in
17 the fight against Islamist terrorism;

18 (C) ways to advance Saudi Arabia's con-
19 tribution to the Middle East peace process;

20 (D) political and economic reform in Saudi
21 Arabia and throughout the Middle East;

22 (E) ways to promote greater tolerance and
23 respect for cultural and religious diversity in
24 Saudi Arabia and throughout the Middle East;
25 and

1 (F) ways to assist the Government of
2 Saudi Arabia in preventing nationals of Saudi
3 Arabia from funding and supporting extremist
4 groups in Saudi Arabia and other countries.

5 (5) STRUGGLE OF IDEAS IN THE ISLAMIC
6 WORLD.—A description of a cohesive, long-term
7 strategy of the United States to help win the strug-
8 gle of ideas in the Islamic world, including the fol-
9 lowing:

10 (A) A description of specific goals related
11 to winning this struggle of ideas.

12 (B) A description of the range of tools
13 available to the United States Government to
14 accomplish such goals and the manner in which
15 such tools will be employed.

16 (C) A list of benchmarks for measuring
17 success and a plan for linking resources to the
18 accomplishment of such goals.

19 (D) A description of any additional re-
20 sources that may be necessary to help win this
21 struggle of ideas.

22 (E) Any recommendations for the creation
23 of, and United States participation in, inter-
24 national institutions for the promotion of de-
25 mocracy and economic diversification in the Is-

1 lamic world, and intraregional trade in the Mid-
2 dle East.

3 (F) An estimate of the level of United
4 States financial assistance that would be suffi-
5 cient to convince United States allies and peo-
6 ple in the Islamic world that engaging in the
7 struggle of ideas in the Islamic world is a top
8 priority of the United States and that the
9 United States intends to make a substantial
10 and sustained commitment toward winning this
11 struggle.

12 (6) OUTREACH THROUGH BROADCAST MEDIA.—
13 A description of a cohesive, long-term strategy of the
14 United States to expand its outreach to foreign Mus-
15 lim audiences through broadcast media, including
16 the following:

17 (A) The initiatives of the Broadcasting
18 Board of Governors with respect to outreach to
19 foreign Muslim audiences.

20 (B) An outline of recommended actions
21 that the United States Government should take
22 to more regularly and comprehensively present
23 a United States point of view through indige-
24 nous broadcast media in countries with sizable
25 Muslim populations, including increasing ap-

1 pearances by United States Government offi-
2 cials, experts, and citizens.

3 (C) An assessment of potential incentives
4 for, and costs associated with, encouraging
5 United States broadcasters to dub or subtitle
6 into Arabic and other relevant languages their
7 news and public affairs programs broadcast in
8 the Muslim world in order to present those pro-
9 grams to a much broader Muslim audience than
10 is currently reached.

11 (D) Any recommendations the President
12 may have for additional funding and legislation
13 necessary to achieve the objectives of the strat-
14 egy.

15 (7) VISAS FOR PARTICIPANTS IN UNITED
16 STATES PROGRAMS.—A description of—

17 (A) any recommendations for expediting
18 the issuance of visas to individuals who are en-
19 tering the United States for the purpose of par-
20 ticipating in a scholarship, exchange, or visitor
21 program described in subsection (c) of section
22 ____09 without compromising the security of
23 the United States; and

1 (B) a proposed schedule for implementing
2 any recommendations described in subpara-
3 graph (A).

4 (8) BASIC EDUCATION IN MUSLIM COUN-
5 TRIES.—A description of a strategy, that was devel-
6 oped after consultation with nongovernmental orga-
7 nizations and individuals involved in education as-
8 sistance programs in developing countries, to pro-
9 mote free universal basic education in the countries
10 of the Middle East and in other countries with sig-
11 nificant Muslim populations designated by the Presi-
12 dent. The strategy shall include the following ele-
13 ments:

14 (A) A description of the manner in which
15 the resources of the United States and the
16 international community shall be used to help
17 achieve free universal basic education in such
18 countries, including—

19 (i) efforts of the United states to co-
20 ordinate an international effort;

21 (ii) activities of the United States to
22 leverage contributions from members of
23 the Group of Eight or other donors; and

24 (iii) assistance provided by the United
25 States to leverage contributions from the

1 private sector and civil society organiza-
2 tions.

3 (B) A description of the efforts of the
4 United States to coordinate with other donors
5 to reduce duplication and waste at the global
6 and country levels and to ensure efficient co-
7 ordination among all relevant departments and
8 agencies of the Government of the United
9 States.

10 (C) A description of the strategy of the
11 United States to assist efforts to overcome chal-
12 lenges to achieving free universal basic edu-
13 cation in such countries, including strategies to
14 target hard to reach populations to promote
15 education.

16 (D) A listing of countries that the Presi-
17 dent determines are eligible for assistance
18 under the International Youth Opportunity
19 Fund described in section ____10 and related
20 programs.

21 (E) A description of the efforts of the
22 United States to encourage countries in the
23 Middle East and other countries with signifi-
24 cant Muslim populations designated by the

1 President to develop and implement a national
2 education plan.

3 (F) A description of activities carried out
4 as part of the International Youth Opportunity
5 Fund to help close the digital divide and expand
6 vocational and business skills in such countries.

7 (G) An estimate of the funds needed to
8 achieve free universal basic education by 2015
9 in each country described in subparagraph (D),
10 and an estimate of the amount that has been
11 expended by the United States and by each
12 such country during the previous fiscal year.

13 (H) A description of the United States
14 strategy for garnering programmatic and finan-
15 cial support from countries in the Middle East
16 and other countries with significant Muslim
17 populations designated by the President, inter-
18 national organizations, and other countries that
19 share the objectives of the International Youth
20 and Opportunity Fund.

21 (9) ECONOMIC REFORM.—A description of the
22 efforts of the United States Government to encour-
23 age development and promote economic reform in
24 countries that have a significant population of Arab
25 or Muslim individuals, including a description of—

1 (A) efforts to integrate countries with sig-
2 nificant populations of Arab or Muslim individ-
3 uals into the global trading system; and

4 (B) actions that the United States Govern-
5 ment, acting alone and in partnership with gov-
6 ernments in the Middle East, can take to pro-
7 mote intraregional trade and the rule of law in
8 the region.

9 **SEC. 1018. EFFECTIVE DATE.**

10 Notwithstanding section 341 or any other provision
11 of this Act, this title shall take effect on the date of the
12 enactment of this Act.

13 **Subtitle B—Terrorist Travel and**
14 **Effective Screening**

15 **SEC. 1021. COUNTERTERRORIST TRAVEL INTELLIGENCE.**

16 (a) FINDINGS.—Consistent with the report of the Na-
17 tional Commission on Terrorist Attacks Upon the United
18 States, Congress makes the following findings:

19 (1) Travel documents are as important to ter-
20 rorists as weapons since terrorists must travel clan-
21 destinely to meet, train, plan, case targets, and gain
22 access to attack sites.

23 (2) International travel is dangerous for terror-
24 ists because they must surface to pass through regu-

1 lated channels, present themselves to border security
2 officials, or attempt to circumvent inspection points.

3 (3) Terrorists use evasive, but detectable, meth-
4 ods to travel, such as altered and counterfeit pass-
5 ports and visas, specific travel methods and routes,
6 liaisons with corrupt government officials, human
7 smuggling networks, supportive travel agencies, and
8 immigration and identity fraud.

9 (4) Before September 11, 2001, no Federal
10 agency systematically analyzed terrorist travel strat-
11 egies. If an agency had done so, the agency could
12 have discovered the ways in which the terrorist pred-
13 ecessors to al Qaeda had been systematically, but
14 detectably, exploiting weaknesses in our border secu-
15 rity since the early 1990s.

16 (5) Many of the hijackers were potentially vul-
17 nerable to interception by border authorities. Ana-
18 lyzing their characteristic travel documents and trav-
19 el patterns could have allowed authorities to inter-
20 cept some of the hijackers and a more effective use
21 of information available in Government databases
22 could have identified some of the hijackers.

23 (6) The routine operations of our immigration
24 laws and the aspects of those laws not specifically

1 aimed at protecting against terrorism inevitably
2 shaped al Qaeda's planning and opportunities.

3 (7) New insights into terrorist travel gained
4 since September 11, 2001, have not been adequately
5 integrated into the front lines of border security.

6 (8) The small classified terrorist travel intel-
7 ligence collection and analysis program currently in
8 place has produced useful results and should be ex-
9 panded.

10 (b) STRATEGY.—

11 (1) IN GENERAL.—Not later than 1 year after
12 the date of enactment of this Act, the Secretary of
13 Homeland Security shall submit to Congress unclas-
14 sified and classified versions of a strategy for com-
15 bining terrorist travel intelligence, operations, and
16 law enforcement into a cohesive effort to intercept
17 terrorists, find terrorist travel facilitators, and con-
18 strain terrorist mobility domestically and inter-
19 nationally. The report to Congress should include a
20 description of the actions taken to implement the
21 strategy.

22 (2) ACCOUNTABILITY.—The strategy submitted
23 under paragraph (1) shall—

24 (A) describe a program for collecting, ana-
25 lyzing, disseminating, and utilizing information

1 and intelligence regarding terrorist travel tac-
2 tics and methods; and

3 (B) outline which Federal intelligence, dip-
4 lomatic, and law enforcement agencies will be
5 held accountable for implementing each element
6 of the strategy.

7 (3) COORDINATION.—The strategy shall be de-
8 veloped in coordination with all relevant Federal
9 agencies, including—

10 (A) the National Counterterrorism Center;

11 (B) the Department of Transportation;

12 (C) the Department of State;

13 (D) the Department of the Treasury;

14 (E) the Department of Justice;

15 (F) the Department of Defense;

16 (G) the Federal Bureau of Investigation;

17 (H) the Drug Enforcement Agency; and

18 (I) the agencies that comprise the intel-
19 ligence community.

20 (4) CONTENTS.—The strategy shall address—

21 (A) the intelligence and law enforcement
22 collection, analysis, operations, and reporting
23 required to identify and disrupt terrorist travel
24 practices and trends, and the terrorist travel
25 facilitators, document forgers, human smug-

1 glers, travel agencies, and corrupt border and
2 transportation officials who assist terrorists;

3 (B) the initial and ongoing training and
4 training materials required by consular, border,
5 and immigration officials to effectively detect
6 and disrupt terrorist travel described under
7 subsection (c)(3);

8 (C) the new procedures required and ac-
9 tions to be taken to integrate existing
10 counterterrorist travel and mobility intelligence
11 into border security processes, including con-
12 sular, port of entry, border patrol, maritime,
13 immigration benefits, and related law enforce-
14 ment activities;

15 (D) the actions required to integrate cur-
16 rent terrorist mobility intelligence into military
17 force protection measures;

18 (E) the additional assistance to be given to
19 the interagency Human Smuggling and Traf-
20 ficking Center for purposes of combatting ter-
21 rorist travel, including further developing and
22 expanding enforcement and operational capa-
23 bilities that address terrorist travel;

24 (F) the additional resources to be given to
25 the Department of Homeland Security to aid in

1 the sharing of information between the frontline
2 border agencies of the Department of Home-
3 land Security, the Department of State, and
4 classified and unclassified sources of
5 counterterrorist travel intelligence and informa-
6 tion elsewhere in the Federal Government, in-
7 cluding the Human Smuggling and Trafficking
8 Center;

9 (G) the development and implementation
10 of procedures to enable the Human Smuggling
11 and Trafficking Center to timely receive ter-
12 rorist travel intelligence and documentation ob-
13 tained at consulates and ports of entry, and by
14 law enforcement officers and military personnel;

15 (H) the use of foreign and technical assist-
16 ance to advance border security measures and
17 law enforcement operations against terrorist
18 travel facilitators;

19 (I) the development of a program to pro-
20 vide each consular, port of entry, and immigra-
21 tion benefits office with a counterterrorist travel
22 expert trained and authorized to use the rel-
23 evant authentication technologies and cleared to
24 access all appropriate immigration, law enforce-
25 ment, and intelligence databases;

1 (J) the feasibility of digitally transmitting
2 passport information to a central cadre of spe-
3 cialists until such time as experts described
4 under subparagraph (I) are available at con-
5 sular, port of entry, and immigration benefits
6 offices; and

7 (K) granting consular officers and immi-
8 gration adjudicators, as appropriate, the secu-
9 rity clearances necessary to access law enforce-
10 ment sensitive and intelligence databases.

11 (c) FRONTLINE COUNTERTERRORIST TRAVEL TECH-
12 NOLOGY AND TRAINING.—

13 (1) TECHNOLOGY ACQUISITION AND DISSEMI-
14 NATION PLAN.—Not later than 180 days after the
15 date of enactment of this Act, the Secretary of
16 Homeland Security, in conjunction with the Sec-
17 retary of State, shall submit to Congress a plan de-
18 scribing how the Department of Homeland Security
19 and the Department of State can acquire and de-
20 ploy, to all consulates, ports of entry, and immigra-
21 tion benefits offices, technologies that facilitate doc-
22 ument authentication and the detection of potential
23 terrorist indicators on travel documents.

24 (2) CONTENTS OF PLAN.—The plan submitted
25 under paragraph (1) shall—

1 (A) outline the timetable needed to acquire
2 and deploy the authentication technologies;

3 (B) identify the resources required to—

4 (i) fully disseminate these tech-
5 nologies; and

6 (ii) train personnel on use of these
7 technologies; and

8 (C) address the feasibility of using these
9 technologies to screen every passport or other
10 documentation described in section ____04(b)
11 submitted for identification purposes to a
12 United States consular, border, or immigration
13 official.

14 (3) TRAINING PROGRAM.—

15 (A) IN GENERAL.—The Secretary of
16 Homeland Security and the Secretary of State
17 shall develop and implement initial and ongoing
18 annual training programs for consular, border,
19 and immigration officials who encounter or
20 work with travel or immigration documents as
21 part of their duties to teach such officials how
22 to effectively detect and disrupt terrorist travel.

23 (B) TERRORIST TRAVEL INTELLIGENCE.—

24 The Secretary may assist State, local, and trib-
25 al governments, and private industry, in estab-

1 lishing training programs related to terrorist
2 travel intelligence.

3 (C) TRAINING TOPICS.—The training de-
4 veloped under this paragraph shall include
5 training in—

6 (i) methods for identifying fraudulent
7 documents;

8 (ii) detecting terrorist indicators on
9 travel documents;

10 (iii) recognizing travel patterns, tac-
11 tics, and behaviors exhibited by terrorists;

12 (iv) the use of information contained
13 in available databases and data systems
14 and procedures to maintain the accuracy
15 and integrity of such systems; and

16 (v) other topics determined necessary
17 by the Secretary of Homeland Security and
18 the Secretary of State.

19 (D) CERTIFICATION.—Not later than 1
20 year after the date of enactment of this Act—

21 (i) the Secretary of Homeland Secu-
22 rity shall certify to Congress that all bor-
23 der and immigration officials who encoun-
24 ter or work with travel or immigration doc-

1 uments as part of their duties have re-
2 ceived training under this paragraph; and

3 (ii) the Secretary of State shall certify
4 to Congress that all consular officers who
5 encounter or work with travel or immigra-
6 tion documents as part of their duties have
7 received training under this paragraph.

8 (4) AUTHORIZATION OF APPROPRIATIONS.—

9 There are authorized to be appropriated to the Sec-
10 retary for each of the fiscal years 2005 through
11 2009 such sums as may be necessary to carry out
12 the provisions of this subsection.

13 (d) ENHANCING CLASSIFIED COUNTERTERRORIST
14 TRAVEL EFFORTS.—

15 (1) IN GENERAL.—The National Intelligence
16 Director shall significantly increase resources and
17 personnel to the small classified program that col-
18 lects and analyzes intelligence on terrorist travel.

19 (2) AUTHORIZATION OF APPROPRIATIONS.—

20 There are authorized to be appropriated for each of
21 the fiscal years 2005 through 2009 such sums as
22 may be necessary to carry out this subsection.

1 **SEC. 1022. INTEGRATED SCREENING SYSTEM.**

2 (a) IN GENERAL.—The Secretary of Homeland Secu-
3 rity shall develop a plan for a comprehensive integrated
4 screening system.

5 (b) DESIGN.—The system planned under subsection
6 (a) shall be designed to—

7 (1) encompass an integrated network of screen-
8 ing points that includes the Nation’s border security
9 system, transportation system, and critical infra-
10 structure or facilities that the Secretary determines
11 need to be protected against terrorist attack;

12 (2) build upon existing border enforcement and
13 security activities, and to the extent practicable, pri-
14 vate sector security initiatives, in a manner that will
15 enable the utilization of a range of security check
16 points in a continuous and consistent manner
17 throughout the Nation’s screening system;

18 (3) allow access to government databases to de-
19 tect terrorists; and

20 (4) utilize biometric identifiers that the Sec-
21 retary determines to be appropriate, feasible, and if
22 practicable, compatible with the biometric entry and
23 exit data system described in section ____ 03.

24 (c) STANDARDS FOR SCREENING PROCEDURES.—

25 (1) AUTHORIZATION.—The Secretary may pro-
26 mulgate standards for screening procedures for—

1 (A) entering and leaving the United
2 States;

3 (B) accessing Federal facilities that the
4 Secretary determines need to be protected
5 against terrorist attack;

6 (C) accessing critical infrastructure that
7 the Secretary determines need to be protected
8 against terrorist attack; and

9 (D) accessing modes of transportation that
10 the Secretary determines need to be protected
11 against terrorist attack.

12 (2) SCOPE.—Standards prescribed under this
13 subsection may address a range of factors, including
14 technologies required to be used in screening and re-
15 quirements for secure identification.

16 (3) REQUIREMENTS.—In promulgating stand-
17 ards for screening procedures, the Secretary shall—

18 (A) consider and incorporate appropriate
19 civil liberties and privacy protections;

20 (B) comply with the Administrative Proce-
21 dure Act; and

22 (C) consult with other Federal, State,
23 local, and tribal governments, private parties,
24 and other interested parties, as appropriate.

1 (4) LIMITATION.—This section does not confer
2 to the Secretary new statutory authority, or alter ex-
3 isting authorities, over systems, critical infrastruc-
4 ture, and facilities.

5 (5) NOTIFICATION.—If the Secretary deter-
6 mines that additional regulatory authority is needed
7 to fully implement the plan for an integrated screen-
8 ing system, the Secretary shall immediately notify
9 Congress.

10 (d) COMPLIANCE.—The Secretary may issue regula-
11 tions to ensure compliance with the standards promul-
12 gated under this section.

13 (e) CONSULTATION.—For those systems, critical in-
14 frastructure, and facilities that the Secretary determines
15 need to be protected against terrorist attack, the Secretary
16 shall consult with other Federal agencies, State, local, and
17 tribal governments, and the private sector to ensure the
18 development of consistent standards and consistent imple-
19 mentation of the integrated screening system.

20 (f) BIOMETRIC IDENTIFIERS.—In carrying out this
21 section, the Secretary shall continue to review biometric
22 technologies and existing Federal and State programs
23 using biometric identifiers. Such review shall consider the
24 accuracy rate of available technologies.

1 (g) MAINTAINING ACCURACY AND INTEGRITY OF THE
2 INTEGRATED SCREENING SYSTEM.—

3 (1) IN GENERAL.—The Secretary shall establish
4 rules, guidelines, policies, and operating and audit-
5 ing procedures for collecting, removing, and updat-
6 ing data maintained in, and adding information to,
7 the integrated screening system that ensure the ac-
8 curacy and integrity of the data.

9 (2) DATA MAINTENANCE PROCEDURES.—Each
10 head of a Federal agency that has databases and
11 data systems linked to the integrated screening sys-
12 tem shall establish rules, guidelines, policies, and op-
13 erating and auditing procedures for collecting, re-
14 moving, and updating data maintained in, and add-
15 ing information to, such databases or data systems
16 that ensure the accuracy and integrity of the data.

17 (3) REQUIREMENTS.—The rules, guidelines,
18 policies, and procedures established under this sub-
19 section shall—

20 (A) incorporate a simple and timely meth-
21 od for—

22 (i) correcting errors;

23 (ii) determining which government
24 agency or entity provided data so that the

1 accuracy of the data can be ascertained;

2 and

3 (iii) clarifying information known to

4 cause false hits or misidentification errors;

5 and

6 (B) include procedures for individuals to—

7 (i) seek corrections of data contained

8 in the databases or data systems; and

9 (ii) appeal decisions concerning data

10 contained in the databases or data sys-

11 tems.

12 (h) IMPLEMENTATION.—

13 (1) PHASE I.—The Secretary shall—

14 (A) develop plans for, and begin implemen-

15 tation of, a single program for registered trav-

16 elers to expedite travel across the border, as re-

17 quired under section ____03(g);

18 (B) continue the implementation of a bio-

19 metric exit and entry data system that links to

20 relevant databases and data systems, as re-

21 quired by subsections (c) through (f) of section

22 ____03 and other existing authorities;

23 (C) centralize the “no-fly” and “automatic-

24 selectee” lists, making use of improved terror-

1 ists watch lists, as required by section
2 _____03;

3 (D) develop plans, in consultation with
4 other relevant agencies, for the sharing of ter-
5 rorist information with trusted governments, as
6 required by section ____05;

7 (E) initiate any other action determined
8 appropriate by the Secretary to facilitate the
9 implementation of this paragraph; and

10 (F) report to Congress on the implementa-
11 tion of phase I, including—

12 (i) the effectiveness of actions taken,
13 the efficacy of resources expended, compli-
14 ance with statutory provisions, and safe-
15 guards for privacy and civil liberties; and

16 (ii) plans for the development and im-
17 plementation of phases II and III.

18 (2) PHASE II.—The Secretary shall—

19 (A) complete the implementation of a sin-
20 gle program for registered travelers to expedite
21 travel across the border, as required by section
22 _____03(g);

23 (B) complete the implementation of a bio-
24 metric entry and exit data system that links to
25 relevant databases and data systems, as re-

1 required by subsections (c) through (f) of section
2 _____03, and other existing authorities;

3 (C) in cooperation with other relevant
4 agencies, engage in dialogue with foreign gov-
5 ernments to develop plans for the use of com-
6 mon screening standards;

7 (D) initiate any other action determined
8 appropriate by the Secretary to facilitate the
9 implementation of this paragraph; and

10 (E) report to Congress on the implementa-
11 tion of phase II, including—

12 (i) the effectiveness of actions taken,
13 the efficacy of resources expended, compli-
14 ance with statutory provisions, and safe-
15 guards for privacy and civil liberties; and

16 (ii) the plans for the development and
17 implementation of phase III.

18 (3) PHASE III.—The Secretary shall—

19 (A) finalize and deploy the integrated
20 screening system required by subsection (a);

21 (B) in cooperation with other relevant
22 agencies, promote the implementation of com-
23 mon screening standards by foreign govern-
24 ments; and

1 (C) report to Congress on the implementa-
2 tion of Phase III, including—

3 (i) the effectiveness of actions taken,
4 the efficacy of resources expended, compli-
5 ance with statutory provisions, and safe-
6 guards for privacy and civil liberties; and

7 (ii) the plans for the ongoing oper-
8 ation of the integrated screening system.

9 (i) REPORT.—After phase III has been implemented,
10 the Secretary shall submit a report to Congress every 3
11 years that describes the ongoing operation of the inte-
12 grated screening system, including its effectiveness, effi-
13 cient use of resources, compliance with statutory provi-
14 sions, and safeguards for privacy and civil liberties.

15 (j) AUTHORIZATIONS.—There are authorized to be
16 appropriated to the Secretary for each of the fiscal years
17 2005 through 2009, such sums as may be necessary to
18 carry out the provisions of this section.

19 **SEC. 1023. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

20 (a) FINDINGS.—Consistent with the report of the Na-
21 tional Commission on Terrorist Attacks Upon the United
22 States, Congress finds that completing a biometric entry
23 and exit data system as expeditiously as possible is an es-
24 sential investment in efforts to protect the United States
25 by preventing the entry of terrorists.

1 (b) DEFINITION.—In this section, the term “entry
2 and exit data system” means the entry and exit system
3 required by applicable sections of—

4 (1) the Illegal Immigration Reform and Immigrant
5 Responsibility Act of 1996 (Public Law 104–
6 208);

7 (2) the Immigration and Naturalization Service
8 Data Management Improvement Act of 2000 (Public
9 Law 106–205);

10 (3) the Visa Waiver Permanent Program Act
11 (Public Law 106–396);

12 (4) the Enhanced Border Security and Visa
13 Entry Reform Act of 2002 (Public Law 107–173);
14 and

15 (5) the Uniting and Strengthening America by
16 Providing Appropriate Tools Required to Intercept
17 and Obstruct Terrorism (USA PATRIOT ACT) Act
18 of 2001 (Public Law 107–56).

19 (c) PLAN AND REPORT.—

20 (1) DEVELOPMENT OF PLAN.—The Secretary
21 of Homeland Security shall develop a plan to accel-
22 erate the full implementation of an automated bio-
23 metric entry and exit data system.

24 (2) REPORT.—Not later than 180 days after
25 the date of enactment of this Act, the Secretary

1 shall submit a report to Congress on the plan devel-
2 oped under paragraph (1), which shall contain—

3 (A) a description of the current
4 functionality of the entry and exit data system,
5 including—

6 (i) a listing of ports of entry and
7 other Department of Homeland Security
8 and Department of State locations with bi-
9 ometric entry data systems in use and
10 whether such screening systems are located
11 at primary or secondary inspection areas;

12 (ii) a listing of ports of entry and
13 other Department of Homeland Security
14 and Department of State locations with bi-
15 ometric exit data systems in use;

16 (iii) a listing of databases and data
17 systems with which the entry and exit data
18 system are interoperable;

19 (iv) a description of—

20 (I) identified deficiencies con-
21 cerning the accuracy or integrity of
22 the information contained in the entry
23 and exit data system;

24 (II) identified deficiencies con-
25 cerning technology associated with

1 processing individuals through the
2 system; and

3 (III) programs or policies
4 planned or implemented to correct
5 problems identified in subclause (I) or
6 (II); and

7 (v) an assessment of the effectiveness
8 of the entry and exit data system in ful-
9 filling its intended purposes, including pre-
10 venting terrorists from entering the United
11 States;

12 (B) a description of factors relevant to the
13 accelerated implementation of the biometric
14 entry and exit data system, including—

15 (i) the earliest date on which the Sec-
16 retary estimates that full implementation
17 of the biometric entry and exit data system
18 can be completed;

19 (ii) the actions the Secretary will take
20 to accelerate the full implementation of the
21 biometric entry and exit data system at all
22 ports of entry through which all aliens
23 must pass that are legally required to do
24 so; and

1 (iii) the resources and authorities re-
2 quired to enable the Secretary to meet the
3 implementation date described in clause
4 (i);

5 (C) a description of any improvements
6 needed in the information technology employed
7 for the biometric entry and exit data system;

8 (D) a description of plans for improved or
9 added interoperability with any other databases
10 or data systems; and

11 (E) a description of the manner in which
12 the Department of Homeland Security's US-
13 VISIT program—

14 (i) meets the goals of a comprehensive
15 entry and exit screening system, including
16 both entry and exit biometric; and

17 (ii) fulfills the statutory obligations
18 under subsection (b).

