

109TH CONGRESS
1ST SESSION

S. 12

To combat international terrorism, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2005

Mr. BIDEN (for himself, Mr. REID, Mr. BINGAMAN, Ms. MIKULSKI, Mr. DURBIN, Ms. STABENOW, Mr. ROCKEFELLER, Mr. LAUTENBERG, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To combat international terrorism, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Targeting Terrorists
5 More Effectively Act of 2005”.

6 **TITLE I—EFFECTIVELY**
7 **TARGETING TERRORISTS**

8 **SEC. 101. SENSE OF CONGRESS ON INCREASING THE NUM-**
9 **BER OF ARMY SPECIAL OPERATIONS FORCES.**

10 It is the sense of Congress that the number of active-
11 duty Army Special Forces-qualified personnel should be

★(Star Print)

1 increased during the four years after the date of the enact-
2 ment of this Act so that on the date that is four years
3 after the date of such enactment such number is 6,144.

4 **SEC. 102. FOREIGN LANGUAGE EXPERTISE.**

5 (a) FINDINGS.—Congress makes the following find-
6 ings:

7 (1) Success in the global war on terrorism will
8 require a dramatic increase in institutional and per-
9 sonal expertise in the languages and cultures of the
10 societies where terrorism has taken root, including a
11 substantial increase in the number of national secu-
12 rity personnel who obtain expert lingual training.

13 (2) The National Commission on Terrorist At-
14 tacks Upon the United States identified the coun-
15 tries in the Middle East, South Asia, Southeast
16 Asia, and West Africa as countries that serve or
17 could serve as terrorist havens.

18 (3) Although 22 countries have Arabic as their
19 official language, the National Commission on Ter-
20 rorist Attacks Upon the United States found that a
21 total of only 6 undergraduate degrees for the study
22 of Arabic were granted by United States colleges
23 and universities in 2002.

24 (4) The report of the National Commission on
25 Terrorist Attacks Upon the United States contained

1 several criticisms of the lack of linguistic expertise
2 in the Central Intelligence Agency and the Federal
3 Bureau of Investigation prior to the September 11,
4 2001 terrorist attacks, and called for the Central In-
5 telligence Agency to “develop a stronger language
6 program, with high standards and sufficient finan-
7 cial incentives”.

8 (5) An audit conducted by the Department of
9 Justice in July 2004, revealed that the Federal Bu-
10 reau of Investigation has a backlog of hundreds of
11 thousands of untranslated audio recordings from ter-
12 ror and espionage investigations.

13 (6) The National Security Education Program
14 Trust Fund, which funds critical grant and scholar-
15 ship programs for linguistic training in regions crit-
16 ical to national security, will have exhausted all its
17 funding by fiscal year 2006, unless additional appro-
18 priations are made to the Trust Fund.

19 (b) SENSE OF CONGRESS.—It is the sense of Con-
20 gress that—

21 (1) the overwhelming majority of Muslims re-
22 ject terrorism and a small, radical minority has
23 grossly distorted the teachings of one of the world’s
24 great faiths to seek justification for acts of ter-
25 rorism, such radical Islamic fundamentalism con-

1 stitutes a primary threat to the national security in-
2 terests of the United States, and an effective strat-
3 egy for combating terrorism should include increas-
4 ing the number of personnel throughout the Federal
5 Government with expertise in languages spoken in
6 predominately Muslim countries and in the culture
7 of such countries;

8 (2) Muslim-Americans constitute an integral
9 and cherished part of the fabric of American society
10 and possess many talents, including linguistic, his-
11 toric, and cultural expertise that should be har-
12 nessed in the war against radical, fundamentalist
13 terror; and

14 (3) amounts appropriated for the National
15 Flagship Language Initiative pursuant to the
16 amendments made by subsection (e)(2) should be
17 used to support the establishment, operation, and
18 improvement of programs for the study of Arabic,
19 Persian, and other Middle Eastern, South Asian,
20 Southeast Asian, and West African languages in in-
21 stitutes of higher education in the United States.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—

23 (1) NATIONAL SECURITY EDUCATION TRUST
24 FUND.—Section 810 of the David L. Boren National

1 Security Education Act of 1991 (50 U.S.C. 1910) is
2 amended by adding at the end the following:

3 “(d) AUTHORIZATION OF APPROPRIATIONS FOR THE
4 FUND FOR FISCAL YEAR 2006.—

5 “(1) IN GENERAL.—There are authorized to be
6 appropriated to the Fund \$150,000,000 for fiscal
7 year 2006.

8 “(2) AVAILABILITY OF FUNDS.—Amounts ap-
9 propriated pursuant to the authorization of appro-
10 priations in paragraph (1) shall remain available
11 until expended and not more than \$15,000,000 of
12 such amounts may be obligated and expended during
13 any fiscal year.”.

14 (2) NATIONAL FLAGSHIP LANGUAGE INITIA-
15 TIVE.—

16 (A) IN GENERAL.—Section 811(a) of the
17 David L. Boren National Security Education
18 Act of 1991 (50 U.S.C. 1911(a)) is amended by
19 striking “there is authorized to be appropriated
20 to the Secretary for each fiscal year, beginning
21 with fiscal year 2003, \$10,000,000” and insert-
22 ing “there are authorized to be appropriated to
23 the Secretary for each fiscal year 2003 through
24 2005, \$10,000,000, and for each fiscal year
25 after 2005, \$20,000,000.”.

1 (B) AVAILABILITY OF FUNDS.—Section
2 811(b) of such Act (50 U.S.C. 1911(b)) is
3 amended by inserting “for fiscal years 2003
4 through 2005” after “this section”.

5 (3) DEMONSTRATION PROGRAM.—There are au-
6 thorized to be appropriated to the Director of Na-
7 tional Intelligence such sums as may be necessary
8 for each of fiscal years 2006, 2007, and 2008 in
9 order to carry out the demonstration program estab-
10 lished under subsection (c).

11 **SEC. 103. CURTAILING TERRORIST FINANCING.**

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

14 (1) The report of the National Commission on
15 Terrorist Attacks Upon the United States stated
16 that “[v]igorous efforts to track terrorist financing
17 must remain front and center in United States
18 counterterrorism efforts”.

19 (2) The report of the Independent Task Force
20 sponsored by the Council on Foreign Relations stat-
21 ed that “currently existing U. S. and international
22 policies, programs, structures, and organizations will
23 be inadequate to assure sustained results commensu-
24 rate with the ongoing threat posed to the national
25 security of the United States”.

1 (3) The report of the Independent Task Force
2 contained the conclusion that “[l]ong-term success
3 will depend critically upon the structure, integration,
4 and focus of the U. S. Government—and any inter-
5 governmental efforts undertaken to address this
6 problem”.

7 (b) POLICY.—It is the policy of the United States—

8 (1) to work with the Government of Saudi Ara-
9 bia to curtail terrorist financing originating from
10 that country using a range of methods, including di-
11 plomacy, intelligence, and law enforcement;

12 (2) to ensure effective coordination and suffi-
13 cient resources for efforts of the agencies and de-
14 partments of the United States to disrupt terrorist
15 financing by carrying out, through the Office of Ter-
16 rorism and Financial Intelligence in the Department
17 of the Treasury, a comprehensive analysis of the
18 budgets and activities of all such agencies and de-
19 partments that are related to disrupting the financ-
20 ing of terrorist organizations;

21 (3) to provide each agency or department of the
22 United States with the appropriate number of per-
23 sonnel to carry out the activities of such agency or
24 department related to disrupting the financing of
25 terrorist organizations;

1 (4) to centralize the coordination of the efforts
2 of the United States to combat terrorist financing
3 and utilize existing authorities to identify foreign ju-
4 risdictions and foreign financial institutions sus-
5 pected of abetting terrorist financing and take ac-
6 tions to prevent the provision of assistance to terror-
7 ists; and

8 (5) to work with other countries to develop and
9 enforce strong domestic terrorist financing laws, and
10 increase funding for bilateral and multilateral pro-
11 grams to enhance training and capacity-building in
12 countries who request assistance.

13 (c) AUTHORIZATION OF APPROPRIATIONS TO PRO-
14 VIDE TECHNICAL ASSISTANCE TO PREVENT FINANCING
15 OF TERRORISTS.—

16 (1) IN GENERAL.—There are authorized to be
17 appropriated to the President for the “Economic
18 Support Fund” to provide technical assistance under
19 the provisions of chapter 4 of part II of the Foreign
20 Assistance Act of 1961 (22 U.S.C. 2346 et seq.) to
21 foreign countries to assist such countries in pre-
22 venting the financing of terrorist activities—

23 (A) for fiscal year 2006, \$300,000,000;
24 and

1 (B) for fiscal years 2007 and 2008, such
2 sums as may be necessary.

3 (2) AVAILABILITY OF FUNDS.—Amounts appro-
4 priated pursuant to the authorization of appropria-
5 tions in this subsection are authorized to remain
6 available until expended.

7 (3) ADDITIONAL FUNDS.—Amounts authorized
8 to be appropriated under this subsection are in addi-
9 tion to amounts otherwise available for such pur-
10 poses.

11 **SEC. 104. PROHIBITION ON TRANSACTIONS WITH COUN-**
12 **TRIES THAT SUPPORT TERRORISM.**

13 (a) CLARIFICATION OF CERTAIN ACTIONS UNDER
14 IEEPA.—In any case in which the President takes action
15 under the International Emergency Economic Powers Act
16 (50 U.S.C. 1701 et seq.) with respect to a foreign country,
17 or persons dealing with or associated with the government
18 of that foreign country, as a result of a determination by
19 the Secretary of State that the government of that foreign
20 country has repeatedly provided support for acts of inter-
21 national terrorism, such action shall apply to a United
22 States person or other person.

23 (b) DEFINITIONS.—In this section:

24 (1) CONTROLLED IN FACT.—The term “is con-
25 trolled in fact” includes—

1 (A) in the case of a corporation, holds at
2 least 50 percent (by vote or value) of the capital
3 structure of the corporation; and

4 (B) in the case of any other kind of legal
5 entity, holds interests representing at least 50
6 percent of the capital structure of the entity.

7 (2) STATE.—The term “State” means each of
8 the several States of the United States, the District
9 of Columbia, the Commonwealth of Puerto Rico,
10 Guam, the Virgin Islands, and other territories or
11 possessions of the United States.

12 (3) UNITED STATES PERSON.—The term
13 “United States person” includes any United States
14 citizen, permanent resident alien, entity organized
15 under the law of the United States or of any State
16 (including foreign branches), wherever located, or
17 any other person in the United States.

18 (c) APPLICABILITY.—

19 (1) IN GENERAL.—In any case in which the
20 President has taken action under the International
21 Emergency Economic Powers Act and such action is
22 in effect on the date of enactment of this Act, the
23 provisions of subsection (a) shall not apply to a
24 United States person (or other person) if such per-
25 son divests or terminates its business with the gov-

1 ernment or person identified by such action within
2 90 days after the date of enactment of this Act.

3 (2) ACTIONS AFTER DATE OF ENACTMENT.—In
4 any case in which the President takes action under
5 the International Emergency Economic Powers Act
6 on or after the date of enactment of this Act, the
7 provisions of subsection (a) shall not apply to a
8 United States person (or other person) if such per-
9 son divests or terminates its business with the gov-
10 ernment or person identified by such action within
11 90 days after the date of such action.

12 (d) NOTIFICATION OF CONGRESS OF TERMINATION
13 OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CON-
14 TROL.—The Office of Federal Procurement Policy Act (41
15 U.S.C. 403 et seq.) is amended by adding at the end the
16 following new section:

17 **“SEC. 42. NOTIFICATION OF CONGRESS OF TERMINATION**
18 **OF INVESTIGATION BY OFFICE OF FOREIGN**
19 **ASSETS CONTROL.**

20 “The Director of the Office of Foreign Assets Control
21 shall notify Congress upon the termination of any inves-
22 tigation by the Office of Foreign Assets Control of the
23 Department of the Treasury if any sanction is imposed
24 by the Director of such office as a result of the investiga-
25 tion.”.

1 **TITLE II—PREVENTING THE**
2 **GROWTH OF RADICAL IS-**
3 **LAMIC FUNDAMENTALISM**
4 **Subtitle A—Quality Educational**
5 **Opportunities**

6 **SEC. 201. FINDINGS, POLICY, AND DEFINITION.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) The report of the National Commission on
10 Terrorist Attacks Upon the United States stated
11 that “[e]ducation that teaches tolerance, the dignity
12 and value of each individual, and respect for dif-
13 ferent beliefs is a key element in any global strategy
14 to eliminate Islamic terrorism”.

15 (2) According to the United Nations Develop-
16 ment Program Arab Human Development Report
17 for 2002, 10,000,000 children between the ages of
18 6 through 15 in the Arab world do not attend
19 school, and $\frac{2}{3}$ of the 65,000,000 illiterate adults in
20 the Arab world are women.

21 (3) The report of the National Commission on
22 Terrorist Attacks Upon the United States concluded
23 that ensuring educational opportunity is essential to
24 the efforts of the United States to defeat global ter-
25 rorism and recommended that the United States

1 Government “should offer to join with other nations
2 in generously supporting [spending funds] ... di-
3 rectly on building and operating primary and sec-
4 ondary schools in those Muslim states that commit
5 to sensibly investing financial resources in public
6 education”.

7 (b) POLICY.—It is the policy of the United States—

8 (1) to work toward the goal of dramatically in-
9 creasing the availability of basic education in the de-
10 veloping world, which will reduce the influence of
11 radical madrassas and other institutions that pro-
12 mote religious extremism;

13 (2) to join with other countries in generously
14 supporting the International Youth Opportunity
15 Fund authorized under section 7114 of the 9/11
16 Commission Implementation Act of 2004 (Public
17 Law 108–458), with the goal of building and oper-
18 ating primary and secondary schools in Muslim
19 countries that commit to sensibly investing the re-
20 sources of such countries in public education;

21 (3) to work with the international community,
22 including foreign countries and international organi-
23 zations to raise \$7,000,000,000 to \$10,000,000,000
24 each year to fund education programs in Muslim
25 countries;

1 (4) to offer additional incentives to countries to
2 increase the availability of basic education; and

3 (5) to work to prevent financing of educational
4 institutions that support radical Islamic fundamen-
5 talism.

6 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
7 FINED.—In this subtitle, the term “appropriate congres-
8 sional committees” means the Committee on Foreign Re-
9 lations and the Committee on Appropriations of the Sen-
10 ate and the Committee on International Relations and the
11 Committee on Appropriations of the House of Representa-
12 tives.

13 **SEC. 202. ANNUAL REPORT TO CONGRESS.**

14 Not later than June 1 of each year, the Secretary
15 of State shall submit to the appropriate congressional
16 committees a report on the efforts of countries in the de-
17 veloping world to increase the availability of basic edu-
18 cation and to close educational institutions that promote
19 religious extremism and terrorism. Each report shall in-
20 clude—

21 (1) a list of countries that are making serious
22 and sustained efforts to increase the availability of
23 basic education and to close educational institutions
24 that promote religious extremism and terrorism;

1 (2) a list of countries that are making efforts
2 to increase the availability of basic education and to
3 close educational institutions that promote religious
4 extremism and terrorism, but such efforts are not
5 serious and sustained; and

6 (3) a list of countries that are not making ef-
7 forts to increase the availability of basic education
8 and to close educational institutions that promote
9 religious extremism and terrorism.

10 **SEC. 203. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) INTERNATIONAL EDUCATION PROGRAMS.—There
12 are authorized to be appropriated to the President for
13 “Development Assistance” for international education
14 programs carried out under sections 105 and 496 of the
15 Foreign Assistance Act of 1961 (22 U.S.C. 2151c and
16 2293)—

17 (1) for fiscal year 2006, \$1,000,000,000; and

18 (2) for fiscal years 2007 and 2008, such sums
19 as may be necessary.

20 (b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

21 There are authorized to be appropriated to the President
22 for fiscal years 2006, 2007, and 2008 such sums as may
23 be necessary for the United States contribution to the
24 International Youth Opportunity Fund authorized under
25 section 7114 of the 9/11 Commission Implementation Act

1 of 2004 (Public Law 108–458) for international education
2 programs.

3 (c) ADDITIONAL FUNDS.—Amounts authorized to be
4 appropriated in this section are in addition to amounts
5 otherwise available for such purposes.

6 **Subtitle B—Democracy and** 7 **Development in the Muslim World**

8 **SEC. 211. PROMOTING DEMOCRACY AND DEVELOPMENT IN** 9 **THE MIDDLE EAST, CENTRAL ASIA, SOUTH** 10 **ASIA, AND SOUTHEAST ASIA.**

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

13 (1) Al-Qaeda and affiliated groups have estab-
14 lished a terrorist network with linkages throughout
15 the Middle East, Central Asia, South Asia, and
16 Southeast Asia.

17 (2) While political repression and lack of eco-
18 nomic development do not justify terrorism, in-
19 creased political freedoms and economic growth can
20 contribute to an environment that undercuts ten-
21 dencies and conditions that facilitate the rise of ter-
22 rorist organizations.

