



108TH CONGRESS } <i>2d Session</i>	HOUSE OF REPRESENTATIVES SENATE	{ REPORT 108—____
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INTELLIGENCE REFORM AND TERRORISM PREVENTION
ACT OF 2004

_____, 2004.—Ordered to be printed

_____, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 2845]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2845), to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

TITLE I—REFORM OF THE INTELLIGENCE COMMUNITY

Sec. 1001. Short title.

Subtitle A—Establishment of Director of National Intelligence

Sec. 1011. Reorganization and improvement of management of intelligence community.

Sec. 1012. Revised definition of national intelligence.

Sec. 1013. Joint procedures for operational coordination between Department of Defense and Central Intelligence Agency.

- Sec. 1014. *Role of Director of National Intelligence in appointment of certain officials responsible for intelligence-related activities.*
- Sec. 1015. *Executive Schedule matters.*
- Sec. 1016. *Information sharing.*
- Sec. 1017. *Alternative analysis of intelligence by the intelligence community.*
- Sec. 1018. *Presidential guidelines on implementation and preservation of authorities.*
- Sec. 1019. *Assignment of responsibilities relating to analytic integrity.*
- Sec. 1020. *Safeguard of objectivity in intelligence analysis.*

Subtitle B—National Counterterrorism Center, National Counter Proliferation Center, and National Intelligence Centers

- Sec. 1021. *National Counterterrorism Center.*
- Sec. 1022. *National Counter Proliferation Center.*
- Sec. 1023. *National intelligence centers.*

Subtitle C—Joint Intelligence Community Council

- Sec. 1031. *Joint Intelligence Community Council.*

Subtitle D—Improvement of Education for the Intelligence Community

- Sec. 1041. *Additional education and training requirements.*
- Sec. 1042. *Cross-disciplinary education and training.*
- Sec. 1043. *Intelligence Community Scholarship Program.*

Subtitle E—Additional Improvements of Intelligence Activities

- Sec. 1051. *Service and national laboratories and the intelligence community.*
- Sec. 1052. *Open-source intelligence.*
- Sec. 1053. *National Intelligence Reserve Corps.*

Subtitle F—Privacy and Civil Liberties

- Sec. 1061. *Privacy and Civil Liberties Oversight Board.*
- Sec. 1062. *Sense of Congress on designation of privacy and civil liberties officers.*

Subtitle G—Conforming and Other Amendments

- Sec. 1071. *Conforming amendments relating to roles of Director of National Intelligence and Director of the Central Intelligence Agency.*
- Sec. 1072. *Other conforming amendments*
- Sec. 1073. *Elements of intelligence community under National Security Act of 1947.*
- Sec. 1074. *Redesignation of National Foreign Intelligence Program as National Intelligence Program.*
- Sec. 1075. *Repeal of superseded authority.*
- Sec. 1076. *Clerical amendments to National Security Act of 1947.*
- Sec. 1077. *Conforming amendments relating to prohibiting dual service of the Director of the Central Intelligence Agency.*
- Sec. 1078. *Authority to establish inspector general for the Office of the Director of National Intelligence.*
- Sec. 1079. *Ethics matters.*
- Sec. 1080. *Construction of authority of Director of National Intelligence to acquire and manage property and services.*
- Sec. 1081. *General references.*

Subtitle H—Transfer, Termination, Transition, and Other Provisions

- Sec. 1091. *Transfer of Community Management Staff.*
- Sec. 1092. *Transfer of Terrorist Threat Integration Center.*
- Sec. 1093. *Termination of positions of Assistant Directors of Central Intelligence.*
- Sec. 1094. *Implementation plan.*
- Sec. 1095. *Director of National Intelligence report on implementation of intelligence community reform.*
- Sec. 1096. *Transitional authorities.*
- Sec. 1097. *Effective dates.*

Subtitle I—Other Matters

- Sec. 1101. *Study of promotion and professional military education school selection rates for military intelligence officers.*

- Sec. 1102. *Extension and improvement of authorities of Public Interest Declassification Board.*
 Sec. 1103. *Severability.*

TITLE II—FEDERAL BUREAU OF INVESTIGATION

- Sec. 2001. *Improvement of intelligence capabilities of the Federal Bureau of Investigation.*
 Sec. 2002. *Directorate of Intelligence of the Federal Bureau of Investigation.*
 Sec. 2003. *Federal Bureau of Investigation intelligence career service.*
 Sec. 2004. *Federal Bureau of Investigation Reserve Service.*
 Sec. 2005. *Federal Bureau of Investigation mandatory separation age.*
 Sec. 2006. *Federal Bureau of Investigation use of translators.*

TITLE III—SECURITY CLEARANCES

- Sec. 3001. *Security clearances.*

TITLE IV—TRANSPORTATION SECURITY

Subtitle A—National Strategy for Transportation Security

- Sec. 4001. *National Strategy for Transportation Security.*

Subtitle B—Aviation Security

- Sec. 4011. *Provision for the use of biometric or other technology.*
 Sec. 4012. *Advanced airline passenger prescreening.*
 Sec. 4013. *Deployment and use of detection equipment at airport screening checkpoints.*
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 Sec. 4016. *Federal air marshals.*
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 Sec. 4018. *Foreign air marshal training.*
 Sec. 4019. *In-line checked baggage screening.*
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Subtitle C—Air Cargo Security

- Sec. 4051. *Pilot program to evaluate use of blast resistant cargo and baggage containers.*
 Sec. 4052. *Air cargo security.*
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 Sec. 4054. *Report on international air cargo threats.*

Subtitle D—Maritime Security

- Sec. 4071. *Watch lists for passengers aboard vessels.*
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Subtitle E—General Provisions

- Sec. 4081. *Definitions.*
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TITLE V—BORDER PROTECTION, IMMIGRATION, AND VISA MATTERS

Subtitle A—Advanced Technology Northern Border Security Pilot Program

- Sec. 5101. *Establishment.*
 Sec. 5102. *Program requirements.*
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Subtitle B—Border and Immigration Enforcement

- Sec. 5201. Border surveillance.*
- Sec. 5202. Increase in full-time Border Patrol agents.*
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Subtitle C—Visa Requirements

- Sec. 5301. In person interviews of visa applicants.*
- Sec. 5302. Visa application requirements.*
- Sec. 5303. Effective date.*
- Sec. 5304. Revocation of visas and other travel documentation.*

Subtitle D—Immigration Reform

- Sec. 5401. Bringing in and harboring certain aliens.*
- Sec. 5402. Deportation of aliens who have received military-type training from terrorist organizations.*
- Sec. 5403. Study and report on terrorists in the asylum system.*

Subtitle E—Treatment of Aliens Who Commit Acts of Torture, Extrajudicial Killings, or Other Atrocities Abroad

- Sec. 5501. Inadmissibility and deportability of aliens who have committed acts of torture or extrajudicial killings abroad.*
- Sec. 5502. Inadmissibility and deportability of foreign government officials who have committed particularly severe violations of religious freedom.*
- Sec. 5503. Waiver of inadmissibility.*
- Sec. 5504. Bar to good moral character for aliens who have committed acts of torture, extrajudicial killings, or severe violations of religious freedom.*
- Sec. 5505. Establishment of the Office of Special Investigations.*
- Sec. 5506. Report on implementation.*

TITLE VI—TERRORISM PREVENTION*Subtitle A—Individual Terrorists as Agents of Foreign Powers*

- Sec. 6001. Individual terrorists as agents of foreign powers.*
- Sec. 6002. Additional semiannual reporting requirements under the Foreign Intelligence Surveillance Act of 1978.*

Subtitle B—Money Laundering and Terrorist Financing

- Sec. 6101. Additional authorization for finCEN.*
- Sec. 6102. Money laundering and financial crimes strategy reauthorization.*

Subtitle C—Money Laundering Abatement and Financial Antiterrorism Technical Corrections

- Sec. 6201. Short title.*
- Sec. 6202. Technical corrections to Public Law 107-56.*
- Sec. 6203. Technical corrections to other provisions of law.*
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Subtitle D—Additional Enforcement Tools

- Sec. 6301. Bureau of Engraving and Printing security printing.*
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Subtitle E—Criminal History Background Checks

- Sec. 6401. Protect Act.*
- Sec. 6402. Reviews of criminal records of applicants for private security officer employment.*
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Subtitle F—Grand Jury Information Sharing

- Sec. 6501. Grand jury information sharing.*

Subtitle G—Providing Material Support to Terrorism

- Sec. 6601. Short title.*

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- Sec. 6602. *Receiving military-type training from a foreign terrorist organization.*
- Sec. 6603. *Additions to offense of providing material support to terrorism.*
- Sec. 6604. *Financing of terrorism.*

Subtitle H—Stop Terrorist and Military Hoaxes Act of 2004

- Sec. 6701. *Short title.*
- Sec. 6702. *Hoaxes and recovery costs.*
- Sec. 6703. *Obstruction of justice and false statements in terrorism cases.*
- Sec. 6704. *Clarification of definition.*

Subtitle I—Weapons of Mass Destruction Prohibition Improvement Act of 2004

- Sec. 6801. *Short title.*
- Sec. 6802. *Weapons of mass destruction.*
- Sec. 6803. *Participation in nuclear and weapons of mass destruction threats to the United States.*

Subtitle J—Prevention of Terrorist Access to Destructive Weapons Act of 2004

- Sec. 6901. *Short title.*
- Sec. 6902. *Findings and purpose.*
- Sec. 6903. *Missile systems designed to destroy aircraft.*
- Sec. 6904. *Atomic weapons.*
- Sec. 6905. *Radiological dispersal devices.*
- Sec. 6906. *Variola virus.*
- Sec. 6907. *Interception of communications.*
- Sec. 6908. *Amendments to section 2332b(g)(5)(b) of title 18, United States Code.*
- Sec. 6909. *Amendments to section 1956(c)(7)(d) of title 18, United States Code.*
- Sec. 6910. *Export licensing process.*
- Sec. 6911. *Clerical amendments.*

Subtitle K—Pretrial Detention of Terrorists

- Sec. 6951. *Short title.*
- Sec. 6952. *Presumption for pretrial detention in cases involving terrorism.*

TITLE VII—IMPLEMENTATION OF 9/11 COMMISSION RECOMMENDATIONS

- Sec. 7001. *Short title.*

Subtitle A—Diplomacy, Foreign Aid, and the Military in the War on Terrorism

- Sec. 7101. *Findings.*
- Sec. 7102. *Terrorist sanctuaries.*
- Sec. 7103. *United States commitment to the future of Pakistan.*
- Sec. 7104. *Assistance for Afghanistan.*
- Sec. 7105. *The relationship between the United States and Saudi Arabia.*
- Sec. 7106. *Efforts to combat Islamist terrorism.*
- Sec. 7107. *United States policy toward dictatorships.*
- Sec. 7108. *Promotion of free media and other American values.*
- Sec. 7109. *Public diplomacy responsibilities of the Department of State.*
- Sec. 7110. *Public diplomacy training.*
- Sec. 7111. *Promoting democracy and human rights at international organizations.*
- Sec. 7112. *Expansion of United States scholarship and exchange programs in the Islamic world.*
- Sec. 7112. *Pilot program to provide grants to American-sponsored schools in predominantly Muslim countries to provide scholarships.*
- Sec. 7113. *International Youth Opportunity Fund.*
- Sec. 7114. *The use of economic policies to combat terrorism.*
- Sec. 7115. *Middle East partnership initiative.*
- Sec. 7116. *Comprehensive coalition strategy for fighting terrorism.*
- Sec. 7117. *Financing of terrorism.*
- Sec. 7118. *Designation of foreign terrorist organizations.*
- Sec. 7119. *Report to Congress.*
- Sec. 7120. *Case-Zablocki Act requirements.*
- Sec. 7121. *Effective date.*

Subtitle B—Terrorist Travel and Effective Screening

- Sec. 7201. *Counterterrorist travel intelligence.*
- Sec. 7202. *Establishment of human smuggling and trafficking center.*
- Sec. 7203. *Responsibilities and functions of consular officers.*

- Sec. 7204. *International agreements to track and curtail terrorist travel through the use of fraudulently obtained documents.*
- Sec. 7205. *International standards for transliteration of names into the Roman alphabet for international travel documents and name-based watchlist systems.*
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- Sec. 7207. *Certification regarding technology for visa waiver participants.*
- Sec. 7208. *Biometric entry and exit data system.*
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- Sec. 7210. *Exchange of terrorist information and increased preinspection at foreign airports.*
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- Sec. 7217. *Study on allegedly lost or stolen passports.*
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- Sec. 7307. *Northern command and defense of the United States homeland.*
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- Sec. 7401. *Sense of Congress on first responder funding.*
- Sec. 7402. *Coordination of industry efforts.*
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Subtitle E—Public Safety Spectrum

- Sec. 7501. *Digital television conversion deadline.*
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- Sec. 7601. *Presidential transition.*

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- Sec. 7701. *Improving international standards and cooperation to fight terrorist financing.*
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- Sec. 7704. *Coordination of United States Government efforts.*

Subtitle H—Emergency Financial Preparedness

- Sec. 7801. *Delegation authority of the Secretary of the Treasury.*
- Sec. 7802. *Treasury support for financial services industry preparedness and response and consumer education.*
- Sec. 7803. *Emergency Securities Response Act of 2004.*
- Sec. 7804. *Private sector preparedness.*

and test advanced airport checkpoint screening devices and technology as an integrated system at not less than 5 airports in the United States.

(b) *FUNDING.*—Of the amounts appropriated pursuant to section 48301(a) of title 49, United States Code, for each of fiscal years 2005 and 2006, not more than \$150,000,000 shall be available to carry out subsection (a).

SEC. 4015. IMPROVEMENT OF SCREENER JOB PERFORMANCE.

(a) *REQUIRED ACTION.*—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as may be necessary to improve the job performance of airport screening personnel.

(b) *HUMAN FACTORS STUDY.*—In carrying out this section, the Assistant Secretary shall provide, not later than 180 days after the date of the enactment of this Act, to the appropriate congressional committees a report on the results of any human factors study conducted by the Department of Homeland Security to better understand problems in screener performance and to improve screener performance.

SEC. 4016. FEDERAL AIR MARSHALS.

(a) *FEDERAL AIR MARSHAL ANONYMITY.*—The Director of the Federal Air Marshal Service of the Department of Homeland Security shall continue operational initiatives to protect the anonymity of Federal air marshals.

(b) *AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.*—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Bureau of Immigration and Customs Enforcement, in addition to any amounts otherwise authorized by law, for the deployment of Federal air marshals under section 44917 of title 49, United States Code, \$83,000,000 for the 3 fiscal-year period beginning with fiscal year 2005. Such sums shall remain available until expended.

(c) **FEDERAL LAW ENFORCEMENT COUNTERTERRORISM TRAINING.**—

(1) *AVAILABILITY OF INFORMATION.*—The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, shall make available, as practicable, appropriate information on in-flight counterterrorism and weapons handling procedures and tactics training to Federal law enforcement officers who fly while in possession of a firearm.

(2) *IDENTIFICATION OF FRAUDULENT DOCUMENTS.*—The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, in coordination with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall ensure that Transportation Security Administration screeners and Federal air marshals receive training in identifying fraudulent identification documents, including fraudulent or expired visas and passports. Such training shall also be made available to other Federal law enforcement agencies and local law enforcement agencies located in a State that borders Canada or Mexico.

SEC. 4017. INTERNATIONAL AGREEMENTS TO ALLOW MAXIMUM DEPLOYMENT OF FEDERAL AIR MARSHALS.

The President is encouraged to pursue aggressively international agreements with foreign governments to allow the maximum deployment of Federal air marshals on international flights.

SEC. 4018. FOREIGN AIR MARSHAL TRAINING.

Section 44917 of title 49, United States Code, is amended by adding at the end the following:

“(d) TRAINING FOR FOREIGN LAW ENFORCEMENT PERSONNEL.—

“(1) IN GENERAL.—The Assistant Secretary for Immigration and Customs Enforcement of the Department of Homeland Security, after consultation with the Secretary of State, may direct the Federal Air Marshal Service to provide appropriate air marshal training to law enforcement personnel of foreign countries.

“(2) WATCHLIST SCREENING.—The Federal Air Marshal Service may only provide appropriate air marshal training to law enforcement personnel of foreign countries after comparing the identifying information and records of law enforcement personnel of foreign countries against all appropriate records in the consolidated and integrated terrorist watchlists maintained by the Federal Government.

“(3) FEES.—The Assistant Secretary shall establish reasonable fees and charges to pay expenses incurred in carrying out this subsection. Funds collected under this subsection shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Assistant Secretary for purposes for which amounts in such account are available.”.

SEC. 4019. IN-LINE CHECKED BAGGAGE SCREENING.

(a) IN-LINE BAGGAGE SCREENING EQUIPMENT.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as may be necessary to expedite the installation and use of in-line baggage screening equipment at airports at which screening is required by section 44901 of title 49, United States Code.

(b) SCHEDULE.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall submit to the appropriate congressional committees a schedule to expedite the installation and use of in-line baggage screening equipment at such airports, with an estimate of the impact that such equipment, facility modification, and baggage conveyor placement will have on staffing needs and levels related to aviation security.

(c) REPLACEMENT OF TRACE-DETECTION EQUIPMENT.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall establish and submit to the appropriate congressional committees a schedule for replacing trace-detection equipment, as soon as practicable and where appropriate, with explosive detection system equipment.

(d) COST-SHARING STUDY.—The Secretary of Homeland Security, in consultation with representatives of air carriers, airport operators, and other interested parties, shall submit to the appropriate congressional committees, in conjunction with the submission of the budget for fiscal year 2006 to Congress under section 1105(a) of title 31, United States Code—

(1) a proposed formula for cost-sharing among the Federal Government, State and local governments, and the private sector for projects to install in-line baggage screening equipment that reflects the benefits that each of such entities derive from such projects, including national security benefits and labor and other cost savings;

(2) recommendations, including recommended legislation, for an equitable, feasible, and expeditious system for defraying the costs of the in-line baggage screening equipment authorized by this title; and

(3) the results of a review of innovative financing approaches and possible cost savings associated with the installation of in-line baggage screening equipment at airports.

(e) **AUTHORIZATION FOR EXPIRING AND NEW LOIS.**—

(1) **IN GENERAL.**—Section 44923(i) of title 49, United States Code, is amended by striking “\$250,000,000 for each of fiscal years 2004 through 2007.” and inserting “\$400,000,000 for each of fiscal years 2005, 2006, and 2007.”.

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

SEC. 4020. CHECKED BAGGAGE SCREENING AREA MONITORING.

(a) **IN GENERAL.**—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide, subject to the availability of funds, assistance to airports at which screening is required by section 44901 of title 49, United States Code, and that have checked baggage screening areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

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

SEC. 4021. WIRELESS COMMUNICATION.

(a) **STUDY.**—The Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Administrator of the Federal Aviation Administration, shall conduct a study to determine the viability of providing devices or methods, including wireless methods, to enable a flight crew to discreetly notify the pilot in the case of a security breach or safety issue occurring in the cabin.

(b) **MATTERS TO BE CONSIDERED.**—In conducting the study, the Transportation Security Administration and the Federal Aviation

Administration shall consider technology that is readily available and can be quickly integrated and customized for use aboard aircraft for flight crew communication.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Transportation Security Administration shall submit to the appropriate congressional committees a report on the results of the study.

SEC. 4022. IMPROVED PILOT LICENSES.

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall begin to issue improved pilot licenses consistent with the requirements of title 49, United States Code, and title 14, Code of Federal Regulations.

(b) REQUIREMENTS.—Improved pilots licenses issued under subsection (a) shall—

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

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

(3) be capable of accommodating a digital photograph, a biometric identifier, or any other unique identifier that the Administrator considers necessary.

(c) TAMPERING.—To the extent practical, the Administrator shall develop methods to determine or reveal whether any component or security feature of a license issued under subsection (a) has been tampered, altered, or counterfeited.

(d) USE OF DESIGNEES.—The Administrator may use designees to carry out subsection (a) to the extent feasible in order to minimize the burdens on pilots.

SEC. 4023. AVIATION SECURITY STAFFING.

(a) AVIATION SECURITY STAFFING.—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop and submit to the appropriate congressional committees standards for determining the aviation security staffing for all airports at which screening is required under section 44901 of title 49, United States Code, necessary to—

(1) provide necessary levels of aviation security; and

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

(b) GAO ANALYSIS.—As soon as practicable after the date on which the Assistant Secretary has developed standards under subsection (a), the Comptroller General shall conduct an expedited analysis of, and submit a report to the appropriate congressional committees on, the standards for effectiveness, administrability, ease of compliance, and consistency with the requirements of existing law.

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

increase the efficiency and effectiveness of those activities, and increase commercial air transportation security.

SEC. 4024. IMPROVED EXPLOSIVE DETECTION SYSTEMS.

(a) *PLAN AND GUIDELINES.*—*The Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop a plan and guidelines for implementing improved explosive detection system equipment.*

(b) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration \$100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of improved explosive detection systems for aviation security under section 44913 of title 49, United States Code.*

SEC. 4025. PROHIBITED ITEMS LIST.

Not later than 60 days after the date of enactment of this Act, the Assistant Secretary for Homeland Security (Transportation Security Administration) shall complete a review of the list of items prohibited from being carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation set forth in section 1540 of title 49, Code of Federal Regulations, and shall release a revised list that includes—

- (1) butane lighters; and*
- (2) any other modification that the Assistant Secretary considers appropriate.*

SEC. 4026. MAN-PORTABLE AIR DEFENSE SYSTEMS (MANPADS).

(a) *UNITED STATES POLICY ON NONPROLIFERATION AND EXPORT CONTROL.*—

(1) *TO LIMIT AVAILABILITY AND TRANSFER OF MANPADS.*—*The President shall pursue, on an urgent basis, further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to limit the availability, transfer, and proliferation of MANPADS worldwide.*

(2) *TO LIMIT THE PROLIFERATION OF MANPADS.*—*The President is encouraged to seek to enter into agreements with the governments of foreign countries that, at a minimum, would—*

(A) *prohibit the entry into force of a MANPADS manufacturing license agreement and MANPADS co-production agreement, other than the entry into force of a manufacturing license or co-production agreement with a country that is party to such an agreement;*

(B) *prohibit, except pursuant to transfers between governments, the export of a MANPADS, including any component, part, accessory, or attachment thereof, without an individual validated license; and*

(C) *prohibit the reexport or retransfer of a MANPADS, including any component, part, accessory, or attachment thereof, to a third person, organization, or government unless the written consent of the government that approved the original export or transfer is first obtained.*

(3) *TO ACHIEVE DESTRUCTION OF MANPADS.*—The President should continue to pursue further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to assure the destruction of excess, obsolete, and illicit stocks of MANPADSs worldwide.

(4) *REPORTING AND BRIEFING REQUIREMENT.*—

(A) *PRESIDENT'S REPORT.*—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of diplomatic efforts under paragraphs (1), (2), and (3) and of efforts by the appropriate United States agencies to comply with the recommendations of the General Accounting Office set forth in its report GAO-04-519, entitled “Nonproliferation: Further Improvements Needed in U.S. Efforts to Counter Threats from Man-Portable Air Defense Systems”.

(B) *ANNUAL BRIEFINGS.*—Annually after the date of submission of the report under subparagraph (A) and until completion of the diplomatic and compliance efforts referred to in subparagraph (A), the Secretary of State shall brief the appropriate congressional committees on the status of such efforts.

(b) *FAA AIRWORTHINESS CERTIFICATION OF MISSILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.*—

(1) *IN GENERAL.*—As soon as practicable, but not later than the date of completion of Phase II of the Department of Homeland Security's counter-man-portable air defense system (MANPADS) development and demonstration program, the Administrator of the Federal Aviation Administration shall establish a process for conducting airworthiness and safety certification of missile defense systems for commercial aircraft certified as effective and functional by the Department of Homeland Security. The process shall require a certification by the Administrator that such systems can be safely integrated into aircraft systems and ensure airworthiness and aircraft system integrity.

(2) *CERTIFICATION ACCEPTANCE.*—Under the process, the Administrator shall accept the certification of the Department of Homeland Security that a missile defense system is effective and functional to defend commercial aircraft against MANPADSs.

(3) *EXPEDITIOUS CERTIFICATION.*—Under the process, the Administrator shall expedite the airworthiness and safety certification of missile defense systems for commercial aircraft certified by the Department of Homeland Security.

(4) *REPORTS.*—Not later than 90 days after the first airworthiness and safety certification for a missile defense system for commercial aircraft is issued by the Administrator, and annually thereafter until December 31, 2008, the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that contains a detailed description of each

airworthiness and safety certification issued for a missile defense system for commercial aircraft.

(c) PROGRAMS TO REDUCE MANPADS.—

(1) IN GENERAL.—The President is encouraged to pursue strong programs to reduce the number of MANPADSs worldwide so that fewer MANPADSs will be available for trade, proliferation, and sale.

(2) REPORTING AND BRIEFING REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of the programs being pursued under subsection (a). Annually thereafter until the programs are no longer needed, the Secretary of State shall brief the appropriate congressional committees on the status of programs.