19 (d) COLLECTION OF BIOMETRIC EXIT DATA.—The
20 entry and exit data system shall include a requirement for
21 the collection of biometric exit data for all categories of
22 individuals who are required to provide biometric entry
23 data, regardless of the port of entry where such categories
24 of individuals entered the United States.

25 (e) INTEGRATION AND INTEROPERABILITY.—

1 (1) INTEGRATION OF DATA SYSTEM.—Not later
2 than 2 years after the date of enactment of this Act,
3 the Secretary shall fully integrate all databases and
4 data systems that process or contain information on
5 aliens, which are maintained by—

6 (A) the Department of Homeland Security,
7 at—

8 (i) the United States Immigration and
9 Customs Enforcement;

10 (ii) the United States Customs and
11 Border Protection; and

12 (iii) the United States Citizenship and
13 Immigration Services;

14 (B) the Department of Justice, at the Ex-
15 ecutive Office for Immigration Review; and

16 (C) the Department of State, at the Bu-
17 reau of Consular Affairs.

18 (2) INTEROPERABLE COMPONENT.—The fully
19 integrated data system under paragraph (1) shall be
20 an interoperable component of the entry and exit
21 data system.

22 (3) INTEROPERABLE DATA SYSTEM.—Not later
23 than 2 years after the date of enactment of this Act,
24 the Secretary shall fully implement an interoperable
25 electronic data system, as required by section 202 of

1 the Enhanced Border Security and Visa Entry Re-
2 form Act (8 U.S.C. 1722) to provide current and
3 immediate access to information in the databases of
4 Federal law enforcement agencies and the intel-
5 ligence community that is relevant to determine—

6 (A) whether to issue a visa; or

7 (B) the admissibility or deportability of an
8 alien.

9 (f) MAINTAINING ACCURACY AND INTEGRITY OF
10 ENTRY AND EXIT DATA SYSTEM.—

11 (1) IN GENERAL.—The Secretary shall establish
12 rules, guidelines, policies, and operating and audit-
13 ing procedures for collecting, removing, and updat-
14 ing data maintained in, and adding information to,
15 the entry and exit data system that ensure the accu-
16 racy and integrity of the data.

17 (2) DATA MAINTENANCE PROCEDURES.—Heads
18 of agencies that have databases or data systems
19 linked to the entry and exit data system shall estab-
20 lish rules, guidelines, policies, and operating and au-
21 diting procedures for collecting, removing, and up-
22 dating data maintained in, and adding information
23 to, such databases or data systems that ensure the
24 accuracy and integrity of the data.

1 (3) REQUIREMENTS.—The rules, guidelines,
2 policies, and procedures established under this sub-
3 section shall—

4 (A) incorporate a simple and timely meth-
5 od for—

6 (i) correcting errors;

7 (ii) determining which government
8 agency or entity provided data so that the
9 accuracy of the data can be ascertained;

10 and

11 (iii) clarifying information known to
12 cause false hits or misidentification errors;

13 and

14 (B) include procedures for individuals to—

15 (i) seek corrections of data contained
16 in the databases or data systems; and

17 (ii) appeal decisions concerning data
18 contained in the databases or data sys-
19 tems.

20 (g) EXPEDITING REGISTERED TRAVELERS ACROSS
21 INTERNATIONAL BORDERS.—

22 (1) FINDINGS.—Consistent with the report of
23 the National Commission on Terrorist Attacks Upon
24 the United States, Congress finds that—

1 (A) expediting the travel of previously
2 screened and known travelers across the bor-
3 ders of the United States should be a high pri-
4 ority; and

5 (B) the process of expediting known trav-
6 elers across the borders of the United States
7 can permit inspectors to better focus on identi-
8 fying terrorists attempting to enter the United
9 States.

10 (2) DEFINITION.—In this subsection, the term
11 “registered traveler program” means any program
12 designed to expedite the travel of previously screened
13 and known travelers across the borders of the
14 United States.

15 (3) REGISTERED TRAVEL PROGRAM.—

16 (A) IN GENERAL.—As soon as is prac-
17 ticable, the Secretary shall develop and imple-
18 ment a registered traveler program to expedite
19 the processing of registered travelers who enter
20 and exit the United States.

21 (B) PARTICIPATION.—The registered trav-
22 eler program shall include as many participants
23 as practicable by—

24 (i) minimizing the cost of enrollment;

1 (ii) making program enrollment con-
2 venient and easily accessible; and

3 (iii) providing applicants with clear
4 and consistent eligibility guidelines.

5 (C) INTEGRATION.—The registered trav-
6 eler program shall be integrated into the auto-
7 mated biometric entry and exit data system de-
8 scribed in this section.

9 (D) REVIEW AND EVALUATION.—In devel-
10 oping the registered traveler program, the Sec-
11 retary shall—

12 (i) review existing programs or pilot
13 projects designed to expedite the travel of
14 registered travelers across the borders of
15 the United States;

16 (ii) evaluate the effectiveness of the
17 programs described in clause (i), the costs
18 associated with such programs, and the
19 costs to travelers to join such programs;

20 (iii) increase research and develop-
21 ment efforts to accelerate the development
22 and implementation of a single registered
23 traveler program; and

1 (iv) review the feasibility of allowing
2 participants to enroll in the registered
3 traveler program at consular offices.

4 (4) REPORT.—Not later than 1 year after the
5 date of enactment of this Act, the Secretary shall
6 submit to Congress a report describing the Depart-
7 ment’s progress on the development and implemen-
8 tation of the registered traveler program.

9 (h) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated to the Secretary, for
11 each of the fiscal years 2005 through 2009, such sums
12 as may be necessary to carry out the provisions of this
13 section.

14 **SEC. 1024. TRAVEL DOCUMENTS.**

15 (a) FINDINGS.—Consistent with the report of the Na-
16 tional Commission on Terrorist Attacks Upon the United
17 States, Congress finds that—

18 (1) existing procedures allow many individuals
19 to enter the United States by showing minimal iden-
20 tification or without showing any identification;

21 (2) the planning for the terrorist attacks of
22 September 11, 2001, demonstrates that terrorists
23 study and exploit United States vulnerabilities; and

24 (3) additional safeguards are needed to ensure
25 that terrorists cannot enter the United States.

1 (b) BIOMETRIC PASSPORTS.—

2 (1) DEVELOPMENT OF PLAN.—The Secretary
3 of State, in consultation with the Secretary of
4 Homeland Security, shall develop and implement a
5 plan as expeditiously as possible to require biometric
6 passports or other identification deemed by the Sec-
7 retary of State to be at least as secure as a biomet-
8 ric passport, for all travel into the United States by
9 United States citizens and by categories of individ-
10 uals for whom documentation requirements have
11 previously been waived under section 212(d)(4)(B)
12 of the Immigration and Nationality Act (8 U.S.C.
13 1182(d)(4)(B)).

14 (2) REQUIREMENT TO PRODUCE DOCUMENTA-
15 TION.—The plan developed under paragraph (1)
16 shall require all United States citizens, and cat-
17 egories of individuals for whom documentation re-
18 quirements have previously been waived under sec-
19 tion 212(d)(4)(B) of such Act, to carry and produce
20 the documentation described in paragraph (1) when
21 traveling from foreign countries into the United
22 States.

23 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
24 After the complete implementation of the plan described
25 in subsection (b)—

1 (1) neither the Secretary of State nor the Sec-
2 retary of Homeland Security may exercise discretion
3 under section 212(d)(4)(B) of such Act to waive
4 documentary requirements for travel into the United
5 States; and

6 (2) the President may not exercise discretion
7 under section 215(b) of such Act (8 U.S.C. 1185(b))
8 to waive documentary requirements for United
9 States citizens departing from or entering, or at-
10 tempting to depart from or enter, the United States
11 except—

12 (A) where the Secretary of State, in con-
13 sultation with the Secretary of Homeland Secu-
14 rity, determines that the alternative documenta-
15 tion that is the basis for the waiver of the docu-
16 mentary requirement is at least as secure as a
17 biometric passport;

18 (B) in the case of an unforeseen emer-
19 gency in individual cases; or

20 (C) in the case of humanitarian or national
21 interest reasons in individual cases.

22 (d) TRANSIT WITHOUT VISA PROGRAM.—The Sec-
23 retary of State shall not use any authorities granted under
24 section 212(d)(4)(C) of such Act until the Secretary, in
25 conjunction with the Secretary of Homeland Security,

1 completely implements a security plan to fully ensure se-
2 cure transit passage areas to prevent aliens proceeding in
3 immediate and continuous transit through the United
4 States from illegally entering the United States.

5 **SEC. 1025. EXCHANGE OF TERRORIST INFORMATION AND**
6 **INCREASED PREINSPECTION AT FOREIGN**
7 **AIRPORTS.**

8 (a) FINDINGS.—Consistent with the report of the Na-
9 tional Commission on Terrorist Attacks Upon the United
10 States, Congress finds that—

11 (1) the exchange of terrorist information with
12 other countries, consistent with privacy require-
13 ments, along with listings of lost and stolen pass-
14 ports, will have immediate security benefits; and

15 (2) the further away from the borders of the
16 United States that screening occurs, the more secu-
17 rity benefits the United States will gain.

18 (b) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that—

20 (1) the United States Government should ex-
21 change terrorist information with trusted allies;

22 (2) the United States Government should move
23 toward real-time verification of passports with
24 issuing authorities;

1 (3) where practicable the United States Govern-
2 ment should conduct screening before a passenger
3 departs on a flight destined for the United States;

4 (4) the United States Government should work
5 with other countries to ensure effective inspection
6 regimes at all airports;

7 (5) the United States Government should work
8 with other countries to improve passport standards
9 and provide foreign assistance to countries that need
10 help making the transition to the global standard for
11 identification; and

12 (6) the Department of Homeland Security, in
13 coordination with the Department of State and other
14 agencies, should implement the initiatives called for
15 in this subsection.

16 (c) REPORT REGARDING THE EXCHANGE OF TER-
17 RORIST INFORMATION.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this Act, the Sec-
20 retary of State and the Secretary of Homeland Secu-
21 rity, working with other agencies, shall submit to the
22 appropriate committees of Congress a report on
23 Federal efforts to collaborate with allies of the
24 United States in the exchange of terrorist informa-
25 tion.

1 (2) CONTENTS.—The report shall outline—

2 (A) strategies for increasing such collabo-
3 ration and cooperation;

4 (B) progress made in screening passengers
5 before their departure to the United States; and

6 (C) efforts to work with other countries to
7 accomplish the goals described under this sec-
8 tion.

9 (d) PREINSPECTION AT FOREIGN AIRPORTS.—

10 (1) IN GENERAL.—Section 235A(a)(4) of the
11 Immigration and Nationality Act (8 U.S.C.
12 1225a(a)(4)) is amended to read as follows:

13 “(4) Subject to paragraph (5), not later than
14 January 1, 2008, the Secretary of Homeland Secu-
15 rity, in consultation with the Secretary of State,
16 shall establish preinspection stations in at least 25
17 additional foreign airports, which the Secretary of
18 Homeland Security, in consultation with the Sec-
19 retary of State, determines, based on the data com-
20 piled under paragraph (3) and such other informa-
21 tion as may be available, would most effectively fa-
22 cilitate the travel of admissible aliens and reduce the
23 number of inadmissible aliens, especially aliens who
24 are potential terrorists, who arrive from abroad by
25 air at points of entry within the United States. Such

1 preinspection stations shall be in addition to those
2 established prior to September 30, 1996, or pursu-
3 ant to paragraph (1).”.

4 (2) REPORT.—Not later than June 30, 2006,
5 the Secretary of Homeland Security and the Sec-
6 retary of State shall submit a report on the progress
7 being made in implementing the amendment made
8 by paragraph (1) to—

9 (A) the Committee on the Judiciary of the
10 Senate;

11 (B) the Committee on the Judiciary of the
12 House of Representatives;

13 (C) the Committee on Foreign Relations of
14 the Senate; and

15 (D) the Committee on International Rela-
16 tions of the House of Representatives.

17 **SEC. 1026. MINIMUM STANDARDS FOR BIRTH CERTIFI-**
18 **CATES.**

19 (a) DEFINITION.—In this section, the term ‘birth cer-
20 tificate’ means a certificate of birth—

21 (1) for an individual (regardless of where
22 born)—

23 (A) who is a citizen or national of the
24 United States at birth; and

1 (B) whose birth is registered in the United
2 States; and

3 (2) that—

4 (A) is issued by a Federal, State, or local
5 government agency or authorized custodian of
6 record and produced from birth records main-
7 tained by such agency or custodian of record; or

8 (B) is an authenticated copy, issued by a
9 Federal, State, or local government agency or
10 authorized custodian of record, of an original
11 certificate of birth issued by such agency or
12 custodian of record.

13 (b) STANDARDS FOR ACCEPTANCE BY FEDERAL
14 AGENCIES.—

15 (1) IN GENERAL.—Beginning 2 years after the
16 promulgation of minimum standards under para-
17 graph (3), no Federal agency may accept a birth
18 certificate for any official purpose unless the certifi-
19 cate conforms to such standards.

20 (2) STATE CERTIFICATION.—

21 (A) IN GENERAL.—Each State shall certify
22 to the Secretary of Health and Human Services
23 that the State is in compliance with the require-
24 ments of this section.

1 (B) FREQUENCY.—Certifications under
2 subparagraph (A) shall be made at such inter-
3 vals and in such a manner as the Secretary of
4 Health and Human Services, with the concur-
5 rence of the Secretary of Homeland Security
6 and the Commissioner of Social Security, may
7 prescribe by regulation.

8 (C) COMPLIANCE.—Each State shall en-
9 sure that units of local government and other
10 authorized custodians of records in the State
11 comply with this section.

12 (D) AUDITS.—The Secretary of Health
13 and Human Services may conduct periodic au-
14 dits of each State’s compliance with the require-
15 ments of this section.

16 (3) MINIMUM STANDARDS.—Not later than 1
17 year after the date of enactment of this Act, the
18 Secretary of Health and Human Services shall by
19 regulation establish minimum standards for birth
20 certificates for use by Federal agencies for official
21 purposes that—

22 (A) at a minimum, shall require certifi-
23 cation of the birth certificate by the State or
24 local government custodian of record that
25 issued the certificate, and shall require the use

1 of safety paper or an alternative, equally secure
2 medium, the seal of the issuing custodian of
3 record, and other features designed to prevent
4 tampering, counterfeiting, or otherwise dupli-
5 cating the birth certificate for fraudulent pur-
6 poses;

7 (B) shall establish requirements for proof
8 and verification of identity as a condition of
9 issuance of a birth certificate, with additional
10 security measures for the issuance of a birth
11 certificate for a person who is not the applicant;

12 (C) shall establish standards for the proc-
13 essing of birth certificate applications to pre-
14 vent fraud;

15 (D) may not require a single design to
16 which birth certificates issued by all States
17 must conform; and

18 (E) shall accommodate the differences be-
19 tween the States in the manner and form in
20 which birth records are stored and birth certifi-
21 cates are produced from such records.

22 (4) CONSULTATION WITH GOVERNMENT AGEN-
23 CIES.—In promulgating the standards required
24 under paragraph (3), the Secretary of Health and
25 Human Services shall consult with—

- 1 (A) the Secretary of Homeland Security;
2 (B) the Commissioner of Social Security;
3 (C) State vital statistics offices; and
4 (D) other appropriate Federal agencies.

5 (5) EXTENSION OF EFFECTIVE DATE.—The
6 Secretary of Health and Human Services may ex-
7 tend the date specified under paragraph (1) for up
8 to 2 years for birth certificates issued by a State if
9 the Secretary determines that the State made rea-
10 sonable efforts to comply with the date under para-
11 graph (1) but was unable to do so.

12 (c) GRANTS TO STATES.—

13 (1) ASSISTANCE IN MEETING FEDERAL STAND-
14 ARDS.—

15 (A) IN GENERAL.—Beginning on the date
16 a final regulation is promulgated under sub-
17 section (b)(3), the Secretary of Health and
18 Human Services shall award grants to States to
19 assist them in conforming to the minimum
20 standards for birth certificates set forth in the
21 regulation.

22 (B) ALLOCATION OF GRANTS.—The Sec-
23 retary shall award grants to States under this
24 paragraph based on the proportion that the es-
25 timated average annual number of birth certifi-

1 cates issued by a State applying for a grant
2 bears to the estimated average annual number
3 of birth certificates issued by all States.

4 (C) MINIMUM ALLOCATION.—Notwith-
5 standing subparagraph (B), each State shall re-
6 ceive not less than 0.5 percent of the grant
7 funds made available under this paragraph.

8 (2) ASSISTANCE IN MATCHING BIRTH AND
9 DEATH RECORDS.—

10 (A) IN GENERAL.—The Secretary of
11 Health and Human Services, in coordination
12 with the Commissioner of Social Security and
13 other appropriate Federal agencies, shall award
14 grants to States, under criteria established by
15 the Secretary, to assist States in—

16 (i) computerizing their birth and
17 death records;

18 (ii) developing the capability to match
19 birth and death records within each State
20 and among the States; and

21 (iii) noting the fact of death on the
22 birth certificates of deceased persons.

23 (B) ALLOCATION OF GRANTS.—The Sec-
24 retary shall award grants to qualifying States
25 under this paragraph based on the proportion

1 that the estimated annual average number of
 2 birth and death records created by a State ap-
 3 plying for a grant bears to the estimated annual
 4 average number of birth and death records
 5 originated by all States.

6 (C) MINIMUM ALLOCATION.—Notwith-
 7 standing subparagraph (B), each State shall re-
 8 ceive not less than 0.5 percent of the grant
 9 funds made available under this paragraph.

10 (d) AUTHORIZATION OF APPROPRIATIONS.—There
 11 are authorized to be appropriated to the Secretary for
 12 each of the fiscal years 2005 through 2009 such sums as
 13 may be necessary to carry out this section.

14 (e) TECHNICAL AND CONFORMING AMENDMENTS.—
 15 Section 656 of the Illegal Immigration Reform and Immi-
 16 grant Responsibility Act of 1996 (5 U.S.C. 301 note) is
 17 repealed.

18 **SEC. 1027. DRIVER'S LICENSES AND PERSONAL IDENTI-**
 19 **FICATION CARDS.**

20 (a) DEFINITIONS.—In this section:

21 (1) DRIVER'S LICENSE.—The term 'driver's li-
 22 cense' means a motor vehicle operator's license as
 23 defined in section 30301(5) of title 49, United
 24 States Code.

1 (2) PERSONAL IDENTIFICATION CARD.—The
2 term ‘personal identification card’ means an identi-
3 fication document (as defined in section 1028(d)(3)
4 of title 18, United States Code) issued by a State.

5 (b) STANDARDS FOR ACCEPTANCE BY FEDERAL
6 AGENCIES.—

7 (1) IN GENERAL.—

8 (A) LIMITATION ON ACCEPTANCE.—No
9 Federal agency may accept, for any official pur-
10 pose, a driver’s license or personal identification
11 card newly issued by a State more than 2 years
12 after the promulgation of the minimum stand-
13 ards under paragraph (2) unless the driver’s li-
14 cense or personal identification card conforms
15 to such minimum standards.

16 (B) DATE FOR CONFORMANCE.—The Sec-
17 retary of Transportation, in consultation with
18 the Secretary of Homeland Security, shall es-
19 tablish a date after which no driver’s license or
20 personal identification card shall be accepted by
21 a Federal agency for any official purpose unless
22 such driver’s license or personal identification
23 card conforms to the minimum standards estab-
24 lished under paragraph (2). The date shall be
25 as early as the Secretary determines it is prac-

1 ticable for the States to comply with such date
2 with reasonable efforts.

3 (C) STATE CERTIFICATION.—

4 (i) IN GENERAL.—Each State shall
5 certify to the Secretary of Transportation
6 that the State is in compliance with the re-
7 quirements of this section.

8 (ii) FREQUENCY.—Certifications
9 under clause (i) shall be made at such in-
10 intervals and in such a manner as the Sec-
11 retary of Transportation, with the concur-
12 rence of the Secretary of Homeland Secu-
13 rity, may prescribe by regulation.

14 (iii) AUDITS.—The Secretary of
15 Transportation may conduct periodic au-
16 dits of each State’s compliance with the re-
17 quirements of this section.

18 (2) MINIMUM STANDARDS.—Not later than 18
19 months after the date of enactment of this Act, the
20 Secretary of Transportation, in consultation with the
21 Secretary of Homeland Security, shall by regulation,
22 establish minimum standards for driver’s licenses or
23 personal identification cards issued by a State for
24 use by Federal agencies for identification purposes
25 that shall include—

1 (A) standards for documentation required
2 as proof of identity of an applicant for a driv-
3 er's license or personal identification card;

4 (B) standards for the verifiability of docu-
5 ments used to obtain a driver's license or per-
6 sonal identification card;

7 (C) standards for the processing of appli-
8 cations for driver's licenses and personal identi-
9 fication cards to prevent fraud;

10 (D) security standards to ensure that driv-
11 er's licenses and personal identification cards
12 are—

13 (i) resistant to tampering, alteration,
14 or counterfeiting; and

15 (ii) capable of accommodating and en-
16 suring the security of a digital photograph
17 or other unique identifier; and

18 (E) a requirement that a State confiscate
19 a driver's license or personal identification card
20 if any component or security feature of the li-
21 cense or identification card is compromised.

22 (3) CONTENT OF REGULATIONS.—The regula-
23 tions required by paragraph (2)—

24 (A) shall facilitate communication between
25 the chief driver licensing official of a State, an

1 appropriate official of a Federal agency and
2 other relevant officials, to verify the authen-
3 ticity of documents, as appropriate, issued by
4 such Federal agency or entity and presented to
5 prove the identity of an individual;

6 (B) may not infringe on a State's power to
7 set criteria concerning what categories of indi-
8 viduals are eligible to obtain a driver's license
9 or personal identification card from that State;

10 (C) may not require a State to comply with
11 any such regulation that conflicts with or other-
12 wise interferes with the full enforcement of
13 State criteria concerning the categories of indi-
14 viduals that are eligible to obtain a driver's li-
15 cense or personal identification card from that
16 State;

17 (D) may not require a single design to
18 which driver's licenses or personal identification
19 cards issued by all States must conform; and

20 (E) shall include procedures and require-
21 ments to protect the privacy and civil and due
22 process rights of individuals who apply for and
23 hold driver's licenses and personal identification
24 cards.

25 (4) NEGOTIATED RULEMAKING.—

1 (A) IN GENERAL.—Before publishing the
2 proposed regulations required by paragraph (2)
3 to carry out this title, the Secretary of Trans-
4 portation shall establish a negotiated rule-
5 making process pursuant to subchapter IV of
6 chapter 5 of title 5, United States Code (5
7 U.S.C. 561 et seq.).

8 (B) REPRESENTATION ON NEGOTIATED
9 RULEMAKING COMMITTEE.—Any negotiated
10 rulemaking committee established by the Sec-
11 retary of Transportation pursuant to subpara-
12 graph (A) shall include representatives from—

13 (i) among State offices that issue
14 driver’s licenses or personal identification
15 cards;

16 (ii) among State elected officials;

17 (iii) the Department of Homeland Se-
18 curity; and

19 (iv) among interested parties, includ-
20 ing organizations with technological and
21 operational expertise in document security
22 and organizations that represent the inter-
23 ests of applicants for such licenses or iden-
24 tification cards.

1 (C) TIME REQUIREMENT.—The process de-
2 scribed in subparagraph (A) shall be conducted
3 in a timely manner to ensure that—

4 (i) any recommendation for a pro-
5 posed rule or report is provided to the Sec-
6 retary of Transportation not later than 9
7 months after the date of enactment of this
8 Act and shall include an assessment of the
9 benefits and costs of the recommendation;
10 and

11 (ii) a final rule is promulgated not
12 later than 18 months after the date of en-
13 actment of this Act.

14 (c) GRANTS TO STATES.—

15 (1) ASSISTANCE IN MEETING FEDERAL STAND-
16 ARDS.—Beginning on the date a final regulation is
17 promulgated under subsection (b)(2), the Secretary
18 of Transportation shall award grants to States to
19 assist them in conforming to the minimum stand-
20 ards for driver’s licenses and personal identification
21 cards set forth in the regulation.

22 (2) ALLOCATION OF GRANTS.—The Secretary
23 of Transportation shall award grants to States
24 under this subsection based on the proportion that
25 the estimated average annual number of driver’s li-

1 censes and personal identification cards issued by a
2 State applying for a grant bears to the average an-
3 nual number of such documents issued by all States.

4 (3) MINIMUM ALLOCATION.—Notwithstanding
5 paragraph (2), each State shall receive not less than
6 0.5 percent of the grant funds made available under
7 this subsection.

8 (d) EXTENSION OF EFFECTIVE DATE.—The Sec-
9 retary of Transportation may extend the date specified
10 under subsection (b)(1)(A) for up to 2 years for driver’s
11 licenses issued by a State if the Secretary determines that
12 the State made reasonable efforts to comply with the date
13 under such subsection but was unable to do so.

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary of
16 Transportation for each of the fiscal years 2005 through
17 2009, such sums as may be necessary to carry out this
18 section.