23 (3) It is in the national security interests of the
24 United States to promote democracy, good govern-
25 ance, political freedom, independent media, women’s

1 rights, private sector development, and open eco-
2 nomic systems in the countries of the Middle East,
3 Central Asia, South Asia, and Southeast Asia.

4 (b) POLICY.—It is the policy of the United States—

5 (1) to promote the objectives described in sub-
6 section (a)(3) in the countries of the Middle East,
7 Central Asia, South Asia, and Southeast Asia;

8 (2) to provide assistance and resources to orga-
9 nizations that are committed to promoting such ob-
10 jectives; and

11 (3) to work with other countries and inter-
12 national organizations to increase the resources de-
13 voted to promoting such objectives.

14 (c) STRATEGY.—Not later than 180 days after the
15 date of enactment of this Act, the Secretary of State shall
16 submit to Congress a strategy to promote the policy of
17 the United States set out in subsection (b). Such strategy
18 shall describe how funds appropriated pursuant to the au-
19 thorization of appropriations in subsection (d) will be
20 used.

21 (d) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—There are authorized to be
23 appropriated to the President for the “Economic
24 Support Fund” for activities carried out under chap-
25 ter 4 of part II of the Foreign Assistance Act of

1 1961 (22 U.S.C. 2346 et seq.) to promote the policy
2 of the United States set out in subsection (b)—

3 (A) for fiscal year 2006, \$500,000,000;
4 and

5 (B) for fiscal years 2007 and 2008, such
6 sums as may be necessary.

7 (2) SENSE OF CONGRESS ON USE OF FUNDS.—

8 It is the sense of Congress that a substantial portion
9 of the funds appropriated pursuant to the authoriza-
10 tion of appropriations in paragraph (1) should be
11 made available to non-governmental organizations
12 that have a record of success working in the coun-
13 tries of the Middle East, Central Asia, South Asia,
14 and Southeast Asia to support democratic parties,
15 human rights organizations, independent media, and
16 the efforts to promote the rights of women.

17 (3) ADDITIONAL FUNDS.—Amounts authorized
18 to be appropriated in paragraph (1) are in addition
19 to amounts otherwise available for such purposes.

20 **SEC. 212. MIDDLE EAST FOUNDATION.**

21 (a) PURPOSES.—The purposes of this section are to
22 support, through the provision of grants, technical assist-
23 ance, training, and other programs, in the countries of the
24 Middle East, the expansion of—

25 (1) civil society;

1 (2) opportunities for political participation for
2 all citizens;

3 (3) protections for internationally recognized
4 human rights, including the rights of women;

5 (4) educational system reforms;

6 (5) independent media;

7 (6) policies that promote economic opportunities
8 for citizens;

9 (7) the rule of law; and

10 (8) democratic processes of government.

11 (b) MIDDLE EAST FOUNDATION.—

12 (1) DESIGNATION.—The Secretary of State is
13 authorized to designate an appropriate private, non-
14 profit organization that is organized or incorporated
15 under the laws of the United States or of a State
16 as the Middle East Foundation (referred to in this
17 section as the “Foundation”).

18 (2) FUNDING.—The Secretary of State is au-
19 thorized to provide funding to the Foundation
20 through the Middle East Partnership Initiative of
21 the Department of State. The Foundation shall use
22 amounts provided under this paragraph to carry out
23 the purposes of this section, including through mak-
24 ing grants and providing other assistance to entities
25 to carry out programs for such purposes.

1 (3) NOTIFICATION TO CONGRESSIONAL COMMIT-
2 TEES.—The Secretary of State shall notify the Com-
3 mittee on Foreign Relations of the Senate and the
4 Committee on International Relations of the House
5 of Representatives prior to designating an appro-
6 priate organization as the Foundation.

7 (c) GRANTS FOR PROJECTS.—

8 (1) FOUNDATION TO MAKE GRANTS.—The Sec-
9 retary of State shall enter into an agreement with
10 the Foundation that requires the Foundation to use
11 the funds provided under subsection (b)(2) to make
12 grants to persons (other than governments or gov-
13 ernment entities) located in the Middle East or
14 working with local partners based in the Middle
15 East to carry out projects that support the purposes
16 specified in subsection (a).

17 (2) CENTER FOR PUBLIC POLICY.—Under the
18 agreement described in paragraph (1), the Founda-
19 tion may make a grant to an institution of higher
20 education located in the Middle East to create a cen-
21 ter for public policy for the purpose of permitting
22 scholars and professionals from the countries of the
23 Middle East and from other countries, including the
24 United States, to carry out research, training pro-
25 grams, and other activities to inform public policy-

1 making in the Middle East and to promote broad
2 economic, social, and political reform for the people
3 of the Middle East.

4 (3) APPLICATIONS FOR GRANTS.—An entity
5 seeking a grant from the Foundation under this sec-
6 tion shall submit an application to the head of the
7 Foundation at such time, in such manner, and in-
8 cluding such information as the head of the Founda-
9 tion may reasonably require.

10 (d) PRIVATE CHARACTER OF THE FOUNDATION.—

11 Nothing in this section shall be construed to—

12 (1) make the Foundation an agency or estab-
13 lishment of the United States Government, or to
14 make the officers or employees of the Foundation of-
15 ficers or employees of the United States for purposes
16 of title 5, United States Code; or

17 (2) to impose any restriction on the Founda-
18 tion's acceptance of funds from private and public
19 sources in support of its activities consistent with
20 the purposes of this section.

21 (e) LIMITATION ON PAYMENTS TO FOUNDATION

22 PERSONNEL.—No part of the funds provided to the Foun-
23 dation under this section shall inure to the benefit of any
24 officer or employee of the Foundation, except as salary
25 or reasonable compensation for services.

1 (f) RETENTION OF INTEREST.—The Foundation may
2 hold funds provided under this section in interest-bearing
3 accounts prior to the disbursement of such funds to carry
4 out the purposes of this section, and may retain for use
5 for such purposes any interest earned without returning
6 such interest to the Treasury of the United States and
7 without further appropriation by Congress.

8 (g) FINANCIAL ACCOUNTABILITY.—

9 (1) INDEPENDENT PRIVATE AUDITS OF THE
10 FOUNDATION.—The accounts of the Foundation
11 shall be audited annually in accordance with gen-
12 erally accepted auditing standards by independent
13 certified public accountants or independent licensed
14 public accountants certified or licensed by a regu-
15 latory authority of a State or other political subdivi-
16 sion of the United States. The report of the inde-
17 pendent audit shall be included in the annual report
18 required by subsection (h).

19 (2) GAO AUDITS.—The financial transactions
20 undertaken pursuant to this section by the Founda-
21 tion may be audited by the General Accounting Of-
22 fice in accordance with such principles and proce-
23 dures and under such rules and regulations as may
24 be prescribed by the Comptroller General of the
25 United States.

1 (3) AUDITS OF GRANT RECIPIENTS.—

2 (A) IN GENERAL.—A recipient of a grant
3 from the Foundation shall agree to permit an
4 audit of the books and records of such recipient
5 related to the use of the grant funds.

6 (B) RECORDKEEPING.—Such recipient
7 shall maintain appropriate books and records to
8 facilitate an audit referred to subparagraph
9 (A), including—

10 (i) separate accounts with respect to
11 the grant funds;

12 (ii) records that fully disclose the use
13 of the grant funds;

14 (iii) records describing the total cost
15 of any project carried out using grant
16 funds; and

17 (iv) the amount and nature of any
18 funds received from other sources that
19 were combined with the grant funds to
20 carry out a project.

21 (h) ANNUAL REPORTS.—Not later than January 31,
22 2006, and annually thereafter, the Foundation shall sub-
23 mit to Congress and make available to the public an an-
24 nual report that includes, for the fiscal year prior to the

1 fiscal year in which the report is submitted, a comprehen-
 2 sive and detailed description of—

3 (1) the operations and activities of the Founda-
 4 tion that were carried out using funds provided
 5 under this section;

6 (2) grants made by the Foundation to other en-
 7 tities with funds provided under this section;

8 (3) other activities of the Foundation to further
 9 the purposes of this section; and

10 (4) the financial condition of the Foundation.

11 **Subtitle C—Restoring American**
 12 **Moral Leadership**

13 **SEC. 221. ADVANCING UNITED STATES INTERESTS**
 14 **THROUGH PUBLIC DIPLOMACY.**

15 (a) FINDINGS.—Congress makes the following find-
 16 ings:

17 (1) The United States needs to improve its
 18 communication of information and ideas to people in
 19 foreign countries, particularly in countries with sig-
 20 nificant Muslim populations.

21 (2) Public diplomacy should reaffirm the para-
 22 mount commitment of the United States to demo-
 23 cratic principles, including preserving the civil lib-
 24 erties of all the people of the United States, includ-
 25 ing Muslim-Americans.

1 (3) The report of the National Commission on
2 Terrorist Attacks Upon the United States stated
3 that, “Recognizing that Arab and Muslim audiences
4 rely on satellite television and radio, the government
5 has begun some promising initiatives in television
6 and radio broadcasting to the Arab world, Iran, and
7 Afghanistan. These efforts are beginning to reach
8 large audiences. The Broadcasting Board of Gov-
9 ernors has asked for much larger resources. It
10 should get them.”.

11 (4) A significant expansion of United States
12 international broadcasting would provide a cost-ef-
13 fective means of improving communication with
14 countries with significant Muslim populations by
15 providing news, information, and analysis, as well as
16 cultural programming, through both radio and tele-
17 vision broadcasts.

18 (b) SPECIAL AUTHORITY FOR SURGE CAPACITY.—
19 The United States International Broadcasting Act of 1994
20 (22 U.S.C. 6201 et seq.) is amended by adding at the end
21 the following new section:

22 **“SEC. 316. SPECIAL AUTHORITY FOR SURGE CAPACITY.**

23 “(a) EMERGENCY AUTHORITY.—

24 “(1) IN GENERAL.—Whenever the President de-
25 termines it to be important to the national interests

1 of the United States and so certifies to the appro-
2 priate congressional committees, the President, on
3 such terms and conditions as the President may de-
4 termine, is authorized to direct any department,
5 agency, or other entity of the United States to fur-
6 nish the Broadcasting Board of Governors with such
7 assistance as may be necessary to provide inter-
8 national broadcasting activities of the United States
9 with a surge capacity to support United States for-
10 eign policy objectives during a crisis abroad.

11 “(2) SUPERSEDES EXISTING LAW.—The au-
12 thority of paragraph (1) supersedes any other provi-
13 sion of law.

14 “(3) SURGE CAPACITY DEFINED.—In this sub-
15 section, the term ‘surge capacity’ means the finan-
16 cial and technical resources necessary to carry out
17 broadcasting activities in a geographical area during
18 a crisis.

19 “(b) AUTHORIZATION OF APPROPRIATIONS.—

20 “(1) IN GENERAL.—There are authorized to be
21 appropriated to the President such sums as may be
22 necessary for the President to carry out this section,
23 except that no such amount may be appropriated
24 which, when added to amounts previously appro-

1 appropriated for such purpose but not yet obligated,
2 would cause such amounts to exceed \$25,000,000.

3 “(2) AVAILABILITY OF FUNDS.—Amounts ap-
4 propriated pursuant to the authorization of appro-
5 priations in this subsection are authorized to remain
6 available until expended.

7 “(3) DESIGNATION OF APPROPRIATIONS.—
8 Amounts appropriated pursuant to the authorization
9 of appropriations in this subsection may be referred
10 to as the ‘United States International Broadcasting
11 Surge Capacity Fund’.”.

12 (c) REPORT.—An annual report submitted to the
13 President and Congress by the Broadcasting Board of
14 Governors under section 305(a)(9) of the United States
15 International Broadcasting Act of 1994 (22 U.S.C.
16 6204(a)(9)) shall provide a detailed description of any ac-
17 tivities carried out under section 316 of such Act, as added
18 by subsection (b).

19 (d) AUTHORIZATION OF APPROPRIATIONS FOR
20 UNITED STATES INTERNATIONAL BROADCASTING ACTIVI-
21 TIES.—

22 (1) IN GENERAL.—In addition to amounts oth-
23 erwise available for such purposes, the following
24 amounts are authorized to be appropriated to carry
25 out United States Government broadcasting activi-

1 ties under the United States Information and Edu-
2 cational Exchange Act of 1948 (22 U.S.C. 1431 et
3 seq.), the United States International Broadcasting
4 Act of 1994 (22 U.S.C. 6201 et seq.), the Foreign
5 Affairs Reform and Restructuring Act of 1998 (as
6 enacted in division G of the Omnibus Consolidated
7 and Emergency Supplemental Appropriations Act,
8 1999; Public Law 105–277), and this Act, and to
9 carry out other authorities in law consistent with
10 such purposes:

11 (A) INTERNATIONAL BROADCASTING OPER-
12 ATIONS.—For “International Broadcasting Op-
13 erations”, \$497,000,000 for the fiscal year
14 2006.

15 (B) BROADCASTING CAPITAL IMPROVE-
16 MENTS.—For “Broadcasting Capital Improve-
17 ments”, \$70,000,000 for the fiscal year 2006.

18 (2) AVAILABILITY OF FUNDS.—Amounts appro-
19 priated pursuant to the authorization of appropria-
20 tions in this section are authorized to remain avail-
21 able until expended.

22 **SEC. 222. DEPARTMENT OF STATE PUBLIC DIPLOMACY**
23 **PROGRAMS.**

24 (a) UNITED STATES EDUCATIONAL, CULTURAL, AND
25 PUBLIC DIPLOMACY PROGRAMS.—There are authorized to

1 be appropriated for the Department of State to carry out
2 public diplomacy programs of the Department under the
3 United States Information and Educational Exchange Act
4 of 1948, the Mutual Educational and Cultural Exchange
5 Act of 1961, Reorganization Plan Number 2 of 1977, the
6 Foreign Affairs Reform and Restructuring Act of 1998,
7 the Center for Cultural and Technical Interchange Be-
8 tween East and West Act of 1960, the Dante B. Fascell
9 North-South Center Act of 1991, and the National En-
10 dowment for Democracy Act, and to carry out other au-
11 thorities in law consistent with the purposes of such Acts
12 for “Educational and Cultural Exchange Programs”,
13 \$500,000,000 for the fiscal year 2006.

14 (b) ADMINISTRATION OF FOREIGN AFFAIRS.—

15 The are authorized to be appropriated for the De-
16 partment of State under “Administration of Foreign Af-
17 fairs” to carry out the authorities, functions, duties, and
18 responsibilities in the conduct of foreign affairs of the
19 United States, and for other purposes authorized by law
20 for “Diplomatic and Consular Programs”, \$500,000,000
21 for the fiscal year 2006, which shall only be available for
22 public diplomacy international information programs.

1 **SEC. 223. TREATMENT OF DETAINEES.**

2 (a) FINDINGS.—Consistent with the report of the Na-
3 tional Commission on Terrorist Attacks Upon the United
4 States, Congress makes the following findings:

5 (1) Carrying out the global war on terrorism re-
6 quires the development of policies with respect to the
7 detention and treatment of captured international
8 terrorists that are adhered to by all coalition forces.

9 (2) Article 3 of the Convention Relative to the
10 Treatment of Prisoners of War, done at Geneva Au-
11 gust 12, 1949 (6 UST 3316), was specifically de-
12 signed for cases in which the usual rules of war do
13 not apply, and the minimum standards of treatment
14 pursuant to such Article are generally accepted
15 throughout the world as customary international
16 law.

17 (b) POLICY.—The policy of the United States is as
18 follows:

19 (1) It is the policy of the United States to treat
20 all foreign persons captured, detained, interned, or
21 otherwise held in the custody of the United States
22 (hereinafter “detainees”) humanely and in accord-
23 ance with the legal obligations under United States
24 law and international law, including the obligations
25 in the Convention Against Torture and in the min-

1 imum standards set forth in the Geneva Conven-
2 tions.

3 (2) It is the policy of the United States that all
4 officials of the United States are bound both in war-
5 time and in peacetime by the legal prohibitions
6 against torture, cruel, inhumane, or degrading treat-
7 ment set out in the Constitution, laws, and treaties
8 of the United States.

9 (3) If there is any doubt as to whether a de-
10 tainee is entitled to the protections afforded by the
11 Geneva Conventions, it is the policy of the United
12 States that such detainee shall enjoy the protections
13 of the Convention Relative to the Treatment of Pris-
14 oners of War, done at Geneva August 12, 1949 (6
15 UST 3316) until such time as the detainee's status
16 can be determined pursuant to the procedures au-
17 thorized by Army Regulation 190-8, Section 1-6.

18 (4) It is the policy of the United States to pro-
19 vide individualized hearings for all detainees for the
20 purpose of expeditiously holding detainees account-
21 able for violations of the law of war, other relevant
22 international prohibitions, or criminal laws alleged to
23 have been committed by such detainees or to expedi-
24 tiously conduct intelligence debriefings of such de-
25 tainees.

1 (5) It is the policy of the United States to avoid
2 the indefinite detention of any individual in a man-
3 ner which is contrary to the legal principles and se-
4 curity interests of the United States.