(3) FUNDING.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

(d) MANPADS VULNERABILITY ASSESSMENTS REPORT.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the Department of Homeland Security's plans to secure airports and the aircraft arriving and departing from airports against MANPADSs attacks.

(2) MATTERS TO BE ADDRESSED.—The Secretary's report shall address, at a minimum, the following:

(A) The status of the Department's efforts to conduct MANPADSs vulnerability assessments at United States airports at which the Department is conducting assessments.

(B) How intelligence is shared between the United States intelligence agencies and Federal, State, and local law enforcement to address the MANPADS threat and potential ways to improve such intelligence sharing.

(C) Contingency plans that the Department has developed in the event that it receives intelligence indicating a high threat of a MANPADS attack on aircraft at or near United States airports.

(D) The feasibility and effectiveness of implementing public education and neighborhood watch programs in areas surrounding United States airports in cases in which intelligence reports indicate there is a high risk of MANPADS attacks on aircraft.

(E) Any other issues that the Secretary deems relevant.

(3) FORMAT.—The report required by this subsection may be submitted in a classified format.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on International Relations, and the Committee on Trans-

portation and Infrastructure of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) MANPADS.—The term “MANPADS” means—

(A) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; and

(B) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

SEC. 4027. TECHNICAL CORRECTIONS.

(a) ADMINISTRATIVE IMPOSITION OF PENALTIES.—Section 46301(d) of title 49, United States Code, is amended—

(1) in the first sentence of paragraph (2) by striking “46302, 46303,” and inserting “46302 (for a violation relating to section 46504),”;

(2) in the second sentence of paragraph (2)—

(A) by striking “Under Secretary of Transportation for Security” and inserting “Secretary of Homeland Security”; and

(B) by striking “44909” and inserting “44909), 46302 (except for a violation relating to section 46504), 46303,”;

(3) in paragraphs (2), (3), and (4) by striking “Under Secretary or” each place it occurs and inserting “Secretary of Homeland Security or”;

(4) in paragraph (4)(A) by moving clauses (i), (ii), and (iii) 2 ems to the left.

(b) COMPROMISE AND SETOFF FOR FALSE INFORMATION.—Section 46302(b)(1) of title 49, United States Code, is amended by striking “Secretary of Transportation” and inserting “Secretary of Homeland Security and, for a violation relating to section 46504, the Secretary of Transportation,”.

(c) CARRYING A WEAPON.—Section 46303 of title 49, United States Code, is amended—

(1) in subsection (b)(1) by striking “Secretary of Transportation” and inserting “Secretary of Homeland Security”; and

(2) in subsection (c)(2) by striking “Under Secretary of Transportation for Security” and inserting “Secretary of Homeland Security”.

SEC. 4028. REPORT ON SECONDARY FLIGHT DECK BARRIERS.

Not later than 6 months after the date of the enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall submit to the appropriate congressional committees a report on the costs and benefits associated with the use of secondary flight deck barriers, including the recommendation of the Assistant Secretary whether or not the use of such barriers should be mandated for all air carriers. The report may be submitted in a classified form.

SEC. 4029. EXTENSION OF AUTHORIZATION OF AVIATION SECURITY FUNDING.

Section 48301(a) of title 49, United States Code, is amended by striking “and 2005” and inserting “2005, and 2006”.

Subtitle C—Air Cargo Security

SEC. 4051. PILOT PROGRAM TO EVALUATE USE OF BLAST RESISTANT CARGO AND BAGGAGE CONTAINERS.

(a) *IN GENERAL.*—Beginning not later than 180 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall carry out a pilot program to evaluate the use of blast-resistant containers for cargo and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device.

(b) *INCENTIVES FOR PARTICIPATION IN PILOT PROGRAM.*—

(1) *IN GENERAL.*—As part of the pilot program, the Assistant Secretary shall provide incentives to air carriers to volunteer to test the use of blast-resistant containers for cargo and baggage on passenger aircraft.

(2) *APPLICATIONS.*—To volunteer to participate in the incentive program, an air carrier shall submit to the Assistant Secretary an application that is in such form and contains such information as the Assistant Secretary requires.

(3) *TYPES OF INCENTIVES.*—Incentives provided by the Assistant Secretary to air carriers that volunteer to participate in the pilot program shall include the use of, and financial assistance to cover increased costs to the carriers associated with the use and maintenance of, blast-resistant containers, including increased fuel costs.

(c) *TECHNOLOGICAL IMPROVEMENTS.*—The Secretary of Homeland Security, in cooperation with the Secretary of Transportation, shall support efforts to explore alternative technologies for minimizing the potential effects of detonation of an explosive device on cargo and passenger aircraft.

(d) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out subsections (a) and (b) \$2,000,000. Such sums shall remain available until expended.

SEC. 4052. AIR CARGO SECURITY.

(a) *AIR CARGO SCREENING TECHNOLOGY.*—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop technology to better identify, track, and screen air cargo.

(b) *IMPROVED AIR CARGO AND AIRPORT SECURITY.*—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

- (1) \$200,000,000 for fiscal year 2005;
- (2) \$200,000,000 for fiscal year 2006; and
- (3) \$200,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

(c) *RESEARCH, DEVELOPMENT, AND DEPLOYMENT.*—To carry out subsection (a), there is authorized to be appropriated to the Secretary, in addition to any amounts otherwise authorized by law, for research and development related to enhanced air cargo security

technology as well as for deployment and installation of enhanced air cargo security technology—

- (1) \$100,000,000 for fiscal year 2005;
- (2) \$100,000,000 for fiscal year 2006; and
- (3) \$100,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

(d) **ADVANCED CARGO SECURITY GRANTS.**—

(1) **IN GENERAL.**—The Secretary shall establish and carry out a program to issue competitive grants to encourage the development of advanced air cargo security technology, including use of innovative financing or other means of funding such activities. The Secretary may make available funding for this purpose from amounts appropriated pursuant to subsection (c).

(2) **ELIGIBILITY CRITERIA, ETC.**—The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and rapidly as possible.

SEC. 4053. AIR CARGO SECURITY REGULATIONS.

Not later than 240 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall issue a final rule in Docket Number TSA-2004-19515 to amend transportation security regulations to enhance and improve the security of air cargo transported in both passenger and all-cargo aircraft.

SEC. 4054. REPORT ON INTERNATIONAL AIR CARGO THREATS.

(a) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Defense and the Administrator of the Federal Aviation Administration, shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains the following:

(1) A description of the current procedures in place to address the threat of an inbound all-cargo aircraft from outside the United States that intelligence sources indicate could carry explosive, incendiary, chemical, biological, or nuclear devices.

(2) An analysis of the potential for establishing secure facilities along established international aviation routes for the purposes of diverting and securing aircraft described in paragraph (1).

(b) **REPORT FORMAT.**—The Secretary may submit all, or part, of the report required by this section in such a classified and redacted format as the Secretary determines appropriate or necessary.

Subtitle D—Maritime Security

SEC. 4071. WATCH LISTS FOR PASSENGERS ABOARD VESSELS.

(a) **WATCH LISTS.**—

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

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

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

(2) *WAIVER.*—The Secretary may waive the requirement in paragraph (1)(B) with respect to cruise ships embarking at foreign ports if the Secretary determines that the application of such requirement to such cruise ships is impracticable.

(b) *COOPERATION FROM OPERATORS OF CRUISE SHIPS.*—The Secretary of Homeland Security shall by rulemaking require operators of cruise ships to provide the passenger and crew information necessary to implement the procedure required by subsection (a).

(c) *MAINTENANCE OF ACCURACY AND INTEGRITY OF “NO TRANSPORT” AND “AUTOMATIC SELECTEE” LISTS.*—

(1) *WATCH LIST DATABASE.*—The Secretary of Homeland Security, in consultation with the Terrorist Screening Center, shall develop guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the “no transport” and “automatic selectee” lists described in subsection (a)(1) that are designed to ensure the accuracy and integrity of the lists.

(2) *ACCURACY OF ENTRIES.*—In developing the “no transport” and “automatic selectee” lists under subsection (a)(1)(B), the Secretary shall establish a simple and timely method for correcting erroneous entries, for clarifying information known to cause false hits or misidentification errors, and for updating relevant information that is dispositive in the passenger and crew screening process. The Secretary shall also establish a process to provide an individual whose name is confused with, or similar to, a name in the watch list database with a means of demonstrating that such individual is not the person named in the database.

(d) *CRUISE SHIP DEFINED.*—In this section, the term “cruise ship” means a vessel on an international voyage that embarks or disembarks passengers at a port of United States jurisdiction to which subpart C of part 160 of title 33, Code of Federal Regulations, applies and that provides overnight accommodations.

SEC. 4072. DEADLINES FOR COMPLETION OF CERTAIN PLANS, REPORTS, AND ASSESSMENTS.

(a) *NATIONAL MARITIME TRANSPORTATION SECURITY PLAN.*—Section 70103(a)(1) of title 46, United States Code, is amended by striking “The Secretary” and inserting “Not later than April 1, 2005, the Secretary”.

(b) *FACILITY AND VESSEL VULNERABILITY ASSESSMENTS.*—Section 70102(b)(1) of title 46, United States Code, is amended by striking “, the Secretary” and inserting “and by not later than December 31, 2004, the Secretary”.

(c) *STRATEGIC PLAN REPORTS.*—Not later than 90 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(1) a comprehensive program management plan that identifies specific tasks to be completed, and deadlines for completion, for the transportation security card program under section 70105 of title 46, United States Code, that incorporates best practices for communicating, coordinating, and collaborating with the relevant stakeholders to resolve relevant issues, such as background checks;

(2) a report on the status of negotiations under section 103(a) of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70111);

(3) the report required by section 107(b) of the Maritime Transportation Security Act of 2002 (33 U.S.C. 1226 note); and

(4) a report on the status of the development of the system and standards required by section 111 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70116 note).

(d) *OTHER REPORTS.*—Not later than 90 days after the date of the enactment of this Act—

(1) the Secretary of Homeland Security shall submit to the appropriate congressional committees—

(A) a report on the establishment of the National Maritime Security Advisory Committee under section 70112 of title 46, United States Code; and

(B) a report on the status of the program required by section 70116 of title 46, United States Code, to evaluate and certify secure systems of international intermodal transportation;

(2) the Secretary of Transportation shall submit to the appropriate congressional committees the annual report required by section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) that includes information that should have been included in the last preceding annual report that was due under that section; and

(3) the Commandant of the United States Coast Guard shall submit to the appropriate congressional committees the report required by section 110(b) of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note).

Subtitle E—General Provisions

SEC. 4081. DEFINITIONS.

In this title (other than in sections 4001 and 4026), the following definitions apply:

(1) *APPROPRIATE CONGRESSIONAL COMMITTEES.*—The term “appropriate congressional committees” means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) *AVIATION DEFINITIONS.*—The terms “air carrier”, “air transportation”, “aircraft”, “airport”, “cargo”, “foreign air carrier”, and “intrastate air transportation” have the meanings given such terms in section 40102 of title 49, United States Code.

(3) *SECURE AREA OF AN AIRPORT.*—The term “secure area of an airport” means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulations).

SEC. 4082. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this Act.

TITLE V—BORDER PROTECTION, IMMIGRATION, AND VISA MATTERS

Subtitle A—Advanced Technology Northern Border Security Pilot Program

SEC. 5101. ESTABLISHMENT.

The Secretary of Homeland Security may carry out a pilot program to test various advanced technologies that will improve border security between ports of entry along the northern border of the United States.

SEC. 5102. PROGRAM REQUIREMENTS.

(a) *REQUIRED FEATURES.*—The Secretary of Homeland Security shall design the pilot program under this subtitle to have the following features:

(1) *Use of advanced technological systems, including sensors, video, and unmanned aerial vehicles, for border surveillance.*

(2) *Use of advanced computing and decision integration software for—*

(A) *evaluation of data indicating border incursions;*

(B) *assessment of threat potential; and*

(C) *rapid real-time communication, monitoring, intelligence gathering, deployment, and response.*

(3) *Testing of advanced technology systems and software to determine best and most cost-effective uses of advanced technology to improve border security.*

(4) *Operation of the program in remote stretches of border lands with long distances between 24-hour ports of entry with a relatively small presence of United States border patrol officers.*

(5) *Capability to expand the program upon a determination by the Secretary that expansion would be an appropriate and cost-effective means of improving border security.*

(b) *COORDINATION WITH OTHER AGENCIES.—The Secretary of Homeland Security shall ensure that the operation of the pilot program under this subtitle—*

(1) *is coordinated among United States, State, local, and Canadian law enforcement and border security agencies; and*

(2) *includes ongoing communication among such agencies.*

SEC. 5103. ADMINISTRATIVE PROVISIONS.

(a) *PROCUREMENT OF ADVANCED TECHNOLOGY.—The Secretary of Homeland Security may enter into contracts for the procurement or use of such advanced technologies as the Secretary determines appropriate for the pilot program under this subtitle.*

(b) *PROGRAM PARTNERSHIPS.—In carrying out the pilot program under this subtitle, the Secretary of Homeland Security may provide for the establishment of cooperative arrangements for participation in the pilot program by such participants as law enforcement and border security agencies referred to in section 5102(b), institutions of higher education, and private sector entities.*

SEC. 5104. REPORT.

(a) *REQUIREMENT FOR REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the pilot program under this subtitle.*

(b) *CONTENT.—The report under subsection (a) shall include the following matters:*

(1) *A discussion of the implementation of the pilot program, including the experience under the pilot program.*

(2) *A recommendation regarding whether to expand the pilot program along the entire northern border of the United States and a timeline for the implementation of the expansion.*

SEC. 5105. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the pilot program under this subtitle.

Subtitle B—Border and Immigration Enforcement

SEC. 5201. BORDER SURVEILLANCE.

(a) *IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the President and the appropriate committees of Congress a comprehensive plan for the systematic surveillance of the southwest border of the United States by remotely piloted aircraft.*

(b) *CONTENTS.—The plan submitted under subsection (a) shall include—*

(1) *recommendations for establishing command and control centers, operations sites, infrastructure, maintenance, and procurement;*

(2) *cost estimates for the implementation of the plan and ongoing operations;*

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

(A) protecting the lives of people seeking illegal entry into the United States;

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

(D) using remotely piloted aircraft to serve as platforms for the collection of intelligence against smugglers and criminal networks along the border; and

(E) further validating and testing of remotely piloted aircraft for airspace security missions;

(6) the equipment necessary to carry out the plan; and

(7) a recommendation regarding whether to expand the pilot program along the entire southwest border.

(c) **IMPLEMENTATION.**—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as a pilot program as soon as sufficient funds are appropriated and available for this purpose.

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

SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

In each of the fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 2,000 the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year. In each of the fiscal years 2006 through 2010, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

SEC. 5203. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

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

SEC. 5204. INCREASE IN DETENTION BED SPACE.

(a) *IN GENERAL.*—Subject to the availability of appropriated funds, the Secretary of Homeland Security shall increase by not less than 8,000, in each of the fiscal years 2006 through 2010, the number of beds available for immigration detention and removal operations of the Department of Homeland Security above the number for which funds were allotted for the preceding fiscal year.

(b) *PRIORITY.*—The Secretary shall give priority for the use of these additional beds to the detention of individuals charged with removability under section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) or inadmissibility under section 212(a)(3) of that Act (8 U.S.C. 1182(a)(3)).

Subtitle C—Visa Requirements

SEC. 5301. IN PERSON INTERVIEWS OF VISA APPLICANTS.

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

“(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a non-immigrant visa—

“(1) who is at least 14 years of age and not more than 79 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

“(A) by a consular official and such alien is—

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

“(ii) within the NATO visa category;

“(iii) within that class of nonimmigrants enumerated in section 101(a)(15)(C)(iii) (referred to as the ‘C-3 visa’ category); or

“(iv) granted a diplomatic or official visa on a diplomatic or official passport or on the equivalent thereof;

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

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

“(ii) for the visa classification for which such prior visa was issued;

“(iii) from the consular post located in the country of such alien’s usual residence, unless otherwise prescribed in regulations that require an applicant to apply for a visa in the country of which such applicant is a national; and

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

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

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

“(ii) necessary as a result of unusual or emergent circumstances; and

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

“(A) is not a national or resident of the country in which such alien is applying for a visa;

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

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

“(D) is a national of a country officially designated by the Secretary of State as a state sponsor of terrorism, except such nationals who possess nationalities of countries that are not designated as state sponsors or terrorism;

“(E) requires a security advisory opinion or other Department of State clearance, unless such alien is—

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

“(ii) within the NATO visa category;

“(iii) within that class of nonimmigrants enumerated in section 101(a)(15)(C)(iii) (referred to as the ‘C-3 visa’ category); or

“(iv) an alien who qualifies for a diplomatic or official visa, or its equivalent; or

“(F) is identified as a member of a group or sector that the Secretary of State determines—

“(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

“(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

“(iii) poses a security threat to the United States.”.

SEC. 5302. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting “The alien shall provide complete and accurate information in response to any request for information contained in the application.” after the second sentence.

SEC. 5303. EFFECTIVE DATE.

Notwithstanding section 1086 or any other provision of this Act, sections 5301 and 5302 shall take effect 90 days after the date of enactment of this Act.

SEC. 5304. REVOCATION OF VISAS AND OTHER TRAVEL DOCUMENTATION.

(a) **LIMITATION ON REVIEW.**—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by adding at the end the following: “There shall be no means of judicial review (including review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title) of a revocation under this subsection, except in the context of a removal proceeding if such revocation provides the sole ground for removal under section 237(a)(1)(B).”.

(b) **CLASSES OF DEPORTABLE ALIENS.**—Section 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(B)) is amended by striking “United States is” and inserting the following: “United States, or whose nonimmigrant visa (or other documenta-

tion authorizing admission into the United States as a non-immigrant) has been revoked under section 221(i), is”.

(c) **REVOCATION OF PETITIONS.**—Section 205 of the Immigration and Nationality Act (8 U.S.C. 1155) is amended—

(1) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(2) by striking the final two sentences.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to revocations under sections 205 and 221(i) of the Immigration and Nationality Act (8 U.S.C. 1155, 1201(i)) made before, on, or after such date.

Subtitle D—Immigration Reform

SEC. 5401. BRINGING IN AND HARBORING CERTAIN ALIENS.

(a) **CRIMINAL PENALTIES.**—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended by adding at the end the following:

“(4) In the case of a person who has brought aliens into the United States in violation of this subsection, the sentence otherwise provided for may be increased by up to 10 years if—

“(A) the offense was part of an ongoing commercial organization or enterprise;

“(B) aliens were transported in groups of 10 or more; and

“(C)(i) aliens were transported in a manner that endangered their lives; or

“(ii) the aliens presented a life-threatening health risk to people in the United States.”.

(b) **OUTREACH PROGRAM.**—Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324), as amended by subsection (a), is further amended by adding at the end the following:

“(e) **OUTREACH PROGRAM.**—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall develop and implement an outreach program to educate the public in the United States and abroad about the penalties for bringing in and harboring aliens in violation of this section.”.

SEC. 5402. DEPORTATION OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.

Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

“(E) **RECIPIENT OF MILITARY-TYPE TRAINING.**—

“(i) **IN GENERAL.**—Any alien who has received military-type training from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in subclause (I) or (II) of section 212(a)(3)(B)(vi)), is deportable.

“(ii) **DEFINITION.**—As used in this subparagraph, the term ‘military-type training’ includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use,

storage, production, or assembly of any explosive, firearm, or other weapon, including any weapon of mass destruction (as defined in section 2332a(c)(2) of title 18, United States Code).”.

SEC. 5403. STUDY AND REPORT ON TERRORISTS IN THE ASYLUM SYSTEM.

(a) STUDY.—Commencing not later than 30 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study to evaluate the extent to which weaknesses in the United States asylum system and withholding of removal system have been or could be exploited by aliens connected to, charged in connection with, or tied to terrorist activity.

(b) ELEMENTS.—The study under subsection (a) shall address, but not be limited to, the following:

(1) The number of aliens connected to, tied to, charged in connection with, or who claim to have been accused of or charged in connection with terrorist activity who have applied for, been granted, or been denied asylum.

(2) The number of aliens connected to, tied to, charged in connection with, or who claim to have been accused of or charged in connection with terrorist activity who have applied for, been granted, or been denied release from detention.

(3) The number of aliens connected to, tied to, charged in connection with, or who claim to have been accused of or charged in connection with terrorist activity who have been denied asylum but who remain at large in the United States.

(4) The effect of the confidentiality provisions of section 208.6 of title 8, Code of Federal Regulations, on the ability of the United States Government to establish that an alien is connected to or tied to terrorist activity, such that the alien is barred from asylum or withholding of removal, is removable from the United States, or both.

(5) The effect that precedential decisions, if any, holding that the extrajudicial punishment of an individual connected to terrorism, or guerrilla or militant activity abroad, or threats of such punishment, constitute persecution on account of political opinion as defined in section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)), have had on the ability of the United States Government to remove aliens whom the United States Government believes are connected to or have ties to terrorism,

(6) The extent to which court precedents have affected the ability of the United States Government to determine or prove that an alien the United States Government believes to be connected to or tied to terrorism is in fact so connected or tied, including—

(A) so-called “imputed political opinion”;

(B) judicial review, reversal, or both of the credibility determinations of immigration judges; and

(C) the need to use classified information in removal proceedings against aliens suspected of connections or ties to terrorism.

(7) The likelihood that an alien connected to or with ties to terrorism has been granted asylum or withholding of removal.

(8) *The likelihood that an alien connected to or with ties to terrorism has used the United States asylum system to enter or remain in the United States in order to plan, conspire, or carry out, or attempt to plan, conspire, or carry out, an act of terrorism.*

(c) *CONSIDERATION AND ASSESSMENT.*—Solely for purposes of conducting the study under subsection (a), the Comptroller General shall consider the possibility, and assess the likelihood, that an alien whom the United States Government accuses or has accused of having a connection to or ties to terrorism is in fact connected to or tied to terrorism, notwithstanding any administrative or judicial determination to the contrary.

(d) *SCOPE.*—In conducting the study under subsection (a), the Comptroller General shall seek information from the Department of Homeland Security, the Federal Bureau of Investigation, the Central Intelligence Agency, the Department of Justice, foreign governments, experts in the field of alien terrorists, and any other appropriate source.

(e) *PRIVACY.*—

(1) *IN GENERAL.*—Notwithstanding section 208.6 of title 8, Code of Federal Regulations, the Comptroller General shall, for purposes of the study under subsection (a), have access to the applications and administrative and judicial records of alien applicants for asylum and withholding of removal. Except for purposes of preparing the reports under subsection (f), such information shall not be further disclosed or disseminated, nor shall the names or personal identifying information of any applicant be released.

(2) *SECURITY OF RECORDS.*—The Comptroller General shall ensure that records received pursuant to this section are appropriately secured to prevent their inadvertent disclosure.

(f) *REPORT TO CONGRESS.*—

(1) *IN GENERAL.*—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress and the Secretary of Homeland Security a report on the findings and recommendations of the Comptroller General under the study under subsection (a).

(2) *ELEMENTS.*—The report under paragraph (1) shall include the following:

(A) *The assessment of the Comptroller General on each matter specified in subsection (b).*

(B) *Any recommendations of the Comptroller General for such administrative action on any matter specified in subsection (a) as the Comptroller General considers necessary to better protect the national security of the United States.*

(C) *Any recommendations of the Comptroller General for such legislative action on any matter specified in subsection (a) as the Comptroller General considers necessary to better protect the national security of the United States.*

(3) *FORM.*—If necessary, the Comptroller General may submit a classified and unclassified version of the report under paragraph (1).

(g) *APPROPRIATE COMMITTEES OF CONGRESS DEFINED.*—In this section, the term “appropriate committees of Congress” means—

(1) *the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate; and*

(2) *the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.*

Subtitle E—Treatment of Aliens Who Commit Acts of Torture, Extrajudicial Killings, or Other Atrocities Abroad

SEC. 5501. INADMISSIBILITY AND DEPORTABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS ABROAD.

(a) *INADMISSIBILITY.*—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

(1) *in clause (ii), by striking “has engaged in conduct that is defined as genocide for purposes of the International Convention on the Prevention and Punishment of Genocide is inadmissible” and inserting “ordered, incited, assisted, or otherwise participated in conduct outside the United States that would, if committed in the United States or by a United States national, be genocide, as defined in section 1091(a) of title 18, United States Code, is inadmissible”;*

(2) *by adding at the end the following:*

“(iii) *COMMISSION OF ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS.*—Any alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of—

“(I) any act of torture, as defined in section 2340 of title 18, United States Code; or

“(II) under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note),

is inadmissible.”; and

(3) *in the subparagraph heading, by striking “PARTICIPANTS IN NAZI PERSECUTION OR GENOCIDE” and inserting “PARTICIPANTS IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.*

(b) *DEPORTABILITY.*—Section 237(a)(4)(D) of such Act (8 U.S.C. 1227(a)(4)(D)) is amended—

(1) *by striking “clause (i) or (ii)” and inserting “clause (i), (ii), or (iii)”;* and

(2) *in the subparagraph heading, by striking “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN GENOCIDE” and inserting “PARTICIPATED IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.*

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply to offenses committed before, on, or after the date of enactment of this Act.