19 **SEC. 1028. SOCIAL SECURITY CARDS.**

20 (a) SECURITY ENHANCEMENTS.—The Commissioner
21 of Social Security shall—

22 (1) not later than 180 days after the date of
23 enactment of this section, issue regulations to re-
24 strict the issuance of multiple replacement social se-
25 curity cards to any individual to minimize fraud;

1 (2) within 1 year after the date of enactment
2 of this section, require verification of records pro-
3 vided by an applicant for an original social security
4 card, other than for purposes of enumeration at
5 birth; and

6 (3) within 18 months after the date of enact-
7 ment of this section, add death, fraud, and work au-
8 thorization indicators to the social security number
9 verification system.

10 (b) INTERAGENCY SECURITY TASK FORCE.—The
11 Commissioner of Social Security, in consultation with the
12 Secretary of Homeland Security, shall form an inter-
13 agency task force for the purpose of further improving the
14 security of social security cards and numbers. Not later
15 than 1 year after the date of enactment of this section,
16 the task force shall establish security requirements, in-
17 cluding—

18 (1) standards for safeguarding social security
19 cards from counterfeiting, tampering, alteration, and
20 theft;

21 (2) requirements for verifying documents sub-
22 mitted for the issuance of replacement cards; and

23 (3) actions to increase enforcement against the
24 fraudulent use or issuance of social security numbers
25 and cards.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Commissioner of
3 Social Security for each of the fiscal years 2005 through
4 2009, such sums as may be necessary to carry out this
5 section.

6 **SEC. 1029. EFFECTIVE DATE.**

7 Notwithstanding any other provision of this Act, this
8 title shall take effect on the date of enactment of this Act.

9 **Subtitle C—Transportation**
10 **Security**

11 **SEC. 1031. DEFINITIONS.**

12 In this title, the terms “air carrier”, “air transpor-
13 tation”, “aircraft”, “airport”, “cargo”, “foreign air car-
14 rier”, and “intrastate air transportation” have the mean-
15 ings given such terms in section 40102 of title 49, United
16 States Code.

17 **SEC. 1032. NATIONAL STRATEGY FOR TRANSPORTATION SE-**
18 **CURITY.**

19 (a) REQUIREMENT FOR STRATEGY.—

20 (1) RESPONSIBILITIES OF SECRETARY OF
21 HOMELAND SECURITY.—The Secretary of Homeland
22 Security shall—

23 (A) develop and implement a National
24 Strategy for Transportation Security; and

1 (B) revise such strategy whenever nec-
2 essary to improve or to maintain the currency
3 of the strategy or whenever the Secretary other-
4 wise considers it appropriate to do so.

5 (2) CONSULTATION WITH SECRETARY OF
6 TRANSPORTATION.—The Secretary of Homeland Se-
7 curity shall consult with the Secretary of Transpor-
8 tation in developing and revising the National Strat-
9 egy for Transportation Security under this section.

10 (b) CONTENT.—The National Strategy for Transpor-
11 tation Security shall include the following matters:

12 (1) An identification and evaluation of the
13 transportation assets within the United States that,
14 in the interests of national security, must be pro-
15 tected from attack or disruption by terrorist or other
16 hostile forces, including aviation, bridge and tunnel,
17 commuter rail and ferry, highway, maritime, pipe-
18 line, rail, urban mass transit, and other public trans-
19 portation infrastructure assets that could be at risk
20 of such an attack or disruption.

21 (2) The development of the risk-based prior-
22 ities, and realistic deadlines, for addressing security
23 needs associated with those assets.

1 (3) The most practical and cost-effective means
2 of defending those assets against threats to their se-
3 curity.

4 (4) A forward-looking strategic plan that as-
5 signs transportation security roles and missions to
6 departments and agencies of the Federal Govern-
7 ment (including the Armed Forces), State govern-
8 ments (including the Army National Guard and Air
9 National Guard), local governments, and public utili-
10 ties, and establishes mechanisms for encouraging
11 private sector cooperation and participation in the
12 implementation of such plan.

13 (5) A comprehensive delineation of response
14 and recovery responsibilities and issues regarding
15 threatened and executed acts of terrorism within the
16 United States.

17 (6) A prioritization of research and development
18 objectives that support transportation security
19 needs, giving a higher priority to research and devel-
20 opment directed toward protecting vital assets.

21 (7) A budget and recommendations for appro-
22 priate levels and sources of funding to meet the ob-
23 jectives set forth in the strategy.

24 (c) SUBMISSIONS TO CONGRESS.—

25 (1) THE NATIONAL STRATEGY.—

1 (A) INITIAL STRATEGY.—The Secretary of
2 Homeland Security shall submit the National
3 Strategy for Transportation Security developed
4 under this section to Congress not later than
5 April 1, 2005.

6 (B) SUBSEQUENT VERSIONS.—After 2005,
7 the Secretary of Homeland Security shall sub-
8 mit the National Strategy for Transportation
9 Security, including any revisions, to Congress
10 not less frequently than April 1 of each even-
11 numbered year.

12 (2) PERIODIC PROGRESS REPORT.—

13 (A) REQUIREMENT FOR REPORT.—Each
14 year, in conjunction with the submission of the
15 budget to Congress under section 1105(a) of
16 title 31, United States Code, the Secretary of
17 Homeland Security shall submit to Congress an
18 assessment of the progress made on imple-
19 menting the National Strategy for Transpor-
20 tation Security.

21 (B) CONTENT.—Each progress report
22 under this paragraph shall include, at a min-
23 imum, the following matters:

24 (i) An assessment of the adequacy of
25 the resources committed to meeting the ob-

1 jectives of the National Strategy for
2 Transportation Security.

3 (ii) Any recommendations for improv-
4 ing and implementing that strategy that
5 the Secretary, in consultation with the Sec-
6 retary of Transportation, considers appro-
7 priate.

8 (3) CLASSIFIED MATERIAL.—Any part of the
9 National Strategy for Transportation Security that
10 involves information that is properly classified under
11 criteria established by Executive order shall be sub-
12 mitted to Congress separately in classified form.

13 (d) PRIORITY STATUS.—

14 (1) IN GENERAL.—The National Strategy for
15 Transportation Security shall be the governing docu-
16 ment for Federal transportation security efforts.

17 (2) OTHER PLANS AND REPORTS.—The Na-
18 tional Strategy for Transportation Security shall in-
19 clude, as an integral part or as an appendix—

20 (A) the current National Maritime Trans-
21 portation Security Plan under section 70103 of
22 title 46, United States Code;

23 (B) the report required by section 44938
24 of title 49, United States Code; and

1 (C) any other transportation security plan
2 or report that the Secretary of Homeland Secu-
3 rity determines appropriate for inclusion.

4 **SEC. 1033. USE OF WATCHLISTS FOR PASSENGER AIR**
5 **TRANSPORTATION SCREENING.**

6 (a) IN GENERAL.—The Secretary of Homeland Secu-
7 rity, acting through the Transportation Security Adminis-
8 tration, as soon as practicable after the date of the enact-
9 ment of this Act but in no event later than 180 days after
10 that date, shall—

11 (1) implement a procedure under which the
12 Transportation Security Administration compares
13 information about passengers who are to be carried
14 aboard a passenger aircraft operated by an air car-
15 rier or foreign air carrier in air transportation or
16 intrastate air transportation for flights and flight
17 segments originating in the United States with a
18 comprehensive, consolidated database containing in-
19 formation about known or suspected terrorists and
20 their associates; and

21 (2) use the information obtained by comparing
22 the passenger information with the information in
23 the database to prevent known or suspected terror-
24 ists and their associates from boarding such flights
25 or flight segments or to subject them to specific ad-

1 ditional security scrutiny, through the use of “no
2 fly” and “automatic selectee” lists or other means.

3 (b) AIR CARRIER COOPERATION.—The Secretary of
4 Homeland Security, in coordination with the Secretary of
5 Transportation, shall by order require air carriers to pro-
6 vide the passenger information necessary to implement the
7 procedure required by subsection (a).

8 (c) MAINTAINING THE ACCURACY AND INTEGRITY OF
9 THE “NO FLY” AND “AUTOMATIC SELECTEE” LISTS.—

10 (1) WATCHLIST DATABASE.—The Secretary of
11 Homeland Security, in consultation with the Direc-
12 tor of the Federal Bureau of Investigation, shall de-
13 sign guidelines, policies, and operating procedures
14 for the collection, removal, and updating of data
15 maintained, or to be maintained, in the watchlist
16 database described in subsection (a)(1) that are de-
17 signed to ensure the accuracy and integrity of the
18 database.

19 (2) ACCURACY OF ENTRIES.—In developing the
20 “no fly” and “automatic selectee” lists under sub-
21 section (a)(2), the Secretary of Homeland Security
22 shall establish a simple and timely method for cor-
23 recting erroneous entries, for clarifying information
24 known to cause false hits or misidentification errors,
25 and for updating relevant information that is dis-

1 positive in the passenger screening process. The Sec-
2 retary shall also establish a process to provide indi-
3 viduals whose names are confused with, or similar
4 to, names in the database with a means of dem-
5 onstrating that they are not a person named in the
6 database.

7 **SEC. 1034. ENHANCED PASSENGER AND CARGO SCREEN-**
8 **ING.**

9 (a) AIRCRAFT PASSENGER SCREENING AT CHECK-
10 POINTS.—

11 (1) DETECTION OF EXPLOSIVES.—

12 (A) IMPROVEMENT OF CAPABILITIES.—As
13 soon as practicable after the date of the enact-
14 ment of this Act, the Secretary of Homeland
15 Security shall take such action as is necessary
16 to improve the capabilities at passenger screen-
17 ing checkpoints, especially at commercial air-
18 ports, to detect explosives carried aboard air-
19 craft by passengers or placed aboard aircraft by
20 passengers.

21 (B) INTERIM ACTION.—Until measures are
22 implemented that enable the screening of all
23 passengers for explosives, the Secretary shall
24 take immediate measures to require Transpor-
25 tation Security Administration or other screen-

1 ers to screen for explosives any individual iden-
2 tified for additional screening before that indi-
3 vidual may board an aircraft.

4 (2) IMPLEMENTATION REPORT.—

5 (A) REQUIREMENT FOR REPORT.—Within
6 90 days after the date of the enactment of this
7 Act, the Secretary of Homeland Security shall
8 transmit to the Senate and the House of Rep-
9 resentatives a report on how the Secretary in-
10 tends to achieve the objectives of the actions re-
11 quired under paragraph (1). The report shall
12 include an implementation schedule.

13 (B) CLASSIFIED INFORMATION.—The Sec-
14 retary may submit separately in classified form
15 any information in the report under subpara-
16 graph (A) that involves information that is
17 properly classified under criteria established by
18 Executive order.

19 (b) ACCELERATION OF RESEARCH AND DEVELOP-
20 MENT ON, AND DEPLOYMENT OF, DETECTION OF EXPLO-
21 SIVES.—

22 (1) REQUIRED ACTION.—The Secretary of
23 Homeland Security, in consultation with the Sec-
24 retary of Transportation, shall take such action as
25 may be necessary to accelerate research and develop-

1 ment and deployment of technology for screening
2 aircraft passengers for explosives during or before
3 the aircraft boarding process.

4 (2) AUTHORIZATION OF APPROPRIATIONS.—

5 There are authorized to be appropriated to the Sec-
6 retary such sums as are necessary to carry out this
7 subsection for each of fiscal years 2005 through
8 2009.

9 (c) IMPROVEMENT OF SCREENER JOB PERFORM-
10 ANCE.—

11 (1) REQUIRED ACTION.—The Secretary of
12 Homeland Security shall take such action as may be
13 necessary to improve the job performance of airport
14 screening personnel.

15 (2) HUMAN FACTORS STUDY.—In carrying out
16 this subsection, the Secretary shall, not later than
17 180 days after the date of the enactment of this Act,
18 conduct a human factors study in order better to un-
19 derstand problems in screener performance and to
20 set attainable objectives for individual screeners and
21 screening checkpoints.

22 (d) CHECKED BAGGAGE AND CARGO.—

23 (1) IN-LINE BAGGAGE SCREENING.—The Sec-
24 retary of Homeland Security shall take such action
25 as may be necessary to expedite the installation and

1 use of advanced in-line baggage-screening equipment
2 at commercial airports.

3 (2) CARGO SECURITY.—The Secretary shall
4 take such action as may be necessary to ensure that
5 the Transportation Security Administration in-
6 creases and improves its efforts to screen potentially
7 dangerous cargo.

8 (e) BLAST-RESISTANT CARGO AND BAGGAGE CON-
9 TAINERS.—

10 (1) IN GENERAL.—The Secretary of Homeland
11 Security, in coordination with the Secretary of
12 Transportation—

13 (A) shall assess the feasibility of requiring
14 the use of blast-resistant containers for cargo
15 and baggage on passenger aircraft to minimize
16 the potential effects of detonation of an explo-
17 sive device; and

18 (B) may require their use on some or all
19 flights on aircraft for which such containers are
20 available.

21 (2) PILOT PROGRAM.—Before requiring the use
22 of such containers on any such flights, the Secretary
23 of Homeland Security shall conduct a pilot program
24 to evaluate the use of currently available blast-resist-
25 ant containers for cargo and baggage on passenger

1 aircraft. In conducting the pilot program the Sec-
2 retary—

3 (A) shall test the feasibility of using the
4 containers by deploying them on participating
5 air carrier flights; but

6 (B) may not disclose to the public the
7 number of blast-resistant containers being used
8 in the program or publicly identify the flights
9 on which the containers are used.

10 (3) ASSISTANCE FOR PARTICIPATION IN PILOT
11 PROGRAM.—

12 (A) IN GENERAL.—As part of the pilot
13 program, the Secretary may provide assistance
14 to air carriers to volunteer to test the use of
15 blast-resistant containers for cargo and baggage
16 on passenger aircraft.

17 (B) APPLICATIONS.—To volunteer to par-
18 ticipate in the incentive program, an air carrier
19 shall submit to the Secretary an application
20 that is in such form and contains such informa-
21 tion as the Secretary requires.

22 (C) TYPES OF ASSISTANCE.—Assistance
23 provided by the Secretary to air carriers that
24 volunteer to participate in the pilot program
25 may include the use of blast-resistant con-

1 tainers and financial assistance to cover in-
2 creased costs to the carriers associated with the
3 use and maintenance of the containers, includ-
4 ing increased fuel costs.

5 (4) TECHNOLOGICAL IMPROVEMENTS.—The
6 Secretary of Homeland Security, in cooperation with
7 the Secretary of Transportation, shall—

8 (A) support efforts to further the develop-
9 ment and improvement of blast-resistant con-
10 tainers for potential use on aircraft, including
11 designs that—

12 (i) will work on a variety of aircraft,
13 including narrow body aircraft; and

14 (ii) minimize the weight of such con-
15 tainers without compromising their effec-
16 tiveness; and

17 (B) explore alternative technologies for
18 minimizing the potential effects of detonation of
19 an explosive device on cargo and passenger air-
20 craft.

21 (5) REPORT.—Not later than one year after the
22 date of enactment of this Act, the Secretary shall
23 submit a report to the Congress on the results of the
24 pilot program and on progress made in developing
25 improved containers and equivalent technologies.

1 The report may be submitted in classified and re-
2 dacted formats.

3 (6) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated to the Sec-
5 retary of Homeland Security such sums as are nec-
6 essary to carry out this section. Such sums shall re-
7 main available until expended.

8 (f) COST-SHARING.—Not later than 45 days after the
9 date of the enactment of this Act, the Secretary of Home-
10 land Security, in consultation with representatives of air
11 carriers, airport operators, and other interested parties,
12 shall submit to the Senate and the House of Representa-
13 tives—

14 (1) a proposed formula for cost-sharing, for the
15 advanced in-line baggage screening equipment re-
16 quired by this title, between and among the Federal
17 Government, State and local governments, and the
18 private sector that reflects proportionate national se-
19 curity benefits and private sector benefits for such
20 enhancement; and

21 (2) recommendations, including recommended
22 legislation, for an equitable, feasible, and expeditious
23 system for defraying the costs of the advanced in-
24 line baggage screening equipment required by this

1 title, which may be based on the formula proposed
2 under paragraph (1).

3 **SEC. 1035. EFFECTIVE DATE.**

4 This title takes effect on the date of enactment of
5 this Act.

6 **Subtitle D—National Preparedness**

7 **SEC. 1041. THE INCIDENT COMMAND SYSTEM.**

8 (a) FINDINGS.—Consistent with the report of the Na-
9 tional Commission on Terrorist Attacks Upon the United
10 States, Congress makes the following findings:

11 (1) The attacks on September 11, 2001, dem-
12 onstrated that even the most robust emergency re-
13 sponse capabilities can be overwhelmed if an attack
14 is large enough.

15 (2) Teamwork, collaboration, and cooperation
16 at an incident site are critical to a successful re-
17 sponse to a terrorist attack.

18 (3) Key decision makers who are represented at
19 the incident command level help to ensure an effec-
20 tive response, the efficient use of resources, and re-
21 sponder safety.

22 (4) Regular joint training at all levels is essen-
23 tial to ensuring close coordination during an actual
24 incident.

1 (5) Beginning with fiscal year 2005, the De-
2 partment of Homeland Security is requiring that en-
3 tities adopt the Incident Command System and
4 other concepts of the National Incident Management
5 System in order to qualify for funds distributed by
6 the Office of State and Local Government Coordina-
7 tion and Preparedness.

8 (b) SENSE OF CONGRESS.—It is the sense of Con-
9 gress that—

10 (1) emergency response agencies nationwide
11 should adopt the Incident Command System;

12 (2) when multiple agencies or multiple jurisdic-
13 tions are involved, they should follow a unified com-
14 mand system; and

15 (3) the Secretary of Homeland Security should
16 require, as a further condition of receiving homeland
17 security preparedness funds from the Office of State
18 and Local Government Coordination and Prepared-
19 ness, that grant applicants document measures
20 taken to fully and aggressively implement the Inci-
21 dent Command System and unified command proce-
22 dures.

23 **SEC. 1042. NATIONAL CAPITAL REGION MUTUAL AID.**

24 (a) DEFINITIONS.—In this section:

1 (1) AUTHORIZED REPRESENTATIVE OF THE
2 FEDERAL GOVERNMENT.—The term “authorized
3 representative of the Federal Government” means
4 any individual or individuals designated by the
5 President with respect to the executive branch, the
6 Chief Justice with respect to the Federal judiciary,
7 or the President of the Senate and Speaker of the
8 House of Representatives with respect to Congress,
9 or their designees, to request assistance under a Mu-
10 tual Aid Agreement for an emergency or public serv-
11 ice event.

12 (2) CHIEF OPERATING OFFICER.—The term
13 “chief operating officer” means the official des-
14 ignated by law to declare an emergency in and for
15 the locality of that chief operating officer.

16 (3) EMERGENCY.—The term “emergency”
17 means a major disaster or emergency declared by
18 the President, or a state of emergency declared by
19 the Mayor of the District of Columbia, the Governor
20 of the State of Maryland or the Commonwealth of
21 Virginia, or the declaration of a local emergency by
22 the chief operating officer of a locality, or their des-
23 ignees, that triggers mutual aid under the terms of
24 a Mutual Aid Agreement.

1 (4) EMPLOYEE.—The term “employee” means
2 the employees of the party, including its agents or
3 authorized volunteers, who are committed in a Mu-
4 tual Aid Agreement to prepare for or who respond
5 to an emergency or public service event.

6 (5) LOCALITY.—The term “locality” means a
7 county, city, or town within the State of Maryland
8 or the Commonwealth of Virginia and within the
9 National Capital Region.

10 (6) MUTUAL AID AGREEMENT.—The term “Mu-
11 tual Aid Agreement” means an agreement, author-
12 ized under subsection (b) for the provision of police,
13 fire, rescue and other public safety and health or
14 medical services to any party to the agreement dur-
15 ing a public service event, an emergency, or pre-
16 planned training event.

17 (7) NATIONAL CAPITAL REGION OR REGION.—
18 The term “National Capital Region” or “Region”
19 means the area defined under section 2674(f)(2) of
20 title 10, United States Code, and those counties with
21 a border abutting that area and any municipalities
22 therein.

23 (8) PARTY.—The term “party” means the
24 State of Maryland, the Commonwealth of Virginia,
25 the District of Columbia, and any of the localities

1 duly executing a Mutual Aid Agreement under this
2 section.

3 (9) PUBLIC SERVICE EVENT.—The term “pub-
4 lic service event”—

5 (A) means any undeclared emergency, inci-
6 dent or situation in preparation for or response
7 to which the Mayor of the District of Columbia,
8 an authorized representative of the Federal
9 Government, the Governor of the State of
10 Maryland, the Governor of the Commonwealth
11 of Virginia, or the chief operating officer of a
12 locality in the National Capital Region, or their
13 designees, requests or provides assistance under
14 a Mutual Aid Agreement within the National
15 Capital Region; and

16 (B) includes Presidential inaugurations,
17 public gatherings, demonstrations and protests,
18 and law enforcement, fire, rescue, emergency
19 health and medical services, transportation,
20 communications, public works and engineering,
21 mass care, and other support that require
22 human resources, equipment, facilities or serv-
23 ices supplemental to or greater than the re-
24 questing jurisdiction can provide.

1 (10) STATE.—The term “State” means the
2 State of Maryland, the Commonwealth of Virginia,
3 and the District of Columbia.

4 (11) TRAINING.—The term “training” means
5 emergency and public service event-related exercises,
6 testing, or other activities using equipment and per-
7 sonnel to simulate performance of any aspect of the
8 giving or receiving of aid by National Capital Region
9 jurisdictions during emergencies or public service
10 events, such actions occurring outside actual emer-
11 gency or public service event periods.

12 (b) MUTUAL AID AUTHORIZED.—

13 (1) IN GENERAL.—The Mayor of the District of
14 Columbia, any authorized representative of the Fed-
15 eral Government, the Governor of the State of Mary-
16 land, the Governor of the Commonwealth of Vir-
17 ginia, or the chief operating officer of a locality, or
18 their designees, acting within his or her jurisdic-
19 tional purview, may, subject to State law, enter into,
20 request or provide assistance under Mutual Aid
21 Agreements with localities, the Washington Metro-
22 politan Area Transit Authority, the Metropolitan
23 Washington Airports Authority, and any other gov-
24 ernmental agency or authority for—

1 (A) law enforcement, fire, rescue, emer-
2 gency health and medical services, transpor-
3 tation, communications, public works and engi-
4 neering, mass care, and resource support in an
5 emergency or public service event;

6 (B) preparing for, mitigating, managing,
7 responding to or recovering from any emer-
8 gency or public service event; and

9 (C) training for any of the activities de-
10 scribed under subparagraphs (A) and (B).

11 (2) FACILITATING LOCALITIES.—The State of
12 Maryland and the Commonwealth of Virginia are en-
13 couraged to facilitate the ability of localities to enter
14 into interstate Mutual Aid Agreements in the Na-
15 tional Capital Region under this section.

16 (3) APPLICATION AND EFFECT.—This section—

17 (A) does not apply to law enforcement se-
18 curity operations at special events of national
19 significance under section 3056(e) of title 18,
20 United States Code, or other law enforcement
21 functions of the United States Secret Service;

22 (B) does not diminish any authorities, ex-
23 press or implied, of Federal agencies to enter
24 into Mutual Aid Agreements in furtherance of
25 their Federal missions; and

1 (C) does not—

2 (i) preclude any party from entering
3 into supplementary Mutual Aid Agree-
4 ments with fewer than all the parties, or
5 with another party; or

6 (ii) affect any other agreement in ef-
7 fect before the date of enactment of this
8 Act among the States and localities, in-
9 cluding the Emergency Management As-
10 sistance Compact.

11 (4) RIGHTS DESCRIBED.—Other than as de-
12 scribed in this section, the rights and responsibilities
13 of the parties to a Mutual Aid Agreement entered
14 into under this section shall be as described in the
15 Mutual Aid Agreement.

16 (c) DISTRICT OF COLUMBIA.—

17 (1) IN GENERAL.—The District of Columbia
18 may purchase liability and indemnification insurance
19 or become self insured against claims arising under
20 a Mutual Aid Agreement authorized under this sec-
21 tion.

22 (2) AUTHORIZATION OF APPROPRIATIONS.—
23 There are authorized to be appropriated such sums
24 as may be necessary to carry out paragraph (1).

25 (d) LIABILITY AND ACTIONS AT LAW.—

1 (1) IN GENERAL.—Any responding party or its
2 officers or employees rendering aid or failing to
3 render aid to the District of Columbia, the Federal
4 Government, the State of Maryland, the Common-
5 wealth of Virginia, or a locality, under a Mutual Aid
6 Agreement authorized under this section, and any
7 party or its officers or employees engaged in training
8 activities with another party under such a Mutual
9 Aid Agreement, shall be liable on account of any act
10 or omission of its officers or employees while so en-
11 gaged or on account of the maintenance or use of
12 any related equipment, facilities, or supplies, but
13 only to the extent permitted under the laws and pro-
14 cedures of the State of the party rendering aid.

15 (2) ACTIONS.—Any action brought against a
16 party or its officers or employees on account of an
17 act or omission in the rendering of aid to the Dis-
18 trict of Columbia, the Federal Government, the
19 State of Maryland, the Commonwealth of Virginia,
20 or a locality, or failure to render such aid or on ac-
21 count of the maintenance or use of any related
22 equipment, facilities, or supplies may be brought
23 only under the laws and procedures of the State of
24 the party rendering aid and only in the Federal or
25 State courts located therein. Actions against the

1 United States under this section may be brought
2 only in Federal courts.

3 (3) GOOD FAITH EXCEPTION.—

4 (A) DEFINITION.—In this paragraph, the
5 term “good faith” shall not include willful mis-
6 conduct, gross negligence, or recklessness.

7 (B) EXCEPTION.—No State or locality, or
8 its officers or employees, rendering aid to an-
9 other party, or engaging in training, under a
10 Mutual Aid Agreement shall be liable under
11 Federal law on account of any act or omission
12 performed in good faith while so engaged, or on
13 account of the maintenance or use of any re-
14 lated equipment, facilities, or supplies per-
15 formed in good faith.

16 (4) IMMUNITIES.—This section shall not abro-
17 gate any other immunities from liability that any
18 party has under any other Federal or State law.