5 (c) REPORTING.—The Secretary shall submit to the
6 appropriate congressional committees:

7 (1) A quarterly report providing the number of
8 detainees who were denied prisoner of war status
9 under the Geneva Conventions and the basis for de-
10 nying such status to each such detainee.

11 (2) Not later than 180 days after the date of
12 enactment of this Act, a report setting forth—

13 (A) the proposed schedule for military
14 commissions to be held at Guantanamo Bay,
15 Cuba; and

16 (B) the number of individuals currently
17 held at Guantanamo Bay, Cuba, the number of
18 such individuals who are unlikely to face a mili-
19 tary commission in the next six months, and
20 each reason for not bringing such individuals
21 before a military commission.

22 (3) Not later than 15 days after the date of en-
23 actment of this Act, all International Committee of
24 the Red Cross reports, completed prior to the date
25 of enactment of this Act, concerning the treatment

1 of detainees in United States custody at Guanta-
2 namo Bay, Cuba, Iraq, and Afghanistan. Such re-
3 ports should be provided, in classified form.

4 (4) Not later than 90 days after the date of en-
5 actment of this Act, a report setting forth all inter-
6 rogation techniques approved, as of the date of en-
7 actment of this Act, by officials of the United States
8 for use with detainees.

9 (d) ANNUAL TRAINING REQUIREMENT.—The Sec-
10 retary of Defense shall certify to the appropriate congres-
11 sional committees, not later than June 1 of each year, that
12 all Federal employees and civilian contractors engaged in
13 the handling or interrogating of detainees have fulfilled
14 an annual training requirement on the laws of war, the
15 Geneva Conventions, the Convention Against Torture, and
16 the obligations of the United States under international
17 humanitarian law.

18 (e) PROHIBITION ON TORTURE OR CRUEL, INHU-
19 MANE, OR DEGRADING TREATMENT OR PUNISHMENT.—

20 (1) IN GENERAL.—No detainee shall be subject
21 to torture or cruel, inhumane, or degrading treat-
22 ment or punishment that is prohibited by the Con-
23 stitution, laws, or treaties of the United States.

24 (2) RELATIONSHIP TO GENEVA CONVEN-
25 TIONS.—Nothing in this section shall affect the sta-

1 tus of any person under the Geneva Conventions or
2 whether any person is entitled to the protections of
3 the Geneva Conventions.

4 (f) RULES, REGULATIONS, AND GUIDELINES.—

5 (1) REQUIREMENT.—Not later than 180 days
6 after the date of enactment of this Act, the Sec-
7 retary and the Director shall prescribe the rules,
8 regulations, or guidelines necessary to ensure com-
9 pliance with the prohibition in subsection (e)(1) by
10 all personnel of the United States Government and
11 by any person providing services to the United
12 States Government on a contract basis.

13 (2) REPORT TO CONGRESS.—The Secretary and
14 the Director shall submit to Congress the rules, reg-
15 ulations, or guidelines prescribed under paragraph
16 (1), and any modifications to such rules, regulations,
17 or guidelines—

18 (A) not later than 30 days after the effec-
19 tive date of such rules, regulations, guidelines,
20 or modifications; and

21 (B) in a manner and form that will protect
22 the national security interests of the United
23 States.

24 (g) REPORTS ON POSSIBLE VIOLATIONS.—

1 (1) REQUIREMENT.—The Secretary and the Di-
2 rector shall each submit, on a timely basis and not
3 less than twice each year, a report to Congress on
4 the circumstances surrounding, and a status report
5 on, any investigation of a possible violation of the
6 prohibition in subsection (e)(1) by United States
7 Government personnel or by a person providing serv-
8 ices to the United States Government on a contract
9 basis.

10 (2) FORM OF REPORT.—A report required
11 under paragraph (1) shall be submitted in a manner
12 and form that—

13 (A) will protect the national security inter-
14 ests of the United States; and

15 (B) will not prejudice any prosecution of
16 an individual alleged to have violated the prohi-
17 bition in subsection (e)(1).

18 (h) DEFINITIONS.—In this section:

19 (1) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES.—The term “appropriate congressional com-
21 mittees” means the Committee on Armed Services,
22 the Committee on the Judiciary, and the Committee
23 on Foreign Relations of the Senate and the Com-
24 mittee on Armed Services, the Committee on the Ju-

1 diciary, and the Committee on International Rela-
2 tions of the House of Representatives.

3 (2) CONVENTION AGAINST TORTURE.—The
4 term “Convention Against Torture” means the Con-
5 vention Against Torture and Other Cruel, Inhuman
6 or Degrading Treatment or Punishment, done at
7 New York December 10, 1984.

8 (3) DIRECTOR.—The term “Director” means
9 the Director of National Intelligence.

10 (4) GENEVA CONVENTIONS.—The term “Gene-
11 va Conventions” means—

12 (A) the Convention for the Amelioration of
13 the Condition of the Wounded and Sick in
14 Armed Forces in the Field, done at Geneva Au-
15 gust 12, 1949 (6 UST 3114);

16 (B) the Convention for the Amelioration of
17 the Condition of the Wounded, Sick, and Ship-
18 wrecked Members of Armed Forces at Sea,
19 done at Geneva August 12, 1949 (6 UST
20 3217);

21 (C) the Convention Relative to the Treat-
22 ment of Prisoners of War, done at Geneva Au-
23 gust 12, 1949 (6 UST 3316); and

1 (D) the Convention Relative to the Protec-
2 tion of Civilian Persons in Time of War, done
3 at Geneva August 12, 1949 (6 UST 3516).

4 (5) SECRETARY.—The term “Secretary” means
5 the Secretary of Defense.

6 (6) TORTURE.—The term “torture” has the
7 meaning given that term in section 2340 of title 18,
8 United States Code.

9 **SEC. 224. NATIONAL COMMISSION TO REVIEW POLICY RE-**
10 **GARDING THE TREATMENT OF DETAINEES.**

11 (a) ESTABLISHMENT OF COMMISSION.—There is es-
12 tablished the National Commission To Review Policy Re-
13 garding the Treatment of Detainees.

14 (b) PURPOSES.—The purposes of the Commission are
15 as follows:

16 (1) To examine and report upon the role of pol-
17 icymakers in the development of intelligence related
18 to the treatment of individuals detained during Op-
19 eration Iraqi Freedom or Operation Enduring Free-
20 dom.

21 (2) To examine and report on the impact of the
22 abuse of prisoners by the United States personnel on
23 the security of the Armed Forces of the United
24 States.

1 (3) To build upon the reviews of the policies of
2 the United States related to the treatment of indi-
3 viduals detained by the United States, including
4 such reviews conducted by the executive branch,
5 Congress, or other entities.

6 (c) COMPOSITION OF THE COMMISSION.—

7 (1) MEMBERS.—The Commission shall be com-
8 posed of 15 members, of whom—

9 (A) 3 members shall be appointed by the
10 majority leader of the Senate;

11 (B) 3 members shall be appointed by the
12 Speaker of the House of Representatives;

13 (C) 3 members shall be appointed by the
14 minority leader of the Senate;

15 (D) 3 members shall be appointed by the
16 minority leader of the House of Representa-
17 tives;

18 (E) 1 member shall be appointed by the
19 Judge Advocate General of the Army;

20 (F) 1 member shall be appointed by the
21 Judge Advocate General of the Navy; and

22 (G) 1 member shall be appointed by the
23 Judge Advocate General of the Air Force.

24 (2) CHAIRPERSON; VICE CHAIRPERSON.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), the Chairperson and Vice Chair-
3 person of the Commission shall be elected by
4 the members.

5 (B) POLITICAL PARTY AFFILIATION.—The
6 Chairperson and Vice Chairperson may not be
7 from the same political party.

8 (3) INITIAL MEETING.—Once 9 or more mem-
9 bers of the Commission have been appointed, those
10 members who have been appointed may meet and, if
11 necessary, select a temporary chairperson, who may
12 begin the operations of the Commission, including
13 the hiring of staff.

14 (4) QUORUM; VACANCIES.—After its initial
15 meeting, the Commission shall meet upon the call of
16 the Chairperson or a majority of its members. Eight
17 members of the Commission shall constitute a
18 quorum. Any vacancy in the Commission shall not
19 affect its powers, but shall be filled in the same
20 manner in which the original appointment was
21 made.

22 (5) SENSE OF CONGRESS ON QUALIFICATIONS
23 OF COMMISSION MEMBERS.—It is the sense of Con-
24 gress that individuals appointed to the Commission
25 should be prominent United States citizens, with na-

1 tional recognition and significant depth of experience
2 in the fields of intelligence, law enforcement, or for-
3 eign affairs, or experience serving the United States
4 Government, including service in the Armed Forces.

5 (d) FUNCTIONS OF THE COMMISSION.—The func-
6 tions of the Commission are—

7 (1) to conduct an investigation that—

8 (A) investigates the development of policy
9 relating to individuals detained during Oper-
10 ation Iraqi Freedom or Operation Enduring
11 Freedom;

12 (B) determines whether the United States
13 policy related to the treatment of detained indi-
14 viduals has adversely affected the security of
15 the members of the Armed Forces of the
16 United States;

17 (C) determines whether and to what extent
18 the incidences of abuse of detained individuals
19 has affected the standing of the United States
20 in the world;

21 (D) determines whether and to what extent
22 leaders of the United States Armed Forces were
23 given the opportunity to comment on and influ-
24 ence policy relating to treatment of detained in-
25 dividuals; and

1 (E) determines whether and to what extent
2 policy relating to the treatment of individuals
3 detained during Operation Iraqi Freedom or
4 Operation Enduring Freedom differed from the
5 policies and practices regarding detainees estab-
6 lished by the Armed Forces prior to such oper-
7 ations; and

8 (2) to submit to the President and Congress
9 such report as is required by this section containing
10 such findings, conclusions, and recommendations as
11 the Commission shall determine, including proposing
12 organization, coordination, planning, management
13 arrangements, procedures, rules, and regulations.

14 (e) POWERS OF THE COMMISSION.—

15 (1) IN GENERAL.—

16 (A) HEARINGS AND EVIDENCE.—The
17 Commission or, on the authority of the Com-
18 mission, any subcommittee or member thereof,
19 may, for the purpose of carrying out this sec-
20 tion—

21 (i) hold such hearings and sit and act
22 at such times and places, take such testi-
23 mony, receive such evidence, administer
24 such oaths; and

1 (ii) require, by subpoena or otherwise,
2 the attendance and testimony of such wit-
3 nesses and the production of such books,
4 records, correspondence, memoranda, ca-
5 bles, electronic messages, papers, and doc-
6 uments, as the Commission or such des-
7 ignated subcommittee or designated mem-
8 ber may determine advisable.

9 (B) SUBPOENAS.—

10 (i) ISSUANCE.—Subpoenas issued
11 under subparagraph (A)(ii) may be issued
12 under the signature of the Chairperson of
13 the Commission, the Vice Chairperson of
14 the Commission, the chairperson of any
15 subcommittee created by a majority of the
16 Commission, or any member designated by
17 a majority of the Commission, and may be
18 served by any person designated by the
19 Chairperson, subcommittee chairperson, or
20 member.

21 (ii) ENFORCEMENT.—

22 (I) IN GENERAL.—In the case of
23 contumacy or failure to obey a sub-
24 poena issued under subparagraph
25 (A)(ii), the United States district

1 court for the judicial district in which
2 the subpoenaed person resides, is
3 served, or may be found, or where the
4 subpoena is returnable, may issue an
5 order requiring such person to appear
6 at any designated place to testify or
7 to produce documentary or other evi-
8 dence. Any failure to obey the order of
9 the court may be punished by the
10 court as a contempt of that court.

11 (II) ADDITIONAL ENFORCE-
12 MENT.—In the case of any failure of
13 any witness to comply with any sub-
14 poena or to testify when summoned
15 under authority of this section, the
16 Commission may, by majority vote,
17 certify a statement of fact consti-
18 tuting such failure to the appropriate
19 United States attorney, who may
20 bring the matter before the grand
21 jury for its action, under the same
22 statutory authority and procedures as
23 if the United States attorney had re-
24 ceived a certification under sections
25 102 through 104 of the Revised Stat-

1 utes of the United States (2 U.S.C.
2 192 through 194).

3 (2) CLOSED MEETINGS.—

4 (A) IN GENERAL.—Meetings of the Com-
5 mission may be closed to the public under sec-
6 tion 10(d) of the Federal Advisory Committee
7 Act (5 U.S.C. App.) or other applicable law.

8 (B) ADDITIONAL AUTHORITY.—In addition
9 to the authority under subparagraph (A), sec-
10 tion 10(a)(1) and (3) of the Federal Advisory
11 Committee Act (5 U.S.C. App.) shall not apply
12 to any portion of a Commission meeting if the
13 President determines that such portion or por-
14 tions of that meeting is likely to disclose mat-
15 ters that could endanger national security. If
16 the President makes such determination, the re-
17 quirements relating to a determination under
18 section 10(d) of that Act shall apply.

19 (3) CONTRACTING.—The Commission may, to
20 such extent and in such amounts as are provided in
21 appropriation Acts, enter into contracts to enable
22 the Commission to discharge its duties under this
23 section.

24 (4) INFORMATION FROM FEDERAL AGENCIES.—

25 The Commission is authorized to secure directly

1 from any executive department, bureau, agency,
2 board, commission, office, independent establish-
3 ment, or instrumentality of the Government infor-
4 mation, suggestions, estimates, and statistics for the
5 purposes of this section. Each department, bureau,
6 agency, board, commission, office, independent es-
7 tablishment, or instrumentality shall, to the extent
8 authorized by law, furnish such information, sugges-
9 tions, estimates, and statistics directly to the Com-
10 mission, upon request made by the Chairperson, the
11 chairperson of any subcommittee created by a ma-
12 jority of the Commission, or any member designated
13 by a majority of the Commission.

14 (5) ASSISTANCE FROM FEDERAL AGENCIES.—

15 (A) GENERAL SERVICES ADMINISTRA-
16 TION.—The Administrator of General Services
17 shall provide to the Commission on a reimburs-
18 able basis administrative support and other
19 services for the performance of the Commis-
20 sion's functions.

21 (B) OTHER DEPARTMENTS AND AGEN-
22 CIES.—In addition to the assistance prescribed
23 in subparagraph (A), departments and agencies
24 of the United States are authorized to provide
25 to the Commission such services, funds, facili-

1 ties, staff, and other support services as they
2 may determine advisable and as may be author-
3 ized by law.

4 (6) GIFTS.—The Commission may accept, use,
5 and dispose of gifts or donations of services or prop-
6 erty.

7 (7) POSTAL SERVICES.—The Commission may
8 use the United States mails in the same manner and
9 under the same conditions as departments and agen-
10 cies of the United States.

11 (f) STAFF OF THE COMMISSION.—

12 (1) APPOINTMENT AND COMPENSATION.—The
13 Chairperson and Vice Chairperson, in accordance
14 with rules agreed upon by the Commission, may ap-
15 point and fix the compensation of a staff director
16 and such other personnel as may be necessary to en-
17 able the Commission to carry out its functions, with-
18 out regard to the provisions of title 5, United States
19 Code, governing appointments in the competitive
20 service, and without regard to the provisions of
21 chapter 51 and subchapter III of chapter 53 of such
22 title relating to classification and General Schedule
23 pay rates, except that no rate of pay fixed under this
24 subsection may exceed the equivalent of that payable

1 for a position at level V of the Executive Schedule
2 under section 5316 of title 5, United States Code.

3 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

4 (A) IN GENERAL.—The executive director
5 and any personnel of the Commission who are
6 employees shall be employees under section
7 2105 of title 5, United States Code, for pur-
8 poses of chapters 63, 81, 83, 84, 85, 87, 89,
9 and 90 of that title.

10 (B) MEMBERS OF COMMISSION.—Subpara-
11 graph (A) shall not be construed to apply to a
12 member of the Commission.

13 (3) DETAILEES.—Any Federal Government em-
14 ployee may be detailed to the Commission without
15 reimbursement from the Commission, and such
16 detailee shall retain the rights, status, and privileges
17 of his or her regular employment without interrup-
18 tion.

19 (4) CONSULTANT SERVICES.—The Commission
20 is authorized to procure the services of experts and
21 consultants in accordance with section 3109 of title
22 5, United States Code, but at rates not to exceed the
23 daily rate paid a person occupying a position at level
24 IV of the Executive Schedule under section 5315 of
25 title 5, United States Code.

1 (g) COMPENSATION AND TRAVEL EXPENSES.—

2 (1) COMPENSATION.—Each member of the
3 Commission may be compensated at not to exceed
4 the daily equivalent of the annual rate of basic pay
5 in effect for a position at level IV of the Executive
6 Schedule under section 5315 of title 5, United
7 States Code, for each day during which that member
8 is engaged in the actual performance of the duties
9 of the Commission.

10 (2) TRAVEL EXPENSES.—While away from
11 their homes or regular places of business in the per-
12 formance of services for the Commission, members
13 of the Commission shall be allowed travel expenses,
14 including per diem in lieu of subsistence, in the
15 same manner as persons employed intermittently in
16 the Government service are allowed expenses under
17 section 5703(b) of title 5, United States Code.