SEC. 5502. INADMISSIBILITY AND DEPORTABILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) *GROUND OF INADMISSIBILITY.*—Section 212(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

“(G) *FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.*—Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402), is inadmissible.”

(b) *GROUND OF DEPORTABILITY.*—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

“(E) *PARTICIPATED IN THE COMMISSION OF SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.*—Any alien described in section 212(a)(2)(G) is deportable.”

SEC. 5503. WAIVER OF INADMISSIBILITY.

Section 212(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)) is amended—

- (1) in subparagraph (A), by striking “and 3(E)” and inserting “and clauses (i) and (ii) of paragraph (3)(E)”; and
- (2) in subparagraph (B), by striking “and 3(E)” and inserting “and clauses (i) and (ii) of paragraph (3)(E)”.

SEC. 5504. BAR TO GOOD MORAL CHARACTER FOR ALIENS WHO HAVE COMMITTED ACTS OF TORTURE, EXTRAJUDICIAL KILLINGS, OR SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

- (1) by striking the period at the end of paragraph (8) and inserting “; or”; and
- (2) by adding at the end the following:

“(9) one who at any time has engaged in conduct described in section 212(a)(3)(E) (relating to assistance in Nazi persecution, participation in genocide, or commission of acts of torture or extrajudicial killings) or 212(a)(2)(G) (relating to severe violations of religious freedom).”

SEC. 5505. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

(a) *AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.*—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

“(h)(1) The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority to detect and investigate, and, where appropriate, to take legal action to denaturalize any alien described in section 212(a)(3)(E).

“(2) The Attorney General shall consult with the Secretary of Homeland Security in making determinations concerning the criminal prosecution or extradition of aliens described in section 212(a)(3)(E).

“(3) In determining the appropriate legal action to take against an alien described in section 212(a)(3)(E), consideration shall be given to—

“(A) the availability of criminal prosecution under the laws of the United States for any conduct that may form the basis for removal and denaturalization; or

“(B) the availability of extradition of the alien to a foreign jurisdiction that is prepared to undertake a prosecution for such conduct.”

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the additional duties established under section 103(h) of the Immigration and Nationality Act (as added by this subtitle) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 5506. REPORT ON IMPLEMENTATION.

Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of Homeland Security, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on implementation of this subtitle that includes a description of—

(1) the procedures used to refer matters to the Office of Special Investigations and other components within the Department of Justice and the Department of Homeland Security in a manner consistent with the amendments made by this subtitle;

(2) the revisions, if any, made to immigration forms to reflect changes in the Immigration and Nationality Act made by the amendments contained in this subtitle; and

(3) the procedures developed, with adequate due process protection, to obtain sufficient evidence to determine whether an alien may be inadmissible under the terms of the amendments made by this subtitle.

TITLE VI—TERRORISM PREVENTION

Subtitle A—Individual Terrorists as Agents of Foreign Powers

SEC. 6001. INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS.

(a) IN GENERAL.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

“(C) engages in international terrorism or activities in preparation therefore; or”.

(b) SUNSET.—The amendment made by subsection (a) shall be subject to the sunset provision in section 224 of Public Law 107–56

(6) *the scope and means of processing background checks for private employers utilizing data maintained by the Federal Bureau of Investigation that the Attorney General should be allowed to authorize in cases where the authority for such checks is not available at the State level;*

(7) *any restrictions that should be placed on the ability of an employer to charge an employee or prospective employee for the cost associated with the background check;*

(8) *which requirements should apply to the handling of incomplete records;*

(9) *the circumstances under which the criminal history information should be disseminated to the employer;*

(10) *the type of restrictions that should be prescribed for the handling of criminal history information by an employer;*

(11) *the range of Federal and State fees that might apply to such background check requests;*

(12) *any requirements that should be imposed concerning the time for responding to such background check requests;*

(13) *any infrastructure that may need to be developed to support the processing of such checks, including—*

(A) *the means by which information is collected and submitted in support of the checks; and*

(B) *the system capacity needed to process such checks at the Federal and State level;*

(14) *the role that States should play; and*

(15) *any other factors that the Attorney General determines to be relevant to the subject of the report.*

(e) *CONSULTATION.—In developing the report under this section, the Attorney General shall consult with representatives of State criminal history record repositories, the National Crime Prevention and Privacy Compact Council, appropriate representatives of private industry, and representatives of labor, as determined appropriate by the Attorney General.*

Subtitle F—Grand Jury Information Sharing

SEC. 6501. GRAND JURY INFORMATION SHARING.

(a) *RULE AMENDMENTS.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended—*

(1) *in paragraph (3)—*

(A) *in subparagraph (A)(ii), by striking “or state subdivision or of an Indian tribe” and inserting “, state subdivision, Indian tribe, or foreign government”;*

(B) *in subparagraph (D)—*

(i) *by inserting after the first sentence the following: “An attorney for the government may also disclose any grand jury matter involving, within the United States or elsewhere, a threat of attack or other grave hostile acts of a foreign power or its agent, a threat of domestic or international sabotage or terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power*

or by its agent, to any appropriate Federal, State, State subdivision, Indian tribal, or foreign government official, for the purpose of preventing or responding to such threat or activities.”; and

(ii) in clause (i)—

(I) by striking “federal”; and

(II) by adding at the end the following: “Any State, State subdivision, Indian tribal, or foreign government official who receives information under Rule 6(e)(3)(D) may use the information only consistent with such guidelines as the Attorney General and the Director of National Intelligence shall jointly issue.”; and

(C) in subparagraph (E)—

(i) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(ii) by inserting after clause (ii) the following:

“(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation.”; and

(iii) in clause (iv), as redesignated—

(I) by striking “state or Indian tribal” and inserting “State, Indian tribal, or foreign”; and

(II) by striking “or Indian tribal official” and inserting “Indian tribal, or foreign government official”; and

(2) in paragraph (7), by inserting “, or of guidelines jointly issued by the Attorney General and the Director of National Intelligence pursuant to Rule 6,” after “Rule 6”.

(b) CONFORMING AMENDMENT.—Section 203(c) of Public Law 107-56 (18 U.S.C. 2517 note) is amended by striking “Rule 6(e)(3)(C)(i)(V) and (VI)” and inserting “Rule 6(e)(3)(D)”.

Subtitle G—Providing Material Support to Terrorism

SEC. 6601. SHORT TITLE.

This subtitle may be cited as the “Material Support to Terrorism Prohibition Enhancement Act of 2004”.

SEC. 6602. RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

Chapter 113B of title 18, United States Code, is amended by adding after section 2339C the following new section:

“§ 2339D. Receiving military-type training from a foreign terrorist organization

“(a) OFFENSE.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act as a foreign terrorist organization shall be fined under this title or imprisoned for ten years, or both. To violate this subsection, a person must have knowledge that the organization is a designated terrorist organization (as defined in

subsection (c)(4), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

“(b) *EXTRATERRITORIAL JURISDICTION.*—There is extraterritorial Federal jurisdiction over an offense under this section. There is jurisdiction over an offense under subsection (a) if—

“(1) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act);

“(2) an offender is a stateless person whose habitual residence is in the United States;

“(3) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

“(4) the offense occurs in whole or in part within the United States;

“(5) the offense occurs in or affects interstate or foreign commerce; or

“(6) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

“(c) *DEFINITIONS.*—As used in this section—

“(1) the term ‘military-type training’ includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2));

“(2) the term ‘serious bodily injury’ has the meaning given that term in section 1365(h)(3);

“(3) the term ‘critical infrastructure’ means systems and assets vital to national defense, national security, economic security, public health or safety including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned; examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports); and

“(4) the term ‘foreign terrorist organization’ means an organization designated as a terrorist organization under section 219(a)(1) of the Immigration and Nationality Act.”

SEC. 6603. ADDITIONS TO OFFENSE OF PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) *IN GENERAL.*—Chapter 113B of title 18, United States Code, is amended—

(1) in section 2332b(g)(5)(B)(i)—

(A) by inserting “1361 (relating to government property or contracts),” before “1362”; and

(B) by inserting “2156 (relating to national defense material, premises, or utilities),” before “2280”; and

(2) in section 2339A—

(A) by striking “or” before “section 46502”; and

(B) by inserting “or any offense listed in section 2332b(g)(5)(B) (except for sections 2339A and 2339B)” after “section 60123(b) of title 49.”

(b) *DEFINITIONS.*—Section 2339A(b) of title 18, United States Code, is amended to read as follows:

“(b) *DEFINITIONS.*—As used in this section—

“(1) the term ‘material support or resources’ means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

“(2) the term ‘training’ means instruction or teaching designed to impart a specific skill, as opposed to general knowledge; and

“(3) the term ‘expert advice or assistance’ means advice or assistance derived from scientific, technical or other specialized knowledge.”

(c) *ADDITION TO OFFENSE OF PROVIDING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.*—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking “, within the United States or subject to the jurisdiction of the United States,”; and

(2) by adding at the end the following: “To violate this paragraph, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (g)(6)), that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).”

(d) *FEDERAL AUTHORITY.*—Section 2339B(d) of title 18 is amended by striking “There” and inserting the following:

“(1) *IN GENERAL.*—There is jurisdiction over an offense under subsection (a) if—

“(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section

101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

“(B) an offender is a stateless person whose habitual residence is in the United States;

“(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

“(D) the offense occurs in whole or in part within the United States;

“(E) the offense occurs in or affects interstate or foreign commerce; or

“(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).”

“(2) EXTRATERRITORIAL JURISDICTION.—*There*”

(e) DEFINITION.—Section 2339B(g)(4) of title 18, United States Code, is amended to read as follows:

“(4) the term ‘material support or resources’ has the same meaning given that term in section 2339A (including the definitions of ‘training’ and ‘expert advice or assistance’ in that section);”

(f) ADDITIONAL PROVISIONS.—Section 2339B of title 18, United States Code, is amended by adding at the end the following:

“(h) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term ‘personnel’ unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include himself) to work under that terrorist organization’s direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization’s direction and control.

“(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

“(j) EXCEPTION.—No person may be prosecuted under this section in connection with the term ‘personnel’, ‘training’, or ‘expert advice or assistance’ if the provision of that material support or resources to a foreign terrorist organization was approved by the Secretary of State with the concurrence of the Attorney General. The Secretary of State may not approve the provision of any material support that may be used to carry out terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act).”

(g) SUNSET PROVISION.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

(2) *EXCEPTION.*—*This section and the amendments made by this section shall continue in effect with respect to any particular offense that—*

(A) is prohibited by this section or amendments made by this section; and

(B) began or occurred before December 31, 2006.

SEC. 6604. FINANCING OF TERRORISM.

(a) *FINANCING TERRORISM.*—*Section 2339c(c)(2) of title 18, United States Code, is amended—*

(1) by striking “, resources, or funds” and inserting “or resources, or any funds or proceeds of such funds”;

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

(3) in subparagraph (B)—

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

(B) by striking “were provided or collected” and inserting “are to be provided or collected, or knowing that the funds were provided or collected,”.

(b) *DEFINITIONS.*—*Section 2339c(e) of title 18, United States Code, is amended—*

(1) by striking “and” at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

“(13) the term ‘material support or resources’ has the same meaning given that term in section 2339B(g)(4) of this title; and”.

Subtitle H—Stop Terrorist and Military Hoaxes Act of 2004

SEC. 6701. SHORT TITLE.

This subtitle may be cited as the “Stop Terrorist and Military Hoaxes Act of 2004”.

SEC. 6702. HOAXES AND RECOVERY COSTS.

(a) *PROHIBITION ON HOAXES.*—*Chapter 47 of title 18, United States Code, is amended by inserting after section 1037 the following:*

“§ 1038. False information and hoaxes

“(a) CRIMINAL VIOLATION.—

“(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49, shall—

“(A) be fined under this title or imprisoned not more than 5 years, or both;

“(B) if serious bodily injury results, be fined under this title or imprisoned not more than 20 years, or both; and

“(C) if death results, be fined under this title or imprisoned for any number of years up to life, or both.

“(2) ARMED FORCES.—Any person who makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged—

“(A) shall be fined under this title, imprisoned not more than 5 years, or both;

“(B) if serious bodily injury results, shall be fined under this title, imprisoned not more than 20 years, or both; and

“(C) if death results, shall be fined under this title, imprisoned for any number of years or for life, or both.

“(b) CIVIL ACTION.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

“(c) REIMBURSEMENT.—

“(1) IN GENERAL.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any state or local government, or private not-for-profit organization that provides fire or rescue service incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

“(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

“(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

“(d) ACTIVITIES OF LAW ENFORCEMENT.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.”.

(b) **CLERICAL AMENDMENT.**—*The table of sections as the beginning of chapter 47 of title 18, United States Code, is amended by adding after the item for section 1037 the following:*

“1038. False information and hoaxes.”.

SEC. 6703. OBSTRUCTION OF JUSTICE AND FALSE STATEMENTS IN TERRORISM CASES.

(a) **ENHANCED PENALTY.**—*Section 1001(a) and the third undesignated paragraph of section 1505 of title 18, United States Code, are amended by striking “be fined under this title or imprisoned not more than 5 years, or both” and inserting “be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both”.*

(b) **SENTENCING GUIDELINES.**—*Not later than 30 days of the enactment of this section, the United States Sentencing Commission shall amend the Sentencing Guidelines to provide for an increased offense level for an offense under sections 1001(a) and 1505 of title 18, United States Code, if the offense involves international or domestic terrorism, as defined in section 2331 of such title.*

SEC. 6704. CLARIFICATION OF DEFINITION.

Section 1958 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “facility in” and inserting “facility of”; and

(2) in subsection (b)(2), by inserting “or foreign” after “interstate”.

Subtitle I—Weapons of Mass Destruction Prohibition Improvement Act of 2004

SEC. 6801. SHORT TITLE.

This subtitle may be cited as the “Weapons of Mass Destruction Prohibition Improvement Act of 2004”.

SEC. 6802. WEAPONS OF MASS DESTRUCTION.

(a) **EXPANSION OF JURISDICTIONAL BASES AND SCOPE.**—*Section 2332a of title 18, United States Code, is amended—*

(1) so that paragraph (2) of subsection (a) reads as follows:

“(2) against any person or property within the United States, and

“(A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

“(B) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

“(C) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

“(D) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;”;

(2) in paragraph (3) of subsection (a), by striking the comma at the end and inserting “; or”;

(3) in subsection (a), by adding the following at the end:

“(4) against any property within the United States that is owned, leased, or used by a foreign government,”;

(4) at the end of subsection (c)(1), by striking “and”;

(5) in subsection (c)(2), by striking the period at the end and inserting “; and”; and

(6) in subsection (c), by adding at the end the following:

“(3) the term ‘property’ includes all real and personal property.”.

(b) **RESTORATION OF THE COVERAGE OF CHEMICAL WEAPONS.**—Section 2332a of title 18, United States Code, as amended by subsection (a), is further amended—

(1) in the section heading, by striking “certain”;

(2) in subsection (a), by striking “(other than a chemical weapon as that term is defined in section 229F)”;

(3) in subsection (b), by striking “(other than a chemical weapon (as that term is defined in section 229F))”.

(c) **EXPANSION OF CATEGORIES OF RESTRICTED PERSONS SUBJECT TO PROHIBITIONS RELATING TO SELECT AGENTS.**—Section 175b(d)(2) of title 18, United States Code, is amended—

(1) in subparagraph (G) by—

(A) inserting “(i)” after “(G)”;

(B) inserting “, or (ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph” after “terrorism”; and

(C) striking “or” after the semicolon.

(2) in subparagraph (H) by striking the period and inserting “; or”; and

(3) by adding at the end the following new subparagraph:

“(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).”.

(d) **CONFORMING AMENDMENT TO REGULATIONS.**—

(1) Section 175b(a)(1) of title 18, United States Code, is amended by striking “as a select agent in Appendix A” and all that follows and inserting the following: “as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.”.

(2) The amendment made by paragraph (1) shall take effect at the same time that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

(e) **ENHANCING PROSECUTION OF WEAPONS OF MASS DESTRUCTION OFFENSES.**—Section 1961(1)(B) of title 18, United States Code, is amended by adding at the end the following: “sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials).”.

SEC. 6803. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.

(a) Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended by striking “in the production of any special nuclear material” and inserting “or participate in the development or production of any special nuclear material”.

(b) Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended—

(1) by inserting “, inside or outside of the United States,” after “for any person”; and

(2) by inserting “participate in the development of,” after “interstate or foreign commerce.”.

(c) Title 18, United States Code, is amended—

(1) in the table of sections at the beginning of chapter 39, by inserting after the item relating to section 831 the following:

“832. Participation in nuclear and weapons of mass destruction threats to the United States.”;

(2) by inserting after section 831 the following:

“§ 832. Participation in nuclear and weapons of mass destruction threats to the United States

“(a) Whoever, within the United States or subject to the jurisdiction of the United States, willfully participates in or knowingly provides material support or resources (as defined in section 2339A) to a nuclear weapons program or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

“(b) There is extraterritorial Federal jurisdiction over an offense under this section.

“(c) Whoever without lawful authority develops, possesses, or attempts or conspires to develop or possess a radiological weapon, or threatens to use or uses a radiological weapon against any person within the United States, or a national of the United States while such national is outside of the United States or against any property that is owned, leased, funded, or used by the United States, whether that property is within or outside of the United States, shall be imprisoned for any term of years or for life.

“(d) As used in this section—

“(1) ‘nuclear weapons program’ means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons;

“(2) ‘weapons of mass destruction program’ means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as defined in section 2332a(c));

“(3) ‘foreign terrorist power’ means a terrorist organization designated under section 219 of the Immigration and Nationality Act, or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 or section 620A of the Foreign Assistance Act of 1961; and

“(4) ‘nuclear weapon’ means any weapon that contains or uses nuclear material as defined in section 831(f)(1).”; and

(3) in section 2332b(g)(5)(B)(i), by inserting after “nuclear materials,” the following: “832 (relating to participation in nu-

(4) Existing and proposed free trade agreements between the United States and countries with predominantly Muslim populations are drawing interest from other countries in the Middle East region, and countries with predominantly Muslim populations can become full participants in the rules-based global trading system, as the United States considers lowering its barriers to trade.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a comprehensive United States strategy to counter terrorism should include economic policies that encourage development, open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future;

(2) one element of such a strategy should encompass the lowering of trade barriers with the poorest countries that have a significant population of Muslim individuals;

(3) another element of such a strategy should encompass United States efforts to promote economic reform in countries that have a significant population of Muslim individuals, including efforts to integrate such countries into the global trading system; and

(4) given the importance of the rule of law in promoting economic development and attracting investment, the United States should devote an increased proportion of its assistance to countries in the Middle East to the promotion of the rule of law.

SEC. 7115. MIDDLE EAST PARTNERSHIP INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2005 and 2006, (unless otherwise authorized by Congress) such sums as may be necessary for the Middle East Partnership Initiative.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, given the importance of the rule of law and economic reform to development in the Middle East, a significant portion of the funds authorized to be appropriated under subsection (a) should be made available to promote the rule of law in the Middle East.

SEC. 7116. COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM.

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

(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach to counterterrorism.

(b) IN GENERAL.—The Secretary of State is authorized in consultation with relevant United States Government agencies, to negotiate on a bilateral or multilateral basis, as appropriate, international agreements under which parties to an agreement work in partnership to address and interdict acts of international terrorism.

(c) INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.—

(1) *SENSE OF CONGRESS.*—*It is the sense of Congress that the President—*

(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive multilateral strategy to fight terrorism; and

(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

(2) *AUTHORITY.*—*The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for the following purposes:*

(A) To meet annually, or more frequently as the President determines appropriate, to develop in common with such other governments important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, long-term issues that can contribute to strengthening stability and security in the Middle East.

SEC. 7117. FINANCING OF TERRORISM.

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

(1) The death or capture of several important financial facilitators has decreased the amount of money available to al Qaeda, and has made it more difficult for al Qaeda to raise and move money.

(2) The capture of al Qaeda financial facilitators has provided a windfall of intelligence that can be used to continue the cycle of disruption.

(3) The United States Government has rightly recognized that information about terrorist money helps in understanding terror networks, searching them out, and disrupting their operations.

(b) *SENSE OF CONGRESS.*—*It is the sense of Congress that—*

(1) a critical weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States counterterrorism efforts.

SEC. 7118. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) *PERIOD OF DESIGNATION.*—Section 219(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking “Subject to paragraphs (5) and (6), a” and inserting “A”; and

(B) by striking “for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B)” and inserting “until revoked under paragraph (5) or (6) or set aside pursuant to subsection (c)”;

(2) by striking subparagraph (B) and inserting the following:

“(B) *REVIEW OF DESIGNATION UPON PETITION.*—

“(i) *IN GENERAL.*—The Secretary shall review the designation of a foreign terrorist organization under the procedures set forth in clauses (iii) and (iv) if the designated organization files a petition for revocation within the petition period described in clause (ii).

“(ii) *PETITION PERIOD.*—For purposes of clause (i)—

“(I) if the designated organization has not previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

“(II) if the designated organization has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

“(iii) *PROCEDURES.*—Any foreign terrorist organization that submits a petition for revocation under this subparagraph must provide evidence in that petition that the relevant circumstances described in paragraph (1) are sufficiently different from the circumstances that were the basis for the designation such that a revocation with respect to the organization is warranted.

“(iv) *DETERMINATION.*—

“(I) *IN GENERAL.*—Not later than 180 days after receiving a petition for revocation submitted under this subparagraph, the Secretary shall make a determination as to such revocation.

“(II) *CLASSIFIED INFORMATION.*—The Secretary may consider classified information in making a determination in response to a petition for revocation. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court *ex parte* and *in camera* for purposes of judicial review under subsection (c).

“(III) *PUBLICATION OF DETERMINATION.*—A determination made by the Secretary under this clause shall be published in the Federal Register.

“(IV) PROCEDURES.—Any revocation by the Secretary shall be made in accordance with paragraph (6).”; and

(3) by adding at the end the following:

“(C) OTHER REVIEW OF DESIGNATION.—

“(i) IN GENERAL.—If in a 5-year period no review has taken place under subparagraph (B), the Secretary shall review the designation of the foreign terrorist organization in order to determine whether such designation should be revoked pursuant to paragraph (6).

“(ii) PROCEDURES.—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewable in any court.

“(iii) PUBLICATION OF RESULTS OF REVIEW.—The Secretary shall publish any determination made pursuant to this subparagraph in the Federal Register.”.

(b) ALIASES.—Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

“(b) AMENDMENTS TO A DESIGNATION.—

“(1) IN GENERAL.—The Secretary may amend a designation under this subsection if the Secretary finds that the organization has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another organization.

“(2) PROCEDURE.—Amendments made to a designation in accordance with paragraph (1) shall be effective upon publication in the Federal Register. Subparagraphs (B) and (C) of subsection (a)(2) shall apply to an amended designation upon such publication. Paragraphs (2)(A)(i), (4), (5), (6), (7), and (8) of subsection (a) shall also apply to an amended designation.

“(3) ADMINISTRATIVE RECORD.—The administrative record shall be corrected to include the amendments as well as any additional relevant information that supports those amendments.

“(4) CLASSIFIED INFORMATION.—The Secretary may consider classified information in amending a designation in accordance with this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court *ex parte* and *in camera* for purposes of judicial review under subsection (c).”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) is amended—

(1) in subsection (a)—

(A) in paragraph (3)(B), by striking “subsection (b)” and inserting “subsection (c)”; and

(B) in paragraph (6)(A)—

(i) in the matter preceding clause (i), by striking “or a redesignation made under paragraph (4)(B)” and inserting “at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (B) and (C) of paragraph (4)”;

(ii) in clause (i), by striking “or redesignation”;

(C) in paragraph (7), by striking “, or the revocation of a redesignation under paragraph (6),”;

(D) in paragraph (8)—

(i) by striking “, or if a redesignation under this subsection has become effective under paragraph (4)(B),”;

(ii) by striking “or redesignation”;

(2) in subsection (c), as so redesignated—

(A) in paragraph (1), by striking “of the designation in the Federal Register,” and all that follows through “review of the designation” and inserting “in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated organization may seek judicial review”;

(B) in paragraph (2), by inserting “, amended designation, or determination in response to a petition for revocation” after “designation”;

(C) in paragraph (3), by inserting “, amended designation, or determination in response to a petition for revocation” after “designation”;

(D) in paragraph (4), by inserting “, amended designation, or determination in response to a petition for revocation” after “designation” each place that term appears.

(d) SAVINGS PROVISION.—For purposes of applying section 219 of the Immigration and Nationality Act on or after the date of enactment of this Act, the term “designation”, as used in that section, includes all redesignations made pursuant to section 219(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)(B)) prior to the date of enactment of this Act, and such redesignations shall continue to be effective until revoked as provided in paragraph (5) or (6) of section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

SEC. 7119. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the President shall submit to Congress a report on the activities of the Government of the United States to carry out the provisions of this subtitle.