19 (d) WORKERS COMPENSATION.—

20 (1) COMPENSATION.—Each party shall provide
21 for the payment of compensation and death benefits
22 to injured members of the emergency forces of that
23 party and representatives of deceased members of
24 such forces if such members sustain injuries or are
25 killed while rendering aid to the District of Colum-

1 bia, the Federal Government, the State of Maryland,
2 the Commonwealth of Virginia, or a locality, under
3 a Mutual Aid Agreement, or engaged in training ac-
4 tivities under a Mutual Aid Agreement, in the same
5 manner and on the same terms as if the injury or
6 death were sustained within their own jurisdiction.

7 (2) OTHER STATE LAW.—No party shall be lia-
8 ble under the law of any State other than its own
9 for providing for the payment of compensation and
10 death benefits to injured members of the emergency
11 forces of that party and representatives of deceased
12 members of such forces if such members sustain in-
13 juries or are killed while rendering aid to the Dis-
14 trict of Columbia, the Federal Government, the
15 State of Maryland, the Commonwealth of Virginia,
16 or a locality, under a Mutual Aid Agreement or en-
17 gaged in training activities under a Mutual Aid
18 Agreement.

19 (e) LICENSES AND PERMITS.—If any person holds a
20 license, certificate, or other permit issued by any respond-
21 ing party evidencing the meeting of qualifications for pro-
22 fessional, mechanical, or other skills and assistance is re-
23 quested by a receiving jurisdiction, such person will be
24 deemed licensed, certified, or permitted by the receiving
25 jurisdiction to render aid involving such skill to meet a

1 public service event, emergency or training for any such
2 events.

3 **SEC. 1043. URBAN AREA COMMUNICATIONS CAPABILITIES.**

4 (a) IN GENERAL.—Title V of the Homeland Security
5 Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding
6 at the end the following:

7 **“SEC. 510. HIGH RISK URBAN AREA COMMUNICATIONS CA-**
8 **PABILITIES.**

9 “The Secretary, in consultation with the Federal
10 Communications Commission and the Secretary of De-
11 fense, and with appropriate governors, mayors, and other
12 State and local government officials, shall encourage and
13 support the establishment of consistent and effective com-
14 munications capabilities in the event of an emergency in
15 urban areas determined by the Secretary to be at consist-
16 ently high levels of risk from terrorist attack. Such com-
17 munications capabilities shall ensure the ability of all lev-
18 els of government agencies, including military authorities,
19 and of first responders, hospitals, and other organizations
20 with emergency response capabilities to communicate with
21 each other in the event of an emergency. Additionally, the
22 Secretary, in conjunction with the Secretary of Defense,
23 shall develop plans to provide back-up and additional com-
24 munications support in the event of an emergency.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
2 Section 1(b) of that Act is amended by inserting after the
3 item relating to section 509 the following:

“Sec. 510. High risk urban area communications capabilities.”.

4 **SEC. 1044. PRIVATE SECTOR PREPAREDNESS.**

5 (a) FINDINGS.—Consistent with the report of the Na-
6 tional Commission on Terrorist Attacks Upon the United
7 States, Congress makes the following findings:

8 (1) Private sector organizations own 85 percent
9 of the Nation’s critical infrastructure and employ
10 the vast majority of the Nation’s workers.

11 (2) Unless a terrorist attack targets a military
12 or other secure government facility, the first people
13 called upon to respond will likely be civilians.

14 (3) Despite the exemplary efforts of some pri-
15 vate entities, the private sector remains largely un-
16 prepared for a terrorist attack, due in part to the
17 lack of a widely accepted standard for private sector
18 preparedness.

19 (4) Preparedness in the private sector and pub-
20 lic sector for rescue, restart and recovery of oper-
21 ations should include—

22 (A) a plan for evacuation;

23 (B) adequate communications capabilities;

24 and

25 (C) a plan for continuity of operations.

1 (5) The American National Standards Institute
2 recommends a voluntary national preparedness
3 standard for the private sector based on the existing
4 American National Standard on Disaster/Emergency
5 Management and Business Continuity Programs
6 (NFPA 1600), with appropriate modifications. This
7 standard would establish a common set of criteria
8 and terminology for preparedness, disaster manage-
9 ment, emergency management, and business con-
10 tinuity programs.

11 (6) The mandate of the Department of Home-
12 land Security extends to working with the private
13 sector, as well as government entities.

14 (b) PRIVATE SECTOR PREPAREDNESS PROGRAM.—

15 (1) IN GENERAL.—Title V of the Homeland Se-
16 curity Act of 2002 (6 U.S.C. 311 et seq.), as amend-
17 ed by section 805, is amended by adding at the end
18 the following:

19 **“SEC. 511. PRIVATE SECTOR PREPAREDNESS PROGRAM.**

20 “The Secretary shall establish a program to promote
21 private sector preparedness for terrorism and other emer-
22 gencies, including promoting the adoption of a voluntary
23 national preparedness standard such as the private sector
24 preparedness standard developed by the American Na-
25 tional Standards Institute and based on the National Fire

1 Protection Association 1600 Standard on Disaster/Emer-
2 gency Management and Business Continuity Programs.”.

3 (2) TECHNICAL AND CONFORMING AMEND-
4 MENT.—Section 1(b) of that Act, as amended by
5 section 805, is amended by inserting after the item
6 relating to section 510 the following:

“Sec. 511. Private sector preparedness program.”.

7 (c) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that insurance and credit-rating industries should
9 consider compliance with the voluntary national prepared-
10 ness standard, the adoption of which is promoted by the
11 Secretary of Homeland Security under section 511 of the
12 Homeland Security Act of 2002, as added by subsection
13 (b), in assessing insurability and credit worthiness.

14 **SEC. 1045. CRITICAL INFRASTRUCTURE AND READINESS**
15 **ASSESSMENTS.**

16 (a) FINDINGS.—Congress finds the following:

17 (1) Under section 201 of the Homeland Secu-
18 rity Act of 2002 (6 U.S.C 121), the Department of
19 Homeland Security, through the Under Secretary
20 for Information Analysis and Infrastructure Protec-
21 tion, has the responsibility—

22 (A) to carry out comprehensive assess-
23 ments of the vulnerabilities of the key resources
24 and critical infrastructure of the United States,
25 including the performance of risk assessments

1 to determine the risks posed by particular types
2 of terrorist attacks within the United States;

3 (B) to identify priorities for protective and
4 supportive measures; and

5 (C) to develop a comprehensive national
6 plan for securing the key resources and critical
7 infrastructure of the United States.

8 (2) Under Homeland Security Presidential Di-
9 rective 7, issued on December 17, 2003, the Sec-
10 retary of Homeland Security was given 1 year to de-
11 velop a comprehensive plan to identify, prioritize,
12 and coordinate the protection of critical infrastruc-
13 ture and key resources.

14 (3) Consistent with the report of the National
15 Commission on Terrorist Attacks Upon the United
16 States, the Secretary of Homeland Security
17 should—

18 (A) identify those elements of the United
19 States' transportation, energy, communications,
20 financial, and other institutions that need to be
21 protected;

22 (B) develop plans to protect that infra-
23 structure; and

24 (C) exercise mechanisms to enhance pre-
25 paredness.

1 (b) REPORTS ON RISK ASSESSMENT AND READI-
2 NESS.—Not later than 180 days after the date of enact-
3 ment of this Act and annually thereafter, the Secretary
4 of Homeland Security shall submit a report to Congress
5 on—

6 (1) the Department of Homeland Security’s
7 progress in completing vulnerability and risk assess-
8 ments of the Nation’s critical infrastructure;

9 (2) the adequacy of the Government’s plans to
10 protect such infrastructure; and

11 (3) the readiness of the Government to respond
12 to threats against the United States.

13 **SEC. 1046. REPORT ON NORTHERN COMMAND AND DE-**
14 **FENSE OF THE UNITED STATES HOMELAND.**

15 (a) FINDINGS.—Consistent with the report of the Na-
16 tional Commission on Terrorist Attacks Upon the United
17 States, Congress makes the following findings:

18 (1) The Department of Defense has primary re-
19 sponsibility for the military defense of the United
20 States.

21 (2) Prior to September 11, 2001, the North
22 American Aerospace Defense Command (NORAD),
23 which had responsibility for defending United States
24 airspace, focused on threats coming from outside the
25 borders of the United States.

1 (3) The United States Northern Command has
2 been established to assume responsibility for the
3 military defense of the United States, as well as to
4 provide military support to civil authorities.

5 (b) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that the Secretary of Defense should regularly assess
7 the adequacy of the plans and strategies of the United
8 States Northern Command with a view to ensuring that
9 the United States Northern Command is prepared to re-
10 spond effectively to all threats within the United States,
11 should it be called upon to do so by the President.

12 (c) ANNUAL REPORT.—

13 (1) REQUIREMENT FOR REPORT.—The Sec-
14 retary of Defense shall submit to the Committee on
15 Armed Services of the Senate and the Committee on
16 Armed Services of the House of Representatives an
17 annual report describing the plans and strategies of
18 the United States Northern Command to defend the
19 United States against all threats within the United
20 States, in the case that it is called upon to do so by
21 the President.

22 (2) SUBMISSION OF REPORT.—The annual re-
23 port required by paragraph (1) shall be submitted in
24 conjunction with the submission of the President's
25 budget request to Congress.

1 **SEC. 1047. EFFECTIVE DATE.**

2 Notwithstanding section 341 or any other provision
3 of this Act, this title takes effect on the date of the enact-
4 ment of this Act.

5 **Subtitle E—Homeland Security**
6 **Grants**

7 **SEC. 1051. SHORT TITLE.**

8 This title may be cited as the “Homeland Security
9 Grant Enhancement Act of 2004”.

10 **SEC. 1052. DEFINITIONS.**

11 In this title, the following definitions shall apply:

12 (1) **INSULAR AREA.**—The term “insular area”
13 means American Samoa, the Commonwealth of the
14 Northern Mariana Islands, the Commonwealth of
15 Puerto Rico, Guam, and the Virgin Islands.

16 (2) **LARGE HIGH-THREAT STATE FUND.**—The
17 term “Large High-Threat State Fund” means the
18 fund containing amounts authorized to be appro-
19 priated for States that elect to receive Federal finan-
20 cial assistance through a per capita share of 38.625
21 percent of the amount appropriated for the State
22 Homeland Security Grant Program.

23 (3) **LOCAL GOVERNMENT.**—The term “local
24 government” has the same meaning given that term
25 in section 2 of the Homeland Security Act of 2002
26 (6 U.S.C. 101).

1 (4) STATE.—The term “State” means each of
2 the several States of the United States and the Dis-
3 trict of Columbia.

4 (5) STATE HOMELAND SECURITY GRANT PRO-
5 GRAM.—The term “State Homeland Security Grant
6 Program” means the program receiving 75 percent
7 of the amount appropriated for the Threat-Based
8 Homeland Security Grant Program.

9 (6) THREAT-BASED HOMELAND SECURITY
10 GRANT PROGRAM.—The term “Threat-Based Home-
11 land Security Grant Program” means the program
12 authorized under section 6.

13 (7) URBAN AREA SECURITY INITIATIVE GRANT
14 PROGRAM.—The term “Urban Area Security Initia-
15 tive Grant Program” means the program receiving
16 25 percent of the amount appropriated for the
17 Threat-Based Homeland Security Grant Program.

18 **SEC. 1053. PRESERVATION OF PRE-9/11 GRANT PROGRAMS**
19 **FOR TRADITIONAL FIRST RESPONDER MIS-**
20 **SIONS.**

21 (a) IN GENERAL.—This title shall not be construed
22 to affect any authority to award grants under any Federal
23 grant program listed under subsection (b), which existed
24 on September 10, 2001, to enhance traditional missions

1 of State and local law enforcement, firefighters, ports,
2 emergency medical services, or public health missions.

3 (b) PROGRAMS INCLUDED.—The programs referred
4 to in subsection (a) are the following:

5 (1) The Firefighter Assistance Program author-
6 ized under section 33 of the Federal Fire Prevention
7 and Control Act of 1974 (15 U.S.C. 2229).

8 (2) The Emergency Management Performance
9 Grant Program and the Urban Search and Rescue
10 Grant program authorized under—

11 (A) title VI of the Robert T. Stafford Dis-
12 aster Relief and Emergency Assistance Act (42
13 U.S.C. 5195 et seq.);

14 (B) the Departments of Veterans Affairs
15 and Housing and Urban Development, and
16 Independent Agencies Appropriations Act, 2000
17 (Public Law 106–74; 113 Stat. 1047 et seq.);
18 and

19 (C) the Earthquake Hazards Reduction
20 Act of 1977 (42 U.S.C. 7701 et seq.).

21 (4) The Edward Byrne Memorial State and
22 Local Law Enforcement Assistance Programs au-
23 thorized under part E of title I of the Omnibus
24 Crime Control and Safe Streets Act of 1968 (42
25 U.S.C. 3750 et seq.).

1 (5) The Public Safety and Community Policing
2 (COPS ON THE BEAT) Grant Program authorized
3 under part Q of title I of the Omnibus Crime Con-
4 trol and Safe Streets Act of 1968 (42 U.S.C.
5 3796dd et seq.).

6 (6) Grant programs under the Public Health
7 Service Act regarding preparedness for bioterrorism
8 and other public health emergencies and the Emer-
9 gency Response Assistance Program authorized
10 under section 1412 of the Defense Against Weapons
11 of Mass Destruction Act of 1996 (50 U.S.C. 2312).

12 (7) Grant programs under the Robert T. Staf-
13 ford Disaster Relief and Emergency Assistance Act
14 (42 U.S.C. 5121-5206).

15 **SEC. 1054. INTERAGENCY COMMITTEE TO COORDINATE**
16 **AND STREAMLINE HOMELAND SECURITY**
17 **GRANT PROGRAMS.**

18 (a) IN GENERAL.—The Homeland Security Act of
19 2002 (6 U.S.C. 101 et seq.) is amended by inserting after
20 section 801 the following:

21 **“SEC. 802. INTERAGENCY COMMITTEE TO COORDINATE**
22 **AND STREAMLINE HOMELAND SECURITY**
23 **GRANT PROGRAMS.**

24 “(a) ESTABLISHMENT.—

1 “(1) IN GENERAL.—The Secretary, in coordina-
2 tion with the Attorney General, the Secretary of
3 Health and Human Services, the Secretary of
4 Transportation, the Administrator of the Environ-
5 mental Protection Agency, and other agencies pro-
6 viding assistance for first responder preparedness, as
7 identified by the President, shall establish the Inter-
8 agency Committee to Coordinate and Streamline
9 Homeland Security Grant Programs (referred to in
10 this subtitle as the ‘Interagency Committee’).

11 “(2) COMPOSITION.—The Interagency Com-
12 mittee shall be composed of—

13 “(A) a representative of the Department;

14 “(B) a representative of the Department of
15 Health and Human Services;

16 “(C) a representative of the Department of
17 Transportation;

18 “(D) a representative of the Department of
19 Justice;

20 “(E) a representative of the Environmental
21 Protection Agency; and

22 “(F) a representative of any other depart-
23 ment or agency determined to be necessary by
24 the President.

1 “(3) RESPONSIBILITIES.—The Interagency
2 Committee shall—

3 “(A) report on findings to the Information
4 Clearinghouse established under section 801(d);

5 “(B) consult with State and local govern-
6 ments and emergency response providers re-
7 garding their homeland security needs and ca-
8 pabilities;

9 “(C) advise the Secretary on the develop-
10 ment of performance measures for homeland se-
11 curity grant programs and the national strategy
12 for homeland security;

13 “(D) compile a list of homeland security
14 assistance programs;

15 “(E) not later than 1 year after the effec-
16 tive date of the Homeland Security Grant En-
17 hancement Act of 2004—

18 “(i) develop a proposal to coordinate,
19 to the maximum extent practicable, the
20 planning, reporting, application, and other
21 guidance documents contained in homeland
22 security assistance programs to eliminate
23 all redundant and duplicative require-
24 ments; and

1 “(ii) submit the proposal developed
2 under clause (i) to Congress and the Presi-
3 dent.

4 “(b) ADMINISTRATION.—The Department shall pro-
5 vide administrative support to the Interagency Committee,
6 which shall include—

7 “(1) scheduling meetings;

8 “(2) preparing agenda;

9 “(3) maintaining minutes and records; and

10 “(4) producing reports.

11 “(c) CHAIRPERSON.—The Secretary shall designate
12 a chairperson of the Interagency Committee.

13 “(d) MEETINGS.—The Interagency Committee shall
14 meet—

15 “(1) at the call of the Secretary; or

16 “(2) not less frequently than once every 1
17 month.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 The table of contents for the Homeland Security Act of
20 2002 (6 U.S.C. 101 et seq.) is amended by inserting after
21 the item relating to section 801 the following:

“Sec. 802. Interagency Committee to Coordinate and Streamline Homeland Se-
curity Grant Programs.”.

1 **SEC. 1055. STREAMLINING FEDERAL HOMELAND SECURITY**
2 **GRANTS.**

3 (a) DIRECTOR OF STATE AND LOCAL GOVERNMENT
4 COORDINATION AND PREPAREDNESS.—Section 801(a) of
5 the Homeland Security Act of 2002 (6 U.S.C. 361(a)) is
6 amended to read as follows:

7 “(a) ESTABLISHMENT.—

8 “(1) IN GENERAL.—There is established within
9 the Office of the Secretary the Office for State and
10 Local Government Coordination and Preparedness,
11 which shall oversee and coordinate departmental
12 programs for, and relationships with, State and local
13 governments.

14 “(2) EXECUTIVE DIRECTOR.—The Office estab-
15 lished under paragraph (1) shall be headed by the
16 Executive Director of State and Local Government
17 Coordination and Preparedness, who shall be ap-
18 pointed by the President, by and with the advice and
19 consent of the Senate.”.

20 (b) OFFICE FOR DOMESTIC PREPAREDNESS.—The
21 Homeland Security Act of 2002 (6 U.S.C. 101 et seq.)
22 is amended—

23 (1) by redesignating section 430 as section 803
24 and transferring that section to the end of subtitle
25 A of title VIII, as amended by section 4; and

1 (2) in section 803, as redesignated by para-
2 graph (1)—

3 (A) in subsection (a), by striking “the Di-
4 rectorate of Border and Transportation Secu-
5 rity” and inserting “the Office for State and
6 Local Government Coordination and Prepared-
7 ness”;

8 (B) in subsection (b), by striking “who
9 shall be appointed by the President” and all
10 that follows and inserting “who shall report di-
11 rectly to the Executive Director of State and
12 Local Government Coordination and Prepared-
13 ness.”;

14 (C) in subsection (c)—

15 (i) in paragraph (7)—

16 (I) by striking “other” and in-
17 serting “the”;

18 (II) by striking “consistent with
19 the mission and functions of the Di-
20 rectorate”; and

21 (III) by striking “and” at the
22 end; and

23 (ii) in paragraph (8)—

24 (I) by inserting “carrying out”
25 before “those elements”;

1 (II) by striking the period at the
2 end and inserting “; and” ; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(9) managing the Homeland Security Informa-
6 tion Clearinghouse established under section
7 801(d).”;

8 (D) by redesignating subsection (d) as sub-
9 section (e).

10 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

11 The table of contents for the Homeland Security Act of
12 2002 (6 U.S.C. 101 et seq.) is amended—

13 (1) by striking the item relating to section 430;

14 (2) by amending section 801 to read as follows:

“Sec. 801. Office of State and Local Government Coordination and Prepared-
ness.”; and

15 (3) by inserting after the item relating to sec-
16 tion 802, as added by this Act, the following:

“Sec. 803. Office for Domestic Preparedness.”.

17 (d) ESTABLISHMENT OF HOMELAND SECURITY IN-
18 FORMATION CLEARINGHOUSE.—Section 801 of the Home-
19 land Security Act of 2002 (6 U.S.C. 101 et seq.), as
20 amended by subsection (a), is further amended by adding
21 at the end the following:

22 “(d) HOMELAND SECURITY INFORMATION CLEAR-
23 INGHOUSE.—

1 “(1) ESTABLISHMENT.—There is established
2 within the Office for State and Local Government
3 Coordination a Homeland Security Information
4 Clearinghouse (referred to in this section as the
5 ‘Clearinghouse’), which shall assist States, local gov-
6 ernments, and first responders in accordance with
7 paragraphs (2) through (6).

8 “(2) HOMELAND SECURITY GRANT INFORMA-
9 TION.—The Clearinghouse shall create a new
10 website or enhance an existing website, establish a
11 toll-free number, and produce a single publication
12 that each contain information regarding the home-
13 land security grant programs identified under sec-
14 tion 802(a)(4).

15 “(3) TECHNICAL ASSISTANCE.—The Clearing-
16 house, in consultation with the Interagency Com-
17 mittee established under section 802, shall provide
18 information regarding—

19 “(A) technical assistance provided by any
20 Federal agency to States and local governments
21 regarding homeland security matters; and

22 “(B) templates for conducting threat anal-
23 yses and vulnerability assessments.

24 “(4) BEST PRACTICES.—The Clearinghouse
25 shall work with States, local governments, emer-

1 agency response providers and the National Domestic
2 Preparedness Consortium, and private organizations
3 to gather, validate, and disseminate information re-
4 garding successful State and local homeland security
5 programs and practices.

6 “(5) USE OF FEDERAL FUNDS.—The Clearing-
7 house shall compile information regarding equip-
8 ment, training, and other services purchased with
9 Federal funds provided under the homeland security
10 grant programs identified under section 802(a)(4),
11 and make such information, and information regard-
12 ing voluntary standards of training, equipment, and
13 exercises, available to States, local governments, and
14 first responders.

15 “(6) OTHER INFORMATION.—The Clearing-
16 house shall provide States, local governments, and
17 first responders with any other information that the
18 Secretary determines necessary.”.

19 **SEC. 1056. THREAT-BASED HOMELAND SECURITY GRANT**
20 **PROGRAM.**

21 (a) GRANTS AUTHORIZED.—The Secretary of Home-
22 land Security (referred to in this section as the “Sec-
23 retary”) may award grants to States and local govern-
24 ments to enhance homeland security.

25 (b) USE OF FUNDS.—

1 (1) IN GENERAL.—Grants awarded under sub-
2 section (a)—

3 (A) shall be used to address homeland se-
4 curity matters related to acts of terrorism or
5 major disasters and related capacity building;
6 and

7 (B) shall not be used to supplant ongoing
8 first responder expenses or general protective
9 measures.

10 (2) ALLOWABLE USES.—Grants awarded under
11 subsection (a) may be used to—

12 (A) develop State plans or risk assess-
13 ments (including the development of the home-
14 land security plan) to respond to terrorist at-
15 tacks and strengthen all hazards emergency
16 planning and communitywide plans for respond-
17 ing to terrorist or all hazards emergency events
18 that are coordinated with the capacities of ap-
19 plicable Federal, State, and local governments,
20 first responders, and State and local govern-
21 ment health agencies;

22 (B) develop State, regional, or local mutual
23 aid agreements;

1 (C) purchase or upgrade equipment based
2 on State and local needs as identified under a
3 State homeland security plan;

4 (D) conduct exercises to strengthen emer-
5 gency preparedness of State and local first re-
6 sponders including law enforcement, firefighting
7 personnel, and emergency medical service work-
8 ers, and other emergency responders identified
9 in a State homeland security plan;

10 (E) pay for overtime expenses relating
11 to—

12 (i) training activities consistent with
13 the goals outlined in a State homeland se-
14 curity plan;

15 (ii) as determined by the Secretary,
16 activities relating to an increase in the
17 threat level under the Homeland Security
18 Advisory System; and

19 (iii) any other activity relating to the
20 State Homeland Security Strategy, and ap-
21 proved by the Secretary;

22 (F) promote training regarding homeland
23 security preparedness including—

1 (i) emergency preparedness responses
2 to a use or threatened use of a weapon of
3 mass destruction; and

4 (ii) training in the use of equipment,
5 including detection, monitoring, and decon-
6 tamination equipment, and personal pro-
7 tective gear; and

8 (G) conduct any activity permitted under
9 the Law Enforcement Terrorism Prevention
10 Grant Program.

11 (3) PROHIBITED USES.—

12 (A) CONSTRUCTION.—Grants awarded
13 under subsection (a) may not be used to con-
14 struct buildings or other physical facilities, ex-
15 cept those described in section 611 of the Rob-
16 ert T. Stafford Disaster Relief and Emergency
17 Assistance Act (42 U.S.C. 5196) and approved
18 by the Secretary in the homeland security plan
19 certified under subsection (d), or to acquire
20 land.

21 (B) COST SHARING.—Grant funds pro-
22 vided under this section shall not be used for
23 any State or local government cost sharing con-
24 tribution request under this section.

25 (c) APPLICATION.—

1 (1) SUBMISSION.—A State may apply for a
2 grant under this section by submitting to the Sec-
3 retary an application at such time, and in such man-
4 ner, and containing such information the Secretary
5 may reasonably require.

6 (2) REVISIONS.—A State may revise a home-
7 land security plan certified under subsection (d) at
8 the time an application is submitted under para-
9 graph (1) after receiving approval from the Sec-
10 retary.

11 (3) APPROVAL.—The Secretary shall not award
12 a grant under this section unless the application
13 submitted by the State includes a homeland security
14 plan meeting the requirements of subsection (d).

15 (4) RELEASE OF FUNDS.—The Secretary shall
16 release grant funds to States with approved plans
17 after the approval of an application submitted under
18 this subsection.

19 (d) HOMELAND SECURITY PLAN.—

20 (1) IN GENERAL.—An application submitted
21 under subsection (c) shall include a certification that
22 the State has prepared a 3-year State homeland se-
23 curity plan (referred to in this subsection as the
24 “plan”) to respond to terrorist attacks and strength-

1 en all hazards emergency planning that has been ap-
2 proved by the Secretary.