18 (h) SECURITY CLEARANCES FOR COMMISSION MEM-
19 BERS AND STAFF.—The appropriate departments and
20 agencies of the Government shall cooperate with the Com-
21 mission in expeditiously providing to the Commission
22 members and staff appropriate security clearances in a
23 manner consistent with existing procedures and require-
24 ments, except that no person shall be provided with access

1 to classified information under this section who would not
2 otherwise qualify for such security clearance.

3 (i) REPORT OF THE COMMISSION.—Not later than 9
4 months after the date of the first meeting of the Commis-
5 sion, the Commission shall submit to the President and
6 Congress a report containing such findings, conclusions,
7 and recommendations as have been agreed to by a major-
8 ity of Commission members.

9 (j) TERMINATION.—

10 (1) TERMINATION.—The Commission, and all
11 the authorities of this section, shall terminate 60
12 days after the date on which the report is submitted
13 under subsection (i).

14 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
15 MINATION.—The Commission may use the 60-day
16 period referred to in paragraph (1) for the purpose
17 of concluding its activities, including providing testi-
18 mony to committees of Congress concerning its re-
19 ports and disseminating the second report.

20 (k) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to the Commission to
22 carry out this section \$5,000,000, to remain available
23 until expended.

1 **Subtitle D—Strategy for the United**
2 **States Relationship With Af-**
3 **ghanistan, Pakistan, and Saudi**
4 **Arabia**

5 **SEC. 231. AFGHANISTAN.**

6 (a) AFGHANISTAN FREEDOM SUPPORT ACT OF
7 2002.—Section 108(a) the Afghanistan Freedom Support
8 Act of 2002 (22 U.S.C. 7518(a)) is amended by striking
9 “such sums as may be necessary for each of the fiscal
10 years 2005 and 2006” and inserting “\$2,400,000,000 for
11 fiscal year 2006 and such sums as may be necessary for
12 each of the fiscal years 2007 and 2008”.

13 (b) OTHER AUTHORIZATIONS OF APPROPRIA-
14 TIONS.—

15 (1) FISCAL YEAR 2006.—There are authorized
16 to be appropriated to the President for providing as-
17 sistance for Afghanistan in a manner consistent with
18 the provisions of the Afghanistan Freedom Support
19 Act of 2002 (22 U.S.C. 7501 et seq.) for fiscal year
20 2006—

21 (A) for “International Military Education
22 and Training”, \$1,000,000 to carry out the
23 provisions of section 541 of the Foreign Assist-
24 ance Act of 1961 (22 U.S.C. 2347);

1 (B) for “Foreign Military Financing Pro-
2 gram” grants, \$444,000,000 to carry out the
3 provisions of section 23 of the Arms Export
4 Control Act (22 U.S.C. 2763); and

5 (C) for “Peacekeeping Operations”,
6 \$30,000,000 to carry out the provisions of sec-
7 tion 551 of the Foreign Assistance Act of 1961
8 (22 U.S.C. 2348).

9 (2) FISCAL YEARS 2007 AND 2008.—

10 (A) AUTHORIZATION OF APPROPRIA-
11 TION.—There are authorized to be appropriated
12 for each of the purposes described in subpara-
13 graphs (A) through (C) of paragraph (1) such
14 sums as may be necessary for each of the fiscal
15 years 2007 and 2008.

16 (B) SENSE OF CONGRESS.—It is the sense
17 of Congress that the amount appropriated for
18 each purpose described in subparagraphs (A)
19 through (C) of paragraph (1) for each of the
20 fiscal years 2007 and 2008 should be an
21 amount that is equal to 125 percent of the
22 amount appropriated for such purpose during
23 the preceding fiscal year.

1 (3) OTHER FUNDS.—Amounts authorized to be
2 appropriated under this section are in addition to
3 amounts otherwise available for such purposes.

4 **SEC. 232. PAKISTAN.**

5 (a) FINDINGS.—Congress makes the following find-
6 ings:

7 (1) Since September 11, 2001, the Government
8 of Pakistan has been an important partner in help-
9 ing the United States remove the Taliban regime in
10 Afghanistan and combating international terrorism
11 in the frontier provinces of Pakistan.

12 (2) There remain a number of critical issues
13 that threaten to disrupt the relationship between the
14 United States and Pakistan, undermine inter-
15 national security, and destabilize Pakistan, includ-
16 ing—

17 (A) curbing the proliferation of nuclear
18 weapons technology;

19 (B) combating poverty and corruption;

20 (C) building effective government institu-
21 tions, especially secular public schools;

22 (D) promoting democracy and rule of law,
23 particularly at the national level; and

24 (E) effectively dealing with Islamic extre-
25 mism.

1 (b) POLICY.—It is the policy of the United States—

2 (1) to work with the Government of Pakistan to
3 combat international terrorism, especially in the
4 frontier provinces of Pakistan;

5 (2) to establish a long-term strategic partner-
6 ship with the Government of Pakistan to address the
7 issues described in subparagraphs (A) through (E)
8 of subsection (a)(2);

9 (3) to dramatically increase funding for United
10 States Agency for International Development and
11 Department of State programs that assist Pakistan
12 in addressing such issues, if the Government of
13 Pakistan demonstrates a commitment to building a
14 moderate, democratic state; and

15 (4) to work with the international community to
16 secure additional financial and political support to
17 effectively implement the policies set forth in this
18 subsection and help to resolve the dispute between
19 the Government of Pakistan and the Government of
20 India over the disputed territory of Kashmir.

21 (c) STRATEGY ON PAKISTAN.—

22 (1) REQUIREMENT FOR REPORT ON STRAT-
23 EGY.—Not later than 90 days after the date of en-
24 actment of this Act, the President shall submit to
25 the appropriate congressional committees a report,

1 in classified form if necessary, that describes the
2 long-term strategy of the United States to engage
3 with the Government of Pakistan to address the
4 issues described in subparagraphs (A) through (E)
5 of subsection (a)(2) in order accomplish the goal of
6 building a moderate, democratic Pakistan.

7 (2) APPROPRIATE CONGRESSIONAL COMMIT-
8 TEES DEFINED.—In this subsection the term “ap-
9 propriate congressional committees” means the
10 Committee on Appropriations and the Committee on
11 Foreign Relations in the Senate, and the Committee
12 on Appropriations and the Committee on Inter-
13 national Relations of the House of Representatives.

14 (d) NUCLEAR PROLIFERATION.—

15 (1) FINDING.—Congress finds that Pakistan’s
16 maintenance of a global missile and nuclear pro-
17 liferation network would be inconsistent with Paki-
18 stan being considered an ally of the United States.

19 (2) SENSE OF CONGRESS.—It is the sense of
20 Congress that the national security interest of the
21 United States will best be served if the United
22 States develops and implements a long-term strategy
23 to improve the United States relationship with Paki-
24 stan and works with the Government of Pakistan to
25 stop nuclear proliferation.

1 (3) LIMITATION ON ASSISTANCE TO PAKI-
2 STAN.—None of the funds appropriated for a fiscal
3 year to provide military or economic assistance to
4 the Government of Pakistan may be made available
5 for such purpose unless the President submits to
6 Congress for such fiscal year a certification that no
7 military or economic assistance provided by the
8 United States to the Government of Pakistan will be
9 provided, either directly or indirectly, to a person
10 that is opposing or undermining the efforts of the
11 United States Government to halt the proliferation
12 of nuclear weapons.

13 (e) AUTHORIZATION OF APPROPRIATIONS.—

14 (1) IN GENERAL.—There are authorized to be
15 appropriated to the President for providing assist-
16 ance for Pakistan for fiscal year 2006—

17 (A) for “Development Assistance”,
18 \$50,000,000 to carry out the provisions of sec-
19 tion 103, 105, and 106 of the Foreign Assist-
20 ance Act of 1961 (22 U.S.C. 2151a, 2151c, and
21 2151d.);

22 (B) for the “Child Survival and Health
23 Programs Fund”, \$35,000,000 to carry out the
24 provisions of sections 104 of the Foreign Assist-
25 ance Act of 1961 (22 U.S.C. 2151b);

1 (C) for the “Economic Support Fund”,
2 \$350,000,000 to carry out the provisions of
3 chapter 4 of part II of the Foreign Assistance
4 Act of 1961 (22 U.S.C. 2346 et seq.);

5 (D) for “International Narcotics and Law
6 Enforcement”, \$50,000,000 to carry out the
7 provisions of section 481 of the Foreign Assist-
8 ance Act of 1961 (22 U.S.C. 2291);

9 (E) for “Nonproliferation, Anti-Terrorism,
10 Demining, and Related Programs”,
11 \$10,000,000;

12 (F) for “International Military Education
13 and Training”, \$2,000,000 to carry out the
14 provisions of section 541 of the Foreign Assist-
15 ance Act of 1961 (22 U.S.C. 2347); and

16 (G) for “Foreign Military Financing Pro-
17 gram”, \$300,000,000 grants to carry of the
18 provision of section 23 of the Arms Export
19 Control Act (22 U.S.C. 2763).

20 (2) OTHER FUNDS.—Amounts authorized to be
21 appropriated under this section are in addition to
22 amounts otherwise available for such purposes.

23 **SEC. 233. SAUDI ARABIA.**

24 (a) FINDINGS.—Congress makes the following find-
25 ings:

1 (1) The Kingdom of Saudi Arabia has an un-
2 even record in the fight against terrorism, especially
3 with respect to terrorist financing, support for rad-
4 ical madrassas, and a lack of political outlets for its
5 citizens, that poses a threat to the security of the
6 United States, the international community, and the
7 Kingdom of Saudi Arabia itself.

8 (2) The United States has a national security
9 interest in working with the Government of Saudi
10 Arabia to combat international terrorists that oper-
11 ate within that nation or that operate outside Saudi
12 Arabia with the support of citizens of Saudi Arabia.

13 (3) In order to more effectively combat ter-
14 rorism, the Government of Saudi Arabia must un-
15 dertake a number of political and economic reforms,
16 including increasing anti-terrorism operations con-
17 ducted by law enforcement agencies, providing more
18 political rights to its citizens, increasing the rights
19 of women, engaging in comprehensive educational
20 reform, enhancing monitoring of charitable organiza-
21 tions, promulgating and enforcing domestic laws and
22 regulation on terrorist financing.

23 (b) POLICY.—It is the policy of the United States—

24 (1) to engage with the Government of Saudi
25 Arabia to openly confront the issue of terrorism, as

1 well as other problematic issues such as the lack of
2 political freedoms, with the goal of restructuring the
3 relationship on terms that leaders of both nations
4 can publicly support;

5 (2) to enhance counterterrorism cooperation
6 with the Government of Saudi Arabia, if the political
7 leaders of such Government are committed to mak-
8 ing a serious, sustained effort to combat terrorism;
9 and

10 (3) to support the efforts of the Government of
11 Saudi Arabia to make political, economic, and social
12 reforms throughout the country.

13 (c) STRATEGY ON SAUDI ARABIA.—

14 (1) REQUIREMENT FOR REPORT ON STRAT-
15 EGY.—Not later than 90 days after the date of en-
16 actment of this Act, the President shall submit to
17 the appropriate congressional committees a report,
18 in classified form if necessary, that describes the
19 long-term strategy of the United States—

20 (A) to engage with the Government of
21 Saudi Arabia to facilitate political, economic,
22 and social reforms that will enhance the ability
23 of the Government of Saudi Arabia to combat
24 international terrorism; and

1 (B) to effectively prevent the financing of
2 terrorists in Saudi Arabia.

3 (2) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES DEFINED.—In this subsection the term “ap-
5 propriate congressional committees” means the
6 Committee on Appropriations and the Committee on
7 Foreign Relations in the Senate, and the Committee
8 on Appropriations and the Committee on Inter-
9 national Relations of the House of Representatives.

10 **TITLE III—PROTECTION FROM**
11 **TERRORIST ATTACKS THAT**
12 **UTILIZE NUCLEAR, CHEM-**
13 **ICAL, BIOLOGICAL, AND RADI-**
14 **OLOGICAL WEAPONS**

15 **Subtitle A—Non-Proliferation**
16 **Programs**

17 **SEC. 301. REPEAL OF LIMITATIONS TO THREAT REDUCTION**
18 **ASSISTANCE.**

19 Section 5 of S. 2980 of the 108th Congress (the
20 Nunn-Lugar Cooperative Threat Reduction Act of 2004),
21 as introduced on November 16, 2004, is hereby enacted
22 into law.

23 **SEC. 302. REUSE OF RUSSIAN NUCLEAR FACILITIES.**

24 (a) IN GENERAL.—The Secretary of Energy shall
25 work with the Minister of Atomic Energy of Russia to

1 carry out a program to close or convert to non-defense
2 work one or more nuclear weapons assembly and dis-
3 assembly facilities in Russia.

4 (b) DESIGNATION OF FACILITIES.—The Secretary of
5 Energy and Minister of Atomic Energy of Russia shall
6 jointly designate each facility to be covered by the program
7 under subsection (a).

8 (c) COMMISSIONS TO PROVIDE ADVICE AND REC-
9 OMMENDATIONS.—

10 (1) IN GENERAL.—Not later than two months
11 after the designation of a facility under subsection
12 (b), the Secretary of Energy shall establish a com-
13 mission to provide advice and recommendations on
14 the closure or conversion of the facility to non-de-
15 fense work.

16 (2) COMMISSION MEMBERSHIP.—Each commis-
17 sion established under paragraph (1) shall consist of
18 such personnel, including Russian nationals, as the
19 Secretary considers appropriate for its work. The
20 names of each member of each commission shall be
21 made public upon designation under this paragraph.

22 (3) PERSONNEL MATTERS.—

23 (A) COMPENSATION.—Each member of a
24 commission established under paragraph (1)
25 who is not an officer or employee of the Federal

1 Government shall be compensated at a rate
2 equal to the daily equivalent of the annual rate
3 of basic pay prescribed for level IV of the Exec-
4 utive Schedule under section 5315 of title 5,
5 United States Code, for each day (including
6 travel time) during which such member is en-
7 gaged in the performance of the duties of such
8 commission. All members of a commission who
9 are officers or employees of the United States
10 shall serve without compensation in addition to
11 that received for their services as officers or
12 employees of the United States.

13 (B) TRAVEL EXPENSES.—The members of
14 a commission established under paragraph (1)
15 shall be allowed travel expenses, including per
16 diem in lieu of subsistence, at rates authorized
17 for employees of agencies under subchapter I of
18 chapter 57 of title 5, United States Code, while
19 away from their homes or regular places of
20 business in the performance of services for such
21 commission.

22 (4) FACA.—The Federal Advisory Committee
23 Act (5 U.S.C. App.) shall not apply to any activities
24 of a commission established under paragraph (1).

1 (5) OPEN MEETINGS.—The meetings of any
2 commission under paragraph (1) shall, to the max-
3 imum extent practicable, be open to the public.

4 (d) PROPOSED FACILITY REUSE PLAN.—

5 (1) REQUIREMENT FOR PROPOSED PLAN.—Not
6 later than six months after the designation of a fa-
7 cility under subsection (b), the commission for the
8 facility under subsection (c) shall submit to the Sec-
9 retary of Energy and the Minister of Atomic Energy
10 of Russia a proposed plan on the closure or conver-
11 sion of the facility to non-defense work.

12 (2) ELEMENTS OF PROPOSED PLAN.—A pro-
13 posed plan under paragraph (1) may include one or
14 more of the elements specified in subsection (f).

15 (3) AVAILABILITY OF PROPOSED PLAN.—Any
16 proposed plan submitted under paragraph (1) shall
17 be made public upon its submittal.

18 (e) FINAL FACILITY REUSE PLAN.—

19 (1) REQUIREMENT FOR FINAL PLAN.—Not
20 later than nine months after receiving a proposed
21 plan for a facility under subsection (d), the Sec-
22 retary of Energy and the Minister of Atomic Energy
23 of Russia shall jointly develop a final plan on the
24 closure or conversion of the facility to non-defense
25 work.

1 (2) ELEMENTS OF FINAL PLAN.—A final plan
2 for a facility under paragraph (1) shall include the
3 following:

4 (A) Any of the elements specified in sub-
5 section (f).

6 (B) Assurances of access to the facility
7 necessary to carry out the final plan.

8 (C) Resolution of any matters relating to
9 liability and taxation.

10 (D) An estimate of the costs of the United
11 States, and of Russia, under the final plan.

12 (E) The commitment of Russia to pay at
13 least 15 percent of the costs of the final plan.

14 (F) Milestones for the final plan, including
15 a deadline for the closure or conversion of the
16 facility to non-defense work.

17 (G) Appropriate auditing and accounting
18 mechanisms.

19 (f) PLAN ELEMENTS.—The plan for a facility under
20 subsection (d) or (e) may include one or more of the fol-
21 lowing elements:

22 (1) A retraining program for facility employees.

23 (2) Economic incentives to attract and facilitate
24 commercial ventures in connection with the facility.

25 (3) A site preparation plan.

1 (4) Technical exchange and training programs.

2 (5) The participation of a redevelopment man-
3 ager and of business, legal, financial, or other appro-
4 priate experts.

5 (6) Promotional or marketing plans.

6 (7) Provision for startup funds, loans, or
7 grants, or other venture capital or financing.