(b) CONTENTS.—The report required under this section shall include the following:

(1) TERRORIST SANCTUARIES.—A description of the strategy of the United States to address and, where possible, eliminate terrorist sanctuaries, including—

(A) a description of the terrorist sanctuaries that exist;

(B) an outline of strategies, tactics, and tools for disrupting or eliminating the security provided to terrorists by such sanctuaries;

(C) a description of efforts by the United States Government to work with other countries in bilateral and multilat-

eral fora to elicit the cooperation needed to identify and address terrorist sanctuaries that may exist unknown to governments; and

(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

(2) SUPPORT FOR PAKISTAN.—A description of a United States strategy to engage with Pakistan and to support it over the long term, including—

(A) recommendations on the composition and levels of assistance required in future years, with special consideration of the proper balance between security assistance and other forms of assistance;

(B) a description of the composition and levels of assistance, other than security assistance, at present and in the recent past, structured to permit a comparison of current and past practice with that recommended for the future;

(C) measures that could be taken to ensure that all forms of foreign assistance to Pakistan have the greatest possible long-term positive impact on the welfare of the Pakistani people and on the ability of Pakistani to cooperate in global efforts against terror; and

(D) measures that could be taken to alleviate difficulties, misunderstandings, and complications in the relationship between the United States and Pakistan.

(3) COLLABORATION WITH SAUDI ARABIA.—A description of the strategy of the United States for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance, including a description of—

(A) steps that could usefully be taken to institutionalize and make more transparent government to government relationships between the United States and Saudi Arabia, including the utility of undertaking periodic, formal, and visible high-level dialogues between government officials of both countries to address challenges in the relationship between the 2 governments and to identify areas and mechanisms for cooperation;

(B) intelligence and security cooperation between the United States and Saudi Arabia in the fight against Islamist terrorism;

(C) ways to increase the contribution of Saudi Arabia to the stability of the Middle East and the Islamic world, particularly to the Middle East peace process, by eliminating support from or within Saudi Arabia for extremist groups or tendencies;

(D) political and economic reform in Saudi Arabia and throughout the Islamic world;

(E) ways to promote greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Islamic world; and

(F) ways to assist the Government of Saudi Arabia in reversing the impact of any financial, moral, intellectual, or other support provided in the past from Saudi sources to extremist groups in Saudi Arabia and other countries, and to prevent this support from continuing in the future.

(4) *STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.*—A description of a cohesive, long-term strategy of the United States to help win the struggle of ideas in the Islamic world, including the following:

(A) A description of specific goals related to winning this struggle of ideas.

(B) A description of the range of tools available to the United States Government to accomplish such goals and the manner in which such tools will be employed.

(C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of such goals.

(D) A description of any additional resources that may be necessary to help win this struggle of ideas.

(E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Islamic world, and intraregional trade in the Middle East.

(F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.

(5) *OUTREACH THROUGH BROADCAST MEDIA.*—A description of a cohesive, long-term strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media, including the following:

(A) The initiatives of the Broadcasting Board of Governors with respect to outreach to foreign Muslim audiences.

(B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with predominantly Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(C) An assessment of the major themes of biased or false media coverage of the United States in foreign countries and the actions taken to address this type of media coverage.

(D) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to

dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in the Muslim world in order to present those programs to a much broader Muslim audience than is currently reached.

(E) Any recommendations the President may have for additional funding and legislation necessary to achieve the objectives of the strategy.

(6) VISAS FOR PARTICIPANTS IN UNITED STATES PROGRAMS.—A description of—

(A) any recommendations for expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program described in section 7111(b) without compromising the security of the United States; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(7) BASIC EDUCATION IN MUSLIM COUNTRIES.—A description of a strategy, that was developed after consultation with non-governmental organizations and individuals involved in education assistance programs in developing countries, to promote free universal basic education in the countries of the Middle East and in other countries with predominantly Muslim populations designated by the President. The strategy shall include the following elements:

(A) A description of the manner in which the resources of the United States and the international community shall be used to help achieve free universal basic education in such countries, including—

(i) efforts of the United States to coordinate an international effort;

(ii) activities of the United States to leverage contributions from members of the Group of Eight or other donors; and

(iii) assistance provided by the United States to leverage contributions from the private sector and civil society organizations.

(B) A description of the efforts of the United States to coordinate with other donors to reduce duplication and waste at the global and country levels and to ensure efficient coordination among all relevant departments and agencies of the Government of the United States.

(C) A description of the strategy of the United States to assist efforts to overcome challenges to achieving free universal basic education in such countries, including strategies to target hard to reach populations to promote education.

(D) A listing of countries that the President determines might be eligible for assistance under the International Youth Opportunity Fund described in section 7113(b) and related programs.

(E) A description of the efforts of the United States to encourage countries in the Middle East and other countries with predominantly Muslim populations designated by the

President to develop and implement a national education plan.

(F) A description of activities that could be carried out as part of the International Youth Opportunity Fund to help close the digital divide and expand vocational and business skills in such countries.

(G) An estimate of the funds needed to achieve free universal basic education by 2015 in each country described in subparagraph (D), and an estimate of the amount that has been expended by the United States and by each such country during the previous fiscal year.

(H) A description of the United States strategy for garnering programmatic and financial support from countries in the Middle East and other countries with predominantly Muslim populations designated by the President, international organizations, and other countries that share the objectives of the International Youth Opportunity Fund.

(8) ECONOMIC REFORM.—A description of the efforts of the United States Government to encourage development and promote economic reform in countries that have a predominantly Muslim population, including a description of—

(A) efforts to integrate countries with predominantly Muslim populations into the global trading system; and

(B) actions that the United States Government, acting alone and in partnership with governments in the Middle East, can take to promote intraregional trade and the rule of law in the region.

(c) FORM OF REPORT.—Any report or other matter that is required to be submitted to Congress (including a committee of Congress) under this section may contain a classified annex.

SEC. 7120. CASE-ZABLOCKI ACT REQUIREMENTS.

(a) AVAILABILITY OF TREATIES AND INTERNATIONAL AGREEMENTS.—Section 112a of title 1, United States Code, is amended by adding at the end the following:

“(d) The Secretary of State shall make publicly available through the Internet website of the Department of State each treaty or international agreement proposed to be published in the compilation entitled ‘United States Treaties and Other International Agreements’ not later than 180 days after the date on which the treaty or agreement enters into force.”

(b) TRANSMISSION TO CONGRESS.—Section 112b(a) of title 1, United States Code, is amended by striking “Committee on Foreign Affairs” and inserting “Committee on International Relations”.

(c) REPORT.—Section 112b of title 1, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

“(d)(1) The Secretary of State shall annually submit to Congress a report that contains an index of all international agreements, listed by country, date, title, and summary of each such agreement (including a description of the duration of activities under the agreement and the agreement itself), that the United States—

“(A) has signed, proclaimed, or with reference to which any other final formality has been executed, or that has been extended or otherwise modified, during the preceding calendar year; and

“(B) has not been published, or is not proposed to be published, in the compilation entitled ‘United States Treaties and Other International Agreements’.

“(2) The report described in paragraph (1) may be submitted in classified form.”.

(d) DETERMINATION OF INTERNATIONAL AGREEMENT.—Subsection (e) of section 112b of title 1, United States Code, as redesignated, is amended—

(1) by striking “(e) The Secretary of State” and inserting the following:

“(e)(1) Subject to paragraph (2), the Secretary of State”; and

(2) by adding at the end the following:

“(2)(A) An arrangement shall constitute an international agreement within the meaning of this section (other than subsection (c)) irrespective of the duration of activities under the arrangement or the arrangement itself.

“(B) Arrangements that constitute an international agreement within the meaning of this section (other than subsection (c)) include the following:

“(i) A bilateral or multilateral counterterrorism agreement.

“(ii) A bilateral agreement with a country that is subject to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).”.

(e) ENFORCEMENT OF REQUIREMENTS.—Section 139(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 is amended to read as follows:

“(b) EFFECTIVE DATE.—Subsection (a) shall take effect 60 days after the date of enactment of the 911 Commission Implementation Act of 2004 and shall apply during fiscal years 2005, 2006, and 2007.”.

SEC. 7121. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this subtitle shall take effect on the date of enactment of this Act.

Subtitle B—Terrorist Travel and Effective Screening

SEC. 7201. COUNTERTERRORIST TRAVEL INTELLIGENCE.

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

(1) Travel documents are as important to terrorists as weapons since terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack sites.

(2) International travel is dangerous for terrorists because they must surface to pass through regulated channels, present

themselves to border security officials, or attempt to circumvent inspection points.

(3) Terrorists use evasive, but detectable, methods to travel, such as altered and counterfeit passports and visas, specific travel methods and routes, liaisons with corrupt government officials, human smuggling networks, supportive travel agencies, and immigration and identity fraud.

(4) Before September 11, 2001, no Federal agency systematically analyzed terrorist travel strategies. If an agency had done so, the agency could have discovered the ways in which the terrorist predecessors to al Qaeda had been systematically, but detectably, exploiting weaknesses in our border security since the early 1990s.

(5) Many of the hijackers were potentially vulnerable to interception by border authorities. Analyzing their characteristic travel documents and travel patterns could have allowed authorities to intercept some of the hijackers and a more effective use of information available in government databases could have identified some of the hijackers.

(6) The routine operations of our immigration laws and the aspects of those laws not specifically aimed at protecting against terrorism inevitably shaped al Qaeda's planning and opportunities.

(7) New insights into terrorist travel gained since September 11, 2001, have not been adequately integrated into the front lines of border security.

(8) The small classified terrorist travel intelligence collection and analysis program currently in place has produced useful results and should be expanded.

(b) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director of the National Counterterrorism Center shall submit to Congress unclassified and classified versions of a strategy for combining terrorist travel intelligence, operations, and law enforcement into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility domestically and internationally. The report to Congress should include a description of the actions taken to implement the strategy and an assessment regarding vulnerabilities within the United States and foreign travel systems that may be exploited by international terrorists, human smugglers and traffickers, and their facilitators.

(2) COORDINATION.—The strategy shall be developed in coordination with all relevant Federal agencies.

(3) CONTENTS.—The strategy may address—

(A) a program for collecting, analyzing, disseminating, and utilizing information and intelligence regarding terrorist travel tactics and methods, and outline which Federal intelligence, diplomatic, and law enforcement agencies will be held accountable for implementing each element of the strategy;

(B) the intelligence and law enforcement collection, analysis, operations, and reporting required to identify and disrupt terrorist travel tactics, practices, patterns, and

trends, and the terrorist travel facilitators, document forgers, human smugglers, travel agencies, and corrupt border and transportation officials who assist terrorists;

(C) the training and training materials required by consular, border, and immigration officials to effectively detect and disrupt terrorist travel described under subsection (c)(3);

(D) the new technology and procedures required and actions to be taken to integrate existing counterterrorist travel document and mobility intelligence into border security processes, including consular, port of entry, border patrol, maritime, immigration benefits, and related law enforcement activities;

(E) the actions required to integrate current terrorist mobility intelligence into military force protection measures;

(F) the additional assistance to be given to the inter-agency Human Smuggling and Trafficking Center for purposes of combatting terrorist travel, including further developing and expanding enforcement and operational capabilities that address terrorist travel;

(G) the actions to be taken to aid in the sharing of information between the frontline border agencies of the Department of Homeland Security, the Department of State, and classified and unclassified sources of counterterrorist travel intelligence and information elsewhere in the Federal Government, including the Human Smuggling and Trafficking Center;

(H) the development and implementation of procedures to enable the National Counterterrorism Center, or its designee, to timely receive terrorist travel intelligence and documentation obtained at consulates and ports of entry, and by law enforcement officers and military personnel;

(I) the use of foreign and technical assistance to advance border security measures and law enforcement operations against terrorist travel facilitators;

(J) the feasibility of developing a program to provide each consular, port of entry, and immigration benefits office with a counterterrorist travel expert trained and authorized to use the relevant authentication technologies and cleared to access all appropriate immigration, law enforcement, and intelligence databases;

(K) the feasibility of digitally transmitting suspect passport information to a central cadre of specialists, either as an interim measure until such time as experts described under subparagraph (J) are available at consular, port of entry, and immigration benefits offices, or otherwise;

(L) the development of a mechanism to ensure the coordination and dissemination of terrorist travel intelligence and operational information among the Department of Homeland Security, the Department of State, the National Counterterrorism Center, and other appropriate agencies;

(M) granting consular officers and immigration adjudicators, as appropriate, the security clearances necessary

to access law enforcement sensitive and intelligence databases; and

(N) how to integrate travel document screening for terrorism indicators into border screening, and how to integrate the intelligence community into a robust travel document screening process to intercept terrorists.

(c) *FRONTLINE COUNTERTERRORIST TRAVEL TECHNOLOGY AND TRAINING.*—

(1) *TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.*— Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in conjunction with the Secretary of State, shall submit to Congress a plan describing how the Department of Homeland Security and the Department of State can acquire and deploy, to the maximum extent feasible, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents. To the extent possible, technologies acquired and deployed under this plan shall be compatible with systems used by the Department of Homeland Security to detect fraudulent documents and identify genuine documents.

(2) *CONTENTS OF PLAN.*—The plan submitted under paragraph (1) shall—

(A) outline the timetable needed to acquire and deploy the authentication technologies;

(B) identify the resources required to—

(i) fully disseminate these technologies; and

(ii) train personnel on use of these technologies;

and

(C) address the feasibility of using these technologies to screen every passport or other documentation described in section 7209(b) submitted for identification purposes to a United States consular, border, or immigration official.

(d) *TRAINING PROGRAM.*—

(1) *REVIEW, EVALUATION, AND REVISION OF EXISTING TRAINING PROGRAMS.*—The Secretary of Homeland Security shall—

(A) review and evaluate the training regarding travel and identity documents, and techniques, patterns, and trends associated with terrorist travel that is provided to personnel of the Department of Homeland Security;

(B) in coordination with the Secretary of State, review and evaluate the training described in subparagraph (A) that is provided to relevant personnel of the Department of State; and

(C) in coordination with the Secretary of State, develop and implement an initial training and periodic retraining program—

(i) to teach border, immigration, and consular officials (who inspect or review travel or identity documents as part of their official duties) how to effectively detect, intercept, and disrupt terrorist travel; and

(ii) to ensure that the officials described in clause

(i) regularly receive the most current information on

such matters and are periodically retrained on the matters described in paragraph (2).

(2) *REQUIRED TOPICS OF REVISED PROGRAMS.—The training program developed under paragraph (1)(C) shall include training in—*

(A) methods for identifying fraudulent and genuine travel documents;

(B) methods for detecting terrorist indicators on travel documents and other relevant identity documents;

(C) recognition of travel patterns, tactics, and behaviors exhibited by terrorists;

(D) effective utilization of information contained in databases and data systems available to the Department of Homeland Security; and

(E) other topics determined to be appropriate by the Secretary of Homeland Security, in consultation with the Secretary of State or the Director of National Intelligence.

(3) *IMPLEMENTATION.—*

(A) DEPARTMENT OF HOMELAND SECURITY.—

(i) IN GENERAL.—The Secretary of Homeland Security shall provide all border and immigration officials who inspect or review travel or identity documents as part of their official duties with the training described in paragraph (1)(C).

(ii) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, and annually thereafter for a period of 3 years, the Secretary of Homeland Security shall submit a report to Congress that—

(I) describes the number of border and immigration officials who inspect or review identity documents as part of their official duties, and the proportion of whom have received the revised training program described in paragraph (1)(C)(i);

(II) explains the reasons, if any, for not completing the requisite training described in paragraph (1)(C)(i);

(III) provides a timetable for completion of the training described in paragraph (1)(C)(i) for those who have not received such training; and

(IV) describes the status of periodic retraining of appropriate personnel described in paragraph (1)(C)(ii).

(B) DEPARTMENT OF STATE.—

(i) IN GENERAL.—The Secretary of State shall provide all consular officers who inspect or review travel or identity documents as part of their official duties with the training described in paragraph (1)(C).

(ii) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, and annually thereafter for a period of 3 years, the Secretary of State shall submit a report to Congress that—

(I) describes the number of consular officers who inspect or review travel or identity documents

as part of their official duties, and the proportion of whom have received the revised training program described in paragraph (1)(C)(i);

(II) explains the reasons, if any, for not completing the requisite training described in paragraph (1)(C)(i);

(III) provides a timetable for completion of the training described in paragraph (1)(C)(i) for those who have not received such training; and

(IV) describes the status of periodic retraining of appropriate personnel described in paragraph (1)(C)(ii).

(4) **ASSISTANCE TO OTHERS.**—The Secretary of Homeland Security may assist States, Indian tribes, local governments, and private organizations to establish training programs related to terrorist travel intelligence.

(5) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2005 through 2009 to carry out the provisions of this subsection.

(e) **ENHANCING CLASSIFIED COUNTERTERRORIST TRAVEL EFFORTS.**—

(1) **IN GENERAL.**—The Director of National Intelligence shall significantly increase resources and personnel to the small classified program that collects and analyzes intelligence on terrorist travel.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subsection.

SEC. 7202. ESTABLISHMENT OF HUMAN SMUGGLING AND TRAFFICKING CENTER.

(a) **ESTABLISHMENT.**—There is established a Human Smuggling and Trafficking Center (referred to in this section as the “Center”).

(b) **OPERATION.**—The Secretary of State, the Secretary of Homeland Security, and the Attorney General shall operate the Center in accordance with the Memorandum of Understanding entitled, “Human Smuggling and Trafficking Center (HSTC), Charter”.

(c) **FUNCTIONS.**—In addition to such other responsibilities as the President may assign, the Center shall—

(1) serve as the focal point for interagency efforts to address terrorist travel;

(2) serve as a clearinghouse with respect to all relevant information from all Federal Government agencies in support of the United States strategy to prevent separate, but related, issues of clandestine terrorist travel and facilitation of migrant smuggling and trafficking of persons;

(3) ensure cooperation among all relevant policy, law enforcement, diplomatic, and intelligence agencies of the Federal Government to improve effectiveness and to convert all information available to the Federal Government relating to clandestine terrorist travel and facilitation, migrant smuggling, and trafficking of persons into tactical, operational, and strategic intelligence that can be used to combat such illegal activities; and

(4) prepare and submit to Congress, on an annual basis, a strategic assessment regarding vulnerabilities in the United States and foreign travel system that may be exploited by international terrorists, human smugglers and traffickers, and their facilitators.

(d) *REPORT.*—Not later than 180 days after the date of enactment of this Act, the President shall transmit to Congress a report regarding the implementation of this section, including a description of the staffing and resource needs of the Center.

(e) *RELATIONSHIP TO THE NCTC.*—As part of its mission to combat terrorist travel, the Center shall work to support the efforts of the National Counterterrorism Center.

SEC. 7203. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

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

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

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

(2) *NONIMMIGRANT VISAS.*—Section 222(d) of the Immigration and Nationality Act (8 U.S.C. 1202(d)) is amended by adding at the end the following: “All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.”

(c) *TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.*—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: “In accordance with section 7201(d) of the 9/11 Commission Implementation Act of 2004, and as part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.”

(d) *ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.*—

(1) *SURVEY REGARDING DOCUMENT FRAUD.*—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) *REQUIREMENT FOR SPECIALIST.*—

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

designate at each such post at least 1 full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

(B) *EXCEPTIONS.—The Secretary of State is not required to assign or designate a specialist under subparagraph (A) at a diplomatic or consular post if an employee of the Department of Homeland Security, who has sufficient training and experience in the detection of fraudulent documents, is assigned on a full-time basis to such post under section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).*

SEC. 7204. INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL THROUGH THE USE OF FRAUDULENTLY OBTAINED DOCUMENTS.

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

(1) *International terrorists travel across international borders to raise funds, recruit members, train for operations, escape capture, communicate, and plan and carry out attacks.*

(2) *The international terrorists who planned and carried out the attack on the World Trade Center on February 26, 1993, the attack on the embassies of the United States in Kenya and Tanzania on August 7, 1998, the attack on the USS Cole on October 12, 2000, and the attack on the World Trade Center and the Pentagon on September 11, 2001, traveled across international borders to plan and carry out these attacks.*

(3) *The international terrorists who planned other attacks on the United States, including the plot to bomb New York City landmarks in 1993, the plot to bomb the New York City subway in 1997, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled across international borders to plan and carry out these attacks.*

(4) *Many of the international terrorists who planned and carried out large-scale attacks against foreign targets, including the attack in Bali, Indonesia, on October 11, 2002, and the attack in Madrid, Spain, on March 11, 2004, traveled across international borders to plan and carry out these attacks.*

(5) *Throughout the 1990s, international terrorists, including those involved in the attack on the World Trade Center on February 26, 1993, the plot to bomb New York City landmarks in 1993, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled on fraudulent passports and often had more than 1 passport.*

(6) *Two of the September 11, 2001, hijackers were carrying passports that had been manipulated in a fraudulent manner.*

(7) *The National Commission on Terrorist Attacks Upon the United States, (commonly referred to as the 9/11 Commission), stated that “Targeting travel is at least as powerful a weapon against terrorists as targeting their money.”*

(b) **INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL.—**

(1) **INTERNATIONAL AGREEMENT ON LOST, STOLEN, OR FALSIFIED DOCUMENTS.—***The President should lead efforts to track and curtail the travel of terrorists by supporting the drafting,*

adoption, and implementation of international agreements, and relevant United Nations Security Council resolutions to track and stop international travel by terrorists and other criminals through the use of lost, stolen, or falsified documents to augment United Nations and other international anti-terrorism efforts.

(2) CONTENTS OF INTERNATIONAL AGREEMENT.—The President should seek, as appropriate, the adoption or full implementation of effective international measures to—

(A) share information on lost, stolen, and fraudulent passports and other travel documents for the purposes of preventing the undetected travel of persons using such passports and other travel documents that were obtained improperly;

(B) establish and implement a real-time verification system of passports and other travel documents with issuing authorities;

(C) share with officials at ports of entry in any such country information relating to lost, stolen, and fraudulent passports and other travel documents;

(D) encourage countries—

(i) to criminalize—

(I) the falsification or counterfeiting of travel documents or breeder documents for any purpose;

(II) the use or attempted use of false documents to obtain a visa or cross a border for any purpose;

(III) the possession of tools or implements used to falsify or counterfeit such documents;

(IV) the trafficking in false or stolen travel documents and breeder documents for any purpose;

(V) the facilitation of travel by a terrorist; and

(VI) attempts to commit, including conspiracies to commit, the crimes specified in subparagraphs (I) through (V);

(ii) to impose significant penalties to appropriately punish violations and effectively deter the crimes specified in clause (i); and

(iii) to limit the issuance of citizenship papers, passports, identification documents, and similar documents to persons—

(I) whose identity is proven to the issuing authority;

(II) who have a bona fide entitlement to or need for such documents; and

(III) who are not issued such documents principally on account of a disproportional payment made by them or on their behalf to the issuing authority;

(E) provide technical assistance to countries to help them fully implement such measures; and

(F) permit immigration and border officials—

(i) to confiscate a lost, stolen, or falsified passport at ports of entry;

(ii) to permit the traveler to return to the sending country without being in possession of the lost, stolen, or falsified passport; and

(iii) to detain and investigate such traveler upon the return of the traveler to the sending country.

(3) **INTERNATIONAL CIVIL AVIATION ORGANIZATION.**—The United States shall lead efforts to track and curtail the travel of terrorists by supporting efforts at the International Civil Aviation Organization to continue to strengthen the security features of passports and other travel documents.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, and at least annually thereafter, the President shall submit to the appropriate congressional committees a report on progress toward achieving the goals described in subsection (b).

(2) **TERMINATION.**—Paragraph (1) shall cease to be effective when the President certifies to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the goals described in subsection (b) have been fully achieved.

SEC. 7205. INTERNATIONAL STANDARDS FOR TRANSLITERATION OF NAMES INTO THE ROMAN ALPHABET FOR INTERNATIONAL TRAVEL DOCUMENTS AND NAME-BASED WATCHLIST SYSTEMS.

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

(1) The current lack of a single convention for translating Arabic names enabled some of the 19 hijackers of aircraft used in the terrorist attacks against the United States that occurred on September 11, 2001, to vary the spelling of their names to defeat name-based terrorist watchlist systems and to make more difficult any potential efforts to locate them.

(2) Although the development and utilization of terrorist watchlist systems using biometric identifiers will be helpful, the full development and utilization of such systems will take several years, and name-based terrorist watchlist systems will always be useful.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the President should seek to enter into an international agreement to modernize and improve standards for the transliteration of names into the Roman alphabet in order to ensure 1 common spelling for such names for international travel documents and name-based watchlist systems.

SEC. 7206. IMMIGRATION SECURITY INITIATIVE.

(a) **IN GENERAL.**—Section 235A(b) of the Immigration and Nationality Act (8 U.S.C. 1225a(b)) is amended—

(1) in the subsection heading, by inserting “AND IMMIGRATION SECURITY INITIATIVE” after “PROGRAM”;

(2) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(3) by adding at the end the following: “Beginning not later than December 31, 2006, the number of airports selected for an assignment under this subsection shall be at least 50.”

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Homeland Security to carry out the amendments made by subsection (a)—

- (1) \$25,000,000 for fiscal year 2005;
- (2) \$40,000,000 for fiscal year 2006; and
- (3) \$40,000,000 for fiscal year 2007.

SEC. 7207. CERTIFICATION REGARDING TECHNOLOGY FOR VISA WAIVER PARTICIPANTS.