3 (2) CONTENTS.—The plan shall contain meas-
4 urable goals and objectives that—

5 (A) establish a 3-year strategy to set prior-
6 ities for the allocation of funding to political
7 subdivisions based on the risk, capabilities, and
8 needs described under paragraph (3)(C);

9 (B) provide for secure interoperable com-
10 munications;

11 (C) provide for local coordination of re-
12 sponse and recovery efforts, including proce-
13 dures for effective incident command in con-
14 formance with the National Incident Manage-
15 ment System;

16 (D) ensure that first responders and other
17 emergency personnel have adequate training
18 and appropriate equipment for the threats that
19 may occur;

20 (E) provide for improved coordination and
21 collaboration among police, fire, and public
22 health authorities at State and local levels;

23 (F) coordinate emergency response and
24 public health plans;

1 (G) mitigate risks to critical infrastructure
2 that may be vulnerable to terrorist attacks;

3 (H) promote regional coordination among
4 contiguous local governments;

5 (I) identify necessary protective measures
6 by private owners of critical infrastructure;

7 (J) promote orderly evacuation procedures
8 when necessary;

9 (K) ensure support from the public health
10 community for measures needed to prevent, de-
11 tect and treat bioterrorism, and radiological and
12 chemical incidents;

13 (L) increase the number of local jurisdic-
14 tions participating in local and statewide exer-
15 cises;

16 (M) meet preparedness goals as deter-
17 mined by the Secretary; and

18 (N) include a report from the relevant ad-
19 visory committee established under paragraph
20 (3)(D) that documents the areas of support,
21 disagreement, or recommended changes to the
22 plan before its submission to the Secretary.

23 (3) DEVELOPMENT PROCESS.—

24 (A) IN GENERAL.—In preparing the plan
25 under this section, a State shall—

1 (i) provide for the consideration of all
2 homeland security needs;

3 (ii) follow a process that is continuing,
4 inclusive, cooperative, and comprehensive,
5 as appropriate; and

6 (iii) coordinate the development of the
7 plan with the homeland security planning
8 activities of local governments.

9 (B) COORDINATION WITH LOCAL PLAN-
10 NING ACTIVITIES.—The coordination under sub-
11 paragraph (A)(iii) shall contain input from local
12 stakeholders, including—

13 (i) local officials, including representa-
14 tives of rural, high-population, and high-
15 threat jurisdictions;

16 (ii) first responders and emergency re-
17 sponse providers; and

18 (iii) private sector companies, such as
19 railroads and chemical manufacturers.

20 (C) SCOPE OF PLANNING.—Each State
21 preparing a plan under this section shall, in
22 conjunction with the local stakeholders under
23 subparagraph (B), address all the information
24 requested by the Secretary, and complete a
25 comprehensive assessment of—

- 1 (i) risk, including a—
2 (I) vulnerability assessment;
3 (II) threat assessment; and
4 (III) public health assessment, in
5 coordination with the State bioter-
6 rorism plan; and
7 (ii) capabilities and needs, including—
8 (I) an evaluation of current pre-
9 paredness, mitigation, and response
10 capabilities based on such assessment
11 mechanisms as shall be determined by
12 the Secretary;
13 (II) an evaluation of capabilities
14 needed to address the risks described
15 under clause (i); and
16 (III) an assessment of the short-
17 fall between the capabilities described
18 under subclause (I) and the required
19 capabilities described under subclause
20 (II).
- 21 (D) ADVISORY COMMITTEE.—
22 (i) IN GENERAL.—Each State pre-
23 paring a plan under this section shall es-
24 tablish an advisory committee to receive
25 comments from the public and the local

1 stakeholders identified under subparagraph
2 (B).

3 (ii) COMPOSITION.—The Advisory
4 Committee shall include local officials, local
5 first responders, and emergency response
6 providers that are representative of the
7 counties, cities, and towns within the
8 State, and which shall include representa-
9 tives of rural, high-population, and high-
10 threat jurisdictions.

11 (4) PLAN APPROVAL.—The Secretary shall ap-
12 prove a plan upon finding that the plan meets the
13 requirements of—

14 (A) paragraphs (2) and (3);

15 (B) the interim performance measurements
16 under subsection (g)(1), or the national per-
17 formance standards under subsection (g)(2);
18 and

19 (C) any other criteria the Secretary deter-
20 mines necessary to the approval of a State plan.

21 (5) REVIEW OF ADVISORY COMMITTEE RE-
22 PORT.—The Secretary shall review the recommenda-
23 tions of the advisory committee report incorporated
24 into a plan under subsection (d)(2)(N), including
25 any dissenting views submitted by advisory com-

1 mittee members, to ensure cooperation and coordina-
2 tion between local and State jurisdictions in plan-
3 ning the use of grant funds under this section.

4 (e) TENTATIVE ALLOCATION.—

5 (1) URBAN AREA SECURITY INITIATIVE GRANT
6 PROGRAM.—

7 (A) IN GENERAL.—The Secretary shall al-
8 locate 25 percent of the funds appropriated
9 under the Threat-Based Homeland Security
10 Grant Program for discretionary grants to be
11 provided directly to local governments, includ-
12 ing multistate entities established by a compact
13 between 2 or more States, in high threat areas,
14 as determined by the Secretary based on the
15 criteria under subparagraph (B).

16 (B) CRITERIA.—The Secretary shall en-
17 sure that each local government receiving a
18 grant on the basis of terrorist threat under this
19 paragraph—

20 (i) has a large population or high pop-
21 ulation density;

22 (ii) has a high degree of threat, risk,
23 and vulnerability related to critical infra-
24 structure or not less than 1 key asset iden-

1 tified by the Secretary or State homeland
2 security plan;

3 (iii) has an international border with
4 Canada or Mexico, or coastline bordering
5 international waters of Canada, Mexico, or
6 bordering the Atlantic Ocean, the Pacific
7 Ocean, or the Gulf of Mexico; or

8 (iv) are subject to other threat factors
9 specified in writing by the Secretary.

10 (C) CONSISTENCY.—Any grant awarded
11 under this paragraph shall be used to supple-
12 ment and support, in a consistent and coordi-
13 nated manner, those activities and objectives
14 described under subsection (b) or a State home-
15 land security plan.

16 (D) COORDINATION.—The Secretary shall
17 ensure that any grants made under this para-
18 graph encourage multiple contiguous units of
19 local government and mutual aid partners to
20 coordinate any homeland security activities.

21 (2) STATE HOMELAND SECURITY GRANT PRO-
22 GRAM.—

23 (A) STATES.—Each State whose applica-
24 tion is approved under subsection (c) shall re-
25 ceive, for each fiscal year, the greater of—

1 (i) 0.75 percent of the amounts ap-
2 propriated for the State Homeland Secu-
3 rity Grant Program; or

4 (ii) the State's per capita share, as
5 defined by the 2002 census population esti-
6 mate, of 38.625 percent of the State
7 Homeland Security Grant Program.

8 (B) INSULAR AREAS.—Each insular area
9 shall receive, for each fiscal year, the greater
10 of—

11 (i) 0.075 percent of the amounts ap-
12 propriated for the State Homeland Secu-
13 rity Grant Program; or

14 (ii) the insular area's per capita
15 share, as defined by the 2002 census popu-
16 lation estimate, of 38.625 percent of the
17 State Homeland Security Grant Program.

18 (3) SECONDARY DISTRIBUTION.—After the dis-
19 tribution of funds under paragraph (2), the Sec-
20 retary shall, from the remaining funds for the State
21 Homeland Security Grant Program and 10.8 percent
22 of the amount appropriated for the Threat-Based
23 Homeland Security Grant Program pursuant to sub-
24 section (j)(1), distribute on the basis of terrorist
25 threat amounts to each State that—

1 (A) has a substantial percentage of its
2 population residing in Metropolitan Statistical
3 Areas, as defined by the Office of Management
4 and Budget;

5 (B) has a high degree of threat, risk, and
6 vulnerability related to critical infrastructure or
7 not less than 1 key asset identified by the Sec-
8 retary or State homeland security plan;

9 (C) has an international border with Can-
10 ada or Mexico, or coastline bordering inter-
11 national waters of Canada, Mexico, or bordering
12 the Atlantic Ocean, the Pacific Ocean, or the
13 Gulf of Mexico; or

14 (D) are subject to other threat factors
15 specified in writing by the Secretary.

16 (4) DISTRIBUTION OF FUNDS.—If the amounts
17 tentatively allocated under paragraphs (1) through
18 (3) equal the sum of the amounts appropriated pur-
19 suant to subsection (j), the Secretary shall distribute
20 the appropriated amounts based on the tentative al-
21 location.

22 (5) PROPORTIONAL REDUCTION.—If the
23 amount appropriated for the Large High-Threat
24 State Fund pursuant to subsection (j)(2) is less
25 than 10.8 percent of the amount appropriated for

1 the Threat-Based Homeland Security Grant Pro-
2 gram pursuant to subsection (j)(1), the Secretary
3 shall proportionately reduce the amounts tentatively
4 allocated under paragraphs (1) through (3) so that
5 the amount distributed is equal to the sum of the
6 amounts appropriated for such programs.

7 (6) FUNDING FOR LOCAL ENTITIES AND FIRST
8 RESPONDERS.—The Secretary shall require recipi-
9 ents of the State Homeland Security Grant to pro-
10 vide local governments and first responders, con-
11 sistent with the applicable State homeland security
12 plan, with not less than 80 percent of the grant
13 funds, the resources purchased with such grant
14 funds, or a combination thereof, not later than 60
15 days after receiving grant funding.

16 (7) SUPPLEMENT NOT SUPPLANT.—Amounts
17 appropriated for grants under this subsection shall
18 be used to supplement and not supplant other State
19 and local public funds obligated for the purposes
20 provided under this Act.

21 (8) LAW ENFORCEMENT TERRORISM PREVEN-
22 TION PROGRAM.—

23 (A) IN GENERAL.—The Secretary shall
24 designate not more than 25 percent of the
25 amounts allocated through the State Homeland

1 Security Grant Program to be used for the Law
2 Enforcement Terrorism Prevention Program to
3 provide grants to law enforcement agencies to
4 enhance capabilities for terrorism prevention.

5 (B) USE OF FUNDS.—Grants awarded
6 under this paragraph may be used for—

7 (i) information sharing to preempt
8 terrorist attacks;

9 (ii) target hardening to reduce the
10 vulnerability of selected high value targets;

11 (iii) threat recognition to recognize
12 the potential or development of a threat;

13 (iv) intervention activities to interdict
14 terrorists before they can execute a threat;

15 (v) interoperable communication sys-
16 tems;

17 (vi) overtime expenses related to the
18 State Homeland Security Strategy ap-
19 proved by the Secretary; and

20 (vii) any other terrorism prevention
21 activity authorized by the Secretary.

22 (f) REPORT ON HOMELAND SECURITY SPENDING.—
23 Each recipient of a grant under this section shall annually
24 submit a report to the Secretary that contains—

1 (A) an accounting of the amount of State
2 and local funds spent on homeland security ac-
3 tivities under the applicable State homeland se-
4 curity plan; and

5 (B) information regarding the use of grant
6 funds by units of local government as required
7 by the Secretary.

8 (g) ACCOUNTABILITY.—

9 (1) INTERIM PERFORMANCE MEASURES.—

10 (A) IN GENERAL.—Before establishing per-
11 formance standards under paragraph (2), the
12 Secretary shall assist each State in establishing
13 interim performance measures based upon—

14 (i) the goals and objectives under sub-
15 section (d)(2); and

16 (ii) any other factors determined by
17 the Secretary.

18 (B) ANNUAL REPORT.—Before establishing
19 performance measures under paragraph (2),
20 each State with an approved State plan shall
21 submit to the Secretary a report detailing the
22 progress the State has made in meeting the in-
23 terim performance measures established under
24 subparagraph (A).

25 (2) NATIONAL PERFORMANCE STANDARDS.—

1 (A) IN GENERAL.—Not later than 1 year
2 after the date of enactment of this Act, the Sec-
3 retary shall set national performance standards
4 based in part on the goals and objectives under
5 subsection (d)(2) and any other factors the Sec-
6 retary determines relevant.

7 (B) COMPLIANCE.—The Secretary shall
8 ensure that State plans are in conformance
9 with the standards set under subparagraph (A).

10 (C) ANNUAL REPORT.—After the establish-
11 ment of performance standards under subpara-
12 graph (A), each State with an approved State
13 homeland security plan shall submit to the Sec-
14 retary a report on the progress the State has
15 made in meeting such standards.

16 (3) GENERAL ACCOUNTING OFFICE ACCESS TO
17 INFORMATION.—Each recipient of a grant under this
18 section and the Department of Homeland Security
19 shall provide the General Accounting Office with full
20 access to information regarding the activities carried
21 out under this section.

22 (4) AUDIT.—Grant recipients that expend
23 \$500,000 or more in Federal funds during any fiscal
24 year shall submit to the Secretary an organization
25 wide financial and compliance audit report in con-

1 formance with the requirements of chapter 75 of
2 title 31, United States Code.

3 (h) REMEDIES FOR NON-COMPLIANCE.—

4 (1) IN GENERAL.—If the Secretary finds, after
5 reasonable notice and an opportunity for a hearing,
6 that a recipient of a grant under this section has
7 failed to substantially comply with any provision of
8 this section, the Secretary shall—

9 (A) terminate any payment of grant funds
10 to be made to the recipient under this section;

11 (B) reduce the amount of payment of
12 grant funds to the recipient by an amount equal
13 to the amount of grants funds that were not ex-
14 pended by the recipient in accordance with this
15 section; or

16 (C) limit the use of grant funds received
17 under this section to programs, projects, or ac-
18 tivities not affected by the failure to comply.

19 (2) DURATION OF PENALTY.—The Secretary
20 shall apply an appropriate penalty under paragraph
21 (1) until such time as the Secretary determines that
22 the grant recipient is in full compliance with this
23 section.

24 (3) DIRECT FUNDING.—If a State fails to sub-
25 stantially comply with any provision of this section,

1 including failing to provide local governments with
2 grant funds or resources purchased with grant funds
3 in a timely fashion, a local government entitled to
4 receive such grant funds or resources may petition
5 the Secretary, at such time and in such manner as
6 determined by the Secretary, to request that grant
7 funds or resources be provided directly to the local
8 government.

9 (i) PARTICIPATION OF UNDER SECRETARY FOR
10 EMERGENCY PREPAREDNESS AND RESPONSE.—

11 (1) PARTICIPATION.—The Under Secretary for
12 Emergency Preparedness and Response shall partici-
13 pate in the grantmaking process for the Threat-
14 Based Homeland Security Grant Program for
15 nonlaw enforcement-related grants in order to en-
16 sure that preparedness grants, where appropriate,
17 are consistent, and are not in conflict, with the Rob-
18 ert T. Stafford Disaster Relief and Emergency As-
19 sistance Act (42 U.S.C. 5121 et seq.).

20 (2) REPORTS.—The Under Secretary for Emer-
21 gency Preparedness and Response shall submit to
22 the Committee on Environment and Public Works of
23 the Senate and the Committee on Transportation
24 and Infrastructure of the House of Representatives
25 an annual report that describes—

1 (A) the status of the Threat-Based Home-
2 land Security Grant Program; and

3 (B) the impact of that program on pro-
4 grams authorized under the Robert T. Stafford
5 Disaster Relief and Emergency Assistance Act
6 (42 U.S.C. 5121 et seq.).

7 (j) REPORTS TO CONGRESS.—The Secretary shall
8 submit an annual report to Congress that provides—

9 (1) findings relating to the performance stand-
10 ards established under subsection (g);

11 (2) the status of preparedness goals and objec-
12 tives;

13 (3) an evaluation of how States and local gov-
14 ernments are meeting preparedness goals and objec-
15 tives;

16 (4) the total amount of resources provided to
17 the States;

18 (5) the total amount of resources provided to
19 units of local government; and

20 (6) a list of how these resources were expended.

21 (k) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) THREAT-BASED HOMELAND SECURITY
23 GRANT PROGRAM.—There are authorized to be ap-
24 propriated such sums as are necessary to carry out
25 this section.

1 agency, shall conduct periodic reviews of grants made
2 through the Threat Based Homeland Security Grant Pro-
3 gram to ensure that recipients allocate funds consistent
4 with the guidelines established by the Department of
5 Homeland Security.

6 (c) REMEDIES FOR NON-COMPLIANCE.—If the Sec-
7 retary determines, after reasonable notice and an oppor-
8 tunity for a hearing, that a recipient of a Threat Based
9 Homeland Security Grant has failed to substantially com-
10 ply with any regulations or guidelines issues by the De-
11 partment regarding eligible expenditures, the Secretary
12 shall—

13 (1) terminate any payment of grant funds
14 scheduled to be made to the recipient;

15 (2) reduce the amount of payment of grant
16 finds to the recipient by an amount equal to the
17 amount of grant funds that were not expended by
18 the recipient in accordance with such guidelines; or

19 (3) limit the use of grant funds received under
20 the Threat Based Homeland Security Grant Pro-
21 gram to programs, projects, or activities not affected
22 by the failure to comply.

23 (d) DURATION OF PENALTY.—The Secretary shall
24 apply an appropriate penalty under subsection (c) until
25 such time as the Secretary determines that the grant re-

1 cipient is in full compliance with the guidelines established
2 by the Department of Homeland Security.

3 **SEC. 1058. FLEXIBILITY IN UNSPENT HOMELAND SECURITY**
4 **FUNDS.**

5 (a) REALLOCATION OF FUNDS.—The Director of the
6 Office for Domestic Preparedness, Department of Home-
7 land Security, shall allow any State to request approval
8 to reallocate funds received pursuant to appropriations for
9 the State Homeland Security Grant Program under Public
10 Laws 105–277 (112 Stat. 2681 et seq.), 106–113 (113
11 Stat. 1501A–3 et seq.), 106–553 (114 Stat. 2762A–3 et
12 seq.), 107–77 (115 Stat. 78 et seq.), or the Consolidated
13 Appropriations Resolution of 2003 (Public Law 108–7),
14 among the 4 categories of equipment, training, exercises,
15 and planning.

16 (b) APPROVAL OF REALLOCATION REQUESTS.—The
17 Director shall approve reallocation requests under sub-
18 section (a) in accordance with the State plan and any
19 other relevant factors that the Secretary of Homeland Se-
20 curity determines to be necessary.

21 (c) LIMITATION.—A waiver under this section shall
22 not affect the obligation of a State to pass through 80
23 percent of the amount appropriated for equipment to units
24 of local government.

1 **SEC. 1059. CERTIFICATION RELATIVE TO THE SCREENING**
2 **OF MUNICIPAL SOLID WASTE TRANSPORTED**
3 **INTO THE UNITED STATES.**

4 (a) **DEFINED TERM.**—In this section, the term “mu-
5 nicipal solid waste” includes sludge (as defined in section
6 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

7 (b) **REPORTS TO CONGRESS.**—Not later than 90 days
8 after the date of enactment of this Act, the Bureau of
9 Customs and Border Protection of the Department of
10 Homeland Security shall submit a report to Congress
11 that—

12 (1) indicates whether the methodologies and
13 technologies used by the Bureau to screen for and
14 detect the presence of chemical, nuclear, biological,
15 and radiological weapons in municipal solid waste
16 are as effective as the methodologies and tech-
17 nologies used by the Bureau to screen for such ma-
18 terials in other items of commerce entering into the
19 United States by commercial motor vehicle trans-
20 port; and

21 (2) if the methodologies and technologies used
22 to screen solid waste are less effective than those
23 used to screen other commercial items, identifies the
24 actions that the Bureau will take to achieve the
25 same level of effectiveness in the screening of solid

1 waste, including the need for additional screening
2 technologies.

3 (c) **IMPACT ON COMMERCIAL MOTOR VEHICLES.**—If
4 the Bureau of Customs and Border Protection fails to
5 fully implement the actions described in subsection (b)(2)
6 before the earlier of 6 months after the date on which the
7 report is due under subsection (b) or 6 months after the
8 date on which such report is submitted, the Secretary of
9 Homeland Security shall deny entry into the United States
10 of any commercial motor vehicle (as defined in section
11 31101(1) of title 49, United States Code) carrying munic-
12 ipal solid waste until the Secretary certifies to Congress
13 that the methodologies and technologies used by the Bu-
14 reau to screen for and detect the presence of chemical,
15 nuclear, biological, and radiological weapons in such waste
16 are as effective as the methodologies and technologies used
17 by the Bureau to screen for such materials in other items
18 of commerce entering into the United States by commer-
19 cial motor vehicle transport.

20 (d) **EFFECTIVE DATE.**—Notwithstanding section
21 341, this section shall take effect on the date of enactment
22 of this Act.

1 **Subtitle F—Public Safety Spectrum**

2 **SEC. 1061. SHORT TITLE; TABLE OF CONTENTS.**

3 (a) **SHORT TITLE.**—This title may be cited as the
 4 “Spectrum Availability for Emergency-Response and Law-
 5 Enforcement To Improve Vital Emergency Services Act”
 6 or the “SAVE LIVES Act”.

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

Sec. 1061. Short title; table of contents.

Sec. 1062. Findings.

Sec. 1063. Setting a specific date for the availability of spectrum for public
 safety organizations and creating a deadline for the transition
 to digital television.

Sec. 1063. Studies of communications capabilities and needs.

Sec. 1064. Statutory authority for the Department of Homeland Security’s
 “SAFECOM” program.

Sec. 1065. Grant program to provide enhanced interoperability of communica-
 tions for first responders.

Sec. 1066. Digital transition public safety communications grant and consumer
 assistance fund.

Sec. 1067. Digital transition program.

Sec. 1068. FCC Authority to require label requirement for analog television
 sets.

Sec. 1069. Report on consumer education program requirements.

Sec. 1070. FCC to issue decision in certain proceedings.

Sec. 1071. Definitions.

Sec. 1072. Effective date.

9 **SEC. 1062. FINDINGS.**

10 The Congress finds the following:

11 (1) In its final report, the 9–11 Commission ad-
 12 vocated that Congress pass legislation providing for
 13 the expedited and increased assignment of radio
 14 spectrum for public safety purposes. The 9–11 Com-
 15 mission stated that this spectrum was necessary to
 16 improve communications between local, State and

1 Federal public safety organizations and public safety
2 organizations operating in neighboring jurisdictions
3 that may respond to an emergency in unison.

4 (2) Specifically, the 9–11 Commission report
5 stated “The inability to communicate was a critical
6 element at the World Trade Center, Pentagon and
7 Somerset County, Pennsylvania, crash sites, where
8 multiple agencies and multiple jurisdictions re-
9 sponded. The occurrence of this problem at three
10 very different sites is strong evidence that compat-
11 ible and adequate communications among public
12 safety organizations at the local, State, and Federal
13 levels remains an important problem.”.

14 (3) In the Balanced Budget Act of 1997, the
15 Congress directed the FCC to allocate spectrum cur-
16 rently being used by television broadcasters to public
17 safety agencies to use for emergency communica-
18 tions. This spectrum has specific characteristics that
19 make it an outstanding choice for emergency com-
20 munications because signals sent over these fre-
21 quencies are able to penetrate walls and travel great
22 distances, and can assist multiple jurisdictions in de-
23 ploying interoperable communications systems.

24 (4) This spectrum will not be fully available to
25 public safety agencies until the completion of the

1 digital television transition. The need for this spec-
2 trum is greater than ever. The nation cannot risk
3 further loss of life due to public safety agencies' first
4 responders' inability to communicate effectively in
5 the event of another terrorist act or other crisis,
6 such as a hurricane, tornado, flood, or earthquake.

7 (5) In the Balanced Budget Act of 1997, Con-
8 gress set a date of December 31, 2006, for the ter-
9 mination of the digital television transition. Under
10 current law, however, the deadline will be extended
11 if fewer than 85 percent of the television households
12 in a market are able to continue receiving local tele-
13 vision broadcast signals.

14 (6) Federal Communications Commission
15 Chairman Michael K. Powell testified at a hearing
16 before the Senate Commerce, Science, and Transpor-
17 tation Committee on September 8, 2004, that, ab-
18 sent government action, this extension may allow the
19 digital television transition to continue for "decades"
20 or "multiples of decades".

21 (7) The Nation's public safety and welfare can-
22 not be put off for "decades" or "multiples of dec-
23 ades". The Federal government should ensure that
24 this spectrum is available for use by public safety or-
25 ganizations by January 1, 2009.

1 (8) Any plan to end the digital television transi-
2 tion would be incomplete if it did not ensure that
3 consumers would be able to continue to enjoy over-
4 the-air broadcast television with minimal disruption.
5 If broadcasters air only a digital signal, some con-
6 sumers may be unable to view digital transmissions
7 using their analog-only television set. Local broad-
8 casters are truly an important part of our homeland
9 security and often an important communications ve-
10 hicle in the event of a national emergency. There-
11 fore, consumers who rely on over-the-air television,
12 particularly those of limited economic means, should
13 be assisted.

14 (9) The New America Foundation has testified
15 before Congress that the cost to assist these 17.4
16 million exclusively over-the-air households to con-
17 tinue to view television is less than \$1 billion dollars
18 for equipment, which equates to roughly 3 percent
19 of the Federal revenue likely from the auction of the
20 analog television spectrum.

21 (10) Specifically, the New America Foundation
22 has estimated that the Federal Government's auc-
23 tion of this spectrum could yield \$30-to-\$40 billion
24 in revenue to the Treasury. Chairman Powell stated
25 at the September 8, 2004, hearing that "estimates

1 of the value of that spectrum run anywhere from
2 \$30 billion to \$70 billion”.

3 (11) Additionally, there will be societal benefits
4 with the return of the analog broadcast spectrum.
5 Former FCC Chairman Reed F. Hundt, at an April
6 28, 2004, hearing before the Senate Commerce,
7 Science, and Transportation Committee, testified
8 that this spectrum “should be the fit and proper
9 home of wireless broadband”. Mr. Hundt continued,
10 “Quite literally, [with this spectrum] the more mil-
11 lions of people in rural America will be able to afford
12 Big Broadband Internet access, the more hundreds
13 of millions of people in the world will be able to af-
14 ford joining the Internet community.”.

15 (12) Due to the benefits that would flow to the
16 Nation’s citizens from the Federal Government re-
17 claiming this analog television spectrum—including
18 the safety of our Nation’s first responders and those
19 protected by first responders, additional revenues to
20 the Federal treasury, millions of new jobs in the
21 telecommunications sector of the economy, and in-
22 creased wireless broadband availability to our Na-
23 tion’s rural citizens—Congress finds it necessary to
24 set January 1, 2009, as a firm date for the return
25 of this analog television spectrum.