8 (g) LIMITATION ON AVAILABILITY OF FUNDS.—No
9 amount authorized to be appropriated by subsection (h)
10 may be available for a facility under the program estab-
11 lished under subsection (a) unless the deadlines for the
12 preparation of the proposed facility reuse plan for the fa-
13 cility under subsection (d) and for the preparation of the
14 final facility reuse plan for the facility under subsection
15 (e) are both met.

16 (h) AUTHORIZATION OF APPROPRIATIONS.—

17 (1) IN GENERAL.—There are authorized to be
18 appropriated to the Department of Energy,
19 \$60,000,000 to carry out this section, of which not
20 more than \$4,000,000 may be available to each com-
21 mission established under subsection (c).

22 (2) AVAILABILITY OF FUNDS.—The amount au-
23 thorized to be appropriated by paragraph (1) shall
24 remain available until expended.

1 **SEC. 303. RUSSIAN TACTICAL NUCLEAR WEAPONS.**

2 (a) REPORT REQUIRED.—Not later than six months
3 after the date of enactment of this Act, the President shall
4 submit to Congress a report setting forth the following:

5 (1) An assessment of the number, location, con-
6 dition, and security of Russian tactical nuclear
7 weapons.

8 (2) An assessment of the threat that would be
9 posed by the theft of Russian tactical nuclear weap-
10 ons.

11 (3) A plan for developing with Russia a cooper-
12 ative program to secure, consolidate, and, as appro-
13 priate, dismantle Russian tactical nuclear weapons.

14 (b) PROGRAM.—The Secretary of Defense and the
15 Secretary of Energy shall jointly work with Russia to es-
16 tablish a cooperative program, based on the report under
17 subsection (a), to secure, consolidate, and, as appropriate,
18 dismantle Russian tactical nuclear weapons in order to
19 achieve reductions in the total number of Russian tactical
20 nuclear weapons.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) DEPARTMENT OF DEFENSE.—There are au-
23 thorized to be appropriated for the Department of
24 Defense, \$25,000,000 to carry out this section.

1 (2) DEPARTMENT OF ENERGY.—There are au-
2 thorized to be appropriated for the Department of
3 Energy, \$25,000,000 to carry out this section.

4 **SEC. 304. ADDITIONAL ASSISTANCE TO ACCELERATE NON-**
5 **PROLIFERATION PROGRAMS.**

6 (a) AUTHORIZATION OF APPROPRIATIONS FOR THE
7 DEPARTMENT OF DEFENSE.—There are authorized to be
8 appropriated to the Department of Defense \$40,000,000
9 for fiscal year 2006 for Cooperative Threat Reduction Ac-
10 tivities as follows:

11 (1) To accelerate security upgrades at warhead
12 storage sites located in Russia or another country of
13 the former Soviet Union, \$15,000,000.

14 (2) To accelerate security upgrades at warhead
15 storage sites located in countries other than the
16 countries of the former Soviet Union, \$10,000,000.

17 (3) To accelerate biological weapons prolifera-
18 tion prevention programs in Kazakhstan, Georgia,
19 and Uzbekistan, \$15,000,000.

20 (b) AUTHORIZATION OF APPROPRIATIONS FOR THE
21 DEPARTMENT OF ENERGY.—There are authorized to be
22 appropriated to the Department of Energy \$95,000,000
23 for fiscal year 2006 for nonproliferation activities of the
24 National Nuclear Security Administration as follows:

1 (1) To accelerate the Global Threat Reduction
2 Initiative, \$20,000,000.

3 (2) To accelerate security upgrades at warhead
4 storage sites located in Russia or another country of
5 the former Soviet Union, \$15,000,000.

6 (3) To accelerate the closure of the plutonium
7 producing reactor at Zheleznogorsk, Russia as part
8 of the program to eliminate weapons grade pluto-
9 nium production, \$25,000,000.

10 (4) To accelerate completion of comprehensive
11 security upgrades at Russian storage sites for weap-
12 ons-usable nuclear materials, \$15,000,000.

13 (c) AUTHORIZATION OF APPROPRIATIONS FOR THE
14 DEPARTMENT OF STATE.—

15 (1) IN GENERAL.—There are authorized to be
16 appropriated to the Department of State
17 \$25,000,000 for fiscal year 2006 for nonprolifera-
18 tion activities as follows:

19 (A) To accelerate engagement of former
20 chemical and biological weapons scientists in
21 Russia and the countries of the former Soviet
22 Union through the Bio-Chem Redirect Pro-
23 gram, \$15,000,000.

24 (B) To enhance efforts to combat bioter-
25 rorism by transforming the Soviet biological

1 weapons research and production facilities to
2 commercial enterprises through the BioIndustry
3 Initiative, \$10,000,000.

4 (2) AVAILABILITY OF FUNDS.—The amount au-
5 thORIZED to be appropriated by paragraph (1) shall
6 remain available until expended.

7 **SEC. 305. ADDITIONAL ASSISTANCE TO THE INTER-**
8 **NATIONAL ATOMIC ENERGY AGENCY.**

9 There are authorized to be appropriated to the De-
10 partment of Energy \$20,000,000 to be used to provide
11 technical and other assistance to the International Atomic
12 Energy Agency to support nonproliferation programs.
13 Such amount is in addition to amounts otherwise available
14 for such purpose.

15 **Subtitle B—Border Protection**

16 **SEC. 311. FINDINGS.**

17 Congress makes the following findings:

18 (1) More than 500,000,000 people cross the
19 borders of the United States at legal points of entry
20 each year, including approximately 330,000,000 peo-
21 ple who are not citizens of the United States.

22 (2) The National Commission on Terrorist At-
23 tacks Upon the United States found that 15 of the
24 19 hijackers involved in the September 11, 2001 ter-

1 rorist attacks “were potentially vulnerable to inter-
2 ception by border authorities”.

3 (3) Officials with the Bureau of Customs and
4 Border Protection and with the Bureau of Immigra-
5 tion and Customs Enforcement have stated that
6 there is a shortage of agents in such Bureaus. Due
7 to an inadequate budget, the Bureau of Immigration
8 and Customs Enforcement has effected a hiring
9 freeze since March 2004, and the Bureau has not
10 made public any plans to end this freeze.

11 **SEC. 312. HIRING AND TRAINING OF BORDER SECURITY**

12 **PERSONNEL.**

13 (a) INSPECTORS AND AGENTS.—

14 (1) INCREASE IN INSPECTORS AND AGENTS.—
15 During each of fiscal years 2005 through 2008, the
16 Secretary of Homeland Security shall—

17 (A) increase the number of full-time agents
18 and associated support staff in the Bureau of
19 Immigration and Customs Enforcement of the
20 Department of Homeland Security by the equiv-
21 alent of at least 100 more than the number of
22 such employees in the Bureau as of the end of
23 the preceding fiscal year; and

24 (B) increase the number of full-time in-
25 spectors and associated support staff in the Bu-

1 reau of Customs and Border Protection by the
2 equivalent of at least 200 more than the num-
3 ber of such employees in the Bureau as of the
4 end of the preceding fiscal year.

5 (2) WAIVER OF FTE LIMITATION.—The Sec-
6 retary is authorized to waive any limitation on the
7 number of full-time equivalent personnel assigned to
8 the Department of Homeland Security to fulfill the
9 requirements of paragraph (1).

10 (b) TRAINING.—The Secretary shall provide appro-
11 priate training for agents, inspectors, and associated sup-
12 port staff on an ongoing basis to utilize new technologies
13 and to ensure that the proficiency levels of such personnel
14 are acceptable to protect the borders of the United States.

15 **Subtitle C—Seaport Protection**

16 **SEC. 321. FINDINGS.**

17 Congress makes the following findings:

18 (1) The United States port system is a vital ar-
19 tery of the economy of the United States. Almost 95
20 percent of all foreign trade passes through one or
21 more of the 361 ports in the United States. Such
22 seaports handle more than 2,000,000,000 tons of
23 domestic and international freight each year of
24 which has a value of more than \$740,000,000. The

1 shipment of cargo in vessels creates employment for
2 13,000,000 people within the United States.

3 (2) The United States Coast Guard has esti-
4 mated that, given this tremendous commerce, a ter-
5 rorist attack shutting down a major port in the
6 United States would have a \$60,000,000 impact on
7 the United States economy during the first 30 days
8 after such an attack.

9 (3) Although 6,000,000 cargo containers, each
10 a possible hiding place for a bomb or other weapon,
11 are off-loaded at ports in the United States each
12 year, less than $\frac{1}{10}$ of these containers are physically
13 inspected. A container ship can carry as many as
14 3,000 containers, each one weighing up to 45,000
15 pounds, hundreds of which may be off-loaded at a
16 port.

17 (4) The United States Coast Guard has esti-
18 mated that the maritime security requirements set
19 for ports by the Maritime Transportation Security
20 Act of 2002 (Public Law 107–295; 116 Stat. 2064),
21 which are critical to protecting United States ports
22 from a nuclear terrorist attack, will cost
23 \$5,400,000,000 to implement over a 10-year period.

1 **SEC. 322. PORT SECURITY GRANT FUNDING.**

2 Section 70107(h) of title 46, United States Code, is
3 amended to read as follows:

4 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Secretary to carry
6 out subsections (a) through (g)—

7 “(1) \$500,000,000 for fiscal year 2006;

8 “(2) \$750,000,000 for fiscal year 2007;

9 “(3) \$1,000,000,000 for fiscal year 2008;

10 “(4) \$1,250,000,000 for fiscal year 2009; and

11 “(5) such sums as may be needed for each fis-
12 cal year after fiscal year 2009.”.

13 **SEC. 323. DEPLOYMENT OF RADIATION DETECTION POR-**
14 **TAL EQUIPMENT; INTEGRATED CARGO IN-**
15 **SPECTION SYSTEM.**

16 (a) IN GENERAL.—Subtitle C of title IV of the
17 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.)
18 is amended by adding at the end the following new section:

19 **“SEC. 431. DETECTION OF NUCLEAR MATERIAL AT UNITED**
20 **STATES SEAPORTS.**

21 “(a) DEPLOYMENT OF RADIATION DETECTION POR-
22 TAL EQUIPMENT.—

23 “(1) DEPLOYMENT.—Not later than September
24 30, 2006, the Undersecretary for Border and Trans-
25 portation Security shall deploy radiation detection
26 portal equipment at all United States seaports, other

1 United States ports of entry, and major facilities as
2 determined by the Undersecretary.

3 “(2) REPORT.—Not later than December 31,
4 2005, the Undersecretary shall submit to the appro-
5 priate congressional committees a report on the im-
6 plementation of the requirement under paragraph
7 (1).

8 “(3) AUTHORIZATION OF APPROPRIATIONS.—
9 There are authorized to be appropriated to the Un-
10 dersecretary \$217,000,000 for fiscal year 2006 to
11 carry out this subsection.

12 “(b) INTEGRATED CARGO INSPECTION SYSTEM.—

13 “(1) PLAN.—The Undersecretary for Border
14 and Transportation Security shall develop a plan to
15 integrate radiation detection portal equipment with
16 gamma-ray inspection technology equipment at
17 United States seaports and foreign seaports that are
18 participating the Container Security Initiative in
19 order to facilitate the detection of nuclear weapons
20 in maritime cargo containers. Such plan shall in-
21 clude methods for automatic identification of con-
22 tainers and vehicles for inspection in a timely man-
23 ner and a data sharing network capable of transmit-
24 ting gamma-ray images and cargo data among rel-

1 event ports and the National Targeting Center of
2 the Bureau of Customs and Border Protection.

3 “(2) REPORT.—Not later than 180 days after
4 the date of enactment of the Targeting Terrorists
5 More Effectively Act of 2005, the Undersecretary
6 for Border and Transportation Security shall pre-
7 pare and submit to the appropriate congressional
8 committees a report that contains—

9 “(A) a description of the plan developed
10 under paragraph (1), including any infrastruc-
11 ture improvements required at the seaports in-
12 volved;

13 “(B) an estimate of the costs associated
14 with implementation of the plan; and

15 “(C) an estimate of the timeframe for im-
16 plementation of the plan.”.

17 **SEC. 324. ACCELERATION OF THE MEGAPORTS INITIATIVE.**

18 (a) DEPLOYMENT.—Not later than September 30,
19 2007, the Administrator of the National Nuclear Security
20 Administration shall—

21 (1) complete agreements under the Megaports
22 Initiative of the Office of International Material Pro-
23 tection and Cooperation with each country that pos-
24 sesses one or more of the world’s twenty largest sea-

1 ports, as defined by volume of maritime cargo traf-
2 fic; and

3 (2) deploy radiation portal monitoring equip-
4 ment to each seaport operating under an agreement
5 described in subsection (a)(1).

6 (b) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Administrator
8 such funds as are necessary to carry out the provisions
9 of this section.

10 **SEC. 325. TANKER SECURITY INITIATIVE.**

11 (a) ESTABLISHMENT.—The Secretary of Homeland
12 Security shall establish a Tanker Security Initiative to
13 promulgate and enforce standards and carry out activities
14 to ensure that tanker vessels that transport oil, natural
15 gas, or other materials are not used by terrorists or as
16 carriers of weapons of mass destruction.

17 (b) ELEMENTS.—To carry out the Tanker Security
18 Initiative the Secretary of Homeland Security may—

19 (1) develop physical standards intended to pre-
20 vent terrorists from placing a weapon of mass de-
21 struction in or on a tanker vessel without detection;

22 (2) develop detection equipment, and prescribe
23 the use of such equipment, to be employed on a
24 tanker vessel that is bound for a United States port
25 of entry;

1 (3) develop new security inspection procedures
2 required to be carried out on a tanker vessel at a
3 foreign port of embarkation, on the high seas, or in
4 United States waters prior to the arrival of such
5 tanker at a United States port of entry;

6 (4) carry out research and development of sens-
7 ing devices to detect any nuclear device that is
8 placed in or on a tanker vessel; and

9 (5) provide assistance to a foreign country to
10 assist such country in carrying out any provisions of
11 the Tanker Security Initiative.

12 (c) REPORT.—Not later than 180 days after the date
13 of enactment of this Act, the Secretary of Homeland Secu-
14 rity shall submit to Congress a report that includes—

15 (1) a description of the terrorism risks posed by
16 tanker vessels;

17 (2) the elements of the Tanker Security Initia-
18 tive developed to combat such risks;

19 (3) a proposed budget describing the resources
20 needed to carry out the Tanker Security Initiative
21 during the 3-year period beginning on the date of
22 enactment of this Act; and

23 (4) any proposal for legislation that the Sec-
24 retary determines would address effectively such
25 risks.

1 **Subtitle D—First Responders**

2 **SEC. 331. FINDINGS.**

3 Congress makes the following findings:

4 (1) In a report entitled “Emergency First Re-
5 sponders: Drastically Underfunded, Dangerously
6 Unprepared”, an independent task force sponsored
7 by the Council on Foreign Relations found that
8 “America’s local emergency responders will always
9 be the first to confront a terrorist incident and will
10 play the central role in managing its immediate con-
11 sequences. Their efforts in the first minutes and
12 hours following an attack will be critical to saving
13 lives, establishing order, and preventing mass panic.
14 The United States has both a responsibility and a
15 critical need to provide them with the equipment,
16 training, and other resources necessary to do their
17 jobs safely and effectively.”.

18 (2) The task force further concluded that many
19 state and local emergency responders, including po-
20 lice officers and firefighters, lack the equipment and
21 training needed to respond effectively to a terrorist
22 attack involving weapons of mass destruction.

23 (3) The Federal Government has a responsi-
24 bility to ensure that the people of the United States
25 are protected to the greatest possible extent against

1 a terrorist attack, especially an attack that utilizes
2 nuclear, chemical, biological, or radiological weapons,
3 and consequently, the Federal Government has a
4 critical responsibility to address the equipment,
5 training, and other needs of State and local first re-
6 sponders.

7 **SEC. 332. RESTORATION OF JUSTICE ASSISTANCE FUND-**
8 **ING.**

9 (a) FINDINGS.—Congress makes the following find-
10 ings:

11 (1) State and local police officers, firefighters,
12 and emergency responders play an essential role in
13 the efforts of the United States to prevent terrorist
14 attacks and, if an attack occurred, to address the ef-
15 fects of the attack.

16 (2) An independent task force has concluded
17 that hundreds of local police offices and firefighting
18 and emergency response units throughout the
19 United States are unprepared for responding to a
20 terrorist attack involving nuclear, chemical, biologi-
21 cal, or radiological weapons.

22 (3) The Edward Byrne Memorial Justice As-
23 sistance Grant Program provides critical Federal
24 support for personnel, equipment, training, and

1 technical assistance for the homeland security re-
2 sponsibilities of local law enforcement offices.

3 (4) The Consolidated Appropriations Act, 2005
4 (Public Law 108–447) appropriated funding for the
5 Edward Byrne Memorial Justice Assistance Grant
6 Program, a program that resulted from the com-
7 bination of the Edward Byrne Memorial Grant Pro-
8 gram and the Local Law Enforcement Block Grant
9 Program.