Not later than October 26, 2006, the Secretary of State shall certify to Congress which of the countries designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) are developing a program to issue to individuals seeking to enter that country pursuant to a visa issued by that country, a machine readable visa document that is tamper-resistant and incorporates biometric identification information that is verifiable at its port of entry.

SEC. 7208. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.

(a) **FINDING.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that completing a biometric entry and exit data system as expeditiously as possible is an essential investment in efforts to protect the United States by preventing the entry of terrorists.

(b) **DEFINITION.**—In this section, the term “entry and exit data system” means the entry and exit system required by applicable sections of—

- (1) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208);
- (2) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–205);
- (3) the Visa Waiver Permanent Program Act (Public Law 106–396);
- (4) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173); and
- (5) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56).

(c) **PLAN AND REPORT.**—

(1) **DEVELOPMENT OF PLAN.**—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system.

(2) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

- (A) a description of the current functionality of the entry and exit data system, including—
 - (i) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric entry data systems in use and

whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with processing individuals through the system; and

(III) programs or policies planned or implemented to correct problems identified in subclause (I) or (II); and

(v) an assessment of the effectiveness of the entry and exit data system in fulfilling its intended purposes, including preventing terrorists from entering the United States;

(B) a description of factors relevant to the accelerated implementation of the biometric entry and exit data system, including—

(i) the earliest date on which the Secretary estimates that full implementation of the biometric entry and exit data system can be completed;

(ii) the actions the Secretary will take to accelerate the full implementation of the biometric entry and exit data system at all ports of entry through which all aliens must pass that are legally required to do so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the biometric entry and exit data system;

(D) a description of plans for improved or added interoperability with any other databases or data systems; and

(E) a description of the manner in which the Department of Homeland Security's US-VISIT program—

(i) meets the goals of a comprehensive entry and exit screening system, including both entry and exit biometric; and

(ii) fulfills the statutory obligations under subsection (b).

(d) COLLECTION OF BIOMETRIC EXIT DATA.—The entry and exit data system shall include a requirement for the collection of biometric exit data for all categories of individuals who are required to provide biometric entry data, regardless of the port of entry where such categories of individuals entered the United States.

(e) INTEGRATION AND INTEROPERABILITY.—

(1) INTEGRATION OF DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully

integrate all databases and data systems that process or contain information on aliens, which are maintained by—

*(A) the Department of Homeland Security, at—
(i) the United States Immigration and Customs Enforcement;*

(ii) the United States Customs and Border Protection; and

(iii) the United States Citizenship and Immigration Services;

(B) the Department of Justice, at the Executive Office for Immigration Review; and

(C) the Department of State, at the Bureau of Consular Affairs.

(2) INTEROPERABLE COMPONENT.—The fully integrated data system under paragraph (1) shall be an interoperable component of the entry and exit data system.

(3) INTEROPERABLE DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully implement an interoperable electronic data system, as required by section 202 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1722) to provide current and immediate access to information in the databases of Federal law enforcement agencies and the intelligence community that is relevant to determine—

(A) whether to issue a visa; or

(B) the admissibility or deportability of an alien.

(f) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.—

(1) POLICIES AND PROCEDURES.—

(A) ESTABLISHMENT.—The Secretary of Homeland Security shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the entry and exit data system that ensure the accuracy and integrity of the data.

(B) TRAINING.—The Secretary shall develop training on the rules, guidelines, policies, and procedures established under subparagraph (A), and on immigration law and procedure. All personnel authorized to access information maintained in the databases and data system shall receive such training.

(2) DATA COLLECTED FROM FOREIGN NATIONALS.—The Secretary of Homeland Security, the Secretary of State, and the Attorney General, after consultation with directors of the relevant intelligence agencies, shall standardize the information and data collected from foreign nationals, and the procedures utilized to collect such data, to ensure that the information is consistent and valuable to officials accessing that data across multiple agencies.

(3) DATA MAINTENANCE PROCEDURES.—Heads of agencies that have databases or data systems linked to the entry and exit data system shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, such

databases or data systems that ensure the accuracy and integrity of the data and for limiting access to the information in the databases or data systems to authorized personnel.

(4) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under this subsection shall—

(A) incorporate a simple and timely method for—

(i) correcting errors in a timely and effective manner;

(ii) determining which government officer provided data so that the accuracy of the data can be ascertained; and

(iii) clarifying information known to cause false hits or misidentification errors;

(B) include procedures for individuals to—

(i) seek corrections of data contained in the databases or data systems; and

(ii) appeal decisions concerning data contained in the databases or data systems;

(C) strictly limit the agency personnel authorized to enter data into the system;

(D) identify classes of information to be designated as temporary or permanent entries, with corresponding expiration dates for temporary entries; and

(E) identify classes of prejudicial information requiring additional authority of supervisory personnel before entry.

(5) CENTRALIZING AND STREAMLINING CORRECTION PROCESS.—

(A) IN GENERAL.—The President, or agency director designated by the President, shall establish a clearinghouse bureau in the Department of Homeland Security, to centralize and streamline the process through which members of the public can seek corrections to erroneous or inaccurate information contained in agency databases, which is related to immigration status, or which otherwise impedes lawful admission to the United States.

(B) TIME SCHEDULES.—The process described in subparagraph (A) shall include specific time schedules for reviewing data correction requests, rendering decisions on such requests, and implementing appropriate corrective action in a timely manner.

(g) INTEGRATED BIOMETRIC ENTRY-EXIT SCREENING SYSTEM.—The biometric entry and exit data system shall facilitate efficient immigration benefits processing by—

(1) ensuring that the system's tracking capabilities encompass data related to all immigration benefits processing, including—

(A) visa applications with the Department of State;

(B) immigration related filings with the Department of Labor;

(C) cases pending before the Executive Office for Immigration Review; and

(D) matters pending or under investigation before the Department of Homeland Security;

(2) utilizing a biometric based identity number tied to an applicant's biometric algorithm established under the entry and exit data system to track all immigration related matters concerning the applicant;

(3) providing that—

(A) all information about an applicant's immigration related history, including entry and exit history, can be queried through electronic means; and

(B) database access and usage guidelines include stringent safeguards to prevent misuse of data;

(4) providing real-time updates to the information described in paragraph (3)(A), including pertinent data from all agencies referred to in paragraph (1); and

(5) providing continuing education in counterterrorism techniques, tools, and methods for all Federal personnel employed in the evaluation of immigration documents and immigration-related policy.

(h) **ENTRY-EXIT SYSTEM GOALS.**—The Department of Homeland Security shall operate the biometric entry and exit system so that it—

(1) serves as a vital counterterrorism tool;

(2) screens travelers efficiently and in a welcoming manner;

(3) provides inspectors and related personnel with adequate real-time information;

(4) ensures flexibility of training and security protocols to most effectively comply with security mandates;

(5) integrates relevant databases and plans for database modifications to address volume increase and database usage; and

(6) improves database search capacities by utilizing language algorithms to detect alternate names.

(i) **DEDICATED SPECIALISTS AND FRONT LINE PERSONNEL TRAINING.**—In implementing the provisions of subsections (g) and (h), the Department of Homeland Security and the Department of State shall—

(1) develop cross-training programs that focus on the scope and procedures of the entry and exit data system;

(2) provide extensive community outreach and education on the entry and exit data system's procedures;

(3) provide clear and consistent eligibility guidelines for applicants in low-risk traveler programs; and

(4) establish ongoing training modules on immigration law to improve adjudications at our ports of entry, consulates, and embassies.

(j) **COMPLIANCE STATUS REPORTS.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security, the Secretary of State, the Attorney General, and the head of any other department or agency subject to the requirements of this section, shall issue individual status reports and a joint status report detailing the compliance of the department or agency with each requirement under this section.

(k) **EXPEDITING REGISTERED TRAVELERS ACROSS INTERNATIONAL BORDERS.**—

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

(A) *Expediting the travel of previously screened and known travelers across the borders of the United States should be a high priority.*

(B) *The process of expediting known travelers across the borders of the United States can permit inspectors to better focus on identifying terrorists attempting to enter the United States.*

(2) *DEFINITION.*—In this subsection, the term “registered traveler program” means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) *REGISTERED TRAVEL PROGRAM.*—

(A) *IN GENERAL.*—As soon as is practicable, the Secretary shall develop and implement a registered traveler program to expedite the processing of registered travelers who enter and exit the United States.

(B) *PARTICIPATION.*—The registered traveler program shall include as many participants as practicable by—

(i) *minimizing the cost of enrollment;*

(ii) *making program enrollment convenient and easily accessible; and*

(iii) *providing applicants with clear and consistent eligibility guidelines.*

(C) *INTEGRATION.*—The registered traveler program shall be integrated into the automated biometric entry and exit data system described in this section.

(D) *REVIEW AND EVALUATION.*—In developing the registered traveler program, the Secretary shall—

(i) *review existing programs or pilot projects designed to expedite the travel of registered travelers across the borders of the United States;*

(ii) *evaluate the effectiveness of the programs described in clause (i), the costs associated with such programs, and the costs to travelers to join such programs;*

(iii) *increase research and development efforts to accelerate the development and implementation of a single registered traveler program; and*

(iv) *review the feasibility of allowing participants to enroll in the registered traveler program at consular offices.*

(4) *REPORT.*—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the Department’s progress on the development and implementation of the registered traveler program.

(I) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Secretary, for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. 7209. TRAVEL DOCUMENTS.

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

(1) *Existing procedures allow many individuals to enter the United States by showing minimal identification or without showing any identification.*

(2) *The planning for the terrorist attacks of September 11, 2001, demonstrates that terrorists study and exploit United States vulnerabilities.*

(3) *Additional safeguards are needed to ensure that terrorists cannot enter the United States.*

(b) *PASSPORTS.*—

(1) *DEVELOPMENT OF PLAN.*—The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a plan as expeditiously as possible to require a passport or other document, or combination of documents, deemed by the Secretary of Homeland Security to be sufficient to denote identity and citizenship, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)). This plan shall be implemented not later than January 1, 2008, and shall seek to expedite the travel of frequent travelers, including those who reside in border communities, and in doing so, shall make readily available a registered traveler program (as described in section 7208(k)).

(2) *REQUIREMENT TO PRODUCE DOCUMENTATION.*—The plan developed under paragraph (1) shall require all United States citizens, and categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of such Act, to carry and produce the documentation described in paragraph (1) when traveling from foreign countries into the United States.

(c) *TECHNICAL AND CONFORMING AMENDMENTS.*—After the complete implementation of the plan described in subsection (b)—

(1) *neither the Secretary of State nor the Secretary of Homeland Security may exercise discretion under section 212(d)(4)(B) of such Act to waive documentary requirements for travel into the United States; and*

(2) *the President may not exercise discretion under section 215(b) of such Act (8 U.S.C. 1185(b)) to waive documentary requirements for United States citizens departing from or entering, or attempting to depart from or enter, the United States except—*

(A) *where the Secretary of Homeland Security determines that the alternative documentation that is the basis for the waiver of the documentary requirement is sufficient to denote identity and citizenship;*

(B) *in the case of an unforeseen emergency in individual cases; or*

(C) *in the case of humanitarian or national interest reasons in individual cases.*

(d) *TRANSIT WITHOUT VISA PROGRAM.*—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act until the Secretary, in conjunction with the Secretary of Homeland Security, completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.

SEC. 7210. EXCHANGE OF TERRORIST INFORMATION AND INCREASED PREINSPECTION AT FOREIGN AIRPORTS.

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

(1) The exchange of terrorist information with other countries, consistent with privacy requirements, along with listings of lost and stolen passports, will have immediate security benefits.

(2) The further away from the borders of the United States that screening occurs, the more security benefits the United States will gain.

(b) *SENSE OF CONGRESS.*—It is the sense of Congress that—

(1) the Federal Government should exchange terrorist information with trusted allies;

(2) the Federal Government should move toward real-time verification of passports with issuing authorities;

(3) where practicable, the Federal Government should conduct screening before a passenger departs on a flight destined for the United States;

(4) the Federal Government should work with other countries to ensure effective inspection regimes at all airports;

(5) the Federal Government should work with other countries to improve passport standards and provide foreign assistance to countries that need help making the transition to the global standard for identification; and

(6) the Department of Homeland Security, in coordination with the Department of State and other Federal agencies, should implement the initiatives called for in this subsection.

(c) *REPORT REGARDING THE EXCHANGE OF TERRORIST INFORMATION.*—

(1) *IN GENERAL.*—Not later than 180 days after the date of enactment of this Act, the Secretary of State and the Secretary of Homeland Security, working with other Federal agencies, shall submit to the appropriate committees of Congress a report on Federal efforts to collaborate with allies of the United States in the exchange of terrorist information.

(2) *CONTENTS.*—The report shall outline—

(A) strategies for increasing such collaboration and cooperation;

(B) progress made in screening passengers before their departure to the United States; and

(C) efforts to work with other countries to accomplish the goals described under this section.

(d) *PREINSPECTION AT FOREIGN AIRPORTS.*—

(1) *IN GENERAL.*—Section 235A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225a(a)(4)) is amended to read as follows:

“(4) Subject to paragraph (5), not later than January 1, 2008, the Secretary of Homeland Security, in consultation with the Secretary of State, shall establish preinspection stations in at least 25 additional foreign airports, which the Secretary of Homeland Security, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively facilitate the travel of admissible aliens and reduce the number of inadmissible aliens, especially aliens who are potential terrorists, who arrive from abroad by air at points of entry within the United States. Such preinspection stations shall be in addition to those established before September 30, 1996, or pursuant to paragraph (1).”.

(2) *REPORT.*—Not later than June 30, 2006, the Secretary of Homeland Security and the Secretary of State shall submit a report on the progress being made in implementing the amendment made by paragraph (1) to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on the Judiciary of the House of Representatives;

(C) the Committee on Foreign Relations of the Senate;

(D) the Committee on International Relations of the House of Representatives;

(E) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(F) the Select Committee on Homeland Security of the House of Representatives (or any successor committee).

SEC. 7211. MINIMUM STANDARDS FOR BIRTH CERTIFICATES.

(a) *DEFINITION.*—In this section, the term “birth certificate” means a certificate of birth—

(1) for an individual (regardless of where born)—

(A) who is a citizen or national of the United States at birth; and

(B) whose birth is registered in the United States; and

(2) that—

(A) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or

(B) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of record, of an original certificate of birth issued by such agency or custodian of record.

(b) *STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.*—

(1) *IN GENERAL.*—Beginning 2 years after the promulgation of minimum standards under paragraph (3), no Federal agency may accept a birth certificate for any official purpose unless the certificate conforms to such standards.

(2) *STATE CERTIFICATION.*—

(A) *IN GENERAL.*—Each State shall certify to the Secretary of Health and Human Services that the State is in compliance with the requirements of this section.

(B) *FREQUENCY.*—Certifications under subparagraph (A) shall be made at such intervals and in such a manner as the Secretary of Health and Human Services, with the concurrence of the Secretary of Homeland Security and the Commissioner of Social Security, may prescribe by regulation.

(C) *COMPLIANCE.*—Each State shall ensure that units of local government and other authorized custodians of records in the State comply with this section.

(D) *AUDITS.*—The Secretary of Health and Human Services may conduct periodic audits of each State's compliance with the requirements of this section.

(3) *MINIMUM STANDARDS.*—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall by regulation establish minimum standards for birth certificates for use by Federal agencies for official purposes that—

(A) at a minimum, shall require certification of the birth certificate by the State or local government custodian of record that issued the certificate, and shall require the use of safety paper or an alternative, equally secure medium, the seal of the issuing custodian of record, and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes;

(B) shall establish requirements for proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant;

(C) shall establish standards for the processing of birth certificate applications to prevent fraud;

(D) may not require a single design to which birth certificates issued by all States must conform; and

(E) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(4) *CONSULTATION WITH GOVERNMENT AGENCIES.*—In promulgating the standards required under paragraph (3), the Secretary of Health and Human Services shall consult with—

(A) the Secretary of Homeland Security;

(B) the Commissioner of Social Security;

(C) State vital statistics offices; and

(D) other appropriate Federal agencies.

(5) *EXTENSION OF EFFECTIVE DATE.*—The Secretary of Health and Human Services may extend the date specified under paragraph (1) for up to 2 years for birth certificates issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under paragraph (1) but was unable to do so.

(c) **GRANTS TO STATES.**—(1) **ASSISTANCE IN MEETING FEDERAL STANDARDS.**—

(A) **IN GENERAL.**—Beginning on the date a final regulation is promulgated under subsection (b)(3), the Secretary of Health and Human Services shall award grants to States to assist them in conforming to the minimum standards for birth certificates set forth in the regulation.

(B) **ALLOCATION OF GRANTS.**—The Secretary shall award grants to States under this paragraph based on the proportion that the estimated average annual number of birth certificates issued by a State applying for a grant bears to the estimated average annual number of birth certificates issued by all States.

(C) **MINIMUM ALLOCATION.**—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(2) **ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.**—

(A) **IN GENERAL.**—The Secretary of Health and Human Services, in coordination with the Commissioner of Social Security and other appropriate Federal agencies, shall award grants to States, under criteria established by the Secretary, to assist States in—

- (i) computerizing their birth and death records;
- (ii) developing the capability to match birth and death records within each State and among the States; and
- (iii) noting the fact of death on the birth certificates of deceased persons.

(B) **ALLOCATION OF GRANTS.**—The Secretary shall award grants to qualifying States under this paragraph based on the proportion that the estimated annual average number of birth and death records created by a State applying for a grant bears to the estimated annual average number of birth and death records originated by all States.

(C) **MINIMUM ALLOCATION.**—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this section.

(e) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note) is repealed.

SEC. 7212. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CARDS.

(a) **DEFINITIONS.**—In this section:

(1) **DRIVER'S LICENSE.**—The term 'driver's license' means a motor vehicle operator's license as defined in section 30301(5) of title 49, United States Code.

(2) **PERSONAL IDENTIFICATION CARD.**—The term 'personal identification card' means an identification document (as defined in section 1028(d)(3) of title 18, United States Code) issued by a State.

(b) *STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—**(1) IN GENERAL.—*

(A) LIMITATION ON ACCEPTANCE.—No Federal agency may accept, for any official purpose, a driver's license or personal identification card newly issued by a State more than 2 years after the promulgation of the minimum standards under paragraph (2) unless the driver's license or personal identification card conforms to such minimum standards.

(B) DATE FOR CONFORMANCE.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall establish a date after which no driver's license or personal identification card shall be accepted by a Federal agency for any official purpose unless such driver's license or personal identification card conforms to the minimum standards established under paragraph (2). The date shall be as early as the Secretary determines it is practicable for the States to comply with such date with reasonable efforts.

(C) STATE CERTIFICATION.—

(i) IN GENERAL.—Each State shall certify to the Secretary of Transportation that the State is in compliance with the requirements of this section.

(ii) FREQUENCY.—Certifications under clause (i) shall be made at such intervals and in such a manner as the Secretary of Transportation, with the concurrence of the Secretary of Homeland Security, may prescribe by regulation.

(iii) AUDITS.—The Secretary of Transportation may conduct periodic audits of each State's compliance with the requirements of this section.

(2) MINIMUM STANDARDS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall by regulation, establish minimum standards for driver's licenses or personal identification cards issued by a State for use by Federal agencies for identification purposes that shall include—

(A) standards for documentation required as proof of identity of an applicant for a driver's license or personal identification card;

(B) standards for the verifiability of documents used to obtain a driver's license or personal identification card;

(C) standards for the processing of applications for driver's licenses and personal identification cards to prevent fraud;

(D) standards for information to be included on each driver's license or personal identification card, including—

(i) the person's full legal name;

(ii) the person's date of birth;

(iii) the person's gender;

(iv) the person's driver's license or personal identification card number;

(v) a digital photograph of the person;

(vi) the person's address of principal residence;
and

(vii) the person's signature;

(E) standards for common machine-readable identity information to be included on each driver's license or personal identification card, including defined minimum data elements;

(F) security standards to ensure that driver's licenses and personal identification cards are—

(i) resistant to tampering, alteration, or counterfeiting; and

(ii) capable of accommodating and ensuring the security of a digital photograph or other unique identifier; and

(G) a requirement that a State confiscate a driver's license or personal identification card if any component or security feature of the license or identification card is compromised.

(3) *CONTENT OF REGULATIONS.*—The regulations required by paragraph (2)—

(A) shall facilitate communication between the chief driver licensing official of a State, an appropriate official of a Federal agency and other relevant officials, to verify the authenticity of documents, as appropriate, issued by such Federal agency or entity and presented to prove the identity of an individual;

(B) may not infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a driver's license or personal identification card from that State;

(C) may not require a State to comply with any such regulation that conflicts with or otherwise interferes with the full enforcement of State criteria concerning the categories of individuals that are eligible to obtain a driver's license or personal identification card from that State;

(D) may not require a single design to which driver's licenses or personal identification cards issued by all States must conform; and

(E) shall include procedures and requirements to protect the privacy rights of individuals who apply for and hold driver's licenses and personal identification cards.

(4) *NEGOTIATED RULEMAKING.*—

(A) *IN GENERAL.*—Before publishing the proposed regulations required by paragraph (2) to carry out this title, the Secretary of Transportation shall establish a negotiated rulemaking process pursuant to subchapter IV of chapter 5 of title 5, United States Code (5 U.S.C. 561 et seq.).

(B) *REPRESENTATION ON NEGOTIATED RULEMAKING COMMITTEE.*—Any negotiated rulemaking committee established by the Secretary of Transportation pursuant to subparagraph (A) shall include representatives from—

(i) among State offices that issue driver's licenses or personal identification cards;

(ii) among State elected officials;

(iii) the Department of Homeland Security; and
 (iv) among interested parties.

(C) *TIME REQUIREMENT.*—The process described in subparagraph (A) shall be conducted in a timely manner to ensure that—

(i) any recommendation for a proposed rule or report is provided to the Secretary of Transportation not later than 9 months after the date of enactment of this Act and shall include an assessment of the benefits and costs of the recommendation; and

(ii) a final rule is promulgated not later than 18 months after the date of enactment of this Act.

(c) *GRANTS TO STATES.*—

(1) *ASSISTANCE IN MEETING FEDERAL STANDARDS.*—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary of Transportation shall award grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

(2) *ALLOCATION OF GRANTS.*—The Secretary of Transportation shall award grants to States under this subsection based on the proportion that the estimated average annual number of driver's licenses and personal identification cards issued by a State applying for a grant bears to the average annual number of such documents issued by all States.

(3) *MINIMUM ALLOCATION.*—Notwithstanding paragraph (2), each State shall receive not less than 0.5 percent of the grant funds made available under this subsection.

(d) *EXTENSION OF EFFECTIVE DATE.*—The Secretary of Transportation may extend the date specified under subsection (b)(1)(A) for up to 2 years for driver's licenses issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under such subsection but was unable to do so.

(e) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Secretary of Transportation for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. 7213. SOCIAL SECURITY CARDS AND NUMBERS.

(a) *SECURITY ENHANCEMENTS.*—The Commissioner of Social Security shall—

(1) not later than 1 year after the date of enactment of this Act—

(A) restrict the issuance of multiple replacement social security cards to any individual to 3 per year and 10 for the life of the individual, except that the Commissioner may allow for reasonable exceptions from the limits under this paragraph on a case-by-case basis in compelling circumstances;

(B) establish minimum standards for the verification of documents or records submitted by an individual to establish eligibility for an original or replacement social security card, other than for purposes of enumeration at birth; and

(C) require independent verification of any birth record submitted by an individual to establish eligibility for a so-

cial security account number, other than for purposes of enumeration at birth, except that the Commissioner may allow for reasonable exceptions from the requirement for independent verification under this subparagraph on a case by case basis in compelling circumstances; and

(2) notwithstanding section 205(r) of the Social Security Act (42 U.S.C. 405(r)) and any agreement entered into thereunder, not later than 18 months after the date of enactment of this Act with respect to death indicators and not later than 36 months after the date of enactment of this Act with respect to fraud indicators, add death and fraud indicators to the social security number verification systems for employers, State agencies issuing driver's licenses and identity cards, and other verification routines that the Commissioner determines to be appropriate.

(b) INTERAGENCY SECURITY TASK FORCE.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Not later than 18 months after the date of enactment of this Act, the task force shall establish, and the Commissioner shall provide for the implementation of, security requirements, including—

(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

(2) requirements for verifying documents submitted for the issuance of replacement cards; and

(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

(c) ENUMERATION AT BIRTH.—

(1) IMPROVEMENT OF APPLICATION PROCESS.—As soon as practicable after the date of enactment of this Act, the Commissioner of Social Security shall undertake to make improvements to the enumeration at birth program for the issuance of social security account numbers to newborns. Such improvements shall be designed to prevent—

(A) the assignment of social security account numbers to unnamed children;

(B) the issuance of more than 1 social security account number to the same child; and

(C) other opportunities for fraudulently obtaining a social security account number.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall transmit to each House of Congress a report specifying in detail the extent to which the improvements required under paragraph (1) have been made.

(d) STUDY REGARDING PROCESS FOR ENUMERATION AT BIRTH.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Commissioner of Social Security shall conduct a study to determine the most efficient options for ensuring the integrity of the process for enumeration at birth. This study shall include an examination of available methods for reconciling hospital birth records with birth registrations submitted to agencies of States and political subdivisions thereof

and with information provided to the Commissioner as part of the process for enumeration at birth.