1 **SEC. 1063. SETTING A SPECIFIC DATE FOR THE AVAIL-**
2 **ABILITY OF SPECTRUM FOR PUBLIC SAFETY**
3 **ORGANIZATIONS AND CREATING A DEADLINE**
4 **FOR THE TRANSITION TO DIGITAL TELE-**
5 **VISION.**

6 (a) IN GENERAL.—Section 309(j)(14) of the Commu-
7 nications Act of 1934 (47 U.S.C. 309(j)(14)) is amended
8 by adding at the end the following:

9 “(E) ACCELERATION OF DEADLINE FOR
10 PUBLIC SAFETY USE.—

11 “(i) Notwithstanding subparagraphs
12 (A) and (B), the Commission shall take all
13 action necessary to complete by December
14 31, 2007—

15 “(I) the return of television sta-
16 tion licenses operating on channels be-
17 tween 764 and 776 megaHertz and
18 between 794 and 806 megaHertz; and

19 “(II) assignment of the electro-
20 magnetic spectrum between 764 and
21 776 megahertz, and between 794 and
22 806 megahertz, for public safety serv-
23 ices.

24 “(ii) Notwithstanding subparagraphs
25 (A) and (B), the Commission shall have
26 the authority to modify, reassign, or re-

1 quire the return of, the television station
2 licenses assigned to frequencies between
3 758 and 764 megahertz, 776 and 782
4 megahertz, and 788 and 794 megahertz as
5 necessary to permit operations by public
6 safety services on frequencies between 764
7 and 776 megahertz and between 794 and
8 806 megahertz, after the date of enact-
9 ment of this section, but such modifica-
10 tions, reassignments, or returns may not
11 take effect until after December 31,
12 2007.”.

13 (b) The FCC may waive the requirements of sections
14 (i) and (ii) and such other rules as necessary—

15 (A) in the absence of a bona fide request
16 from relevant first responders in the affected
17 designated market area, and;

18 (B) to the extent necessary to avoid con-
19 sumer disruption but only if all relevant public
20 safety entities are able to use such frequencies
21 free of interference by December 31, 2007, or
22 are otherwise able to resolve interference issues
23 with relevant broadcast licensee by mutual
24 agreement.”

1 **SEC. 1064. STUDIES OF COMMUNICATIONS CAPABILITIES**
2 **AND NEEDS.**

3 (a) IN GENERAL.—The Commission, in consultation
4 with the Secretary of Homeland Security, shall conduct
5 a study to assess strategies that may be used to meet pub-
6 lic safety communications needs, including—

7 (1) the short-term and long-term need for addi-
8 tional spectrum allocation for Federal, State, and
9 local first responders, including an additional alloca-
10 tion of spectrum in the 700 megaHertz band;

11 (2) the need for a nationwide interoperable
12 broadband mobile communications network;

13 (3) the ability of public safety entities to utilize
14 wireless broadband applications; and

15 (4) the communications capabilities of first re-
16 ceivers such as hospitals and health care workers,
17 and current efforts to promote communications co-
18 ordination and training among the first responders
19 and the first receivers.

20 (b) REALLOCATION STUDY.—The Commission shall
21 conduct a study to assess the advisability of reallocating
22 any amount of spectrum in the 700 megaHertz band for
23 unlicensed broadband uses. In the study, the Commission
24 shall consider all other possible users of this spectrum, in-
25 cluding public safety.

1 (c) REPORT.—The Commission shall report the re-
2 sults of the studies, together with any recommendations
3 it may have, to the Senate Committee on Commerce,
4 Science, and Transportation and the House of Represent-
5 atives Committee on Energy and Commerce within 1 year
6 after the date of enactment of this Act.

7 **SEC. 1065. STATUTORY AUTHORITY FOR THE DEPARTMENT**
8 **OF HOMELAND SECURITY’S “SAFECOM” PRO-**
9 **GRAM.**

10 Section 302 of the Homeland Security Act of 2002
11 (6 U.S.C. 182) is amended—

12 (1) by inserting “(a) IN GENERAL.—” before
13 “The”; and

14 (2) by adding at the end the following:

15 “(b) SAFECOM AUTHORIZED.—

16 “(1) IN GENERAL.—In carrying out subsection
17 (a), the Under Secretary shall establish a program
18 to address the interoperability of communications
19 devices used by Federal, State, tribal, and local first
20 responders, to be known as the Wireless Public Safe-
21 ty Interoperability Communications Program, or
22 ‘SAFECOM’. The Under Secretary shall coordinate
23 the program with the Director of the Department of
24 Justice’s Office of Science and Technology and all
25 other Federal programs engaging in communications

1 interoperability research, development, and funding
2 activities to ensure that the program takes into ac-
3 count, and does not duplicate, those programs or ac-
4 tivities.

5 “(2) COMPONENTS.—The program established
6 under paragraph (1) shall be designed—

7 “(A) to provide research on the develop-
8 ment of a communications system architecture
9 that would ensure the interoperability of com-
10 munications devices among Federal, State, trib-
11 al, and local officials that would enhance the
12 potential for a coordinated response to a na-
13 tional emergency;

14 “(B) to support the completion and pro-
15 mote the adoption of mutually compatible vol-
16 untary consensus standards developed by a
17 standards development organization accredited
18 by the American National Standards Institute
19 to ensure such interoperability; and

20 “(C) to provide for the development of a
21 model strategic plan that could be used by any
22 State or region in developing its communica-
23 tions interoperability plan.

1 “(3) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated to the Sec-
3 retary to carry out this subsection—

4 “(A) \$22,105,000 for fiscal year 2005;

5 “(B) \$22,768,000 for fiscal year 2006;

6 “(C) \$23,451,000 for fiscal year 2007;

7 “(D) \$24,155,000 for fiscal year 2008;

8 and

9 “(E) \$24,879,000 for fiscal year 2009.

10 “(c) NATIONAL BASELINE STUDY OF PUBLIC SAFE-
11 TY COMMUNICATIONS INTEROPERABILITY.—By December
12 31, 2005, the Under Secretary of Homeland Security for
13 Science and Technology shall complete a study to develop
14 a national baseline for communications interoperability
15 and develop common grant guidance for all Federal grant
16 programs that provide communications-related resources
17 or assistance to State and local agencies, any Federal pro-
18 grams conducting demonstration projects, providing tech-
19 nical assistance, providing outreach services, providing
20 standards development assistance, or conducting research
21 and development with the public safety community with
22 respect to wireless communications. The Under Secretary
23 shall transmit a report to the Senate Committee on Com-
24 merce, Science, and Transportation and the House of Rep-
25 resentatives Committee on Energy and Commerce con-

1 taining the Under Secretary’s findings, conclusions, and
2 recommendations from the study.”.

3 **SEC. 1066. GRANT PROGRAM TO PROVIDE ENHANCED**
4 **INTEROPERABILITY OF COMMUNICATIONS**
5 **FOR FIRST RESPONDERS.**

6 (a) IN GENERAL.—The Secretary of Homeland Secu-
7 rity shall establish a program to help State, local, tribal,
8 and regional first responders acquire and deploy interoper-
9 able communications equipment, purchase such equip-
10 ment, and train personnel in the use of such equipment.
11 The Secretary, in cooperation with the heads of other Fed-
12 eral departments and agencies who administer programs
13 that provide communications-related assistance programs
14 to State, local, and tribal public safety organizations, shall
15 develop and implement common standards to the greatest
16 extent practicable.

17 (b) APPLICATIONS.—To be eligible for assistance
18 under the program, a State, local, tribal, or regional first
19 responder agency shall submit an application, at such
20 time, in such form, and containing such information as
21 the Under Secretary of Homeland Security for Science
22 and Technology may require, including—

23 (1) a detailed explanation of how assistance re-
24 ceived under the program would be used to improve
25 local communications interoperability and ensure

1 interoperability with other appropriate Federal,
2 State, local, tribal, and regional agencies in a re-
3 gional or national emergency;

4 (2) assurance that the equipment and system
5 would—

6 (A) not be incompatible with the commu-
7 nications architecture developed under section
8 302(b)(2)(A) of the Homeland Security Act of
9 2002;

10 (B) would meet any voluntary consensus
11 standards developed under section 302(b)(2)(B)
12 of that Act; and

13 (C) be consistent with the common grant
14 guidance established under section 302(b)(3) of
15 the Homeland Security Act of 2002.

16 (c) GRANTS.—The Under Secretary shall review ap-
17 plications submitted under subsection (b). The Secretary,
18 pursuant to an application approved by the Under Sec-
19 retary, may make the assistance provided under the pro-
20 gram available in the form of a single grant for a period
21 of not more than 3 years.

1 **SEC. 1067. DIGITAL TRANSITION PUBLIC SAFETY COMMU-**
2 **NICATIONS GRANT AND CONSUMER ASSIST-**
3 **ANCE FUND.**

4 (a) **IN GENERAL.**—There is established on the books
5 of the Treasury a separate fund to be known as the “Dig-
6 ital Transition Consumer Assistance Fund”, which shall
7 be administered by the Secretary, in consultation with the
8 Assistant Secretary of Commerce for Communications and
9 Information.

10 (b) **CREDITING OF RECEIPTS.**—The Fund shall be
11 credited with the amount specified in section 309(j)(8)(D)
12 of the Communications Act of 1934 (47 U.S.C.
13 309(j)(8)(D)).

14 (c) **FUND AVAILABILITY.**—

15 (1) **APPROPRIATIONS.**—

16 (A) **CONSUMER ASSISTANCE PROGRAM.**—

17 There are appropriated to the Secretary from
18 the Fund such sums, not to exceed
19 \$1,000,000,000, as are required to carry out
20 the program established under section 8 of this
21 Act.

22 (B) **PSO GRANT PROGRAM.**—To the extent
23 that amounts available in the Fund exceed the
24 amount required to carry out that program,
25 there are authorized to be appropriated to the
26 Secretary of Homeland Security, such sums as

1 are required to carry out the program estab-
2 lished under section 6 of this Act, not to exceed
3 an amount, determined by the Director of the
4 Office of Management and Budget, on the basis
5 of the findings of the National Baseline Inter-
6 operability study conducted by the SAFECOM
7 Office of the Department of Homeland Secu-
8 rity.

9 (2) REVERSION OF UNUSED FUNDS.—Any auc-
10 tion proceeds in the Fund that are remaining after
11 the date on which the programs under section 6 and
12 8 of this Act terminate, as determined by the Sec-
13 retary of Homeland Security and the Secretary of
14 Commerce respectively, shall revert to and be depos-
15 ited in the general fund of the Treasury.

16 (d) DEPOSIT OF AUCTION PROCEEDS.—Paragraph
17 (8) of section 309(j) of the Communications Act of 1934
18 (47 U.S.C. 309(j)) is amended—

19 (1) by inserting “or subparagraph (D)” in sub-
20 paragraph (A) after “subparagraph (B)”; and

21 (2) by adding at the end the following new sub-
22 paragraph:

23 “(D) DISPOSITION OF CASH PROCEEDS
24 FROM AUCTION OF CHANNELS 52 THROUGH
25 69.—Cash proceeds attributable to the auction

1 of any eligible frequencies between 698 and 806
2 megaHertz on the electromagnetic spectrum
3 conducted after the date of enactment of the
4 SAVE LIVES Act shall be deposited in the
5 Digital Transition Consumer Assistance Fund
6 established under section 7 of that Act.”.

7 **SEC. 1068. DIGITAL TRANSITION PROGRAM.**

8 (a) IN GENERAL.—The Secretary, in consultation
9 with the Commission and the Director of the Office of
10 Management and Budget, shall establish a program to as-
11 sist households—

12 (1) in the purchase or other acquisition of dig-
13 ital-to-analog converter devices that will enable tele-
14 vision sets that operate only with analog signal proc-
15 essing to continue to operate when receiving a dig-
16 ital signal;

17 (2) in the payment of a one-time installation fee
18 (not in excess of the industry average fee for the
19 date, locale, and structure involved, as determined
20 by the Secretary) for installing the equipment re-
21 quired for residential reception of services provided
22 by a multichannel video programming distributor (as
23 defined in section 602(13) of the Communications
24 Act of 1934 (47 U.S.C. 602(13)); or

1 (3) in the purchase of any other device that will
2 enable the household to receive over-the-air digital
3 television broadcast signals, but in an amount not in
4 excess of the average per-household assistance pro-
5 vided under paragraphs (1) and (2).

6 (b) PROGRAM CRITERIA.—The Secretary shall ensure
7 that the program established under subsection (a)—

8 (1) becomes publicly available no later than
9 January 1, 2008;

10 (2) gives first priority to assisting lower income
11 households (as determined by the Director of the
12 Bureau of the Census for statistical reporting pur-
13 poses) who rely exclusively on over-the-air television
14 broadcasts;

15 (3) gives second priority to assisting other
16 households who rely exclusively on over-the-air tele-
17 vision broadcasts;

18 (4) is technologically neutral; and

19 (5) is conducted at the lowest feasible adminis-
20 trative cost.

21 **SEC. 1069. FCC AUTHORITY TO REQUIRE LABEL REQUIRE-**
22 **MENT FOR ANALOG TELEVISION SETS.**

23 (a) IN GENERAL.—Section 303 of the Communica-
24 tions Act of 1934 (47 U.S.C. 303) is amended by adding
25 at the end the following:

1 “(z) If the Commission acts to set a hard deadline
2 for the return of analog spectrum pursuant to section
3 309(j)(14), it shall have the authority to require that any
4 apparatus described in paragraph (s) sold or offered for
5 sale in or affecting interstate commerce, that is incapable
6 of receiving and displaying a digital television broadcast
7 signal without the use of an external device that translates
8 digital television broadcast signals into analog television
9 broadcast signals have affixed to it and, if it is sold or
10 offered for sale in a container, affixed to that container,
11 a label that states that the apparatus will be incapable
12 of displaying over-the-air television broadcast signals re-
13 ceived after a date determined by the FCC, without the
14 purchase of additional equipment.”.

15 (b) POINT OF SALE WARNING.—If the Commission
16 acts to set a hard deadline for the return of analog spec-
17 trum pursuant to section 309(j)(14), then the Commis-
18 sion, in consultation with the Federal Trade Commission,
19 shall have the authority to require the display at, or in
20 close proximity to, any commercial retail sales display of
21 television sets described in section 303(z) of the Commu-
22 nications Act of 1934 (47 U.S.C. 303(z)) sold or offered
23 for sale in or affecting interstate commerce after a date
24 determined by the Commission, of a printed notice that
25 clearly and conspicuously states that the sets will be in-

1 capable of displaying over-the-air television broadcast sig-
2 nals received after the hard deadline established by the
3 Commission, without the purchase or lease of additional
4 equipment.

5 **SEC. 1070. REPORT ON CONSUMER EDUCATION PROGRAM**
6 **REQUIREMENTS.**

7 Within 1 year after the date of enactment of this Act,
8 the Assistant Secretary of Commerce for Communications
9 and Information, after consultation with the Commission,
10 shall transmit a report to the Senate Committee on Com-
11 merce, Science, and Transportation and the House of Rep-
12 resentatives Committee on Energy and Commerce con-
13 taining recommendations with respect to—

14 (1) an effective program to educate consumers
15 about the transition to digital television broadcast
16 signals and the impact of that transition on con-
17 sumers' choices of equipment to receive such signals;

18 (2) the need, if any, for Federal funding for
19 such a program;

20 (3) the date of commencement and duration of
21 such a program; and

22 (4) what department or agency should have the
23 lead responsibility for conducting such a program.

1 **SEC. 1071. FCC TO ISSUE DECISION IN CERTAIN PRO-**
2 **CEEDINGS.**

3 The Commission shall issue a final decision before—

4 (1) January 1, 2005, in the Matter of Carriage
5 of Digital Television Broadcast Signals; Amend-
6 ments to Part 76 of the Commission’s Rules, CS
7 Docket No. 98-120;

8 (2) January 1, 2005, in the Matter of Public
9 Interest Obligations of TV Broadcast Licensees, MM
10 Docket No. 99-360; and

11 (3) January 1, 2006, in the Implementation of
12 the Satellite Home Viewer Improvement Act of
13 1999; Local Broadcast Signal Carriage Issues, CS
14 Docket No. 00-96.

15 **SEC. 1072. DEFINITIONS.**

16 In this title:

17 (1) **COMMISSION.**—The term “Commission”
18 means the Federal Communications Commission.

19 (2) **FUND.**—The term “Fund” means the Dig-
20 ital Transition Consumer Assistance Fund estab-
21 lished by section 7.

22 (3) **SECRETARY.**—Except where otherwise ex-
23 pressly provided, the term “Secretary” means the
24 Secretary of Commerce.

1 **SEC. 1073. EFFECTIVE DATE.**

2 This title takes effect on the date of enactment of
3 this Act.

4 **Subtitle G—Presidential Transition**

5 **SEC. 1081. PRESIDENTIAL TRANSITION.**

6 (a) SERVICES PROVIDED PRESIDENT-ELECT.—Sec-
7 tion 3 of the Presidential Transition Act of 1963 (3
8 U.S.C. 102 note) is amended—

9 (1) by adding after subsection (a)(8)(A)(iv) the
10 following:

11 “(v) Activities under this paragraph
12 shall include the preparation of a detailed
13 classified, compartmented summary by the
14 relevant outgoing executive branch officials
15 of specific operational threats to national
16 security; major military or covert oper-
17 ations; and pending decisions on possible
18 uses of military force. This summary shall
19 be provided to the President-elect as soon
20 as possible after the date of the general
21 elections held to determine the electors of
22 President and Vice President under section
23 1 or 2 of title 3, United States Code.”;

24 (2) by redesignating subsection (f) as sub-
25 section (g); and

26 (3) by adding after subsection (e) the following:

1 “(f)(1) The President-elect should submit to the Fed-
2 eral Bureau of Investigation or other appropriate agency
3 and then, upon taking effect and designation, to the agen-
4 cy designated by the President under section 115(b) of
5 the National Intelligence Reform Act of 2004, the names
6 of candidates for high level national security positions
7 through the level of undersecretary of cabinet departments
8 as soon as possible after the date of the general elections
9 held to determine the electors of President and Vice Presi-
10 dent under section 1 or 2 of title 3, United States Code.

11 “(2) The responsible agency or agencies shall under-
12 take and complete as expeditiously as possible the back-
13 ground investigations necessary to provide appropriate se-
14 curity clearances to the individuals who are candidates de-
15 scribed under paragraph (1) before the date of the inau-
16 guration of the President-elect as President and the inau-
17 guration of the Vice-President-elect as Vice President.”.

18 (b) SENSE OF THE SENATE REGARDING EXPEDITED
19 CONSIDERATION OF NATIONAL SECURITY NOMINEES.—
20 It is the sense of the Senate that—

21 (1) the President-elect should submit the nomi-
22 nations of candidates for high-level national security
23 positions, through the level of undersecretary of cab-
24 inet departments, to the Senate by the date of the
25 inauguration of the President-elect as President; and

1 (2) for all such national security nominees re-
2 ceived by the date of inauguration, the Senate com-
3 mittees to which these nominations are referred
4 should, to the fullest extent possible, complete their
5 consideration of these nominations, and, if such
6 nominations are reported by the committees, the full
7 Senate should vote to confirm or reject these nomi-
8 nations, within 30 days of their submission.

9 (c) SECURITY CLEARANCES FOR TRANSITION TEAM
10 MEMBERS.—

11 (1) DEFINITION.—In this section, the term
12 “major party” shall have the meaning given under
13 section 9002(6) of the Internal Revenue Code of
14 1986.

15 (2) IN GENERAL.—Each major party candidate
16 for President may submit, before the date of the
17 general election, requests for security clearances for
18 prospective transition team members who will have
19 a need for access to classified information to carry
20 out their responsibilities as members of the Presi-
21 dent-elect’s transition team.

22 (3) COMPLETION DATE.—Necessary back-
23 ground investigations and eligibility determinations
24 to permit appropriate prospective transition team
25 members to have access to classified information

1 shall be completed, to the fullest extent practicable,
2 by the day after the date of the general election.

3 (d) EFFECTIVE DATE.—Notwithstanding section
4 341, this section and the amendments made by this sec-
5 tion shall take effect on the date of enactment of this Act.

6 **TITLE XII—GENERAL** 7 **PROVISIONS**

8 **SEC. 1101. AMENDMENTS TO CLINGER-COHEN PROVISIONS** 9 **TO ENHANCE AGENCY PLANNING FOR INFOR-** 10 **MATION SECURITY NEEDS.**

11 Chapter 113 of title 40, United States Code, is
12 amended—

13 (1) in section 11302(b), by inserting “security,”
14 after “use,”;

15 (2) in section 11302(e), by inserting “, includ-
16 ing information security risks,” after “risks” both
17 places it appears;

18 (3) in section 11312(b)(1), by striking “infor-
19 mation technology investments” and inserting “in-
20 vestments in information technology (including infor-
21 mation security needs)”; and

22 (4) in section 11315(b)(2), by inserting “, se-
23 cure,” after “sound”.

1 **SEC. 1102. FINANCIAL DISCLOSURE AND RECORDS.**

2 (a) STUDY.—Not later than 180 days after the date
3 of enactment of this Act, the Office of Government Ethics
4 shall submit to Congress a report—

5 (1) evaluating the financial disclosure process
6 for employees of the executive branch of Govern-
7 ment; and

8 (2) making recommendations for improving that
9 process.

10 (b) TRANSMITTAL OF RECORD RELATING TO PRESI-
11 DENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL
12 CANDIDATES.—

13 (1) DEFINITION.—In this section, the term
14 “major party” has the meaning given that term
15 under section 9002(6) of the Internal Revenue Code
16 of 1986.

17 (2) TRANSMITTAL.—

18 (A) IN GENERAL.—Not later than 15 days
19 after the date on which a major party nomi-
20 nates a candidate for President, the Office of
21 Personnel Management shall transmit an elec-
22 tronic record to that candidate on Presidentially
23 appointed positions.

24 (B) OTHER CANDIDATES.—After making
25 transmittals under subparagraph (A), the Of-
26 fice of Personnel Management may transmit an

1 electronic record on Presidentially appointed po-
2 sitions to any other candidate for President.

3 (3) CONTENT.—The record transmitted under
4 this subsection shall provide—

5 (A) all positions which are appointed by
6 the President, including the title and descrip-
7 tion of the duties of each position;

8 (B) the name of each person holding a po-
9 sition described under subparagraph (A);

10 (C) any vacancy in the positions described
11 under subparagraph (A), and the period of time
12 any such position has been vacant;

13 (D) the date on which an appointment
14 made after the applicable Presidential election
15 for any position described under subparagraph
16 (A) is necessary to ensure effective operation of
17 the Government; and

18 (E) any other information that the Office
19 of Personnel Management determines is useful
20 in making appointments.

21 (c) REDUCTION OF POSITIONS REQUIRING APPOINT-
22 MENT WITH SENATE CONFIRMATION.—

23 (1) DEFINITION.—In this subsection, the term
24 “agency” means an Executive agency as defined
25 under section 105 of title 5, United States Code.

1 (2) REDUCTION PLAN.—

2 (A) IN GENERAL.—Not later than 180
3 days after the date of enactment of this Act,
4 the head of each agency shall submit a Presi-
5 dential appointment reduction plan to—

6 (i) the President;

7 (ii) the Committee on Governmental
8 Affairs of the Senate; and

9 (iii) the Committee on Government
10 Reform of the House of Representatives.

11 (B) CONTENT.—The plan under this para-
12 graph shall provide for the reduction of—

13 (i) the number of positions within that
14 agency that require an appointment by the
15 President, by and with the advice and con-
16 sent of the Senate; and

17 (ii) the number of levels of such posi-
18 tions within that agency.

19 (d) OFFICE OF GOVERNMENT ETHICS REVIEW OF
20 CONFLICT OF INTEREST LAW.—

21 (1) IN GENERAL.—Not later than 180 days
22 after the date of enactment of this Act, the Director
23 of the Office of Government Ethics, in consultation
24 with the Attorney General of the United States,
25 shall conduct a comprehensive review of conflict of

1 interest laws relating to Federal employment and
2 submit a report to—

3 (A) the President;

4 (B) the Committee on Governmental Af-
5 fairs of the Senate;

6 (C) the Committee on the Judiciary of the
7 Senate;

8 (D) the Committee on Government Reform
9 of the House of Representatives; and

10 (E) the Committee on the Judiciary of the
11 House of Representatives.

12 (2) CONTENT.—The report under this sub-
13 section shall—

14 (A) examine all Federal criminal conflict of
15 interest laws relating to Federal employment,
16 including the relevant provisions of chapter 11
17 of title 18, United States Code; and

18 (B) related civil conflict of interest laws,
19 including regulations promulgated under section
20 402 of the Ethics in Government Act of 1978
21 (5 U.S.C. App.).

22 **SEC. 1103. HOMELAND SECURITY GEOGRAPHIC INFORMA-**
23 **TION.**

24 (a) FINDINGS.—Congress finds that—

1 (1) geographic technologies and geographic data
2 improve government capabilities to detect, plan, pre-
3 pare, and respond to disasters in order to save lives
4 and protect property;

5 (2) geographic data improves the ability of in-
6 formation technology applications and systems to en-
7 hance public security in a cost-effective manner; and

8 (3) geographic information preparedness in the
9 United States, and specifically in the Department of
10 Homeland Security, is insufficient because of—

11 (A) inadequate geographic data compat-
12 ibility;

13 (B) insufficient geographic data sharing;
14 and

15 (C) technology interoperability barriers.

16 (b) HOMELAND SECURITY GEOGRAPHIC INFORMA-
17 TION.—Section 703 of the Homeland Security Act of 2002
18 (6 U.S.C. 343) is amended—

19 (1) by inserting “(a) IN GENERAL.—” before
20 “The Chief Information”; and

21 (2) by adding at the end the following:

22 “(b) GEOGRAPHIC INFORMATION FUNCTIONS.—

23 “(1) DEFINITION.—In this subsection, the term
24 ‘geographic information’ means the information sys-

1 tems that involve locational data, such as maps or
2 other geospatial information resources.

3 “(2) OFFICE OF GEOSPATIAL MANAGEMENT.—

4 “(A) ESTABLISHMENT.—The Office of
5 Geospatial Management is established within
6 the Office of the Chief Information Officer.

7 “(B) GEOSPATIAL INFORMATION OFFI-
8 CER.—

9 “(i) APPOINTMENT.—The Office of
10 Geospatial Management shall be adminis-
11 tered by the Geospatial Information Offi-
12 cer, who shall be appointed by the Sec-
13 retary and serve under the direction of the
14 Chief Information Officer.