10 (5) Funding for the Edward Byrne Memorial
11 Justice Assistance Grant Program, as provided in
12 the Consolidated Appropriations Act, 2005, has been
13 reduced by nearly 50 percent since fiscal year 2002.

14 (b) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that the President should request in the annual
16 budget proposal, and Congress should appropriate, the full
17 amount authorized to be appropriated in subsection (c).

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated for the Edward Byrne
20 Memorial Justice Assistance Grant Program—

21 (1) for fiscal year 2006, \$1,250,000,000;

22 (2) for fiscal year 2007, \$1,400,000,000; and

23 (3) for fiscal year 2008, \$1,600,000,000.

1 **SEC. 333. PROVIDING RELIABLE OFFICERS, TECHNOLOGY,**
2 **EDUCATION, COMMUNITY PROSECUTORS,**
3 **AND TRAINING IN OUR NEIGHBORHOOD INI-**
4 **TIATIVE.**

5 (a) COPS PROGRAM.—Section 1701(a) of title I of
6 the Omnibus Crime Control and Safe Streets Act of 1968
7 (42 U.S.C. 3796dd(a)) is amended by—

8 (1) inserting “and prosecutor” after “increase
9 police”; and

10 (2) inserting “to enhance law enforcement ac-
11 cess to new technologies, and” after “presence,”.

12 (b) HIRING AND REDEPLOYMENT GRANT
13 PROJECTS.—Section 1701(b) of title I of the Omnibus
14 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
15 3796dd(b)) is amended—

16 (1) in paragraph (1)—

17 (A) in subparagraph (B)—

18 (i) by inserting after “Nation” the fol-
19 lowing: “, or pay overtime to existing ca-
20 reer law enforcement officers to the extent
21 that such overtime is devoted to commu-
22 nity policing efforts”; and

23 (ii) by striking “and” at the end;

24 (B) in subparagraph (C), by—

25 (i) striking “or pay overtime”; and

1 (ii) striking the period at the end and
2 inserting “; and”; and

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

4 “(D) promote higher education among in-
5 service State and local law enforcement officers
6 by reimbursing them for the costs associated
7 with seeking a college or graduate school edu-
8 cation.”; and

9 (2) in paragraph (2) by striking all that follows
10 “SUPPORT SYSTEMS.—” and inserting “Grants pur-
11 suant to—

12 “(A) paragraph (1)(B) for overtime may
13 not exceed 25 percent of the funds available for
14 grants pursuant to this subsection for any fiscal
15 year;

16 “(B) paragraph (1)(C) may not exceed 20
17 percent of the funds available for grants pursu-
18 ant to this subsection in any fiscal year; and

19 “(C) paragraph (1)(D) may not exceed 5
20 percent of the funds available for grants pursu-
21 ant to this subsection for any fiscal year.”.

22 (c) ADDITIONAL GRANT PROJECTS.—Section
23 1701(d) of title I of the Omnibus Crime Control and Safe
24 Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

25 (1) in paragraph (2)—

1 (A) by inserting “integrity and ethics”
2 after “specialized”; and

3 (B) by inserting “and” after “enforcement
4 officers”;

5 (2) in paragraph (7) by inserting “school offi-
6 cials, religiously-affiliated organizations,” after “en-
7 forcement officers”;

8 (3) by striking paragraph (8) and inserting the
9 following:

10 “(8) establish school-based partnerships be-
11 tween local law enforcement agencies and local
12 school systems, by using school resource officers who
13 operate in and around elementary and secondary
14 schools to serve as a law enforcement liaison with
15 other Federal, State, and local law enforcement and
16 regulatory agencies, combat school-related crime and
17 disorder problems, gang membership and criminal
18 activity, firearms and explosives-related incidents, il-
19 legal use and possession of alcohol, and the illegal
20 possession, use, and distribution of drugs;”;

21 (4) in paragraph (10) by striking “and” at the
22 end;

23 (5) in paragraph (11) by striking the period
24 that appears at the end and inserting “; and”; and

25 (6) by adding at the end the following:

1 “(12) develop and implement innovative pro-
2 grams (such as the TRILAD program) that bring to-
3 gether a community’s sheriff, chief of police, and el-
4 derly residents to address the public safety concerns
5 of older citizens.”.

6 (d) TECHNICAL ASSISTANCE.—Section 1701(f) of
7 title I of the Omnibus Crime Control and Safe Streets Act
8 of 1968 (42 U.S.C. 3796dd(f)) is amended—

9 (1) in paragraph (1)—

10 (A) by inserting “use up to 5 percent of
11 the funds appropriated under subsection (a) to”
12 after “The Attorney General may”;

13 (B) by inserting at the end the following:
14 “In addition, the Attorney General may use up
15 to 5 percent of the funds appropriated under
16 subsections (d), (e), and (f) for technical assist-
17 ance and training to States, units of local gov-
18 ernment, Indian tribal governments, and to
19 other public and private entities for those re-
20 spective purposes.”;

21 (2) in paragraph (2) by inserting “under sub-
22 section (a)” after “the Attorney General”; and

23 (3) in paragraph (3)—

1 (A) by striking “the Attorney General
2 may” and inserting “the Attorney General
3 shall”;

4 (B) by inserting “regional community po-
5 licing institutes” after “operation of”; and

6 (C) by inserting “representatives of police
7 labor and management organizations, commu-
8 nity residents,” after “supervisors,”.

9 (e) TECHNOLOGY AND PROSECUTION PROGRAMS.—
10 Section 1701 of title I of the Omnibus Crime Control and
11 Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended
12 by—

13 (1) striking subsection (k);

14 (2) redesignating subsections (f) through (j) as
15 subsections (g) through (k); and

16 (3) striking subsection (e) and inserting the fol-
17 lowing:

18 “(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—
19 Grants made under subsection (a) may be used to assist
20 police departments, in employing professional, scientific,
21 and technological advancements that will help them—

22 “(1) improve police communications through
23 the use of wireless communications, computers, soft-
24 ware, videocams, databases and other hardware and
25 software that allow law enforcement agencies to

1 communicate more effectively across jurisdictional
2 boundaries and effectuate interoperability;

3 “(2) develop and improve access to crime solv-
4 ing technologies, including DNA analysis, photo en-
5 hancement, voice recognition, and other forensic ca-
6 pabilities; and

7 “(3) promote comprehensive crime analysis by
8 utilizing new techniques and technologies, such as
9 crime mapping, that allow law enforcement agencies
10 to use real-time crime and arrest data and other re-
11 lated information—including non-criminal justice
12 data—to improve their ability to analyze, predict,
13 and respond pro-actively to local crime and disorder
14 problems, as well as to engage in regional crime
15 analysis.

16 “(f) COMMUNITY-BASED PROSECUTION PROGRAM.—
17 Grants made under subsection (a) may be used to assist
18 State, local or tribal prosecutors’ offices in the implemen-
19 tation of community-based prosecution programs that
20 build on local community policing efforts. Funds made
21 available under this subsection may be used to—

22 “(1) hire additional prosecutors who will be as-
23 signed to community prosecution programs, includ-
24 ing programs that assign prosecutors to handle cases
25 from specific geographic areas, to address specific

1 violent crime and other local crime problems (includ-
2 ing intensive illegal gang, gun and drug enforcement
3 projects and quality of life initiatives), and to ad-
4 dress localized violent and other crime problems
5 based on needs identified by local law enforcement
6 agencies, community organizations, and others;

7 “(2) redeploy existing prosecutors to community
8 prosecution programs as described in paragraph (1)
9 of this section by hiring victim and witness coordina-
10 tors, paralegals, community outreach, and other
11 such personnel; and

12 “(3) establish programs to assist local prosecu-
13 tors’ offices in the implementation of programs that
14 help them identify and respond to priority crime
15 problems in a community with specifically tailored
16 solutions.

17 At least 75 percent of the funds made available under this
18 subsection shall be reserved for grants under paragraphs
19 (1) and (2) and of those amounts no more than 10 percent
20 may be used for grants under paragraph (2) and at least
21 25 percent of the funds shall be reserved for grants under
22 paragraphs (1) and (2) to units of local government with
23 a population of less than 50,000.”.

24 (f) RETENTION GRANTS.—Section 1703 of title I of
25 the Omnibus Crime Control and Safe Streets Act of 1968

1 (42 U.S.C. 3796dd–2) is amended by inserting at the end
2 the following:

3 “(d) RETENTION GRANTS.—The Attorney General
4 may use no more than 50 percent of the funds under sub-
5 section (a) to award grants targeted specifically for reten-
6 tion of police officers to grantees in good standing, with
7 preference to those that demonstrate financial hardship or
8 severe budget constraint that impacts the entire local
9 budget and may result in the termination of employment
10 for police officers funded under subsection (b)(1).”.

11 (g) DEFINITIONS.—

12 (1) CAREER LAW ENFORCEMENT OFFICER.—
13 Section 1709(1) of title I of the Omnibus Crime
14 Control and Safe Streets Act of 1968 (42 U.S.C.
15 3796dd–8) is amended by inserting after “criminal
16 laws” the following: “including sheriffs deputies
17 charged with supervising offenders who are released
18 into the community but also engaged in local com-
19 munity policing efforts.”.

20 (2) SCHOOL RESOURCE OFFICER.—Section
21 1709(4) of title I of the Omnibus Crime Control and
22 Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is
23 amended—

24 (A) by striking subparagraph (A) and in-
25 serting the following:

1 “(A) to serve as a law enforcement liaison
2 with other Federal, State, and local law en-
3 forcement and regulatory agencies, to address
4 and document crime and disorder problems in-
5 cluding gangs and drug activities, firearms and
6 explosives-related incidents, and the illegal use
7 and possession of alcohol affecting or occurring
8 in or around an elementary or secondary
9 school;”;

10 (B) by striking subparagraph (E) and in-
11 serting the following:

12 “(E) to train students in conflict resolu-
13 tion, restorative justice, and crime awareness,
14 and to provide assistance to and coordinate
15 with other officers, mental health professionals,
16 and youth counselors who are responsible for
17 the implementation of prevention/intervention
18 programs within the schools;”;

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

20 “(H) to work with school administrators,
21 members of the local parent teacher associa-
22 tions, community organizers, law enforcement,
23 fire departments, and emergency medical per-
24 sonnel in the creation, review, and implementa-
25 tion of a school violence prevention plan;

1 “(I) to assist in documenting the full de-
2 scription of all firearms found or taken into
3 custody on school property and to initiate a
4 firearms trace and ballistics examination for
5 each firearm with the local office of the Bureau
6 of Alcohol, Tobacco, and Firearms;

7 “(J) to document the full description of all
8 explosives or explosive devices found or taken
9 into custody on school property and report to
10 the local office of the Bureau of Alcohol, To-
11 bacco, and Firearms; and

12 “(K) to assist school administrators with
13 the preparation of the Department of Edu-
14 cation, Annual Report on State Implementation
15 of the Gun-Free Schools Act which tracks the
16 number of students expelled per year for bring-
17 ing a weapon, firearm, or explosive to school.”.

18 (h) AUTHORIZATION OF APPROPRIATIONS.—Section
19 1001(a)(11) of title I of the Omnibus Crime Control and
20 Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is
21 amended—

22 (1) by amending subparagraph (A) to read as
23 follows:

1 “(A) There are authorized to be appro-
2 priated to carry out part Q, to remain available
3 until expended—

4 “(i) \$1,150,000,000 for fiscal year
5 2006;

6 “(ii) \$1,150,000,000 for fiscal year
7 2007;

8 “(iii) \$1,150,000,000 for fiscal year
9 2008;

10 “(iv) \$1,150,000,000 for fiscal year
11 2009;

12 “(v) \$1,150,000,000 for fiscal year
13 2010; and

14 “(vi) \$1,150,000,000 for fiscal year
15 2011.”; and

16 (2) in subparagraph (B)—

17 (A) by striking “3 percent” and inserting
18 “5 percent”;

19 (B) by striking “1701(f)” and inserting
20 “1701(g)”;

21 (C) by striking the second sentence and in-
22 serting “Of the remaining funds, if there is a
23 demand for 50 percent of appropriated hiring
24 funds, as determined by eligible hiring applica-
25 tions from law enforcement agencies having ju-

1 jurisdiction over areas with populations exceeding
2 150,000, no less than 50 percent shall be allo-
3 cated for grants pursuant to applications sub-
4 mitted by units of local government or law en-
5 forcement agencies having jurisdiction over
6 areas with populations exceeding 150,000 or by
7 public and private entities that serve areas with
8 populations exceeding 150,000, and no less
9 than 50 percent shall be allocated for grants
10 pursuant to applications submitted by units of
11 local government or law enforcement agencies
12 having jurisdiction over areas with populations
13 less than 150,000 or by public and private enti-
14 ties that serve areas with populations less than
15 150,000.”;

16 (D) by striking “85 percent” and inserting
17 “\$600,000,000”; and

18 (E) by striking “1701(b),” and all that fol-
19 lows through “of part Q” and inserting the fol-
20 lowing: “1701 (b) and (c), \$350,000,000 to
21 grants for the purposes specified in section
22 1701(e), and \$200,000,000 to grants for the
23 purposes specified in section 1701(f).”.

1 **SEC. 334. FIRST RESPONDERS ANTI-TERRORISM PARTNER-**
2 **SHIP.**

3 (a) DEFINITIONS.—In this section:

4 (1) INDIAN TRIBE.—The term “Indian tribe”
5 has the same meaning as in section 4(e) of the In-
6 dian Self-Determination and Education Assistance
7 Act (25 U.S.C. 450b(e)).

8 (2) LAW ENFORCEMENT OFFICER.—The term
9 “law enforcement officer” means any officer, agent,
10 or employee of a State, unit of local government,
11 public or private college or university, or Indian
12 tribe authorized by law or by a government agency
13 to engage in or supervise the prevention, detection,
14 or investigation of any violation of criminal law, or
15 authorized by law to supervise sentenced criminal of-
16 fenders.

17 (3) PUBLIC SAFETY OFFICER.—The term “pub-
18 lic safety officer” means any person serving a public
19 or private agency with or without compensation as
20 a law enforcement officer, as a firefighter, or as a
21 member of a rescue squad or ambulance crew.

22 (4) SECRETARY.—The term “Secretary” means
23 the Secretary of Homeland Security.

24 (5) STATE.—The term “State” means each of
25 the 50 States, the District of Columbia, and the
26 Commonwealth of Puerto Rico.

1 (6) UNIT OF LOCAL GOVERNMENT.—The term
2 “unit of local government” means a county, munici-
3 pality, town, township, village, parish, borough, or
4 other unit of general government below the State
5 level.

6 (b) FIRST RESPONDERS PARTNERSHIP GRANT PRO-
7 GRAM FOR PUBLIC SAFETY OFFICERS.—

8 (1) IN GENERAL.—The Secretary is authorized
9 to make grants to States, units of local government,
10 and Indian tribes to support public safety officers in
11 their efforts to protect homeland security and pre-
12 vent and respond to acts of terrorism.

13 (2) USE OF FUNDS.—Grants awarded under
14 this section shall be—

15 (A) distributed directly to the State, unit
16 of local government, or Indian tribe; and

17 (B) used to fund overtime expenses, equip-
18 ment, training, and facilities to support public
19 safety officers in their efforts to protect home-
20 land security and prevent and respond to acts
21 of terrorism.

22 (3) ALLOCATION AND DISTRIBUTION OF
23 FUNDS.—

24 (A) SET-ASIDE FOR INDIAN TRIBES.—

1 (i) IN GENERAL.—The Secretary shall
2 reserve 1 percent of the amount appro-
3 priated for grants pursuant to this section
4 to be used for grants to Indian tribes.

5 (ii) SELECTION OF INDIAN TRIBES.—

6 (I) IN GENERAL.—The Secretary
7 shall award grants under this para-
8 graph to Indian tribes on the basis of
9 a competition conducted pursuant to
10 specific criteria.

11 (II) RULEMAKING.—The criteria
12 under subclause (I) shall be contained
13 in a regulation promulgated by the
14 Secretary after notice and public com-
15 ment.

16 (B) SET-ASIDE FOR RURAL STATES.—

17 (i) IN GENERAL.—The Secretary shall
18 reserve 5 percent of the amount appro-
19 priated for grants pursuant to this section
20 to be used for grants to rural States.

21 (ii) SELECTION OF RURAL STATES.—

22 The Secretary shall award grants under
23 this subparagraph to rural States (as de-
24 fined in section 1501(b) of the Omnibus

1 Crime Control and Safe Streets Act of
2 1968 (42 U.S.C. 3796bb(b)).

3 (C) MINIMUM AMOUNT.—The Secretary
4 shall allocate, from the total amount appro-
5 priated for grants to States under this sub-
6 section—

7 (i) not less than 0.75 percent for each
8 State; and

9 (ii) not less than 0.25 percent for
10 American Samoa, Guam, the Northern
11 Mariana Islands, and the United States
12 Virgin Islands, respectively.

13 (D) ALLOCATION TO METROPOLITAN CIT-
14 IES AND URBAN COUNTIES.—The balance of the
15 total amount appropriated for grants to States
16 under this subsection after allocations have
17 been made to Indian tribes, rural States, and
18 the minimum amount to each State pursuant to
19 subparagraphs (A) through (C), shall be allo-
20 cated by the Secretary to metropolitan cities
21 and urban counties pursuant to subparagraphs
22 (E) and (F).