(2) *REPORT.*—

(A) *IN GENERAL.*—Not later than 18 months after the date of enactment of this Act, the Commissioner shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study conducted under paragraph (1).

(B) *CONTENTS.*—The report submitted under subparagraph (A) shall contain such recommendations for legislative changes as the Commissioner considers necessary to implement needed improvements in the process for enumeration at birth.

(e) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. 7214. PROHIBITION OF THE DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATIONS.

(a) *IN GENERAL.*—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(1) by inserting “(I)” after “(vi)”; and

(2) by adding at the end the following new subclause:

“(II) Any State or political subdivision thereof (and any person acting as an agent of such an agency or instrumentality), in the administration of any driver’s license or motor vehicle registration law within its jurisdiction, may not display a social security account number issued by the Commissioner of Social Security (or any derivative of such number) on any driver’s license, motor vehicle registration, or personal identification card (as defined in section 7212(a)(2) of the 9/11 Commission Implementation Act of 2004), or include, on any such license, registration, or personal identification card, a magnetic strip, bar code, or other means of communication which conveys such number (or derivative thereof).”

(b) *EFFECTIVE DATE.*—The amendment made by subsection (a)(2) shall apply with respect to licenses, registrations, and identification cards issued or reissued 1 year after the date of enactment of this Act.

(c) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. 7215. TERRORIST TRAVEL PROGRAM.

The Secretary of Homeland Security, in consultation with the Director of the National Counterterrorism Center, and consistent with the strategy developed under section 7201, shall establish a program to oversee the implementation of the Department’s responsibilities with respect to terrorist travel, including the analysis, coordination, and dissemination of terrorist travel intelligence and operational information—

(1) among appropriate subdivisions of the Department of Homeland Security, including—

- (A) *the Bureau of Customs and Border Protection;*
 - (B) *United States Immigration and Customs Enforcement;*
 - (C) *United States Citizenship and Immigration Services;*
 - (D) *the Transportation Security Administration; and*
 - (E) *any other subdivision, as determined by the Secretary; and*
- (2) *between the Department of Homeland Security and other appropriate Federal agencies.*

SEC. 7216. INCREASE IN PENALTIES FOR FRAUD AND RELATED ACTIVITY.

Section 1028(b)(4) of title 18, United States Code, is amended by striking “25 years” and inserting “30 years”.

SEC. 7217. STUDY ON ALLEGEDLY LOST OR STOLEN PASSPORTS.

(a) *IN GENERAL.—Not later than May 31, 2005, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit a report, containing the results of a study on the subjects described in subsection (b), to—*

- (1) *the Committee on the Judiciary of the Senate;*
- (2) *the Committee on the Judiciary of the House of Representatives;*
- (3) *the Committee on Foreign Relations of the Senate;*
- (4) *the Committee on International Relations of the House of Representatives;*
- (5) *the Committee on Homeland Security and Governmental Affairs of the Senate; and*
- (6) *the Select Committee on Homeland Security of the House of Representatives (or any successor committee).*

(b) *CONTENTS.—The study referred to in subsection (a) shall examine the feasibility, cost, potential benefits, and relative importance to the objectives of tracking suspected terrorists’ travel, and apprehending suspected terrorists, of establishing a system, in coordination with other countries, through which border and visa issuance officials have access in real-time to information on newly issued passports to persons whose previous passports were allegedly lost or stolen.*

(c) *INCENTIVES.—The study described in subsection (b) shall make recommendations on incentives that might be offered to encourage foreign nations to participate in the initiatives described in subsection (b).*

SEC. 7218. ESTABLISHMENT OF VISA AND PASSPORT SECURITY PROGRAM IN THE DEPARTMENT OF STATE.

(a) *ESTABLISHMENT.—There is established, within the Bureau of Diplomatic Security of the Department of State, the Visa and Passport Security Program (in this section referred to as the “Program”).*

(b) *PREPARATION OF STRATEGIC PLAN.—*

- (1) *IN GENERAL.—The Assistant Secretary for Diplomatic Security, in coordination with the appropriate officials of the Bureau of Consular Affairs, the coordinator for counterterrorism, the National Counterterrorism Center, and the Department of Homeland Security, and consistent with the*

strategy mandated by section 7201, shall ensure the preparation of a strategic plan to target and disrupt individuals and organizations, within the United States and in foreign countries, that are involved in the fraudulent production, distribution, use, or other similar activity—

(A) of a United States visa or United States passport;

(B) of documents intended to help fraudulently procure a United States visa or United States passport, or other documents intended to gain unlawful entry into the United States; or

(C) of passports and visas issued by foreign countries intended to gain unlawful entry into the United States.

(2) EMPHASIS.—The strategic plan shall—

(A) focus particular emphasis on individuals and organizations that may have links to domestic terrorist organizations or foreign terrorist organizations (as such term is defined in section 219 of the Immigration and Nationality Act (8 U.S.C. 1189));

(B) require the development of a strategic training course under the Antiterrorism Assistance Training (ATA) program of the Department of State (or any successor or related program) under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) (or other relevant provisions of law) to train participants in the identification of fraudulent documents and the forensic detection of such documents which may be used to obtain unlawful entry into the United States; and

(C) determine the benefits and costs of providing technical assistance to foreign governments to ensure the security of passports, visas, and related documents and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents to obtain such passports and visas, and other types of travel documents.

(c) PROGRAM.—

(1) INDIVIDUAL IN CHARGE.—

(A) DESIGNATION.—The Assistant Secretary for Diplomatic Security shall designate an individual to be in charge of the Program.

(B) QUALIFICATION.—The individual designated under subparagraph (A) shall have expertise and experience in the investigation and prosecution of visa and passport fraud.

(2) PROGRAM COMPONENTS.—The Program shall include the following:

(A) ANALYSIS OF METHODS.—Analyze, in coordination with other appropriate government agencies, methods used by terrorists to travel internationally, particularly the use of false or altered travel documents to illegally enter foreign countries and the United States, and consult with the Bureau of Consular Affairs and the Secretary of Homeland Security on recommended changes to the visa issuance process that could combat such methods, including the introduction of new technologies into such process.

(B) *IDENTIFICATION OF INDIVIDUALS AND DOCUMENTS.*—Identify, in cooperation with the Human Trafficking and Smuggling Center, individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents, and ensure that the appropriate agency is notified for further investigation and prosecution or, in the case of such individuals abroad for which no further investigation or prosecution is initiated, ensure that all appropriate information is shared with foreign governments in order to facilitate investigation, arrest, and prosecution of such individuals.

(C) *IDENTIFICATION OF FOREIGN COUNTRIES NEEDING ASSISTANCE.*—Identify foreign countries that need technical assistance, such as law reform, administrative reform, prosecutorial training, or assistance to police and other investigative services, to ensure passport, visa, and related document security and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents.

(D) *INSPECTION OF APPLICATIONS.*—Randomly inspect visa and passport applications for accuracy, efficiency, and fraud, especially at high terrorist threat posts, in order to prevent a recurrence of the issuance of visas to those who submit incomplete, fraudulent, or otherwise irregular or incomplete applications.

(d) *REPORT.*—Not later than 90 days after the date on which the strategy required under section 7201 is submitted to Congress, the Assistant Secretary for Diplomatic Security shall submit to Congress a report containing—

(1) a description of the strategic plan prepared under subsection (b); and

(2) an evaluation of the feasibility of establishing civil service positions in field offices of the Bureau of Diplomatic Security to investigate visa and passport fraud, including an evaluation of whether to allow diplomatic security agents to convert to civil service officers to fill such positions.

SEC. 7219. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this subtitle shall take effect on the date of enactment of this Act.

SEC. 7220. IDENTIFICATION STANDARDS.

(a) *PROPOSED STANDARDS.*—

(1) *IN GENERAL.*—The Secretary of Homeland Security—

(A) shall propose minimum standards for identification documents required of domestic commercial airline passengers for boarding an aircraft; and

(B) may, from time to time, propose minimum standards amending or replacing standards previously proposed and transmitted to Congress and approved under this section.

(2) *SUBMISSION TO CONGRESS.*—Not later than 6 months after the date of enactment of this Act, the Secretary shall sub-

mit the standards under paragraph (1)(A) to the Senate and the House of Representatives on the same day while each House is in session.

(3) *EFFECTIVE DATE.*—Any proposed standards submitted to Congress under this subsection shall take effect when an approval resolution is passed by the House and the Senate under the procedures described in subsection (b) and becomes law.

(b) *CONGRESSIONAL APPROVAL PROCEDURES.*—

(1) *RULEMAKING POWER.*—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of such approval resolutions; and it supersedes other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) *APPROVAL RESOLUTION.*—For the purpose of this subsection, the term “approval resolution” means a joint resolution of Congress, the matter after the resolving clause of which is as follows: “That the Congress approves the proposed standards issued under section 7220 of the 9/11 Commission Implementation Act of 2004, transmitted by the President to the Congress on _____”, the blank space being filled in with the appropriate date.

(3) *INTRODUCTION.*—Not later than the first day of session following the day on which proposed standards are transmitted to the House of Representatives and the Senate under subsection (a), an approval resolution—

(A) shall be introduced (by request) in the House by the Majority Leader of the House of Representatives, for himself or herself and the minority leader of the House of Representatives, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House; and

(B) shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate.

(4) *PROHIBITIONS.*—

(A) *AMENDMENTS.*—No amendment to an approval resolution shall be in order in either the House of Representatives or the Senate.

(B) *MOTIONS TO SUSPEND.*—No motion to suspend the application of this paragraph shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this paragraph by unanimous consent.

(5) REFERRAL.—

(A) *IN GENERAL.*—An approval resolution shall be referred to the committees of the House of Representatives and of the Senate with jurisdiction. Each committee shall make its recommendations to the House of Representatives or the Senate, as the case may be, within 45 days after its introduction. Except as provided in subparagraph (B), if a committee to which an approval resolution has been referred has not reported it at the close of the 45th day after its introduction, such committee shall be automatically discharged from further consideration of the resolution and it shall be placed on the appropriate calendar.

(B) *FINAL PASSAGE.*—A vote on final passage of the resolution shall be taken in each House on or before the close of the 15th day after the resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

(C) *COMPUTATION OF DAYS.*—For purposes of this paragraph, in computing a number of days in either House, there shall be excluded any day on which that House is not in session.

(6) *COORDINATION WITH ACTION OF OTHER HOUSE.*—If prior to the passage by one House of an approval resolution of that House, that House receives the same approval resolution from the other House, then the procedure in that House shall be the same as if no approval resolution has been received from the other House, but the vote on final passage shall be on the approval resolution of the other House.

(7) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(A) *MOTION TO PROCEED.*—A motion in the House of Representatives to proceed to the consideration of an approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) *DEBATE.*—Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 4 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. It shall not be in order to move to recommit an approval resolution or to move to reconsider the vote by which an approval resolution is agreed to or disagreed to.

(C) *MOTION TO POSTPONE.*—Motions to postpone made in the House of Representatives with respect to the consideration of an approval resolution and motions to proceed to the consideration of other business shall be decided without debate.

(D) *APPEALS.*—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

(E) *RULES OF THE HOUSE OF REPRESENTATIVES.*—*Except to the extent specifically provided in subparagraphs (A) through (D), consideration of an approval resolution shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.*

(8) *FLOOR CONSIDERATION IN THE SENATE.*—

(A) *MOTION TO PROCEED.*—*A motion in the Senate to proceed to the consideration of an approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.*

(B) *DEBATE ON RESOLUTION.*—*Debate in the Senate on an approval resolution, and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader, or their designees.*

(C) *DEBATE ON MOTIONS AND APPEALS.*—*Debate in the Senate on any debatable motion or appeal in connection with an approval resolution shall be limited to not more than 1 hour, which shall be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or designee. Such leaders, or either of them, may, from time under their control on the passage of an approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.*

(D) *LIMIT ON DEBATE.*—*A motion in the Senate to further limit debate is not debatable. A motion to recommit an approval resolution is not in order.*

(c) *DEFAULT STANDARDS.*—

(1) *IN GENERAL.*—*If the standards proposed under subsection (a)(1)(A) are not approved pursuant to the procedures described in subsection (b), then not later than 1 year after rejection by a vote of either House of Congress, domestic commercial airline passengers seeking to board an aircraft shall present, for identification purposes—*

(A) *a valid, unexpired passport;*

(B) *domestically issued documents that the Secretary of Homeland Security designates as reliable for identification purposes;*

(C) *any document issued by the Attorney General or the Secretary of Homeland Security under the authority of 1 of the immigration laws (as defined under section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)); or*

(D) *a document issued by the country of nationality of any alien not required to possess a passport for admission to the United States that the Secretary designates as reliable for identifications purposes*

(2) *EXCEPTION.*—*The documentary requirements described in paragraph (1)—*

(A) shall not apply to individuals below the age of 17, or such other age as determined by the Secretary of Homeland Security;

(B) may be waived by the Secretary of Homeland Security in the case of an unforeseen medical emergency.

(d) *RECOMMENDATION TO CONGRESS.*—*Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall recommend to Congress—*

(1) categories of Federal facilities that the Secretary determines to be at risk for terrorist attack and requiring minimum identification standards for access to such facilities; and

(2) appropriate minimum identification standards to gain access to those facilities.

Subtitle C—National Preparedness

SEC. 7301. THE INCIDENT COMMAND SYSTEM.

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

(1) The attacks on September 11, 2001, demonstrated that even the most robust emergency response capabilities can be overwhelmed if an attack is large enough.

(2) Teamwork, collaboration, and cooperation at an incident site are critical to a successful response to a terrorist attack.

(3) Key decisionmakers who are represented at the incident command level help to ensure an effective response, the efficient use of resources, and responder safety.

(4) The incident command system also enables emergency managers and first responders to manage, generate, receive, evaluate, share, and use information.

(5) Regular joint training at all levels is essential to ensuring close coordination during an actual incident.

(6) In Homeland Security Presidential Directive 5, the President directed the Secretary of Homeland Security to develop an incident command system, to be known as the National Incident Management System (NIMS), and directed all Federal agencies to make the adoption of NIMS a condition for the receipt of Federal emergency preparedness assistance by States, territories, tribes, and local governments beginning in fiscal year 2005.

(b) *SENSE OF CONGRESS.*—*It is the sense of Congress that—*

(1) the United States needs to implement the recommendations of the National Commission on Terrorist Attacks Upon the United States by adopting a unified incident command system and significantly enhancing communications connectivity between and among all levels of government agencies, emergency response providers (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), and other organizations with emergency response capabilities;

(2) *the unified incident command system should enable emergency managers and first responders to manage, generate, receive, evaluate, share, and use information in the event of a terrorist attack or a significant national disaster;*

(3) *emergency response agencies nationwide should adopt the Incident Command System known as NIMS;*

(4) *when multiple agencies or multiple jurisdictions are involved, they should follow a unified command system based on NIMS;*

(5) *the regular use of, and training in, NIMS by States and, to the extent practicable, territories, tribes, and local governments, should be a condition for receiving Federal preparedness assistance; and*

(6) *the Secretary of Homeland Security should require, as a further condition of receiving homeland security preparedness funds from the Office of State and Local Government Coordination and Preparedness, that grant applicants document measures taken to fully and aggressively implement the Incident Command System and unified command procedures.*

SEC. 7302. NATIONAL CAPITAL REGION MUTUAL AID.

(a) *DEFINITIONS.—In this section:*

(1) *AUTHORIZED REPRESENTATIVE OF THE FEDERAL GOVERNMENT.—The term “authorized representative of the Federal Government” means any individual or individuals designated by the President with respect to the executive branch, the Chief Justice with respect to the Federal judiciary, or the President of the Senate and Speaker of the House of Representatives with respect to Congress, or their designees, to request assistance under a mutual aid agreement for an emergency or public service event.*

(2) *CHIEF OPERATING OFFICER.—The term “chief operating officer” means the official designated by law to declare an emergency in and for the locality of that chief operating officer.*

(3) *EMERGENCY.—The term “emergency” means a major disaster or emergency declared by the President, or a state of emergency declared by the mayor of the District of Columbia, the Governor of the State of Maryland or the Commonwealth of Virginia, or the declaration of a local emergency by the chief operating officer of a locality, or their designees, that triggers mutual aid under the terms of a mutual aid agreement.*

(4) *EMPLOYEE.—The term “employee” means the employees of the party, including its agents or authorized volunteers, who are committed in a mutual aid agreement to prepare for or who respond to an emergency or public service event.*

(5) *LOCALITY.—The term “locality” means a county, city, or town within the State of Maryland or the Commonwealth of Virginia and within the National Capital Region.*

(6) *MUTUAL AID AGREEMENT.—The term “mutual aid agreement” means an agreement, authorized under subsection (b), for the provision of police, fire, rescue and other public safety and health or medical services to any party to the agreement during a public service event, an emergency, or pre-planned training event.*

(7) *NATIONAL CAPITAL REGION OR REGION.*—The term “National Capital Region” or “Region” means the area defined under section 2674(f)(2) of title 10, United States Code, and those counties with a border abutting that area and any municipalities therein.

(8) *PARTY.*—The term “party” means the State of Maryland, the Commonwealth of Virginia, the District of Columbia, and any of the localities duly executing a Mutual Aid Agreement under this section.

(9) *PUBLIC SERVICE EVENT.*—The term “public service event”—

(A) means any undeclared emergency, incident or situation in preparation for or response to which the mayor of the District of Columbia, an authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality in the National Capital Region, or their designees, requests or provides assistance under a Mutual Aid Agreement within the National Capital Region; and

(B) includes Presidential inaugurations, public gatherings, demonstrations and protests, and law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and other support that require human resources, equipment, facilities or services supplemental to or greater than the requesting jurisdiction can provide.

(10) *STATE.*—The term “State” means the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

(11) *TRAINING.*—The term “training” means emergency and public service event-related exercises, testing, or other activities using equipment and personnel to simulate performance of any aspect of the giving or receiving of aid by National Capital Region jurisdictions during emergencies or public service events, such actions occurring outside actual emergency or public service event periods.

(b) *MUTUAL AID AUTHORIZED.*—

(1) *IN GENERAL.*—The mayor of the District of Columbia, any authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality, or their designees, acting within his or her jurisdictional purview, may, in accordance with State law, enter into, request or provide assistance under mutual aid agreements with localities, the Washington Metropolitan Area Transit Authority, the Metropolitan Washington Airports Authority, and any other governmental agency or authority for—

(A) law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support in an emergency or public service event;

(B) preparing for, mitigating, managing, responding to or recovering from any emergency or public service event; and

(C) training for any of the activities described under subparagraphs (A) and (B).

(2) *FACILITATING LOCALITIES.*—*The State of Maryland and the Commonwealth of Virginia are encouraged to facilitate the ability of localities to enter into interstate mutual aid agreements in the National Capital Region under this section.*

(3) *APPLICATION AND EFFECT.*—*This section—*

(A) *does not apply to law enforcement security operations at special events of national significance under section 3056(e) of title 18, United States Code, or other law enforcement functions of the United States Secret Service;*

(B) *does not diminish any authorities, express or implied, of Federal agencies to enter into mutual aid agreements in furtherance of their Federal missions; and*

(C) *does not—*

(i) *preclude any party from entering into supplementary Mutual Aid Agreements with fewer than all the parties, or with another party; or*

(ii) *affect any other agreement in effect before the date of enactment of this Act among the States and localities, including the Emergency Management Assistance Compact.*

(4) *RIGHTS DESCRIBED.*—*Other than as described in this section, the rights and responsibilities of the parties to a mutual aid agreement entered into under this section shall be as described in the mutual aid agreement.*

(c) *DISTRICT OF COLUMBIA.*—

(1) *IN GENERAL.*—*The District of Columbia may purchase liability and indemnification insurance or become self insured against claims arising under a mutual aid agreement authorized under this section.*

(2) *AUTHORIZATION OF APPROPRIATIONS.*—*There are authorized to be appropriated such sums as may be necessary to carry out paragraph (1).*

(d) *LIABILITY AND ACTIONS AT LAW.*—

(1) *IN GENERAL.*—*Any responding party or its officers or employees rendering aid or failing to render aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a mutual aid agreement authorized under this section, and any party or its officers or employees engaged in training activities with another party under such a mutual aid agreement, shall be liable on account of any act or omission of its officers or employees while so engaged or on account of the maintenance or use of any related equipment, facilities, or supplies, but only to the extent permitted under the laws and procedures of the State of the party rendering aid.*

(2) *ACTIONS.*—*Any action brought against a party or its officers or employees on account of an act or omission in the rendering of aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or*

a locality, or failure to render such aid or on account of the maintenance or use of any related equipment, facilities, or supplies may be brought only under the laws and procedures of the State of the party rendering aid and only in the Federal or State courts located therein. Actions against the United States under this section may be brought only in Federal courts.

(3) *IMMUNITIES.*—*This section shall not abrogate any other immunities from liability that any party has under any other Federal or State law.*

(e) *WORKERS COMPENSATION.*—

(1) *COMPENSATION.*—*Each party shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a mutual aid agreement, or engaged in training activities under a mutual aid agreement, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.*

(2) *OTHER STATE LAW.*—*No party shall be liable under the law of any State other than its own for providing for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a mutual aid agreement or engaged in training activities under a mutual aid agreement.*

(f) *LICENSES AND PERMITS.*—*If any person holds a license, certificate, or other permit issued by any responding party evidencing the meeting of qualifications for professional, mechanical, or other skills and assistance is requested by a receiving jurisdiction, such person will be deemed licensed, certified, or permitted by the receiving jurisdiction to render aid involving such skill to meet a public service event, emergency or training for any such events.*

SEC. 7303. ENHANCEMENT OF PUBLIC SAFETY COMMUNICATIONS INTEROPERABILITY.

(a) *COORDINATION OF PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS PROGRAMS.*—

(1) *PROGRAM.*—*The Secretary of Homeland Security, in consultation with the Secretary of Commerce and the Chairman of the Federal Communications Commission, shall establish a program to enhance public safety interoperable communications at all levels of government. Such program shall—*

(A) *establish a comprehensive national approach to achieving public safety interoperable communications;*

(B) *coordinate with other Federal agencies in carrying out subparagraph (A);*

(C) *develop, in consultation with other appropriate Federal agencies and State and local authorities, appropriate minimum capabilities for communications interoperability for Federal, State, and local public safety agencies;*

(D) accelerate, in consultation with other Federal agencies, including the National Institute of Standards and Technology, the private sector, and nationally recognized standards organizations as appropriate, the development of national voluntary consensus standards for public safety interoperable communications, recognizing—

(i) the value, life cycle, and technical capabilities of existing communications infrastructure;

(ii) the need for cross-border interoperability between States and nations;

(iii) the unique needs of small, rural communities; and

(iv) the interoperability needs for daily operations and catastrophic events;

(E) encourage the development and implementation of flexible and open architectures incorporating, where possible, technologies that currently are commercially available, with appropriate levels of security, for short-term and long-term solutions to public safety communications interoperability;

(F) assist other Federal agencies in identifying priorities for research, development, and testing and evaluation with regard to public safety interoperable communications;

(G) identify priorities within the Department of Homeland Security for research, development, and testing and evaluation with regard to public safety interoperable communications;

(H) establish coordinated guidance for Federal grant programs for public safety interoperable communications;

(I) provide technical assistance to State and local public safety agencies regarding planning, acquisition strategies, interoperability architectures, training, and other functions necessary to achieve public safety communications interoperability;

(J) develop and disseminate best practices to improve public safety communications interoperability; and

(K) develop appropriate performance measures and milestones to systematically measure the Nation's progress toward achieving public safety communications interoperability, including the development of national voluntary consensus standards.

(2) OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.—

(A) ESTABLISHMENT OF OFFICE.—The Secretary may establish an Office for Interoperability and Compatibility within the Directorate of Science and Technology to carry out this subsection.

(B) FUNCTIONS.—If the Secretary establishes such office, the Secretary shall, through such office—

(i) carry out Department of Homeland Security responsibilities and authorities relating to the SAFECOM Program; and

(ii) carry out section 510 of the Homeland Security Act of 2002, as added by subsection (d).

(3) *AUTHORIZATION OF APPROPRIATIONS.*—*There are authorized to be appropriated to the Secretary to carry out this subsection—*

- (A) \$22,105,000 for fiscal year 2005;
- (B) \$22,768,000 for fiscal year 2006;
- (C) \$23,451,000 for fiscal year 2007;
- (D) \$24,155,000 for fiscal year 2008; and
- (E) \$24,879,000 for fiscal year 2009.

(b) *REPORT.*—*Not later than 120 days after the date of enactment of this Act, the Secretary shall report to the Congress on Department of Homeland Security plans for accelerating the development of national voluntary consensus standards for public safety interoperable communications, a schedule of milestones for such development, and achievements of such development.*

(c) *INTERNATIONAL INTEROPERABILITY.*—*Not later than 18 months after the date of enactment of this Act, the President shall establish a mechanism for coordinating cross-border interoperability issues between—*

- (1) *the United States and Canada; and*
- (2) *the United States and Mexico.*

(d) *HIGH RISK AREA COMMUNICATIONS CAPABILITIES.*—*Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:*

“SEC. 510. URBAN AND OTHER HIGH RISK AREA COMMUNICATIONS CAPABILITIES.