15 “(ii) FUNCTIONS.—The Geospatial In-
16 formation Officer shall assist the Chief In-
17 formation Officer in carrying out all func-
18 tions under this section and in coordi-
19 nating the geographic information needs of
20 the Department.

21 “(C) COORDINATION OF GEOGRAPHIC IN-
22 FORMATION.—The Chief Information Officer
23 shall establish and carry out a program to pro-
24 vide for the efficient use of geographic informa-
25 tion, which shall include—

1 “(i) providing such geographic infor-
2 mation as may be necessary to implement
3 the critical infrastructure protection pro-
4 grams;

5 “(ii) providing leadership and coordi-
6 nation in meeting the geographic informa-
7 tion requirements of those responsible for
8 planning, prevention, mitigation, assess-
9 ment and response to emergencies, critical
10 infrastructure protection, and other func-
11 tions of the Department; and

12 “(iii) coordinating with users of geo-
13 graphic information within the Department
14 to assure interoperability and prevent un-
15 necessary duplication.

16 “(D) RESPONSIBILITIES.—In carrying out
17 this subsection, the responsibilities of the Chief
18 Information Officer shall include—

19 “(i) coordinating the geographic infor-
20 mation needs and activities of the Depart-
21 ment;

22 “(ii) implementing standards, as
23 adopted by the Director of the Office of
24 Management and Budget under the proc-
25 esses established under section 216 of the

1 E-Government Act of 2002 (44 U.S.C.
2 3501 note), to facilitate the interoper-
3 ability of geographic information per-
4 taining to homeland security among all
5 users of such information within—

6 “(I) the Department;

7 “(II) State and local government;

8 and

9 “(III) the private sector;

10 “(iii) coordinating with the Federal
11 Geographic Data Committee and carrying
12 out the responsibilities of the Department
13 pursuant to Office of Management and
14 Budget Circular A-16 and Executive
15 Order 12906; and

16 “(iv) making recommendations to the
17 Secretary and the Executive Director of
18 the Office for State and Local Government
19 Coordination and Preparedness on award-
20 ing grants to—

21 “(I) fund the creation of geo-
22 graphic data; and

23 “(II) execute information sharing
24 agreements regarding geographic data

1 with State, local, and tribal govern-
2 ments.

3 “(3) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated such sums
5 as may be necessary to carry out this subsection for
6 each fiscal year.”.

7 **SEC. 1104. URBAN AREA COMMUNICATIONS CAPABILITIES.**

8 Section 510 of the Homeland Security Act of 2002,
9 as added by this Act, is amended by inserting “, and shall
10 have appropriate and timely access to the Information
11 Sharing Network described in section 206(c) of the Na-
12 tional Intelligence Reform Act of 2004” after “each other
13 in the event of an emergency”.

14 **SEC. 1105. UNIFIED INCIDENT COMMAND CENTER.**

15 The United States needs to implement the rec-
16 ommendations of the National Commission on Terrorist
17 Attacks Upon the United States to adopt a unified inci-
18 dent command system and significantly enhance commu-
19 nications connectivity between and among civilian authori-
20 ties, local first responders, and the National Guard. The
21 unified incident command system should enable emergency
22 managers and first responders to manage, generate, re-
23 ceive, evaluate, share, and use information in the event
24 of a terrorist attack or a significant national disaster.

1 **SEC. 1106. AVIATION AND TRANSPORTATION SECURITY**
2 **ACT.**

3 Section 145(e) of the Aviation and Transportation
4 Security Act (49 U.S.C. 40101 note) is amended by strik-
5 ing “more than” and all that follows through “after” and
6 inserting “more than 48 months after”.

7 **SEC. 1107. LIQUEFIED NATURAL GAS MARINE TERMINALS.**

8 Congress finds that plans developed by the Depart-
9 ment of Homeland Security to protect critical energy in-
10 frastructure should include risk assessments and protec-
11 tive measures for existing and proposed liquefied natural
12 gas marine terminals.

13 **SEC. 1108. REPORT ON INTERNATIONAL AIR CARGO**
14 **THREATS.**

15 (a) REPORT.—Within 180 days after the date of en-
16 actment of this Act, the Secretary of Homeland Security,
17 in coordination with the Secretary of Defense and the Ad-
18 ministrator of the Federal Aviation Administration, shall
19 submit a report to the Committee on Commerce, Science,
20 and Transportation and the Committee on Governmental
21 Affairs of the Senate and the Committee on Transpor-
22 tation and Infrastructure and the Select Committee on
23 Homeland Security of the House of Representatives that
24 contains the following:

25 (1) A description of the current procedures in
26 place to address the threat of an inbound all-cargo

1 aircraft from outside the United States that intel-
2 ligence sources indicate could carry explosive, incen-
3 diary, chemical, biological or nuclear devices.

4 (2) An analysis of the potential for establishing
5 secure facilities along established international avia-
6 tion routes for the purposes of diverting and secur-
7 ing aircraft described in paragraph (1).

8 (b) REPORT FORMAT.—The Secretary may submit
9 all, or part, of the report required by this section in classi-
10 fied and redacted form if the Secretary determines that
11 it is appropriate or necessary.

12 **SEC. 1109. COMMUNICATION SYSTEM GRANTS.**

13 (a) IN GENERAL.—The Secretary of Homeland Secu-
14 rity may award grants, on a competitive basis, to States,
15 local governments, local law enforcement agencies, and
16 local fire departments to—

17 (1) improve communication systems to allow for
18 real time, interoperable communication between
19 State and local first responders; or

20 (2) purchase communication systems that allow
21 for real time, interoperable communication between
22 State and local first responders.

23 (b) APPLICATION.—Any State, local government,
24 local law enforcement agency, or local fire department de-
25 siring a grant under this section shall submit an applica-

1 tion to the Secretary at such time, in such manner, and
2 containing such information as the Secretary may reason-
3 ably require.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated such sums as necessary
6 for each of the fiscal years 2005 through 2009 to carry
7 out the provisions of this section.

8 **SEC. 1110. TSA FIELD OFFICE INFORMATION TECHNOLOGY**
9 **AND TELECOMMUNICATIONS REPORT.**

10 Within 90 days after the date of enactment of this
11 Act, the Secretary of Homeland Security shall transmit
12 a report to the Congress, which may be transmitted in
13 classified and redacted formats, setting forth—

14 (1) a descriptive list of each administrative and
15 airport site of the Transportation Security Adminis-
16 tration, including its location, staffing, and facilities;

17 (2) an analysis of the information technology
18 and telecommunications capabilities, equipment, and
19 support available at each such site, including—

20 (A) whether the site has access to
21 broadband telecommunications;

22 (B) whether the site has the ability to ac-
23 cess Transportation Security Administration
24 databases directly;

1 (C) the means available to the site for
2 communicating and sharing information and
3 other data on a real time basis with the Trans-
4 portation Security Administration's national,
5 regional, and State offices as well as with other
6 Transportation Security Administration sites;

7 (D) the means available to the site for
8 communicating with other Federal, State, and
9 local government sites with transportation secu-
10 rity related responsibilities; and

11 (E) whether and to what extent computers
12 in the site are linked through a local area net-
13 work or otherwise, and whether the information
14 technology resources available to the site are
15 adequate to enable it to carry out its functions
16 and purposes; and

17 (3) an assessment of current and future needs
18 of the Transportation Security Administration to
19 provide adequate information technology and tele-
20 communications facilities, equipment, and support to
21 its sites, and an estimate of the costs of meeting
22 those needs.

1 **SEC. 1111. INTELLIGENCE COMMUNITY USE OF NISAC CA-**
2 **PABILITIES.**

3 The National Intelligence Director shall establish a
4 formal relationship, including information sharing, be-
5 tween the intelligence community and the National Infra-
6 structure Simulation and Analysis Center. Through this
7 relationship, the intelligence community shall take full ad-
8 vantage of the capabilities of the National Infrastructure
9 Simulation and Analysis Center, particularly vulnerability
10 and consequence analysis, for real time response to re-
11 ported threats and long term planning for projected
12 threats.

13 **SEC. 1112. NATIONWIDE INTEROPERABLE COMMUNICA-**
14 **TIONS NETWORK.**

15 (a) IN GENERAL.—Within one year of enactment, the
16 Secretary of Homeland Security, in coordination with the
17 Federal Communications Commission and the National
18 Telecommunications and Information Administration,
19 shall complete a study assessing potential technical and
20 operational standards and protocols for a nationwide
21 interoperable communications network (referred to in this
22 section as the “Network”) that may be used by Federal,
23 State, and local governmental and non-governmental pub-
24 lic safety, homeland security, and other first responder
25 personnel. The assessment shall be consistent with the
26 SAFECOM national strategy as developed by the public

1 safety community in cooperation with SAFECOM and the
2 DHS Interoperability Office. The Secretary shall report
3 the results of the study to the Senate Committee on Com-
4 merce, Science, and Transportation, the Senate Com-
5 mittee on Governmental Affairs, the House of Representa-
6 tives Committee on Energy and Commerce, and the House
7 of Representatives Select Committee on Homeland Secu-
8 rity.

9 (b) CONSULTATION AND USE OF COMMERCIAL
10 TECHNOLOGIES.—In assessing standards and protocols
11 pursuant to paragraph (a), the Secretary of Homeland Se-
12 curity shall—

13 (1) seek input from representatives of the user
14 communities regarding the operation and adminis-
15 tration of the Network; and

16 (2) consider use of commercial wireless tech-
17 nologies to the greatest extent practicable.

18 **SEC. 1113. COMMUNICATIONS INTEROPERABILITY.**

19 (a) DEFINITION.—As used in this section, the term
20 “equipment interoperability” means the devices that sup-
21 port the ability of public safety service and support pro-
22 viders to talk with each other via voice and data on de-
23 mand, in real time, when needed, and when authorized.

24 (b) NATIONAL GUIDELINES FOR EQUIPMENT INTER-
25 OPERABILITY.—Not later than one year after the date of

1 enactment of this Act, the Secretary of Homeland Secu-
2 rity, after consultation with the Federal Communications
3 Commission and the National Telecommunications and
4 Information Administration, and other appropriate rep-
5 resentatives of Federal, State, and local government and
6 first responders, shall adopt, by regulation, national goals
7 and guidelines for equipment interoperability and related
8 issues that—

9 (1) set short-term, mid-term, and long-term
10 means and minimum equipment performance guide-
11 lines for Federal agencies, States, and local govern-
12 ments;

13 (2) recognize—

14 (A) the value, life cycle, and technical ca-
15 pabilities of existing communications infrastruc-
16 ture;

17 (B) the need for cross-border interoper-
18 ability between States and nations;

19 (C) the unique needs of small, rural com-
20 munities; and

21 (D) the interoperability needs for daily op-
22 erations and catastrophic events.

23 (c) NATIONAL EQUIPMENT INTEROPERABILITY IM-
24 PLEMENTATION PLAN.—

1 (1) DEVELOPMENT.—Not later than 180 days
2 of the completion of the development of goals and
3 guidelines under subsection (b), the Secretary of
4 Homeland Security shall develop an implementation
5 plan that—

6 (A) outlines the responsibilities of the De-
7 partment of Homeland Security; and

8 (B) focuses on providing technical and fi-
9 nancial assistance to States and local govern-
10 ments for interoperability planning and imple-
11 mentation.

12 (2) EXECUTION.—The Secretary shall execute
13 the plan developed under this subsection as soon as
14 practicable.

15 (3) REPORTS.—

16 (A) INITIAL REPORT.—Upon the comple-
17 tion of the plan under subsection (c), the Sec-
18 retary shall submit a report that describes such
19 plan to—

20 (i) the Committee on Governmental
21 Affairs of the Senate;

22 (ii) the Committee on Environment
23 and Public Works of the Senate;

24 (iii) the Committee on Commerce,
25 Science, and Transportation of the Senate;

1 (iv) the Select Committee on Home-
2 land Security of the House of Representa-
3 tives; and

4 (v) the Committee on Energy and
5 Commerce of the House of Representa-
6 tives.

7 (B) ANNUAL REPORT.—Not later than 1
8 year after the submission of the report under
9 subparagraph (A), and annually thereafter, the
10 Secretary shall submit a report to the commit-
11 tees referred to in subparagraph (A) that de-
12 scribes the progress made in implementing the
13 plan developed under this subsection.

14 (d) INTERNATIONAL INTEROPERABILITY.—Not later
15 than 1 year after the date of enactment of this Act, the
16 President shall establish a mechanism for coordinating
17 cross-border interoperability issues between—

18 (1) the United States and Canada; and

19 (2) the United States and Mexico.

20 (e) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated for each of the fiscal
22 years 2005 through 2009—

23 (1) such sums as may be necessary to carry out
24 subsection (b);

1 (2) such sums as may be necessary to carry out
2 subsection (c); and

3 (3) such sums as may be necessary to carry out
4 subsection (d).

5 **SEC. 1114. DEADLINE FOR COMPLETION OF CERTAIN**
6 **PLANS, REPORTS, AND ASSESSMENTS.**

7 (a) **STRATEGIC PLAN REPORTS.**—Within 90 days
8 after the date of enactment of this Act, the Secretary of
9 Homeland Security shall transmit to the Congress—

10 (1) a report on the status of the National Mari-
11 time Transportation Security Plan required by sec-
12 tion 70103(a) of title 46, United States Code, which
13 may be submitted in classified and redacted format;

14 (2) a comprehensive program management plan
15 that identifies specific tasks to be completed and
16 deadlines for completion for the transportation secu-
17 rity card program under section 70105 of title 46,
18 United States Code that incorporates best practices
19 for communicating, coordinating, and collaborating
20 with the relevant stakeholders to resolve relevant
21 issues, such as background checks;

22 (3) a report on the status of negotiations under
23 section 103 of the Maritime Transportation Security
24 Act of 2002 (46 U.S.C. 70111 note);

1 (4) the report required by section 107(b) of the
2 Maritime Transportation Security Act of 2002 (33
3 U.S.C. 1226 note); and

4 (5) a report on the status of the development
5 of the system and program mandated by section 111
6 of the Maritime Transportation Security Act of
7 2002 (46 U.S.C. 70116 note).

8 (b) OTHER REPORTS.—Within 90 days after the date
9 of enactment of this Act—

10 (1) the Secretary of Homeland Security shall
11 transmit to the Congress—

12 (A) a report on the establishment of the
13 National Maritime Security Advisory Com-
14 mittee appointed under section 70112 of title
15 46, United States Code; and

16 (B) a report on the status of the program
17 established under section 70116 of title 46,
18 United States Code, to evaluate and certify se-
19 cure systems of international intermodal trans-
20 portation;

21 (2) the Secretary of Transportation shall trans-
22 mit to the Congress the annual report required by
23 section 905 of the International Maritime and Port
24 Security Act (46 U.S.C. App. 1802) that includes
25 information that should have been included in the

1 last preceding annual report that was due under
2 that section; and

3 (3) the Commandant of the United States
4 Coast Guard shall transmit to Congress the report
5 required by section 110(b) of the Maritime Trans-
6 portation Security Act of 2002 (46 U.S.C. 70101
7 note).

8 (d) EFFECTIVE DATE.—Notwithstanding any other
9 provision of this Act, this section takes effect on the date
10 of enactment of this Act.

11 **SEC. 1115. TERRORISM FINANCING.**

12 (a) REPORT ON TERRORIST FINANCING.—

13 (1) IN GENERAL.—Not later than 180 days
14 after the date of enactment of this Act, the Presi-
15 dent, acting through the Secretary of the Treasury,
16 shall submit to Congress a report evaluating the cur-
17 rent state of United States efforts to curtail the
18 international financing of terrorism.

19 (2) CONTENTS.—The report required by para-
20 graph (1) shall evaluate and make recommendations
21 on—

22 (A) the effectiveness and efficiency of cur-
23 rent United States governmental efforts and
24 methods to detect, track, disrupt, and stop ter-
25 rorist financing;

1 (B) the relationship between terrorist fi-
2 nancing and money laundering, including how
3 the laundering of proceeds related to illegal nar-
4 cotics or foreign political corruption may con-
5 tribute to terrorism or terrorist financing;

6 (C) the nature, effectiveness, and efficiency
7 of current efforts to coordinate intelligence and
8 agency operations within the United States
9 Government to detect, track, disrupt, and stop
10 terrorist financing, including identifying who, if
11 anyone, has primary responsibility for devel-
12 oping priorities, assigning tasks to agencies,
13 and monitoring the implementation of policy
14 and operations;

15 (D) the effectiveness and efficiency of ef-
16 forts to protect the critical infrastructure of the
17 United States financial system, and ways to im-
18 prove the effectiveness of financial institutions;

19 (E) ways to improve multilateral and inter-
20 national governmental cooperation on terrorist
21 financing, including the adequacy of agency co-
22 ordination within the United States related to
23 participating in international cooperative efforts
24 and implementing international treaties and
25 compacts; and

1 (F) ways to improve the setting of prior-
2 ities and coordination of United States efforts
3 to detect, track, disrupt, and stop terrorist fi-
4 nancing, including recommendations for
5 changes in executive branch organization or
6 procedures, legislative reforms, additional re-
7 sources, or use of appropriated funds.

8 (b) POSTEMPLOYMENT RESTRICTION FOR CERTAIN
9 BANK AND THRIFT EXAMINERS.—Section 10 of the Fed-
10 eral Deposit Insurance Act (12 U.S.C. 1820) is amended
11 by adding at the end the following:

12 “(k) ONE-YEAR RESTRICTIONS ON FEDERAL EXAM-
13 INERS OF FINANCIAL INSTITUTIONS.—

14 “(1) IN GENERAL.—In addition to other appli-
15 cable restrictions set forth in title 18, United States
16 Code, the penalties set forth in paragraph (6) of this
17 subsection shall apply to any person who—

18 “(A) was an officer or employee (including
19 any special Government employee) of a Federal
20 banking agency or a Federal reserve bank;

21 “(B) served 2 or more months during the
22 final 12 months of his or her employment with
23 such agency or entity as the senior examiner
24 (or a functionally equivalent position) of a de-
25 pository institution or depository institution

1 holding company with continuing, broad respon-
2 sibility for the examination (or inspection) of
3 that depository institution or depository institu-
4 tion holding company on behalf of the relevant
5 agency or Federal reserve bank; and

6 “(C) within 1 year after the termination
7 date of his or her service or employment with
8 such agency or entity, knowingly accepts com-
9 pensation as an employee, officer, director, or
10 consultant from—

11 “(i) such depository institution, any
12 depository institution holding company
13 that controls such depository institution, or
14 any other company that controls such de-
15 pository institution; or

16 “(ii) such depository institution hold-
17 ing company or any depository institution
18 that is controlled by such depository insti-
19 tution holding company.

20 “(2) DEFINITIONS.—For purposes of this sub-
21 section—

22 “(A) the term ‘depository institution’ in-
23 cludes an uninsured branch or agency of a for-
24 eign bank, if such branch or agency is located
25 in any State; and

1 “(B) the term ‘depository institution hold-
2 ing company’ includes any foreign bank or com-
3 pany described in section 8(a) of the Inter-
4 national Banking Act of 1978.

5 “(3) RULES OF CONSTRUCTION.—For purposes
6 of this subsection, a foreign bank shall be deemed to
7 control any branch or agency of the foreign bank,
8 and a person shall be deemed to act as a consultant
9 for a depository institution, depository institution
10 holding company, or other company, only if such
11 person directly works on matters for, or on behalf
12 of, such depository institution, depository institution
13 holding company, or other company.

14 “(4) REGULATIONS.—

15 “(A) IN GENERAL.—Each Federal banking
16 agency shall prescribe rules or regulations to
17 administer and carry out this subsection, in-
18 cluding rules, regulations, or guidelines to de-
19 fine the scope of persons referred to in para-
20 graph (1)(B).

21 “(B) CONSULTATION REQUIRED.—The
22 Federal banking agencies shall consult with
23 each other for the purpose of assuring that the
24 rules and regulations issued by the agencies
25 under subparagraph (A) are, to the extent pos-

1 sible, consistent and comparable and prac-
2 ticable, taking into account any differences in
3 the supervisory programs utilized by the agen-
4 cies for the supervision of depository institu-
5 tions and depository institution holding compa-
6 nies.

7 “(5) WAIVER.—

8 “(A) AGENCY AUTHORITY.—A Federal
9 banking agency may grant a waiver, on a case
10 by case basis, of the restriction imposed by this
11 subsection to any officer or employee (including
12 any special Government employee) of that agen-
13 cy, and the Board of Governors of the Federal
14 Reserve System may grant a waiver of the re-
15 striction imposed by this subsection to any offi-
16 cer or employee of a Federal reserve bank, if
17 the head of such agency certifies in writing that
18 granting the waiver would not affect the integ-
19 rity of the supervisory program of the relevant
20 Federal banking agency.

21 “(B) DEFINITION.—For purposes of this
22 paragraph, the head of an agency is—

23 “(i) the Comptroller of the Currency,
24 in the case of the Office of the Comptroller
25 of the Currency;

1 “(ii) the Chairman of the Board of
2 Governors of the Federal Reserve System,
3 in the case of the Board of Governors of
4 the Federal Reserve System;

5 “(iii) the Chairperson of the Board of
6 Directors, in the case of the Corporation;
7 and

8 “(iv) the Director of the Office of
9 Thrift Supervision, in the case of the Of-
10 fice of Thrift Supervision.

11 “(6) PENALTIES.—

12 “(A) IN GENERAL.—In addition to any
13 other administrative, civil, or criminal remedy
14 or penalty that may otherwise apply, whenever
15 a Federal banking agency determines that a
16 person subject to paragraph (1) has become as-
17 sociated, in the manner described in paragraph
18 (1)(C), with a depository institution, depository
19 institution holding company, or other company
20 for which such agency serves as the appropriate
21 Federal banking agency, the agency shall im-
22 pose upon such person one or more of the fol-
23 lowing penalties:

24 “(i) INDUSTRY-WIDE PROHIBITION
25 ORDER.—The Federal banking agency

1 shall serve a written notice or order in ac-
2 cordance with and subject to the provisions
3 of section 8(e)(4) for written notices or or-
4 ders under paragraphs (1) or (2) of section
5 8(e), upon such person of the intention of
6 the agency—

7 “(I) to remove such person from
8 office or to prohibit such person from
9 further participation in the conduct of
10 the affairs of the depository institu-
11 tion, depository institution holding
12 company, or other company for a pe-
13 riod of up to 5 years; and

14 “(II) to prohibit any further par-
15 ticipation by such person, in any man-
16 ner, in the conduct of the affairs of
17 any insured depository institution for
18 a period of up to 5 years.

19 “(ii) CIVIL MONETARY FINE.—The
20 Federal banking agency may, in an admin-
21 istrative proceeding or civil action in an
22 appropriate United States district court,
23 impose on such person a civil monetary
24 penalty of not more than \$250,000. In lieu
25 of an action by the Federal banking agency

1 under this clause, the Attorney General of
2 the United States may bring a civil action
3 under this clause in the appropriate United
4 States district court. Any administrative
5 proceeding under this clause shall be con-
6 ducted in accordance with section 8(i).

7 “(B) SCOPE OF PROHIBITION ORDER.—
8 Any person subject to an order issued under
9 subparagraph (A)(i) shall be subject to para-
10 graphs (6) and (7) of section 8(e) in the same
11 manner and to the same extent as a person
12 subject to an order issued under such section.

13 “(C) DEFINITIONS.—Solely for purposes of
14 this paragraph, the ‘appropriate Federal bank-
15 ing agency’ for a company that is not a deposi-
16 tory institution or depository institution holding
17 company shall be the Federal banking agency
18 on whose behalf the person described in para-
19 graph (1) performed the functions described in
20 paragraph (1)(B).”.

21 (c) POSTEMPLOYMENT RESTRICTION FOR CERTAIN
22 CREDIT UNION EXAMINERS.—Section 206 of the Federal
23 Credit Union Act (12 U.S.C. 1786) is amended by adding
24 at the end the following:

1 “(w) ONE-YEAR RESTRICTIONS ON FEDERAL EXAM-
2 INERS OF INSURED CREDIT UNIONS.—

3 “(1) IN GENERAL.—In addition to other appli-
4 cable restrictions set forth in title 18, United States
5 Code, the penalties set forth in paragraph (5) of this
6 subsection shall apply to any person who—

7 “(A) was an officer or employee (including
8 any special Government employee) of the Ad-
9 ministration;

10 “(B) served 2 or more months during the
11 final 12 months of his or her employment with
12 the Administration as the senior examiner (or a
13 functionally equivalent position) of an insured
14 credit union with continuing, broad responsi-
15 bility for the examination (or inspection) of that
16 insured credit union on behalf of the Adminis-
17 tration; and

18 “(C) within 1 year after the termination
19 date of his or her service or employment with
20 the Administration, knowingly accepts com-
21 pensation as an employee, officer, director, or
22 consultant from such insured credit union.

23 “(2) RULE OF CONSTRUCTION.—For purposes
24 of this subsection, a person shall be deemed to act
25 as a consultant for an insured credit union only if

1 such person directly works on matters for, or on be-
2 half of, such insured credit union.

3 “(3) REGULATIONS.—

4 “(A) IN GENERAL.—The Board shall pre-
5 scribe rules or regulations to administer and
6 carry out this subsection, including rules, regu-
7 lations, or guidelines to define the scope of per-
8 sons referred to in paragraph (1)(B).

9 “(B) CONSULTATION.—In prescribing
10 rules or regulations under this paragraph, the
11 Board shall, to the extent it deems necessary,
12 consult with the Federal banking agencies (as
13 defined in section 3 of the Federal Deposit In-
14 surance Act) on regulations issued by such
15 agencies in carrying out section 10(k) of the
16 Federal Deposit Insurance Act.

17 “(4) WAIVER.—

18 “(A) AGENCY AUTHORITY.—The Board
19 may grant a waiver, on a case by case basis, of
20 the restriction imposed by this subsection to
21 any officer or employee (including any special
22 Government employee) of the Administration if
23 the Chairman certifies in writing that granting
24 the waiver would not affect the integrity of the
25 supervisory program of the Administration.