23 (E) COMPUTATION OF AMOUNT ALLO-
24 CATED TO METROPOLITAN CITIES.—

1 (i) COMPUTATION RATIOS.—The Sec-
2 retary shall determine the amount to be al-
3 located to each metropolitan city, which
4 shall bear the same ratio to the allocation
5 for all metropolitan cities as the weighted
6 average of—

7 (I) the population of the metro-
8 politan city divided by the population
9 of all metropolitan cities;

10 (II) the potential chemical secu-
11 rity risk of the metropolitan city di-
12 vided by the potential chemical secu-
13 rity risk of all metropolitan cities;

14 (III) the proximity of the metro-
15 politan city to the nearest operating
16 nuclear power plant compared to the
17 proximity of all metropolitan cities to
18 the nearest operating nuclear power
19 plant to each such city;

20 (IV) the proximity of the metro-
21 politan cities to the nearest United
22 States land or water port compared
23 with the proximity of all metropolitan
24 cities to the nearest United States
25 land or water port to each such city;

1 (V) the proximity of the metro-
 2 politan city to the nearest inter-
 3 national border compared with the
 4 proximity of all metropolitan cities to
 5 the nearest international border to
 6 each such city; and

7 (VI) the proximity of the metro-
 8 politan city to the nearest Disaster
 9 Medical Assistance Team (referred to
 10 in this subsection as “DMAT”) com-
 11 pared with the proximity of all metro-
 12 politan cities to the nearest DMAT to
 13 each such city.

14 (ii) CLARIFICATION OF COMPUTATION
 15 RATIOS.—

16 (I) RELATIVE WEIGHT OF FAC-
 17 TOR.—In determining the average of
 18 the ratios under clause (i), the ratio
 19 involving population shall constitute
 20 50 percent of the formula in calcu-
 21 lating the allocation and the remain-
 22 ing factors shall be equally weighted.

23 (II) POTENTIAL CHEMICAL SECUR-
 24 ITY RISK.—If a metropolitan city is
 25 within the vulnerable zone of a worst-

1 case chemical release (as specified in
2 the most recent risk management
3 plans filed with the Environmental
4 Protection Agency, or another instru-
5 ment developed by the Environmental
6 Protection Agency or the Homeland
7 Security Department that captures
8 the same information for the same fa-
9 cilities), the ratio under clause (i)(II)
10 shall be 1 divided by the total number
11 of metropolitan cities that are within
12 such a zone.

13 (III) PROXIMITY AS IT PERTAINS
14 TO NUCLEAR SECURITY.—If a metro-
15 politan city is located within 50 miles
16 of an operating nuclear power plant
17 (as identified by the Nuclear Regu-
18 latory Commission), the ratio under
19 clause (i)(III) shall be 1 divided by
20 the total number of metropolitan cit-
21 ies, not to exceed 100, which are lo-
22 cated within 50 miles of an operating
23 nuclear power plant.

24 (IV) PROXIMITY AS IT PERTAINS
25 TO PORT SECURITY.—If a metropoli-

1 tan city is located within 50 miles of
2 1 of the 100 largest United States
3 ports (as stated by the Department of
4 Transportation, Bureau of Transpor-
5 tation Statistics, United States Port
6 Report by All Land Modes), or within
7 50 miles of 1 of the 30 largest United
8 States water ports by metric tons and
9 value (as stated by the Department of
10 Transportation, Maritime Administra-
11 tion, United States Foreign Water-
12 borne Transportation Statistics), the
13 ratio under clause (i)(IV) shall be 1
14 divided by the total number of metro-
15 politan cities that are located within
16 50 miles of a United States land or
17 water port.

18 (V) PROXIMITY TO INTER-
19 NATIONAL BORDER.—If a metropoli-
20 tan city is located within 50 miles of
21 an international border, the ratio
22 under clause (i)(V) shall be 1 divided
23 by the total number of metropolitan
24 cities that are located within 50 miles
25 of an international border.

1 (VI) PROXIMITY TO DISASTER
2 MEDICAL ASSISTANCE TEAM.—If a
3 metropolitan city is located within 50
4 miles of a DMAT, as organized by the
5 National Disaster Medical System, the
6 ratio under clause (i)(VI) shall be 1
7 divided by the total number of metro-
8 politan cities that are located within
9 50 miles of a DMAT.

10 (F) COMPUTATION OF AMOUNT ALLO-
11 CATED TO URBAN COUNTIES.—

12 (i) COMPUTATION RATIOS.—The Sec-
13 retary shall determine the amount to be al-
14 located to each urban county, which shall
15 bear the same ratio to the allocation for all
16 urban counties as the weighted average
17 of—

18 (I) the population of the urban
19 county divided by the population of all
20 urban counties;

21 (II) the potential chemical secu-
22 rity risk of the urban county divided
23 by the potential chemical security risk
24 of all urban counties;

1 (III) the proximity of the urban
2 county to the nearest operating nu-
3 clear power plant compared to the
4 proximity of all urban counties to the
5 nearest operating nuclear power plant
6 to each such county;

7 (IV) the proximity of the urban
8 counties to the nearest United States
9 land or water port compared with the
10 proximity of all urban counties to the
11 nearest United States land or water
12 port to each such county;

13 (V) the proximity of the urban
14 county to the nearest international
15 border compared with the proximity of
16 all urban counties to the nearest
17 international border to each such
18 county; and

19 (VI) the proximity of the urban
20 county to the nearest Disaster Med-
21 ical Assistance Team compared with
22 the proximity of all urban counties to
23 the nearest DMAT to each such coun-
24 ty.

1 (ii) CLARIFICATION OF COMPUTATION
2 RATIOS.—

3 (I) RELATIVE WEIGHT OF FAC-
4 TOR.—In determining the average of
5 the ratios under clause (i), the ratio
6 involving population shall constitute
7 50 percent of the formula in calcu-
8 lating the allocation and the remain-
9 ing factors shall be equally weighted.

10 (II) POTENTIAL CHEMICAL SECUR-
11 ITY RISK.—If an urban county is
12 within the vulnerable zone of a worst-
13 case chemical release (as specified in
14 the most recent risk management
15 plans filed with the Environmental
16 Protection Agency, or another instru-
17 ment developed by the Environmental
18 Protection Agency or the Homeland
19 Security Department that captures
20 the same information for the same fa-
21 cilities), the ratio under clause (i)(II)
22 shall be 1 divided by the total number
23 of urban counties that are within such
24 a zone.

1 (III) PROXIMITY AS IT PERTAINS
2 TO NUCLEAR SECURITY.—If an urban
3 county is located within 50 miles of
4 an operating nuclear power plant (as
5 identified by the Nuclear Regulatory
6 Commission), the ratio under clause
7 (i)(III) shall be 1 divided by the total
8 number of urban counties, not to ex-
9 ceed 100, which are located within 50
10 miles of an operating nuclear power
11 plant.

12 (IV) PROXIMITY AS IT PERTAINS
13 TO PORT SECURITY.—If an urban
14 county is located within 50 miles of 1
15 of the 100 largest United States ports
16 (as stated by the Department of
17 Transportation, Bureau of Transpor-
18 tation Statistics, United States Port
19 Report by All Land Modes), or within
20 50 miles of 1 of the 30 largest United
21 States water ports by metric tons and
22 value (as stated by the Department of
23 Transportation, Maritime Administra-
24 tion, United States Foreign Water-
25 borne Transportation Statistics), the

1 ratio under clause (i)(IV) shall be 1
2 divided by the total number of urban
3 counties that are located within 50
4 miles of a United States land or water
5 port.

6 (V) PROXIMITY TO INTER-
7 NATIONAL BORDER.—If an urban
8 county is located within 50 miles of
9 an international border, the ratio
10 under clause (i)(V) shall be 1 divided
11 by the total number of urban counties
12 that are located within 50 miles of an
13 international border.

14 (VI) PROXIMITY TO DISASTER
15 MEDICAL ASSISTANCE TEAM.—If an
16 urban county is located within 50
17 miles of a DMAT, as organized by the
18 National Disaster Medical System, the
19 ratio under clause (i)(VI) shall be 1
20 divided by the total number of urban
21 counties that are located within 50
22 miles of a DMAT.

23 (G) EXCLUSIONS.—

24 (i) IN GENERAL.—In computing
25 amounts or exclusions under subparagraph

1 (F) with respect to any urban county,
2 units of general local government located
3 in the county shall be excluded if the popu-
4 lations of such units are not counted to de-
5 termine the eligibility of the urban county
6 to receive a grant under this paragraph.

7 (ii) INDEPENDENT CITIES.—

8 (I) IN GENERAL.—In computing
9 amounts under clause (i), there shall
10 be included any independent city (as
11 defined by the Bureau of the Census)
12 which—

13 (aa) is not part of any coun-
14 ty;

15 (bb) is not eligible for a
16 grant;

17 (cc) is contiguous to the
18 urban county;

19 (dd) has entered into co-
20 operation agreements with the
21 urban county which provide that
22 the urban county is to undertake
23 or to assist in the undertaking of
24 essential community development
25 and housing assistance activities

1 with respect to such independent
2 city; and

3 (ee) is not included as a
4 part of any other unit of general
5 local government for purposes of
6 this section.

7 (II) LIMITATION.—Any inde-
8 pendent city that is included in the
9 computation under subclause (I) shall
10 not be eligible to receive assistance
11 under this paragraph for the fiscal
12 year for which such computation is
13 used to allocate such assistance.

14 (H) INCLUSION.—

15 (i) LOCAL GOVERNMENT STRADDLING
16 COUNTY LINE.—In computing amounts or
17 exclusions under subparagraph (F) with
18 respect to any urban county, all of the area
19 of any unit of local government shall be in-
20 cluded, which is part of, but is not located
21 entirely within the boundaries of, such
22 urban county if—

23 (I) the part of such unit of local
24 government that is within the bound-
25 aries of such urban county would oth-

1 erwise be included in computing the
2 amount for such urban county under
3 this subsection; and

4 (II) the part of such unit of local
5 government that is not within the
6 boundaries of such urban county is
7 not included as a part of any other
8 unit of local government for the pur-
9 pose of this subsection.

10 (ii) USE OF GRANT FUNDS OUTSIDE
11 URBAN COUNTY.—Any amount received
12 under this section by an urban county de-
13 scribed under clause (i) may be used with
14 respect to the part of such unit of local
15 government that is outside the boundaries
16 of such urban county.

17 (I) POPULATION.—

18 (i) EFFECT OF CONSOLIDATION.—
19 Where data are available, the amount to be
20 allocated to a metropolitan city that has
21 been formed by the consolidation of 1 or
22 more metropolitan cities within an urban
23 county shall be equal to the sum of the
24 amounts that would have been allocated to
25 the urban county or cities and the balance

1 of the consolidated government if such con-
2 solidation had not occurred.

3 (ii) LIMITATION.—Clause (i) shall
4 apply only to a consolidation that—

5 (I) included all metropolitan cit-
6 ies that received grants under this
7 section for the fiscal year preceding
8 such consolidation and that were lo-
9 cated within the urban county;

10 (II) included the entire urban
11 county that received a grant under
12 this section for the fiscal year pre-
13 ceding such consolidation; and

14 (III) took place on or after Janu-
15 ary 1, 2005.

16 (iii) GROWTH RATE.—The population
17 growth rate of all metropolitan cities de-
18 fined in this section shall be based on the
19 population of metropolitan cities other
20 than consolidated governments the grant
21 for which is determined under this para-
22 graph and cities that were metropolitan
23 cities before their incorporation into con-
24 solidated governments.

25 (4) MAXIMUM AMOUNT PER GRANTEE.—

1 (A) IN GENERAL.—A qualifying State, unit
2 of local government, or Indian tribe may not re-
3 ceive more than 5 percent of the total amount
4 appropriated for grants under this section.

5 (B) AGGREGATE AMOUNT PER STATE.—A
6 State, together with the grantees within the
7 State, may not receive more than 20 percent of
8 the total amount appropriated for grants under
9 this section.

10 (5) MATCHING FUNDS.—

11 (A) IN GENERAL.—The portion of the
12 costs of a program provided by a grant under
13 paragraph (1) may not exceed 90 percent.

14 (B) WAIVER.—If the Secretary determines
15 that a grantee is experiencing fiscal hardship,
16 the Secretary may waive, in whole or in part,
17 the matching requirement under subparagraph
18 (A).

19 (C) EXCEPTION.—Any funds appropriated
20 by Congress for the activities of any agency of
21 an Indian tribal government or the Bureau of
22 Indian Affairs performing law enforcement
23 functions on any Indian lands may be used to
24 provide the non-Federal share of a matching re-
25 quirement under subparagraph (A).

1 (c) APPLICATIONS.—

2 (1) IN GENERAL.—To request a grant under
3 this section, the chief executive of a State, unit of
4 local government, or Indian tribe shall submit an ap-
5 plication to the Secretary in such form and con-
6 taining such information as the Secretary may rea-
7 sonably require.

8 (2) REGULATIONS.—Not later than 90 days
9 after the date of enactment of this Act, the Sec-
10 retary shall promulgate regulations to implement
11 this subsection (including the information that must
12 be included and the requirements that the States,
13 units of local government, and Indian tribes must
14 meet) in submitting the applications required under
15 this subsection.

16 (d) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated \$5,000,000,000 for fis-
18 cal year 2006 to carry out this section.

19 **TITLE IV—RAIL SECURITY**

20 **SEC. 401. SHORT TITLE.**

21 This title may be cited as the “Rail Security Act of
22 2005”.

23 **SEC. 402. RAIL TRANSPORTATION SECURITY RISK ASSESS-** 24 **MENT.**

25 (a) IN GENERAL.—

1 (1) VULNERABILITY ASSESSMENT.—The Under
2 Secretary of Homeland Security for Border and
3 Transportation Security, in consultation with the
4 Secretary of Transportation, shall complete a vulner-
5 ability assessment of freight and passenger rail
6 transportation (encompassing railroads, as that term
7 is defined in section 20102(1) of title 49, United
8 States Code). The assessment shall include—

9 (A) identification and evaluation of critical
10 assets and infrastructures;

11 (B) identification of threats to those assets
12 and infrastructures;

13 (C) identification of vulnerabilities that are
14 specific to the transportation of hazardous ma-
15 terials via railroad; and

16 (D) identification of security weaknesses in
17 passenger and cargo security, transportation in-
18 frastructure, protection systems, procedural
19 policies, communications systems, employee
20 training, emergency response planning, and any
21 other area identified by the assessment.

22 (2) EXISTING PRIVATE AND PUBLIC SECTOR
23 EFFORTS.—The assessment shall take into account
24 actions taken or planned by both public and private

1 entities to address identified security issues and as-
2 sess the effective integration of such actions.

3 (3) RECOMMENDATIONS.—Based on the assess-
4 ment conducted under paragraph (1), the Under
5 Secretary, in consultation with the Secretary of
6 Transportation, shall develop prioritized rec-
7 ommendations for improving rail security, including
8 any recommendations the Under Secretary has for—

9 (A) improving the security of rail tunnels,
10 rail bridges, rail switching and car storage
11 areas, other rail infrastructure and facilities, in-
12 formation systems, and other areas identified
13 by the Under Secretary as posing significant
14 rail-related risks to public safety and the move-
15 ment of interstate commerce, taking into ac-
16 count the impact that any proposed security
17 measure might have on the provision of rail
18 service;

19 (B) deploying equipment to detect explo-
20 sives and hazardous chemical, biological, and
21 radioactive substances, and any appropriate
22 countermeasures;

23 (C) training employees in terrorism pre-
24 vention, passenger evacuation, and response ac-
25 tivities;

1 (D) conducting public outreach campaigns
2 on passenger railroads;

3 (E) deploying surveillance equipment; and

4 (F) identifying the immediate and long-
5 term costs of measures that may be required to
6 address those risks.

7 (4) PLANS.—The report required by subsection
8 (c) shall include—

9 (A) a plan, developed in consultation with
10 the freight and intercity passenger railroads,
11 and State and local governments, for the gov-
12 ernment to provide increased security support
13 at high or severe threat levels of alert; and

14 (B) a plan for coordinating rail security
15 initiatives undertaken by the public and private
16 sectors.

17 (b) CONSULTATION; USE OF EXISTING RE-
18 SOURCES.—In carrying out the assessment required by
19 subsection (a), the Under Secretary of Homeland Security
20 for Border and Transportation Security shall consult with
21 rail management, rail labor, owners or lessors of rail cars
22 used to transport hazardous materials, first responders,
23 shippers of hazardous materials, public safety officials (in-
24 cluding those within other agencies and offices within the

1 Department of Homeland Security), and other relevant
2 parties.

3 (c) REPORT.—

4 (1) CONTENTS.—Not later than 180 days after
5 the date of enactment of this Act, the Under Sec-
6 retary of Homeland Security for Border and Trans-
7 portation Security shall submit to the Committee on
8 Commerce, Science, and Transportation of the Sen-
9 ate and the Committee on Transportation and Infra-
10 structure of the House of Representatives a report
11 containing the assessment and prioritized rec-
12 ommendations required by subsection (a) and an es-
13 timate of the cost to implement such recommenda-
14 tions.