“(a) IN GENERAL.—The Secretary, in consultation with the Federal Communications Commission and the Secretary of Defense, and with appropriate governors, mayors, and other State and local government officials, shall provide technical guidance, training, and other assistance, as appropriate, to support the rapid establishment of consistent, secure, and effective interoperable communications capabilities in the event of an emergency in urban and other areas determined by the Secretary to be at consistently high levels of risk from terrorist attack.

“(b) MINIMUM CAPABILITIES.—The interoperable communications capabilities established under subsection (a) shall ensure the ability of all levels of government agencies, emergency response providers (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)), and other organizations with emergency response capabilities—

“(1) to communicate with each other in the event of an emergency; and

“(2) to have appropriate and timely access to the Information Sharing Environment described in section 1016 of the National Security Intelligence Reform Act of 2004.”.

(e) MULTIYEAR INTEROPERABILITY GRANTS.—

(1) MULTIYEAR COMMITMENTS.—In awarding grants to any State, region, local government, or Indian tribe for the purposes of enhancing interoperable communications capabilities for emergency response providers, the Secretary may commit to obligate Federal assistance beyond the current fiscal year, subject to the limitations and restrictions in this subsection.

(2) RESTRICTIONS.—

(A) *TIME LIMIT.*—No multiyear interoperability commitment may exceed 3 years in duration.

(B) *AMOUNT OF COMMITTED FUNDS.*—The total amount of assistance the Secretary has committed to obligate for any future fiscal year under paragraph (1) may not exceed \$150,000,000.

(3) *LETTERS OF INTENT.*—

(A) *ISSUANCE.*—Pursuant to paragraph (1), the Secretary may issue a letter of intent to an applicant committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an interoperability communications project (including interest costs and costs of formulating the project).

(B) *SCHEDULE.*—A letter of intent under this paragraph shall establish a schedule under which the Secretary will reimburse the applicant for the Federal Government's share of the project's costs, as amounts become available, if the applicant, after the Secretary issues the letter, carries out the project before receiving amounts under a grant issued by the Secretary.

(C) *NOTICE TO SECRETARY.*—An applicant that is issued a letter of intent under this subsection shall notify the Secretary of the applicant's intent to carry out a project pursuant to the letter before the project begins.

(D) *NOTICE TO CONGRESS.*—The Secretary shall transmit a written notification to the Congress no later than 3 days before the issuance of a letter of intent under this section.

(E) *LIMITATIONS.*—A letter of intent issued under this section is not an obligation of the Government under section 1501 of title 31, United States Code, and is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

(F) *STATUTORY CONSTRUCTION.*—Nothing in this subsection shall be construed—

(i) to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued; or

(ii) to apply to, or replace, Federal assistance intended for interoperable communications that is not provided pursuant to a commitment under this subsection.

(f) *INTEROPERABLE COMMUNICATIONS PLANS.*—Any applicant requesting funding assistance from the Secretary for interoperable communications for emergency response providers shall submit an Interoperable Communications Plan to the Secretary for approval. Such a plan shall—

(1) describe the current state of communications interoperability in the applicable jurisdictions among Federal, State, and local emergency response providers and other relevant private resources;

(2) describe the available and planned use of public safety frequency spectrum and resources for interoperable communications within such jurisdictions;

(3) describe how the planned use of spectrum and resources for interoperable communications is compatible with surrounding capabilities and interoperable communications plans of Federal, State, and local governmental entities, military installations, foreign governments, critical infrastructure, and other relevant entities;

(4) include a 5-year plan for the dedication of Federal, State, and local government and private resources to achieve a consistent, secure, and effective interoperable communications system, including planning, system design and engineering, testing and technology development, procurement and installation, training, and operations and maintenance; and

(5) describe how such 5-year plan meets or exceeds any applicable standards and grant requirements established by the Secretary.

(g) **DEFINITIONS.**—*In this section:*

(1) **INTEROPERABLE COMMUNICATIONS.**—*The term “interoperable communications” means the ability of emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary, through a dedicated public safety network utilizing information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.*

(2) **EMERGENCY RESPONSE PROVIDERS.**—*The term “emergency response providers” has the meaning that term has under section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).*

(h) **CLARIFICATION OF RESPONSIBILITY FOR INTEROPERABLE COMMUNICATIONS.**—

(1) **UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.**—*Section 502(7) of the Homeland Security Act of 2002 (6 U.S.C. 312(7)) is amended—*

(A) *by striking “developing comprehensive programs for developing interoperative communications technology, and”;*
and

(B) *by striking “such” and inserting “interoperable communications”.*

(2) **OFFICE FOR DOMESTIC PREPAREDNESS.**—*Section 430(c) of such Act (6 U.S.C. 238(c)) is amended—*

(A) *in paragraph (7) by striking “and” after the semicolon;*

(B) *in paragraph (8) by striking the period and inserting “; and”;* and

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

“(9) helping to ensure the acquisition of interoperable communication technology by State and local governments and emergency response providers.”

(i) **SENSE OF CONGRESS REGARDING INTEROPERABLE COMMUNICATIONS.**—

(1) **FINDING.**—*The Congress finds that—*

(A) many first responders working in the same jurisdiction or in different jurisdictions cannot effectively and efficiently communicate with one another; and

(B) their inability to do so threatens the public's safety and may result in unnecessary loss of lives and property.

(2) *SENSE OF CONGRESS.*—It is the sense of Congress that interoperable emergency communications systems and radios should continue to be deployed as soon as practicable for use by the first responder community, and that upgraded and new digital communications systems and new digital radios must meet prevailing national, voluntary consensus standards for interoperability.

SEC. 7304. REGIONAL MODEL STRATEGIC PLAN PILOT PROJECTS.

(a) *PILOT PROJECTS.*—Consistent with sections 302 and 430 of the Homeland Security Act of 2002 (6 U.S.C. 182, 238), not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish not fewer than 2 pilot projects in high threat urban areas or regions that are likely to implement a national model strategic plan.

(b) *PURPOSES.*—The purposes of the pilot projects required by this section shall be to develop a regional strategic plan to foster interagency communication in the area in which it is established and coordinate the gathering of all Federal, State, and local first responders in that area, consistent with the national strategic plan developed by the Department of Homeland Security.

(c) *SELECTION CRITERIA.*—In selecting urban areas for the location of pilot projects under this section, the Secretary shall consider—

(1) the level of risk to the area, as determined by the Department of Homeland Security;

(2) the number of Federal, State, and local law enforcement agencies located in the area;

(3) the number of potential victims from a large scale terrorist attack in the area; and

(4) such other criteria reflecting a community's risk and vulnerability as the Secretary determines is appropriate.

(d) *INTERAGENCY ASSISTANCE.*—The Secretary of Homeland Security shall consult with the Secretary of Defense as necessary for the development of the pilot projects required by this section, including examining relevant standards, equipment, and protocols in order to improve interagency communication among first responders.

(e) *REPORTS TO CONGRESS.*—The Secretary of Homeland Security shall submit to Congress—

(1) an interim report regarding the progress of the interagency communications pilot projects required by this section 6 months after the date of enactment of this Act; and

(2) a final report 18 months after that date of enactment.

(f) *FUNDING.*—There are authorized to be made available to the Secretary of Homeland Security, such sums as may be necessary to carry out this section.

SEC. 7305. PRIVATE SECTOR PREPAREDNESS.

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

(1) Private sector organizations own 85 percent of the Nation's critical infrastructure and employ the vast majority of the Nation's workers.

(2) Preparedness in the private sector and public sector for rescue, restart and recovery of operations should include, as appropriate—

(A) a plan for evacuation;

(B) adequate communications capabilities; and

(C) a plan for continuity of operations.

(3) The American National Standards Institute recommends a voluntary national preparedness standard for the private sector based on the existing American National Standard on Disaster/Emergency Management and Business Continuity Programs (NFPA 1600), with appropriate modifications. This standard establishes a common set of criteria and terminology for preparedness, disaster management, emergency management, and business continuity programs.

(4) The mandate of the Department of Homeland Security extends to working with the private sector, as well as government entities.

(b) *SENSE OF CONGRESS ON PRIVATE SECTOR PREPAREDNESS.*—It is the sense of Congress that the Secretary of Homeland Security should promote, where appropriate, the adoption of voluntary national preparedness standards such as the private sector preparedness standard developed by the American National Standards Institute and based on the National Fire Protection Association 1600 Standard on Disaster/Emergency Management and Business Continuity Programs.

SEC. 7306. CRITICAL INFRASTRUCTURE AND READINESS ASSESSMENTS.

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

(1) Under section 201 of the Homeland Security Act of 2002 (6 U.S.C 121), the Department of Homeland Security, through the Under Secretary for Information Analysis and Infrastructure Protection, has the responsibility—

(A) to carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States;

(B) to identify priorities for protective and supportive measures; and

(C) to develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States.

(2) Under Homeland Security Presidential Directive 7, issued on December 17, 2003, the Secretary of Homeland Security was given 1 year to develop a comprehensive plan to identify, prioritize, and coordinate the protection of critical infrastructure and key resources.

(3) *The report of the National Commission on Terrorist Attacks Upon the United States recommended that the Secretary of Homeland Security should—*

(A) *identify those elements of the United States' transportation, energy, communications, financial, and other institutions that need to be protected;*

(B) *develop plans to protect that infrastructure; and*

(C) *exercise mechanisms to enhance preparedness.*

(b) **REPORTS ON RISK ASSESSMENT AND READINESS.**—*Not later than 180 days after the date of enactment of this Act, and in conjunction with the reporting requirements of Public Law 108–330, the Secretary of Homeland Security shall submit a report to Congress on—*

(1) *the Department of Homeland Security's progress in completing vulnerability and risk assessments of the Nation's critical infrastructure;*

(2) *the adequacy of the Government's plans to protect such infrastructure; and*

(3) *the readiness of the Government to respond to threats against the United States.*

SEC. 7307. NORTHERN COMMAND AND DEFENSE OF THE UNITED STATES HOMELAND.

It is the sense of Congress that the Secretary of Defense should regularly assess the adequacy of the plans and strategies of the United States Northern Command with a view to ensuring that the United States Northern Command is prepared to respond effectively to all military and paramilitary threats within the United States, should it be called upon to do so by the President.

SEC. 7308. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this subtitle shall take effect on the date of enactment of this Act.

Subtitle D—Homeland Security

SEC. 7401. SENSE OF CONGRESS ON FIRST RESPONDER FUNDING.

It is the sense of Congress that Congress must pass legislation in the first session of the 109th Congress to reform the system for distributing grants to enhance State and local government prevention of, preparedness for, and response to acts of terrorism.

SEC. 7402. COORDINATION OF INDUSTRY EFFORTS.

Section 102(f) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 112(f)) is amended—

(1) *in paragraph (6), by striking “and” at the end;*

(2) *in paragraph (7), by striking the period at the end and inserting a semicolon; and*

(3) *by adding at the end the following:*

“(8) coordinating industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources and capabilities that could be effective in supplementing Federal, State, and local government agency efforts to prevent or respond to a terrorist attack;

“(9) coordinating with the Directorate of Border and Transportation Security and the Assistant Secretary for Trade Development of the Department of Commerce on issues related to the travel and tourism industries; and

“(10) consulting with the Office of State and Local Government Coordination and Preparedness on all matters of concern to the private sector, including the tourism industry.”.

SEC. 7403. STUDY REGARDING NATIONWIDE EMERGENCY NOTIFICATION SYSTEM.

(a) **STUDY.**—The Secretary of Homeland Security, in coordination with the Chairman of the Federal Communications Commission, and in consultation with the heads of other appropriate Federal agencies and representatives of providers and participants in the telecommunications industry, shall conduct a study to determine whether it is cost-effective, efficient, and feasible to establish and implement an emergency telephonic alert notification system that will—

(1) alert persons in the United States of imminent or current hazardous events caused by acts of terrorism; and

(2) provide information to individuals regarding appropriate measures that may be undertaken to alleviate or minimize threats to their safety and welfare posed by such events.

(b) **TECHNOLOGIES TO CONSIDER.**—In conducting the study, the Secretary shall consider the use of the telephone, wireless communications, and other existing communications networks to provide such notification.

(c) **REPORT.**—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit to Congress a report regarding the conclusions of the study.

SEC. 7404. PILOT STUDY TO MOVE WARNING SYSTEMS INTO THE MODERN DIGITAL AGE.

(a) **PILOT STUDY.**—The Secretary of Homeland Security, from funds made available for improving the national system to notify the general public in the event of a terrorist attack, and in consultation with the Attorney General, the Secretary of Transportation, the heads of other appropriate Federal agencies, the National Association of State Chief Information Officers, and other stakeholders with respect to public warning systems, shall conduct a pilot study under which the Secretary of Homeland Security may issue public warnings regarding threats to homeland security using a warning system that is similar to the AMBER Alert communications network.

(b) **REPORT.**—Not later than 9 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report regarding the findings, conclusions, and recommendations of the pilot study.

(c) **PROHIBITION ON USE OF HIGHWAY TRUST FUND.**—No funds derived from the Highway Trust Fund may be transferred to, made available to, or obligated by the Secretary of Homeland Security to carry out this section.

SEC. 7405. REQUIRED COORDINATION.

The Secretary of Homeland Security shall ensure that there is effective and ongoing coordination of Federal efforts to prevent, prepare for, and respond to acts of terrorism and other major disasters

and emergencies among the divisions of the Department of Homeland Security, including the Directorate of Emergency Preparedness and Response and the Office for State and Local Government Coordination and Preparedness.

SEC. 7406. EMERGENCY PREPAREDNESS COMPACTS.

Section 611(h) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(h)) is amended—

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

(2) by indenting paragraph (2) (as so redesignated); and

(3) by striking the subsection designation and heading and inserting the following:

“(h) **EMERGENCY PREPAREDNESS COMPACTS.**—(1) The Director shall establish a program supporting the development of emergency preparedness compacts for acts of terrorism, disasters, and emergencies throughout the Nation, by—

“(A) identifying and cataloging existing emergency preparedness compacts for acts of terrorism, disasters, and emergencies at the State and local levels of government;

“(B) disseminating to State and local governments examples of best practices in the development of emergency preparedness compacts and models of existing emergency preparedness compacts, including agreements involving interstate jurisdictions; and

“(C) completing an inventory of Federal response capabilities for acts of terrorism, disasters, and emergencies, making such inventory available to appropriate Federal, State, and local government officials, and ensuring that such inventory is as current and accurate as practicable.”.

SEC. 7407. RESPONSIBILITIES OF COUNTERNARCOTICS OFFICE.

(a) **AMENDMENT.**—Section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458) is amended to read as follows:

“SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCEMENT.

“(a) **OFFICE.**—There is established in the Department an Office of Counternarcotics Enforcement, which shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate.

“(b) **ASSIGNMENT OF PERSONNEL.**—

“(1) **IN GENERAL.**—The Secretary shall assign permanent staff to the Office, consistent with effective management of Department resources.

“(2) **LIAISONS.**—The Secretary shall designate senior employees from each appropriate subdivision of the Department that has significant counternarcotics responsibilities to act as a liaison between that subdivision and the Office of Counternarcotics Enforcement.

“(c) **LIMITATION ON CONCURRENT EMPLOYMENT.**—Except as provided in subsection (d), the Director of the Office of Counternarcotics Enforcement shall not be employed by, assigned to, or serve as the head of, any other branch of the Federal Government, any State or local government, or any subdivision of the Department other than the Office of Counternarcotics Enforcement.

“(d) *ELIGIBILITY TO SERVE AS THE UNITED STATES INTERDICTION COORDINATOR.*—The Director of the Office of Counternarcotics Enforcement may be appointed as the United States Interdiction Coordinator by the Director of the Office of National Drug Control Policy, and shall be the only person at the Department eligible to be so appointed.

“(e) *RESPONSIBILITIES.*—The Secretary shall direct the Director of the Office of Counternarcotics Enforcement—

“(1) to coordinate policy and operations within the Department, between the Department and other Federal departments and agencies, and between the Department and State and local agencies with respect to stopping the entry of illegal drugs into the United States;

“(2) to ensure the adequacy of resources within the Department for stopping the entry of illegal drugs into the United States;

“(3) to recommend the appropriate financial and personnel resources necessary to help the Department better fulfill its responsibility to stop the entry of illegal drugs into the United States;

“(4) within the Joint Terrorism Task Force construct to track and sever connections between illegal drug trafficking and terrorism; and

“(5) to be a representative of the Department on all task forces, committees, or other entities whose purpose is to coordinate the counternarcotics enforcement activities of the Department and other Federal, State or local agencies.

“(f) *SAVINGS CLAUSE.*—Nothing in this section shall be construed to authorize direct control of the operations conducted by the Directorate of Border and Transportation Security, the Coast Guard, or joint terrorism task forces.

“(g) *REPORTS TO CONGRESS.*—

“(1) *ANNUAL BUDGET REVIEW.*—The Director of the Office of Counternarcotics Enforcement shall, not later than 30 days after the submission by the President to Congress of any request for expenditures for the Department, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of such request. The review and evaluation shall—

“(A) identify any request or subpart of any request that affects or may affect the counternarcotics activities of the Department or any of its subdivisions, or that affects the ability of the Department or any subdivision of the Department to meet its responsibility to stop the entry of illegal drugs into the United States;

“(B) describe with particularity how such requested funds would be or could be expended in furtherance of counternarcotics activities; and

“(C) compare such requests with requests for expenditures and amounts appropriated by Congress in the previous fiscal year.

“(2) *EVALUATION OF COUNTERNARCOTICS ACTIVITIES.*—The Director of the Office of Counternarcotics Enforcement shall, not

later than February 1 of each year, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of the counternarcotics activities of the Department for the previous fiscal year. The review and evaluation shall—

“(A) describe the counternarcotics activities of the Department and each subdivision of the Department (whether individually or in cooperation with other subdivisions of the Department, or in cooperation with other branches of the Federal Government or with State or local agencies), including the methods, procedures, and systems (including computer systems) for collecting, analyzing, sharing, and disseminating information concerning narcotics activity within the Department and between the Department and other Federal, State, and local agencies;

“(B) describe the results of those activities, using quantifiable data whenever possible;

“(C) state whether those activities were sufficient to meet the responsibility of the Department to stop the entry of illegal drugs into the United States, including a description of the performance measures of effectiveness that were used in making that determination; and

“(D) recommend, where appropriate, changes to those activities to improve the performance of the Department in meeting its responsibility to stop the entry of illegal drugs into the United States.

“(3) **CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.**—Any content of a review and evaluation described in the reports required in this subsection that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Secretary, would be detrimental to the law enforcement or national security activities of the Department or any other Federal, State, or local agency, shall be presented to Congress separately from the rest of the review and evaluation.”.

(b) **CONFORMING AMENDMENTS.**—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following:

“(8) A Director of the Office of Counternarcotics Enforcement.”.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—Of the amounts appropriated for the Department of Homeland Security for Departmental management and operations for fiscal year 2005, there is authorized up to \$6,000,000 to carry out section 878 of the Department of Homeland Security Act of 2002.

SEC. 7408. USE OF COUNTERNARCOTICS ENFORCEMENT ACTIVITIES IN CERTAIN EMPLOYEE PERFORMANCE APPRAISALS.

(a) **IN GENERAL.**—Subtitle E of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 411 et seq.) is amended by adding at the end the following:

“SEC. 843. USE OF COUNTERNARCOTICS ENFORCEMENT ACTIVITIES IN CERTAIN EMPLOYEE PERFORMANCE APPRAISALS.

“(a) *IN GENERAL.*—Each subdivision of the Department that is a National Drug Control Program Agency shall include as one of the criteria in its performance appraisal system, for each employee directly or indirectly involved in the enforcement of Federal, State, or local narcotics laws, the performance of that employee with respect to the enforcement of Federal, State, or local narcotics laws, relying to the greatest extent practicable on objective performance measures, including—

“(1) the contribution of that employee to seizures of narcotics and arrests of violators of Federal, State, or local narcotics laws; and

“(2) the degree to which that employee cooperated with or contributed to the efforts of other employees, either within the Department or other Federal, State, or local agencies, in counternarcotics enforcement.

“(b) *DEFINITIONS.*—For purposes of this section—

“(1) the term ‘National Drug Control Program Agency’ means—

“(A) a National Drug Control Program Agency, as defined in section 702(7) of the Office of National Drug Control Policy Reauthorization Act of 1998 (as last in effect); and

“(B) any subdivision of the Department that has a significant counternarcotics responsibility, as determined by—

“(i) the counternarcotics officer, appointed under section 878; or

“(ii) if applicable, the counternarcotics officer’s successor in function (as determined by the Secretary); and

“(2) the term ‘performance appraisal system’ means a system under which periodic appraisals of job performance of employees are made, whether under chapter 43 of title 5, United States Code, or otherwise.”.

(b) *CLERICAL AMENDMENT.*—The table of contents for the Homeland Security Act of 2002 is amended by inserting after the item relating to section 842 the following:

“Sec. 843. Use of counternarcotics enforcement activities in certain employee performance appraisals.”.

Subtitle E—Public Safety Spectrum

SEC. 7501. DIGITAL TELEVISION CONVERSION DEADLINE.

(a) *FINDINGS.*—Congress finds the following:

(1) Congress granted television broadcasters additional 6 megahertz blocks of spectrum to transmit digital broadcasts simultaneously with the analog broadcasts they submit on their original 6 megahertz blocks of spectrum.

(2) Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) requires each television broadcaster to cease analog transmissions and return 6 megahertz of spectrum not later than—

(A) December 31, 2006; or

(B) the date on which more than 85 percent of the television households in the market of such broadcaster can view digital broadcast television channels using a digital television, a digital-to-analog converter box, cable service, or satellite service.

(3) Twenty-four megahertz of spectrum occupied by television broadcasters has been earmarked for use by first responders as soon as the television broadcasters return the spectrum broadcasters being used to provide analog transmissions. This spectrum would be ideal to provide first responders with interoperable communications channels.

(4) Large parts of the vacated spectrum could be auctioned for advanced commercial services, such as wireless broadband.

(5) The 85 percent penetration test described in paragraph (2)(B) could delay the termination of analog television broadcasts and the return of spectrum well beyond 2007, hindering the use of that spectrum for these important public safety and advanced commercial uses.

(6) While proposals to require broadcasters to return, on a date certain, the spectrum earmarked for future public safety use may improve the ability of public safety entities to begin planning for use of this spectrum, such proposals have certain deficiencies. The proposals would require the dislocation of up to 75 broadcast stations, which also serve a critical public safety function by broadcasting weather, traffic, disaster, and other safety alerts. Such disparate treatment of broadcasters would be unfair to the broadcasters and their respective viewers. Requiring the return of all analog broadcast spectrum by a date certain would have the benefit of addressing the digital television transition in a comprehensive fashion that treats all broadcasters and viewers equally, while freeing spectrum for advanced commercial services.

(7) The Federal Communications Commission should consider all regulatory means available to expedite the return of the analog spectrum.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress must act to pass legislation in the first session of the 109th Congress that establishes a comprehensive approach to the timely return of analog broadcast spectrum as early as December 31, 2006; and

(2) any delay in the adoption of the legislation described in paragraph (1) will delay the ability of public safety entities to begin planning to use this needed spectrum.

SEC. 7502. STUDIES ON TELECOMMUNICATIONS CAPABILITIES AND REQUIREMENTS.

(a) ALLOCATIONS OF SPECTRUM FOR EMERGENCY RESPONSE PROVIDERS.—The Federal Communications Commission shall, in consultation with the Secretary of Homeland Security and the National Telecommunications and Information Administration, conduct a study to assess short-term and long-term needs for allocations of additional portions of the electromagnetic spectrum for Federal, State, and local emergency response providers, including whether or not an additional allocation of spectrum in the 700

megahertz band should be granted by Congress to such emergency response providers.

(b) **STRATEGIES TO MEET PUBLIC SAFETY TELECOMMUNICATIONS REQUIREMENTS.**—*The Secretary of Homeland Security shall, in consultation with the Federal Communications Commission and the National Telecommunications and Information Administration, conduct a study to assess strategies that may be used to meet public safety telecommunications needs, including—*

(1) *the need and efficacy of deploying nationwide interoperable communications networks (including the potential technical and operational standards and protocols for nationwide interoperable broadband mobile communications networks that may be used by Federal, State, regional, and local governmental and nongovernmental public safety, homeland security, and other emergency response personnel);*

(2) *the capacity of public safety entities to utilize wireless broadband applications; and*

(3) *the communications capabilities of all emergency response providers, including hospitals and health care workers, and current efforts to promote communications coordination and training among emergency response providers.*

(c) **STUDY REQUIREMENTS.**—*In conducting the studies required by subsections (a) and (b), the Secretary of Homeland Security and the Federal Communications Commission shall—*

(1) *seek input from Federal, State, local, and regional emergency response providers regarding the operation and administration of a potential nationwide interoperable broadband mobile communications network; and*

(2) *consider the use of commercial wireless technologies to the greatest extent practicable.*

(d) **REPORTS.**—(1) *Not later than one year after the date of enactment of this Act, the Federal Communications Commission (in the case of the study required by subsection (a)) and the Secretary of Homeland Security (in the case of the study required by subsection (b)) shall submit to the appropriate committees of Congress a report on such study, including the findings of such study.*

(2) *In this subsection, the term “appropriate committees of Congress” means—*

(A) *the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate; and*

(B) *the Committee on Energy and Commerce and the Select Committee on Homeland Security of the House of Representatives.*

Subtitle F—Presidential Transition

SEC. 7601. PRESIDENTIAL TRANSITION.