1 “(5) PENALTIES.—

2 “(A) IN GENERAL.—In addition to any
3 other administrative, civil, or criminal remedy
4 or penalty that may otherwise apply, whenever
5 the Board determines that a person subject to
6 paragraph (1) has become associated, in the
7 manner described in paragraph (1)(C), with an
8 insured credit union, the Board shall impose
9 upon such person one or more of the following
10 penalties:

11 “(i) INDUSTRY-WIDE PROHIBITION
12 ORDER.—The Board shall serve a written
13 notice or order in accordance with and
14 subject to the provisions of subsection
15 (g)(4) for written notices or orders under
16 paragraphs (1) or (2) of subsection (g),
17 upon such person of the intention of the
18 Board—

19 “(I) to remove such person from
20 office or to prohibit such person from
21 further participation in the conduct of
22 the affairs of the insured credit union
23 for a period of up to 5 years; and

24 “(II) to prohibit any further par-
25 ticipation by such person, in any man-

1 ner, in the conduct of the affairs of
2 any insured credit union for a period
3 of up to 5 years.

4 “(ii) CIVIL MONETARY FINE.—The
5 Board may, in an administrative pro-
6 ceeding or civil action in an appropriate
7 United States district court, impose on
8 such person a civil monetary penalty of not
9 more than \$250,000. In lieu of an action
10 by the Board under this clause, the Attor-
11 ney General of the United States may
12 bring a civil action under this clause in the
13 appropriate United States district court.
14 Any administrative proceeding under this
15 clause shall be conducted in accordance
16 with subsection (k).

17 “(B) SCOPE OF PROHIBITION ORDER.—
18 Any person subject to an order issued under
19 this subparagraph (A)(i) shall be subject to
20 paragraphs (5) and (7) of subsection (g) in the
21 same manner and to the same extent as a per-
22 son subject to an order issued under subsection
23 (g).”.

24 (d) EFFECTIVE DATE.—Notwithstanding section
25 341, subsection (a) shall become effective on the date of

1 enactment of this Act, and the amendments made by sub-
2 sections (b) and (c) shall become effective at the end of
3 the 12-month period beginning on the date of enactment
4 of this Act, whether or not final regulations are issued
5 in accordance with the amendments made by this section
6 as of that date of enactment.

7 (e) REPEAL OF DUPLICATIVE PROVISION.—Section
8 ____16(c) of this Act, entitled “REPORT ON TERRORIST
9 FINANCING” is repealed, and shall have no force or effect,
10 effective on the date of enactment of this Act.

11 **SEC. 1116. PRIVATE SECURITY OFFICER EMPLOYMENT AU-**
12 **THORIZATION ACT OF 2004.**

13 (a) SHORT TITLE.—This section may be cited as the
14 “Private Security Officer Employment Authorization Act
15 of 2004”.

16 (b) FINDINGS.—Congress finds that—

17 (1) employment of private security officers in
18 the United States is growing rapidly;

19 (2) private security officers function as an ad-
20 junct to, but not a replacement for, public law en-
21 forcement by, among other things, helping to protect
22 critical infrastructure, including hospitals, manufac-
23 turing facilities, defense and aerospace contractors,
24 nuclear power plants, chemical companies, oil and

1 gas refineries, airports, communication facilities and
2 operations, and others;

3 (3) the 9-11 Commission Report says that “Pri-
4 vate sector preparedness is not a luxury; it is a cost
5 of doing business in the post-9/11 world. It is ig-
6 nored at a tremendous potential cost in lives, money,
7 and national security” and endorsed adoption of the
8 American National Standards Institute’s standard
9 for private preparedness;

10 (4) part of improving private sector prepared-
11 ness is mitigating the risks of terrorist attack on
12 critical infrastructure by ensuring that private secu-
13 rity officers who protect those facilities are properly
14 screened to determine their suitability;

15 (5) the American public deserves the employ-
16 ment of qualified, well-trained private security per-
17 sonnel as an adjunct to sworn law enforcement offi-
18 cers; and

19 (6) private security officers and applicants for
20 private security officer positions should be thor-
21 oughly screened and trained.

22 (c) DEFINITIONS.—In this section:

23 (1) EMPLOYEE.—The term “employee” includes
24 both a current employee and an applicant for em-
25 ployment as a private security officer.

1 (2) AUTHORIZED EMPLOYER.—The term “au-
2 thorized employer” means any person that—

3 (A) employs private security officers; and

4 (B) is authorized by regulations promul-
5 gated by the Attorney General to request a
6 criminal history record information search of an
7 employee through a State identification bureau
8 pursuant to this section.

9 (3) PRIVATE SECURITY OFFICER.— The term
10 “private security officer”—

11 (A) means an individual other than an em-
12 ployee of a Federal, State, or local government,
13 whose primary duty is to perform security serv-
14 ices, full- or part-time, for consideration, wheth-
15 er armed or unarmed and in uniform or plain
16 clothes (except for services excluded from cov-
17 erage under this section if the Attorney General
18 determines by regulation that such exclusion
19 would serve the public interest); but

20 (B) does not include—

21 (i) employees whose duties are pri-
22 marily internal audit or credit functions;

23 (ii) employees of electronic security
24 system companies acting as technicians or
25 monitors; or

1 (iii) employees whose duties primarily
2 involve the secure movement of prisoners.

3 (4) SECURITY SERVICES.—The term “security
4 services” means acts to protect people or property as
5 defined by regulations promulgated by the Attorney
6 General.

7 (5) STATE IDENTIFICATION BUREAU.—The
8 term “State identification bureau” means the State
9 entity designated by the Attorney General for the
10 submission and receipt of criminal history record in-
11 formation.

12 (d) CRIMINAL HISTORY RECORD INFORMATION
13 SEARCH.—

14 (1) IN GENERAL.—

15 (A) SUBMISSION OF FINGERPRINTS.—An
16 authorized employer may submit to the State
17 identification bureau of a participating State,
18 fingerprints or other means of positive identi-
19 fication, as determined by the Attorney Gen-
20 eral, of an employee of such employer for pur-
21 poses of a criminal history record information
22 search pursuant to this section.

23 (B) EMPLOYEE RIGHTS.—

24 (i) PERMISSION.—An authorized em-
25 ployer shall obtain written consent from an

1 employee to submit to the State identifica-
2 tion bureau of a participating State the re-
3 quest to search the criminal history record
4 information of the employee under this sec-
5 tion.

6 (ii) ACCESS.—An authorized employer
7 shall provide to the employee confidential
8 access to any information relating to the
9 employee received by the authorized em-
10 ployer pursuant to this section.

11 (C) PROVIDING INFORMATION TO THE
12 STATE IDENTIFICATION BUREAU.—Upon re-
13 ceipt of a request for a criminal history record
14 information search from an authorized employer
15 pursuant to this section, submitted through the
16 State identification bureau of a participating
17 State, the Attorney General shall—

18 (i) search the appropriate records of
19 the Criminal Justice Information Services
20 Division of the Federal Bureau of Inves-
21 tigation; and

22 (ii) promptly provide any resulting
23 identification and criminal history record
24 information to the submitting State identi-
25 fication bureau requesting the information.

1 (D) USE OF INFORMATION.—

2 (i) IN GENERAL.—Upon receipt of the
3 criminal history record information from
4 the Attorney General by the State identi-
5 fication bureau, the information shall be
6 used only as provided in clause (ii).

7 (ii) TERMS.—In the case of—

8 (I) a participating State that has
9 no State standards for qualification to
10 be a private security officer, the State
11 shall notify an authorized employer as
12 to the fact of whether an employee
13 has been—

14 (aa) convicted of a felony,
15 an offense involving dishonesty or
16 a false statement if the convic-
17 tion occurred during the previous
18 10 years, or an offense involving
19 the use or attempted use of phys-
20 ical force against the person of
21 another if the conviction occurred
22 during the previous 10 years; or

23 (bb) charged with a criminal
24 felony for which there has been

1 no resolution during the pre-
2 ceding 365 days; or

3 (II) a participating State that
4 has State standards for qualification
5 to be a private security officer, the
6 State shall use the information re-
7 ceived pursuant to this section in ap-
8 plying the State standards and shall
9 only notify the employer of the results
10 of the application of the State stand-
11 ards.

12 (E) FREQUENCY OF REQUESTS.—An au-
13 thorized employer may request a criminal his-
14 tory record information search for an employee
15 only once every 12 months of continuous em-
16 ployment by that employee unless the author-
17 ized employer has good cause to submit addi-
18 tional requests.

19 (2) REGULATIONS.—Not later than 180 days
20 after the date of enactment of this Act, the Attorney
21 General shall issue such final or interim final regula-
22 tions as may be necessary to carry out this section,
23 including—

24 (A) measures relating to the security, con-
25 fidentiality, accuracy, use, submission, dissemi-

1 nation, destruction of information and audits,
2 and recordkeeping;

3 (B) standards for qualification as an au-
4 thorized employer; and

5 (C) the imposition of reasonable fees nec-
6 essary for conducting the background checks.

7 (3) CRIMINAL PENALTIES FOR USE OF INFOR-
8 MATION.—Whoever knowingly and intentionally uses
9 any information obtained pursuant to this section
10 other than for the purpose of determining the suit-
11 ability of an individual for employment as a private
12 security officer shall be fined under title 18, United
13 States Code, or imprisoned for not more than 2
14 years, or both.

15 (4) USER FEES.—

16 (A) IN GENERAL.—The Director of the
17 Federal Bureau of Investigation may—

18 (i) collect fees to process background
19 checks provided for by this section; and

20 (ii) establish such fees at a level to in-
21 clude an additional amount to defray ex-
22 penses for the automation of fingerprint
23 identification and criminal justice informa-
24 tion services and associated costs.

1 (B) LIMITATIONS.—Any fee collected
2 under this subsection—

3 (i) shall, consistent with Public Law
4 101–515 and Public Law 104–99, be cred-
5 ited to the appropriation to be used for sal-
6 aries and other expenses incurred through
7 providing the services described in such
8 Public Laws and in subparagraph (A);

9 (ii) shall be available for expenditure
10 only to pay the costs of such activities and
11 services; and

12 (iii) shall remain available until ex-
13 pended.

14 (C) STATE COSTS.—Nothing in this section
15 shall be construed as restricting the right of a
16 State to assess a reasonable fee on an author-
17 ized employer for the costs to the State of ad-
18 ministering this section.

19 (5) STATE OPT OUT.—A State may decline to
20 participate in the background check system author-
21 ized by this section by enacting a law or issuing an
22 order by the Governor (if consistent with State law)
23 providing that the State is declining to participate
24 pursuant to this paragraph.

1 **SEC. 1117. BIOMETRIC STANDARD FOR VISA APPLICATIONS.**

2 (a) **SHORT TITLE.**—This section may be cited as the
3 “Biometric Visa Standard Distant Borders Act”.

4 (b) **TECHNOLOGY STANDARD FOR VISA WAIVER**
5 **PARTICIPANTS.**—Section 303(c) of the Enhanced Border
6 Security and Visa Entry Reform Act of 2002 (8 U.S.C.
7 1732(c)) is amended to read as follows:

8 “(c) **TECHNOLOGY STANDARD FOR VISA WAIVER**
9 **PARTICIPANTS.**—

10 “(1) **IN GENERAL.**—Not later than October 26,
11 2006, the Secretary of State shall certify to Con-
12 gress which of the countries designated to partici-
13 pate in the visa waiver program established under
14 section 217 of the Immigration and Nationality Act
15 (8 U.S.C. 1187) are developing a program to issue
16 to individuals seeking to enter that country pursuant
17 to a visa issued by that country, a machine readable
18 visa document that is tamper-resistant and incor-
19 porates biometric identification information that is
20 verifiable at its port of entry.

21 “(2) **SAVINGS CLAUSE.**—This subsection shall
22 not be construed to rescind the requirement of sec-
23 tion 217(a)(3) of the Immigration and Nationality
24 Act (8 U.S.C. 1187(a)(3)).”.

1 **SEC. 1118. ANNUAL REPORT ON THE ALLOCATION OF RE-**
2 **SOURCES WITHIN THE OFFICE OF FOREIGN**
3 **ASSETS CONTROL.**

4 (a) **REQUIREMENT FOR ANNUAL REPORT.**—Not later
5 than 180 days after the date of enactment of this Act,
6 and annually thereafter, the Secretary of the Treasury
7 shall submit to Congress a report on the allocation of re-
8 sources within the Office of Foreign Assets Control.

9 (b) **CONTENT OF ANNUAL REPORT.**—An annual re-
10 port required by subsection (a) shall include—

11 (1) a description of—

12 (A) the allocation of resources within the
13 Office of Foreign Assets Control to enforce the
14 economic and trade sanctions of the United
15 States against terrorist organizations and tar-
16 geted foreign countries during the fiscal year
17 prior to the fiscal year in which such report is
18 submitted; and

19 (B) the criteria on which such allocation is
20 based;

21 (2) a description of any proposed modifications
22 to such allocation; and

23 (3) an explanation for any such allocation that
24 is not based on prioritization of threats determined
25 using appropriate criteria, including the likelihood
26 that—

1 (A) a terrorist organization or targeted
2 foreign country—

3 (i) will sponsor or plan a direct attack
4 against the United States or the interests
5 of the United States; or

6 (ii) is participating in or maintaining
7 a nuclear, biological, or chemical weapons
8 development program; or

9 (B) a targeted foreign country—

10 (i) is financing, or allowing the financ-
11 ing, of a terrorist organization within such
12 country; or

13 (ii) is providing safe haven to a ter-
14 rorist organization within such country.

15 (c) EFFECTIVE DATE.—Notwithstanding section 341
16 or any other provision of this Act, this section shall take
17 effect on the date of the enactment of this Act.

18 **SEC. 1119. CONGRESSIONAL OVERSIGHT OF FBI USE OF**
19 **TRANSLATORS.**

20 Not later than 30 days after the date of enactment
21 of this Act, and annually thereafter, the Attorney General
22 of the United States shall submit a report to the Com-
23 mittee on the Judiciary of the Senate and the Committee
24 on the Judiciary of the House of Representatives, that

1 contains, with respect to each preceding 12-month pe-
2 riod—

3 (1) the number of translators employed, or con-
4 tracted for, by the Federal Bureau of Investigation
5 or other components of the Department of Justice;

6 (2) any legal or practical impediments to using
7 translators employed by the Federal, State, or local
8 agencies on a full-time, part-time, or shared basis;

9 (3) the needs of the Federal Bureau of Inves-
10 tigation for the specific translation services in cer-
11 tain languages, and recommendations for meeting
12 those needs;

13 (4) the status of any automated statistical re-
14 porting system, including implementation and future
15 viability;

16 (5) the storage capabilities of the digital collec-
17 tion system or systems utilized;

18 (6) a description of the establishment and com-
19 pliance with audio retention policies that satisfy the
20 investigative and intelligence goals of the Federal
21 Bureau of Investigation; and

22 (7) a description of the implementation of qual-
23 ity control procedures and mechanisms for moni-
24 toring compliance with quality control procedures.

1 **SEC. 1120. TERRORIST WATCH LISTS.**

2 (a) **CRITERIA FOR WATCH LIST.**—The National In-
3 telligence Director of the United States, in consultation
4 with the Secretary of Homeland Security, the Secretary
5 of State, and the Attorney General, shall report to Con-
6 gress on the criteria for placing individuals on the Ter-
7 rorist Screening Center consolidated screening watch list,
8 including minimum standards for reliability and accuracy
9 of identifying information, the degree of information cer-
10 tainty and the range of threat levels that the individual
11 poses, and the range of applicable consequences that apply
12 to the person if located. To the greatest extent consistent
13 with the protection of law enforcement sensitive informa-
14 tion, classified information, and applicable law, the report
15 shall be in unclassified form and available to the public,
16 with a classified annex where necessary.

17 (b) **SAFEGUARDS AGAINST ERRONEOUS LISTINGS.**—
18 The Secretary of Homeland Security shall establish a
19 process for individuals to challenge “Automatic Selectee”
20 or “No Fly” designations on the applicable lists as main-
21 tained by the Transportation Security Administration and
22 have their names removed from such lists, if erroneously
23 present.

24 (c) **REPORT.**—Not later than 180 days after the date
25 of enactment of this Act, the Department of Homeland
26 Security Privacy Officer shall submit a report assessing

1 the impact of the “No Fly” and “Automatic Selectee” lists
2 on privacy and civil liberties to the Committee on the Judi-
3 ciary, the Committee on Governmental Affairs, and the
4 Committee on Commerce, Science, and Transportation of
5 the Senate, and the Committee on the Judiciary, the Com-
6 mittee on Government Reform, the Committee on Trans-
7 portation and Infrastructure, and the Select Committee
8 on Homeland Security of the House of Representatives.
9 The report shall include any recommendations for prac-
10 tices, procedures, regulations, or legislation to eliminate
11 or minimize adverse effects of such lists on privacy, dis-
12 crimination, due process and other civil liberties, as well
13 as the implications of applying those lists to other modes
14 of transportation. In its analysis, the report shall also con-
15 sider the effect these recommendations would have on the
16 ability of such lists to protect the United States against
17 terrorist attacks. To the greatest extent consistent with
18 the protection of law enforcement sensitive information,
19 classified information, and applicable law, the report shall
20 be in unclassified form and available to the public, with
21 a classified annex where necessary.

22 (d) EFFECTIVE DATE.—Notwithstanding section 341
23 or any other provision of this Act, this section shall be-
24 come effective on the date of enactment of this Act.

1 **SEC. 1121. REGIONAL MODEL STRATEGIC PLAN PILOT**
2 **PROJECTS.**

3 (a) **PILOT PROJECTS.**—Consistent with sections 302
4 and 430 of the Homeland Security Act of 2002 (6 U.S.C.
5 182, 238), not later than 90 days after the date of enact-
6 ment of this Act, the Secretary of Homeland Security, in
7 coordination with the Executive Director of the Office of
8 State and Local Government Coordination and Prepared-
9 ness and the Undersecretary for Science and Technology,
10 shall establish not fewer than 2 pilot projects in high
11 threat urban areas or regions that are likely to implement
12 a national model strategic plan.

13 (b) **PURPOSES.**—The purposes of the pilot projects
14 required by this section shall be to develop a regional stra-
15 tegic plan to foster interagency communication in the area
16 in which it is established and coordinate the gathering of
17 all Federal, State, and local first responders in that area,
18 consistent with the national strategic plan developed by
19 the Department of Homeland Security.

20 (c) **SELECTION CRITERIA.**—In selecting urban areas
21 for the location of pilot projects under this section, the
22 Secretary shall consider—

23 (1) the level of threat risk to the area, as deter-
24 mined by the Department of Homeland Security;

25 (2) the number of Federal, State, and local law
26 enforcement agencies located in the area;

1 (3) the number of potential victims from a large
2 scale terrorist attack in the area; and

3 (4) such other criteria reflecting a community's
4 risk and vulnerability as the Secretary determines is
5 appropriate.

6 (d) INTERAGENCY ASSISTANCE.—The Secretary of
7 Defense shall provide assistance to the Secretary of Home-
8 land Security, as necessary for the development of the
9 pilot projects required by this section, including examining
10 relevant standards, equipment, and protocols in order to
11 improve interagency communication among first respond-
12 ers.

13 (e) REPORTS TO CONGRESS.—The Secretary of
14 Homeland Security shall submit to Congress—

15 (1) an interim report regarding the progress of
16 the interagency communications pilot projects re-
17 quired by this section 6 months after the date of en-
18 actment of this Act; and

19 (2) a final report 18 months after that date of
20 enactment.

21 (f) FUNDING.—There are authorized to be made
22 available to the Secretary of Homeland Security, such
23 sums as may be necessary to carry out this section.

1 **SEC. 1122. BORDER SURVEILLANCE.**

2 (a) IN GENERAL.—Not later than 6 months after the
3 date of enactment of this Act, the Secretary of Homeland
4 Security shall submit to the President and the appropriate
5 committees of Congress a comprehensive plan for the sys-
6 tematic surveillance of the Southwest border of the United
7 States by remotely piloted aircraft.

8 (b) CONTENTS.—The plan submitted under sub-
9 section (a) shall include—

10 (1) recommendations for establishing command
11 and control centers, operations sites, infrastructure,
12 maintenance, and procurement;

13 (2) cost estimates for the implementation of the
14 plan and ongoing operations;

15 (3) recommendations for the appropriate agent
16 within the Department of Homeland Security to be
17 the executive agency for remotely piloted aircraft op-
18 erations;

19 (4) the number of remotely piloted aircraft re-
20 quired for the plan;

21 (5) the types of missions the plan would under-
22 take, including—

23 (A) protecting the lives of people seeking
24 illegal entry into the United States;

1 (B) interdicting illegal movement of people,
2 weapons, and other contraband across the bor-
3 der;

4 (C) providing investigative support to as-
5 sist in the dismantling of smuggling and crimi-
6 nal networks along the border;

7 (D) using remotely piloted aircraft to serve
8 as platforms for the collection of intelligence
9 against smugglers and criminal networks along
10 the border; and

11 (E) further validating and testing of re-
12 motely piloted aircraft for airspace security mis-
13 sions.

14 (6) the equipment necessary to carry out the
15 plan; and

16 (7) a recommendation regarding whether to ex-
17 pand the pilot program along the entire South-
18 western border.

19 (c) IMPLEMENTATION.—The Secretary of Homeland
20 Security shall implement the plan submitted under sub-
21 section (a) as a pilot program as soon as sufficient funds
22 are appropriated and available for this purpose.

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

1 **SEC. 1123. ENTERPRISE ARCHITECTURE.**

2 (a) DEFINITION OF ENTERPRISE ARCHITECTURE.—

3 In this section, the term “enterprise architecture” means
4 a detailed outline or blueprint of the information tech-
5 nology of the Federal Bureau of Investigation that will
6 satisfy the ongoing mission and goals of the Federal Bu-
7 reau of Investigation and that sets forth specific and iden-
8 tifiable benchmarks.

9 (b) ENTERPRISE ARCHITECTURE.—The Federal Bu-
10 reau of Investigation shall—

11 (1) continually maintain and update an enter-
12 prise architecture; and

13 (2) maintain a state of the art and up to date
14 information technology infrastructure that is in com-
15 pliance with the enterprise architecture of the Fed-
16 eral Bureau of Investigation.

17 (c) REPORT.—Subject to subsection (d), the Director
18 of the Federal Bureau of Investigation shall report to the
19 House and Senate Judiciary Committees, on an annual
20 basis, on whether the major information technology invest-
21 ments of the Federal Bureau of Investigation are in com-
22 pliance with the enterprise architecture of the Federal Bu-
23 reau of Investigation and identify any inability or expecta-
24 tion of inability to meet the terms set forth in the enter-
25 prise architecture.

1 (d) FAILURE TO MEET TERMS.—If the Director of
2 the Federal Bureau of Investigation identifies any inabil-
3 ity or expectation of inability to meet the terms set forth
4 in the enterprise architecture in a report under subsection
5 (c), the report under subsection (c) shall—

6 (1) be twice a year until the inability is cor-
7 rected;

8 (2) include a statement as to whether the in-
9 ability or expectation of inability to meet the terms
10 set forth in the enterprise architecture is substan-
11 tially related to resources; and

12 (3) if the inability or expectation of inability is
13 substantially related to resources, include a request
14 for additional funding that would resolve the prob-
15 lem or a request to reprogram funds that would re-
16 solve the problem.

17 (e) FEDERAL BUREAU OF INVESTIGATION’S ENTER-
18 PRISE ARCHITECTURE, AGENCY PLANS AND REPORTS.—
19 This section shall be carried out in compliance with the
20 requirements set forth in section 206(f) and (l).

21 **SEC. 1124. REPORT ON USE OF DATABASES.**

22 (a) DEFINITIONS.—In this section:

23 (1) DATA-MINING.—The term “data-mining”
24 means a query or search or other analysis of 1 or
25 more electronic databases, where—

1 (A) at least 1 of the databases was ob-
2 tained from or remains under the control of a
3 non-Federal entity, or the information was ac-
4 quired initially by another department or agen-
5 cy of the Federal Government;

6 (B) the search does not use a specific indi-
7 vidual's personal identifiers to acquire informa-
8 tion concerning that individual; and

9 (C) a department or agency of the Federal
10 Government or a non-Federal entity acting on
11 behalf of the Federal Government is conducting
12 the query or search or other analysis to find a
13 pattern indicating terrorist, criminal, or other
14 law enforcement related activity.

15 (2) DATABASE.—The term “database” does not
16 include telephone directories, information publicly
17 available via the Internet or available by any other
18 means to any member of the public without payment
19 of a fee, or databases of judicial and administrative
20 opinions.

21 (b) REPORTS ON DATA-MINING ACTIVITIES.—

22 (1) REQUIREMENT FOR REPORT.—Beginning 1
23 year after the effective date of this section, the Na-
24 tional Intelligence Director shall submit a report,
25 public to the extent possible with a classified annex,

1 to Congress on all activities of the intelligence com-
2 munity to use or develop data-mining technology.

3 (2) CONTENT OF REPORT.—A report submitted
4 under paragraph (1) shall include, for each activity
5 to use or develop data-mining technology that is re-
6 quired to be covered by the report, the following in-
7 formation:

8 (A) A thorough description of the data-
9 mining technology, the plans for the use of such
10 technology, the data that will be used, and the
11 target dates for the deployment of the data-
12 mining technology.

13 (B) An assessment of the likely impact of
14 the implementation of the data-mining tech-
15 nology on privacy and civil liberties.

16 (C) A thorough discussion of the policies,
17 procedures, and guidelines that are to be devel-
18 oped and applied in the use of such technology
19 for data-mining in order to—

20 (i) protect the privacy and due process
21 rights of individuals; and

22 (ii) ensure that only accurate informa-
23 tion is collected and used.

24 (D) Any necessary classified information in
25 an annex that shall be available to the Com-

1 mittee on Governmental Affairs, the Committee
2 on the Judiciary, and the Select Committee on
3 Intelligence of the Senate and the Permanent
4 Select Committee on Intelligence and Com-
5 mittee on the Judiciary of the House of Rep-
6 resentatives.

7 (3) TIME FOR REPORT.—The report required
8 under paragraph (1) shall be submitted not later
9 than September 30th of each year.

10 (4) EXPIRATION.—The requirements of this
11 subsection shall expire 4 years after the date of en-
12 actment of this Act.

Passed the Senate October 6, 2004.

Attest:

Secretary.

108TH CONGRESS
2^D SESSION

S. 2845

AN ACT

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

October 6, 2004

Ordered to be printed as passed