(a) **SERVICES PROVIDED PRESIDENT-ELECT.**—*Section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—*

(1) *by adding after subsection (a)(8)(A)(iv) the following:*

“(v) Activities under this paragraph shall include the preparation of a detailed classified, compartmented summary by the relevant outgoing executive branch officials of specific operational threats to national security; major military or covert operations; and pending decisions on possible uses of military force. This summary shall be provided to the President-elect as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.”;

(2) by redesignating subsection (f) as subsection (g); and

(3) by adding after subsection (e) the following:

“(f)(1) The President-elect should submit to the Federal Bureau of Investigation or other appropriate agency and then, upon taking effect and designation, to the agency designated by the President under section 115(b) of the National Intelligence Reform Act of 2004, the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

“(2) The responsible agency or agencies shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.”.

(b) SENSE OF THE SENATE REGARDING EXPEDITED CONSIDERATION OF NATIONAL SECURITY NOMINEES.—It is the sense of the Senate that—

(1) the President-elect should submit the nominations of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, to the Senate by the date of the inauguration of the President-elect as President; and

(2) for all such national security nominees received by the date of inauguration, the Senate committees to which these nominations are referred should, to the fullest extent possible, complete their consideration of these nominations, and, if such nominations are reported by the committees, the full Senate should vote to confirm or reject these nominations, within 30 days of their submission.

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

(1) DEFINITION.—In this section, the term “major party” shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986.

(2) IN GENERAL.—Each major party candidate for President may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect’s transition team.

(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate pro-

spective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general election.

(d) EFFECTIVE DATE.—Notwithstanding section 351, this section and the amendments made by this section shall take effect on the date of enactment of this Act.

Subtitle G—Improving International Standards and Cooperation to Fight Terrorist Financing

SEC. 7701. IMPROVING INTERNATIONAL STANDARDS AND COOPERATION TO FIGHT TERRORIST FINANCING.

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

(1) The global war on terrorism and cutting off terrorist financing is a policy priority for the United States and its partners, working bilaterally and multilaterally through the United Nations, the United Nations Security Council and its committees, such as the 1267 and 1373 Committees, the Financial Action Task Force (FATF), and various international financial institutions, including the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), and the regional multilateral development banks, and other multilateral fora.

(2) The international financial community has become engaged in the global fight against terrorist financing. The Financial Action Task Force has focused on the new threat posed by terrorist financing to the international financial system, resulting in the establishment of the FATF's Eight Special Recommendations on Terrorist Financing as the international standard on combating terrorist financing. The Group of Seven and the Group of Twenty Finance Ministers are developing action plans to curb the financing of terror. In addition, other economic and regional fora, such as the Asia-Pacific Economic Cooperation (APEC) Forum, and the Western Hemisphere Financial Ministers, have been used to marshal political will and actions in support of combating the financing of terrorism (CFT) standards.

(3) FATF's Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing are the recognized global standards for fighting money laundering and terrorist financing. The FATF has engaged in an assessment process for jurisdictions based on their compliance with these standards.

(4) In March 2004, the IMF and IBRD Boards agreed to make permanent a pilot program of collaboration with the FATF to assess global compliance with the FATF Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing. As a result, anti-money laundering (AML) and combating the financing of terrorism (CFT) assessments are now a regular part of their Financial Sector Assessment Program (FSAP) and Offshore Financial Center assessments, which provide for a comprehensive

analysis of the strength of a jurisdiction's financial system. These reviews assess potential systemic vulnerabilities, consider sectoral development needs and priorities, and review the state of implementation of and compliance with key financial codes and regulatory standards, among them the AML and CFT standards.

(5) To date, 70 FSAPs have been conducted, with over 24 of those incorporating AML and CFT assessments. The international financial institutions (IFIs), the FATF, and the FATF-style regional bodies together are expected to assess AML and CFT regimes in up to 40 countries or jurisdictions per year. This will help countries and jurisdictions identify deficiencies in their AML and CFT regimes and help focus technical assistance efforts.

(6) Technical assistance programs from the United States and other nations, coordinated with the Department of State and other departments and agencies, are playing an important role in helping countries and jurisdictions address shortcomings in their AML and CFT regimes and bringing their regimes into conformity with international standards. Training is coordinated within the United States Government, which leverages multilateral organizations and bodies and international financial institutions to internationalize the conveyance of technical assistance.

(7) In fulfilling its duties in advancing incorporation of AML and CFT standards into the IFIs as part of the IFIs' work on protecting the integrity of the international monetary system, the Department of the Treasury, under the guidance of the Secretary of the Treasury, has effectively brought together all of the key United States Government agencies. In particular, United States Government agencies continue to work together to foster broad support for this important undertaking in various multilateral fora, and United States Government agencies recognize the need for close coordination and communication within our own Government.

(b) SENSE OF CONGRESS REGARDING SUCCESS IN MULTILATERAL ORGANIZATIONS.—It is the sense of Congress that the Secretary of the Treasury should continue to promote the dissemination of international AML and CFT standards, and to press for full implementation of the FATF 40 + 8 Recommendations by all countries in order to curb financial risks and hinder terrorist financing around the globe. The efforts of the Secretary in this regard should include, where necessary or appropriate, multilateral action against countries whose counter-money laundering regimes and efforts against the financing of terrorism fall below recognized international standards.

SEC. 7702. DEFINITIONS.

In this subtitle—

(1) the term “international financial institutions” has the same meaning as in section 1701(c)(2) of the International Financial Institutions Act;

(2) the term “Financial Action Task Force” means the international policy-making and standard-setting body dedicated to

combating money laundering and terrorist financing that was created by the Group of Seven in 1989; and

(3) the terms “Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System” and “Interagency Paper” mean the interagency paper prepared by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Securities and Exchange Commission that was announced in the Federal Register on April 8, 2003.

SEC. 7703. EXPANDED REPORTING AND TESTIMONY REQUIREMENTS FOR THE SECRETARY OF THE TREASURY.

(a) **REPORTING REQUIREMENTS.**—Section 1503(a) of the International Financial Institutions Act (22 U.S.C. 262o–2(a)) is amended by adding at the end the following:

“(15) Work with the International Monetary Fund to—

“(A) foster strong global anti-money laundering (AML) and combat the financing of terrorism (CFT) regimes;

“(B) ensure that country performance under the Financial Action Task Force anti-money laundering and counterterrorist financing standards is effectively and comprehensively monitored;

“(C) ensure note is taken of AML and CFT issues in Article IV reports, International Monetary Fund programs, and other regular reviews of country progress;

“(D) ensure that effective AML and CFT regimes are considered to be indispensable elements of sound financial systems; and

“(E) emphasize the importance of sound AML and CFT regimes to global growth and development.”.

(b) **TESTIMONY.**—Section 1705(b) of the International Financial Institutions Act (22 U.S.C. 262r–4(b)) is amended—

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

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

(3) by adding at the end the following:

“(4) the status of implementation of international anti-money laundering and counterterrorist financing standards by the International Monetary Fund, the multilateral development banks, and other multilateral financial policymaking bodies.”.

SEC. 7704. COORDINATION OF UNITED STATES GOVERNMENT EFFORTS.

The Secretary of the Treasury, or the designee of the Secretary, as the lead United States Government official to the Financial Action Task Force (FATF), shall continue to convene the interagency United States Government FATF working group. This group, which includes representatives from all relevant Federal agencies, shall meet at least once a year to advise the Secretary on policies to be pursued by the United States regarding the development of common international AML and CFT standards, to assess the adequacy and implementation of such standards, and to recommend to the Secretary improved or new standards, as necessary.

Subtitle H—Emergency Financial Preparedness

SEC. 7801. DELEGATION AUTHORITY OF THE SECRETARY OF THE TREASURY.

Section 306(d) of title 31, United States Code, is amended by inserting “or employee” after “another officer”.

SEC. 7802. TREASURY SUPPORT FOR FINANCIAL SERVICES INDUSTRY PREPAREDNESS AND RESPONSE AND CONSUMER EDUCATION.

(a) FINDINGS.—Congress finds that the Secretary of the Treasury—

(1) has successfully communicated and coordinated with the private-sector financial services industry about financial infrastructure preparedness and response issues;

(2) has successfully reached out to State and local governments and regional public-private partnerships, such as ChicagoFIRST, that protect employees and critical infrastructure by enhancing communication and coordinating plans for disaster preparedness and business continuity; and

(3) has set an example for the Department of Homeland Security and other Federal agency partners, whose active participation is vital to the overall success of the activities described in paragraphs (1) and (2).

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, other Federal agency partners, and private-sector financial organization partners, should—

(1) furnish sufficient personnel and technological and financial resources to educate consumers and employees of the financial services industry about domestic counterterrorist financing activities, particularly about—

(A) how the public and private sector organizations involved in such activities can combat terrorism while protecting and preserving the lives and civil liberties of consumers and employees of the financial services industry; and

(B) how the consumers and employees of the financial services industry can assist the public and private sector organizations involved in such activities; and

(2) submit annual reports to Congress on efforts to accomplish subparagraphs (A) and (B) of paragraph (1).

(c) REPORT ON PUBLIC-PRIVATE PARTNERSHIPS.—Before the end of the 6-month period beginning on the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing—

(1) information on the efforts that the Department of the Treasury has made to encourage the formation of public-private partnerships to protect critical financial infrastructure and the type of support that the Department has provided to such partnerships; and

(2) recommendations for administrative or legislative action regarding such partnerships, as the Secretary may determine to be appropriate.

SEC. 7803. EMERGENCY SECURITIES RESPONSE ACT OF 2004.

(a) **SHORT TITLE.**—This section may be cited as the “Emergency Securities Response Act of 2004”.

(b) **EXTENSION OF EMERGENCY ORDER AUTHORITY OF THE SECURITIES AND EXCHANGE COMMISSION.**—

(1) **EXTENSION OF AUTHORITY.**—Section 12(k)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(k)(2)) is amended to read as follows:

“(2) **EMERGENCY ORDERS.**—

“(A) **IN GENERAL.**—The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under the securities laws, as the Commission determines is necessary in the public interest and for the protection of investors—

“(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities);

“(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities); or

“(iii) to reduce, eliminate, or prevent the substantial disruption by the emergency of—

“(I) securities markets (other than markets in exempted securities), investment companies, or any other significant portion or segment of such markets; or

“(II) the transmission or processing of securities transactions (other than transactions in exempted securities).

“(B) **EFFECTIVE PERIOD.**—An order of the Commission under this paragraph shall continue in effect for the period specified by the Commission, and may be extended. Except as provided in subparagraph (C), an order of the Commission under this paragraph may not continue in effect for more than 10 business days, including extensions.

“(C) **EXTENSION.**—An order of the Commission under this paragraph may be extended to continue in effect for more than 10 business days if, at the time of the extension, the Commission finds that the emergency still exists and determines that the continuation of the order beyond 10 business days is necessary in the public interest and for the protection of investors to attain an objective described in clause (i), (ii), or (iii) of subparagraph (A). In no event shall an order of the Commission under this paragraph continue in effect for more than 30 calendar days.

“(D) **SECURITY FUTURES.**—If the actions described in subparagraph (A) involve a security futures product, the Commission shall consult with and consider the views of the Commodity Futures Trading Commission.

“(E) EXEMPTION.—In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of—

“(i) section 19(c); or

“(ii) section 553 of title 5, United States Code.”.

(c) CONSULTATION; DEFINITION OF EMERGENCY.—Section 12(k)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(k)(6)) is amended to read as follows:

“(6) CONSULTATION.—Prior to taking any action described in paragraph (1)(B), the Commission shall consult with and consider the views of the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the Commodity Futures Trading Commission, unless such consultation is impracticable in light of the emergency.

“(7) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘emergency’ means—

“(i) a major market disturbance characterized by or constituting—

“(I) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or

“(II) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or

“(ii) a major disturbance that substantially disrupts, or threatens to substantially disrupt—

“(I) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or

“(II) the transmission or processing of securities transactions; and

“(B) notwithstanding section 3(a)(47), the term ‘securities laws’ does not include the Public Utility Holding Company Act of 1935.”.

(d) PARALLEL AUTHORITY OF THE SECRETARY OF THE TREASURY WITH RESPECT TO GOVERNMENT SECURITIES.—Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5) is amended by adding at the end the following:

“(h) EMERGENCY AUTHORITY.—The Secretary may, by order, take any action with respect to a matter or action subject to regulation by the Secretary under this section, or the rules of the Secretary under this section, involving a government security or a market therein (or significant portion or segment of that market), that the Commission may take under section 12(k)(2) with respect to transactions in securities (other than exempted securities) or a market therein (or significant portion or segment of that market).”.

(e) JOINT REPORT ON IMPLEMENTATION OF FINANCIAL SYSTEM RESILIENCE RECOMMENDATIONS.—

(1) REPORT REQUIRED.—Not later than April 30, 2006, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Securities and Exchange Commission shall prepare and submit to the Committee on Financial Services of the House of Representatives and the Committee

on Banking, Housing, and Urban Affairs of the Senate a joint report on the efforts of the private sector to implement the Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System.

(2) *CONTENTS OF REPORT.*—The report required by paragraph (1) shall—

(A) examine the efforts to date of private sector financial services firms covered by the Interagency Paper to implement enhanced business continuity plans;

(B) examine the extent to which the implementation of such business continuity plans has been done in a geographically dispersed manner, including an analysis of the extent to which such firms have located their main and backup facilities in separate electrical networks, in different watersheds, in independent transportation systems, and using separate telecommunications centers, and the cost and technological implications of further dispersal;

(C) examine the need to cover a larger range of private sector financial services firms that play significant roles in critical financial markets than those covered by the Interagency Paper; and

(D) recommend legislative and regulatory changes that will—

(i) expedite the effective implementation of the Interagency Paper by all covered financial services entities; and

(ii) optimize the effective implementation of business continuity planning by the financial services industry.

(3) *CONFIDENTIALITY.*—Any information provided to the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, or the Securities and Exchange Commission for the purposes of the preparation and submission of the report required by paragraph (1) shall be treated as privileged and confidential. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of that section 552.

(4) *DEFINITION.*—As used in this subsection, the terms “Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System” and “Interagency Paper” mean the interagency paper prepared by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Securities and Exchange Commission that was announced in the Federal Register on April 8, 2003.

SEC. 7804. PRIVATE SECTOR PREPAREDNESS.

It is the sense of Congress that the insurance industry and credit-rating agencies, where relevant, should carefully consider a company’s compliance with standards for private sector disaster and emergency preparedness in assessing insurability and creditworthiness, to ensure that private sector investment in disaster and emergency preparedness is appropriately encouraged.

TITLE VIII—OTHER MATTERS

Subtitle A—Intelligence Matters

SEC. 8101. INTELLIGENCE COMMUNITY USE OF NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER.

(a) *IN GENERAL.*—The Director of National Intelligence shall establish a formal relationship, including information sharing, between the elements of the intelligence community and the National Infrastructure Simulation and Analysis Center.

(b) *PURPOSE.*—The purpose of the relationship under subsection (a) shall be to permit the intelligence community to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence analysis, for real time response to reported threats and long term planning for projected threats.

Subtitle B—Department of Homeland Security Matters

SEC. 8201. HOMELAND SECURITY GEOSPATIAL INFORMATION.

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

(1) Geospatial technologies and geospatial data improve government capabilities to detect, plan for, prepare for, and respond to disasters in order to save lives and protect property.

(2) Geospatial data improves the ability of information technology applications and systems to enhance public security in a cost-effective manner.

(3) Geospatial information preparedness in the United States, and specifically in the Department of Homeland Security, is insufficient because of—

- (A) inadequate geospatial data compatibility;
- (B) insufficient geospatial data sharing; and
- (C) technology interoperability barriers.

(b) *HOMELAND SECURITY GEOSPATIAL INFORMATION.*—Section 703 of the Homeland Security Act of 2002 (6 U.S.C. 343) is amended—

(1) by inserting “(a) *IN GENERAL.*—” before “The Chief Information”; and

(2) by adding at the end the following:

“(b) *GEOSPATIAL INFORMATION FUNCTIONS.*—

“(1) *DEFINITIONS.*—As used in this subsection:

“(A) *GEOSPATIAL INFORMATION.*—The term ‘geospatial information’ means graphical or digital data depicting natural or manmade physical features, phenomena, or boundaries of the earth and any information related thereto, including surveys, maps, charts, remote sensing data, and images.

“(B) *GEOSPATIAL TECHNOLOGY.*—The term ‘geospatial technology’ means any technology utilized by analysts, specialists, surveyors, photogrammetrists, hydrographers, geodesists, cartographers, architects, or engineers for the col-

lection, storage, retrieval, or dissemination of geospatial information, including—

- “(i) global satellite surveillance systems;
- “(ii) global position systems;
- “(iii) geographic information systems;
- “(iv) mapping equipment;
- “(v) geocoding technology; and
- “(vi) remote sensing devices.

“(2) OFFICE OF GEOSPATIAL MANAGEMENT.—

“(A) ESTABLISHMENT.—The Office of Geospatial Management is established within the Office of the Chief Information Officer.

“(B) GEOSPATIAL INFORMATION OFFICER.—

“(i) APPOINTMENT.—The Office of Geospatial Management shall be administered by the Geospatial Information Officer, who shall be appointed by the Secretary and serve under the direction of the Chief Information Officer.

“(ii) FUNCTIONS.—The Geospatial Information Officer shall assist the Chief Information Officer in carrying out all functions under this section and in coordinating the geospatial information needs of the Department.

“(C) COORDINATION OF GEOSPATIAL INFORMATION.—The Chief Information Officer shall establish and carry out a program to provide for the efficient use of geospatial information, which shall include—

“(i) providing such geospatial information as may be necessary to implement the critical infrastructure protection programs;

“(ii) providing leadership and coordination in meeting the geospatial information requirements of those responsible for planning, prevention, mitigation, assessment and response to emergencies, critical infrastructure protection, and other functions of the Department; and

“(iii) coordinating with users of geospatial information within the Department to assure interoperability and prevent unnecessary duplication.

“(D) RESPONSIBILITIES.—In carrying out this subsection, the responsibilities of the Chief Information Officer shall include—

“(i) coordinating the geospatial information needs and activities of the Department;

“(ii) implementing standards, as adopted by the Director of the Office of Management and Budget under the processes established under section 216 of the E-Government Act of 2002 (44 U.S.C. 3501 note), to facilitate the interoperability of geospatial information pertaining to homeland security among all users of such information within—

- “(I) the Department;
- “(II) State and local government; and
- “(III) the private sector;

“(iii) coordinating with the Federal Geographic Data Committee and carrying out the responsibilities of the Department pursuant to Office of Management and Budget Circular A-16 and Executive Order 12906; and

“(iv) making recommendations to the Secretary and the Executive Director of the Office for State and Local Government Coordination and Preparedness on awarding grants to—

“(I) fund the creation of geospatial data; and

“(II) execute information sharing agreements regarding geospatial data with State, local, and tribal governments.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection for each fiscal year.”.

Subtitle C—HOMELAND SECURITY CIVIL RIGHTS AND CIVIL LIBERTIES PROTECTION

SEC. 8301. SHORT TITLE.

This subtitle may be cited as the “Homeland Security Civil Rights and Civil Liberties Protection Act of 2004”.

SEC. 8302. MISSION OF DEPARTMENT OF HOMELAND SECURITY.

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

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

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

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

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

SEC. 8303. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

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

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

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

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

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

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

(4) by adding at the end the following:

“(3) assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review De-

partment policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;

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

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

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

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

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

SEC. 8304. PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES BY OFFICE OF INSPECTOR GENERAL.

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

“(f)(1) The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS-15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 8305. PRIVACY OFFICER.

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

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

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

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

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

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

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

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

SEC. 8306. PROTECTIONS FOR HUMAN RESEARCH SUBJECTS OF THE DEPARTMENT OF HOMELAND SECURITY.

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

Subtitle D—Other Matters

SEC. 8401. AMENDMENTS TO CLINGER-COHEN ACT PROVISIONS TO ENHANCE AGENCY PLANNING FOR INFORMATION SECURITY NEEDS.

Chapter 113 of title 40, United States Code, is amended—

(1) in section 11302(b), by inserting “security,” after “use,”;

(2) in section 11302(c), by inserting “, including information security risks,” after “risks” both places it appears;

(3) in section 11312(b)(1), by striking “information technology investments” and inserting “investments in information technology (including information security needs)”;

(4) in section 11315(b)(2), by inserting “, secure,” after “sound”.

SEC. 8402. ENTERPRISE ARCHITECTURE.

(a) *ENTERPRISE ARCHITECTURE DEFINED.*—In this section, the term “enterprise architecture” means a detailed outline or blueprint

of the information technology of the Federal Bureau of Investigation that will satisfy the ongoing mission and goals of the Federal Bureau of Investigation and that sets forth specific and identifiable benchmarks.

(b) *ENTERPRISE ARCHITECTURE.*—The Federal Bureau of Investigation shall—

(1) continually maintain and update an enterprise architecture; and

(2) maintain a state of the art and up to date information technology infrastructure that is in compliance with the enterprise architecture of the Federal Bureau of Investigation.

(c) *REPORT.*—Subject to subsection (d), the Director of the Federal Bureau of Investigation shall, on an annual basis, submit to the Committees on the Judiciary of the Senate and House of Representatives a report on whether the major information technology investments of the Federal Bureau of Investigation are in compliance with the enterprise architecture of the Federal Bureau of Investigation and identify any inability or expectation of inability to meet the terms set forth in the enterprise architecture.

(d) *FAILURE TO MEET TERMS.*—If the Director of the Federal Bureau of Investigation identifies any inability or expectation of inability to meet the terms set forth in the enterprise architecture in a report under subsection (c), the report under subsection (c) shall—

(1) be twice a year until the inability is corrected;

(2) include a statement as to whether the inability or expectation of inability to meet the terms set forth in the enterprise architecture is substantially related to resources; and

(3) if the inability or expectation of inability is substantially related to resources, include a request for additional funding that would resolve the problem or a request to reprogram funds that would resolve the problem.

(e) *ENTERPRISE ARCHITECTURE, AGENCY PLANS AND REPORTS.*—This section shall be carried out in compliance with the requirements set forth in section 1016 (e) and (h).

SEC. 8403. FINANCIAL DISCLOSURE AND RECORDS.

(a) *STUDY.*—Not later than 90 days after the date of enactment of this Act, the Office of Government Ethics shall submit to Congress a report—

(1) evaluating the financial disclosure process for employees of the executive branch of Government; and

(2) making recommendations for improving that process.

(b) *TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.*—

(1) *DEFINITION.*—In this section, the term “major party” has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(2) *TRANSMITTAL.*—

(A) *IN GENERAL.*—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(B) *OTHER CANDIDATES.*—After making transmittals under subparagraph (A), the Office of Personnel Manage-

ment may transmit an electronic record on *Presidentially appointed positions to any other candidate for President.*

(3) *CONTENT.—The record transmitted under this subsection shall provide—*

(A) *all positions which are appointed by the President, including the title and description of the duties of each position;*

(B) *the name of each person holding a position described under subparagraph (A);*

(C) *any vacancy in the positions described under subparagraph (A), and the period of time any such position has been vacant;*

(D) *the date on which an appointment made after the applicable Presidential election for any position described under subparagraph (A) is necessary to ensure effective operation of the Government; and*

(E) *any other information that the Office of Personnel Management determines is useful in making appointments.*

(c) *REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.—*

(1) *DEFINITION.—In this subsection, the term “agency” means an Executive agency as defined under section 105 of title 5, United States Code.*

(2) *REDUCTION PLAN.—*

(A) *IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—*

(i) *the President;*

(ii) *the Committee on Homeland Security and Governmental Affairs of the Senate; and*

(iii) *the Committee on Government Reform of the House of Representatives.*

(B) *CONTENT.—The plan under this paragraph shall provide for the reduction of—*

(i) *the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and*

(ii) *the number of levels of such positions within that agency.*

(d) *OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.—*

(1) *IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to executive branch employment and submit a report to—*

(A) *the President;*

(B) *the Committees on Homeland Security and Governmental Affairs and the Judiciary of the Senate;*

(C) *the Committees on Government Reform and the Judiciary of the House of Representatives.*

(2) *CONTENTS.*—*The report under this subsection shall examine sections 203, 205, 207, and 208 of title 18, United States Code.*

SEC. 8404. EXTENSION OF REQUIREMENT FOR AIR CARRIERS TO HONOR TICKETS FOR SUSPENDED AIR PASSENGER SERVICE.

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking “more than” and all that follows and inserting “after November 19, 2005.”

And the House agree to the same.