15 (2) FORMAT.—The Under Secretary may sub-
16 mit the report in both classified and redacted for-
17 mats if the Under Secretary determines that such
18 action is appropriate or necessary.

19 (d) 2-YEAR UPDATES.—The Under Secretary of
20 Homeland Security for Border and Transportation Secu-
21 rity, in consultation with the Secretary of Transportation,
22 shall update the assessment and recommendations every
23 2 years and submit to the committees named in subsection
24 (c)(1) a report, which may be submitted in both classified

1 and redacted formats, containing the updated assessment
2 and recommendations.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Under Secretary
5 of Homeland Security for Border and Transportation Se-
6 curity \$5,000,000 for fiscal year 2006 for the purpose of
7 carrying out this section.

8 **SEC. 403. RAIL SECURITY.**

9 (a) RAIL POLICE OFFICERS.—Section 28101 of title
10 49, United States Code, is amended by striking “the rail
11 carrier” each place it appears and inserting “any rail car-
12 rier”.

13 (b) REVIEW OF RAIL REGULATIONS.—Not later than
14 1 year after the date of enactment of this Act, the Sec-
15 retary of Transportation, in consultation with the Under
16 Secretary of Homeland Security for Border and Transpor-
17 tation Security, shall review existing rail regulations of the
18 Department of Transportation for the purpose of identi-
19 fying areas in which those regulations need to be revised
20 to improve rail security.

21 **SEC. 404. STUDY OF FOREIGN RAIL TRANSPORT SECURITY**
22 **PROGRAMS.**

23 (a) REQUIREMENT FOR STUDY.—Not later than 1
24 year after the date of enactment of this Act, the Comp-
25 troller General shall complete a study of the rail passenger

1 transportation security programs that are carried out for
2 rail transportation systems in Japan, member nations of
3 the European Union, and other foreign countries.

4 (b) PURPOSE.—The purpose of the study shall be to
5 identify effective rail transportation security measures
6 that are in use in foreign rail transportation systems, in-
7 cluding innovative measures and screening procedures de-
8 termined effective.

9 (c) REPORT.—The Comptroller General shall submit
10 a report on the results of the study to the Committee on
11 Commerce, Science, and Transportation of the Senate and
12 the Committee on Transportation and Infrastructure of
13 the House of Representatives. The report shall include the
14 Comptroller General’s assessment regarding whether it is
15 feasible to implement within the United States any of the
16 same or similar security measures that are determined ef-
17 fective under the study.

18 **SEC. 405. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

19 (a) REQUIREMENT FOR STUDY AND REPORT.—The
20 Under Secretary of Homeland Security for Border and
21 Transportation Security, in cooperation with the Secretary
22 of Transportation, shall—

23 (1) analyze the cost and feasibility of requiring
24 security screening for passengers, baggage, and
25 cargo on passenger trains; and

1 (2) not later than 1 year after the date of en-
2 actment of this Act, report the results of the study,
3 together with any recommendations that the Under
4 Secretary may have for implementing a rail security
5 screening program to the Committee on Commerce,
6 Science, and Transportation of the Senate and the
7 Committee on Transportation and Infrastructure of
8 the House of Representatives.

9 (b) PILOT PROGRAM.—As part of the study under
10 subsection (a), the Under Secretary shall complete a pilot
11 program of random security screening of passengers and
12 baggage at 5 passenger rail stations served by Amtrak
13 that are selected by the Under Secretary. In conducting
14 the pilot program, the Under Secretary shall—

15 (1) test a wide range of explosives detection
16 technologies, devices, and methods;

17 (2) require that intercity rail passengers
18 produce government-issued photographic identifica-
19 tion that matches the name on the passenger’s tick-
20 ets prior to boarding trains; and

21 (3) attempt to give preference to locations at
22 the highest risk of terrorist attack and achieve a dis-
23 tribution of participating train stations in terms of
24 geographic location, size, passenger volume, and

1 Transportation for the purposes of carrying out subsection
2 (a) the following amounts:

3 (1) For the 6 New York tunnels to provide ven-
4 tilation, electrical, and fire safety technology up-
5 grades, emergency communication and lighting sys-
6 tems, and emergency access and egress for pas-
7 sengers—

8 (A) \$100,000,000 for fiscal year 2006;

9 (B) \$100,000,000 for fiscal year 2007;

10 (C) \$100,000,000 for fiscal year 2008;

11 (D) \$100,000,000 for fiscal year 2009;

12 and

13 (E) \$170,000,000 for fiscal year 2010.

14 (2) For the Baltimore & Potomac tunnel and
15 the Union tunnel, together, to provide adequate
16 drainage, ventilation, communication, lighting, and
17 passenger egress upgrades—

18 (A) \$10,000,000 for fiscal year 2006;

19 (B) \$10,000,000 for fiscal year 2007;

20 (C) \$10,000,000 for fiscal year 2008;

21 (D) \$10,000,000 for fiscal year 2009; and

22 (E) \$17,000,000 for fiscal year 2010.

23 (3) For the Washington, District of Columbia,
24 Union Station tunnels to improve ventilation, com-

1 munication, lighting, and passenger egress up-
2 grades—

3 (A) \$8,000,000 for fiscal year 2006;

4 (B) \$8,000,000 for fiscal year 2007;

5 (C) \$8,000,000 for fiscal year 2008;

6 (D) \$8,000,000 for fiscal year 2009; and

7 (E) \$8,000,000 for fiscal year 2010.

8 (c) INFRASTRUCTURE UPGRADES.—There are au-
9 thorized to be appropriated to the Secretary of Transpor-
10 tation \$3,000,000 for fiscal year 2006 for the preliminary
11 design of options for a new tunnel on a different alignment
12 to augment the capacity of the existing Baltimore, Mary-
13 land, tunnels.

14 (d) AVAILABILITY OF APPROPRIATED FUNDS.—
15 Amounts appropriated pursuant to this section shall re-
16 main available until expended.

17 (e) PLANS REQUIRED.—The Secretary of Transpor-
18 tation may not make amounts available to Amtrak for ob-
19 ligation or expenditure under subsection (a)—

20 (1) until Amtrak has submitted to the Sec-
21 retary, and the Secretary has approved, an engineer-
22 ing and financial plan for such projects; and

23 (2) unless, for each project funded pursuant to
24 this section, the Secretary has approved a project
25 management plan prepared by Amtrak addressing

1 appropriate project budget, construction schedule,
2 recipient staff organization, document control and
3 record keeping, change order procedure, quality con-
4 trol and assurance, periodic plan updates, periodic
5 status reports, and such other matters the Secretary
6 determines appropriate.

7 (f) REVIEW OF PLANS.—The Secretary of Transpor-
8 tation shall complete the review of the plans required
9 under subsection (e) and approve or disapprove the plans
10 within 45 days after the date on which each such plan
11 is submitted by Amtrak. If the Secretary determines that
12 a plan is incomplete or deficient, the Secretary shall notify
13 Amtrak of the incomplete items or deficiencies and Am-
14 trak shall, within 30 days after receiving such notification,
15 submit a modified plan for the Secretary’s review. Within
16 15 days after receiving additional information on items
17 previously included in the plan, and within 45 days after
18 receiving items newly included in a modified plan, the Sec-
19 retary shall either approve the modified plan, or, if the
20 Secretary finds the plan is still incomplete or deficient,
21 the Secretary shall identify in writing to the Committee
22 on Commerce, Science, and Transportation of the Senate
23 and the Committee on Transportation and Infrastructure
24 of the House of Representatives the portions of the plan
25 the Secretary finds incomplete or deficient, approve all

1 other portions of the plan, obligate the funds associated
2 with those other portions, and execute an agreement with
3 Amtrak within 15 days thereafter on a process for resolv-
4 ing the remaining portions of the plan.

5 (g) FINANCIAL CONTRIBUTION FROM OTHER TUN-
6 NEL USERS.—The Secretary shall, taking into account the
7 need for the timely completion of all portions of the tunnel
8 projects described in subsection (a)—

9 (1) consider the extent to which rail carriers
10 other than Amtrak use the tunnels;

11 (2) consider the feasibility of seeking a financial
12 contribution from those other rail carriers toward
13 the costs of the projects; and

14 (3) obtain financial contributions or commit-
15 ments from such other rail carriers at levels reflect-
16 ing the extent of their use of the tunnels, if feasible.

17 **SEC. 408. MEMORANDUM OF AGREEMENT.**

18 (a) MEMORANDUM OF AGREEMENT.—Not later than
19 60 days after the date of enactment of this Act, the Sec-
20 retary of Transportation and the Secretary of Homeland
21 Security shall execute a memorandum of agreement gov-
22 erning the roles and responsibilities of the Department of
23 Transportation and the Department of Homeland Secu-
24 rity, respectively, in addressing railroad transportation se-
25 curity matters, including the processes the departments

1 will follow to promote communications, efficiency, and
2 nonduplication of effort.

3 (b) RAIL SAFETY REGULATIONS.—Section 20103(a)
4 of title 49, United States Code, is amended by striking
5 “safety” the first place it appears, and inserting “safety,
6 including security,”.

7 **SEC. 409. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**
8 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
9 **CIDENTS.**

10 (a) IN GENERAL.—Chapter 243 of title 49, United
11 States Code, is amended by adding at the end the fol-
12 lowing new section:

13 **“§ 24316. Plan to address needs of families of pas-**
14 **sengers involved in rail passenger acci-**
15 **dents**

16 “(a) SUBMISSION OF PLAN.—Not later than 6
17 months after the date of enactment of the Rail Security
18 Act of 2005, Amtrak shall submit to the Chairman of the
19 National Transportation Safety Board and the Secretary
20 of Transportation a plan for addressing the needs of the
21 families of passengers involved in any rail passenger acci-
22 dent involving an Amtrak intercity train and resulting in
23 a loss of life.

1 “(b) CONTENTS OF PLANS.—The plan to be sub-
2 mitted by Amtrak under subsection (a) shall include, at
3 a minimum, the following:

4 “(1) A process by which Amtrak will maintain
5 and provide to the National Transportation Safety
6 Board and the Secretary of Transportation, imme-
7 diately upon request, a list (which is based on the
8 best available information at the time of the request)
9 of the names of the passengers aboard the train
10 (whether or not such names have been verified), and
11 will periodically update the list. The plan shall in-
12 clude a procedure, with respect to unreserved trains
13 and passengers not holding reservations on other
14 trains, for Amtrak to use reasonable efforts to ascer-
15 tain the number and names of passengers aboard a
16 train involved in an accident.

17 “(2) A plan for creating and publicizing a reli-
18 able, toll-free telephone number within 4 hours after
19 such an accident occurs, and for providing staff, to
20 handle calls from the families of the passengers.

21 “(3) A process using suitably trained individ-
22 uals to notify the families of the passengers before
23 any public notice of the names of the passengers is
24 provided.

1 “(4) A process for providing the notice de-
2 scribed in paragraph (2) to the family of a pas-
3 senger as soon as Amtrak has verified that the pas-
4 senger was aboard the train (whether or not the
5 names of all of the passengers have been verified).

6 “(5) A process by which the family of each pas-
7 senger will be—

8 “(A) consulted about the disposition of all
9 remains and personal effects of the passenger
10 within Amtrak’s control;

11 “(B) notified that any possession of the
12 passenger within Amtrak’s control will be re-
13 turned to the family unless the possession is
14 needed for the accident investigation or any
15 criminal investigation; and

16 “(C) notified that any unclaimed posses-
17 sion of a passenger within Amtrak’s control will
18 be retained by the rail passenger carrier for at
19 least 18 months.

20 “(6) A process by which the treatment of the
21 families of nonrevenue passengers will be the same
22 as the treatment of the families of revenue pas-
23 sengers.

24 “(7) An assurance that Amtrak will provide
25 adequate training to its employees and agents to

1 meet the needs of survivors and family members fol-
2 lowing an accident.

3 “(c) USE OF INFORMATION.—The National Trans-
4 portation Safety Board, the Secretary of Transportation,
5 and Amtrak may not release to any person information
6 on a list obtained under subsection (b)(1) but may provide
7 information on the list about a passenger to the family
8 of the passenger to the extent that the Board or Amtrak
9 considers appropriate.

10 “(d) LIMITATION ON LIABILITY.—Amtrak shall not
11 be liable for damages in any action brought in a Federal
12 or State court arising out of the performance of Amtrak
13 in preparing or providing a passenger list, or in providing
14 information concerning a train reservation, pursuant to
15 the plan submitted by Amtrak under subsection (b), unless
16 such liability was caused by Amtrak’s conduct.

17 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—
18 Nothing in this section may be construed as limiting the
19 actions that Amtrak may take, or the obligations that Am-
20 trak may have, in providing assistance to the families of
21 passengers involved in a rail passenger accident.

22 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Secretary of
24 Transportation for the use of Amtrak \$500,000 for fiscal
25 year 2006 to carry out this section. Amounts appropriated

1 pursuant to this subsection shall remain available until ex-
2 pended.”.

3 (b) CONFORMING AMENDMENT.—The chapter anal-
4 ysis for chapter 243 of title 49, United States Code, is
5 amended by adding at the end the following:

“Sec.

“24316. Plan to address needs of families of passengers involved in rail pas-
senger accidents.”.

6 **SEC. 410. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

7 (a) IN GENERAL—Subject to subsection (c), the
8 Under Secretary of Homeland Security for Border and
9 Transportation Security is authorized to make grants,
10 through the Secretary of Transportation, to Amtrak—

11 (1) to secure major tunnel access points and en-
12 sure tunnel integrity in New York, New York, Balti-
13 more, Maryland, and Washington, District of Co-
14 lumbia;

15 (2) to secure Amtrak trains;

16 (3) to secure Amtrak stations;

17 (4) to obtain a watch list identification system
18 approved by the Under Secretary;

19 (5) to obtain train tracking and interoperable
20 communications systems that are coordinated to the
21 maximum extent possible;

22 (6) to hire additional police and security offi-
23 cers, including canine units; and

24 (7) to expand emergency preparedness efforts.

1 (b) CONDITIONS.—The Secretary of Transportation
2 may not disburse funds to Amtrak under subsection (a)
3 unless the projects are contained in a systemwide security
4 plan approved by the Under Secretary, in consultation
5 with the Secretary of Transportation, and, for capital
6 projects, meet the requirements of section 407(e)(2). The
7 plan shall include appropriate measures to address secu-
8 rity awareness, emergency response, and passenger evacu-
9 ation training.

10 (c) EQUITABLE GEOGRAPHIC ALLOCATION.—The
11 Under Secretary shall ensure that, subject to meeting the
12 highest security needs on Amtrak’s entire system, stations
13 and facilities located outside of the Northeast Corridor re-
14 ceive an equitable share of the security funds authorized
15 by this section.

16 (d) AVAILABILITY OF FUNDS.—There are authorized
17 to be appropriated to the Under Secretary of Homeland
18 Security for Border and Transportation Security
19 \$63,500,000 for fiscal year 2006 to carry out this section.
20 Amounts appropriated pursuant to this subsection shall
21 remain available until expended.

22 **SEC. 411. FREIGHT AND PASSENGER RAIL SECURITY UP-**
23 **GRADES.**

24 (a) SECURITY IMPROVEMENT GRANTS.—The Under
25 Secretary of Homeland Security for Border and Transpor-

1 tation Security is authorized to make grants to freight
2 railroads, the Alaska Railroad, hazardous materials ship-
3 pers, owners of rail cars used in the transportation of haz-
4 arduous materials, universities, colleges and research cen-
5 ters, State and local governments (for passenger facilities
6 and infrastructure not owned by Amtrak), and, through
7 the Secretary of Transportation, to Amtrak, for full or
8 partial reimbursement of costs incurred in the conduct of
9 activities to prevent or respond to acts of terrorism, sabo-
10 tage, or other intercity passenger rail and freight rail secu-
11 rity threats, including—

12 (1) security and redundancy for critical commu-
13 nications, computer, and train control systems essen-
14 tial for secure rail operations;

15 (2) accommodation of cargo or passenger
16 screening equipment at the United States-Mexico
17 border or the United States-Canada border;

18 (3) the security of hazardous material transpor-
19 tation by rail;

20 (4) secure intercity passenger rail stations,
21 trains, and infrastructure;

22 (5) structural modification or replacement of
23 rail cars transporting high hazard materials to im-
24 prove their resistance to acts of terrorism;

1 (6) employee security awareness, preparedness,
2 passenger evacuation, and emergency response train-
3 ing;

4 (7) public security awareness campaigns for
5 passenger train operations;

6 (8) the sharing of intelligence and information
7 about security threats;

8 (9) train tracking and interoperable commu-
9 nications systems that are coordinated to the max-
10 imum extent possible;

11 (10) the hiring of additional police and security
12 officers, including canine units; and

13 (11) other improvements recommended by the
14 reports submitted under subsections (c) and (d) of
15 section 402, including infrastructure, facilities, and
16 equipment upgrades.

17 (b) ACCOUNTABILITY.—The Under Secretary shall
18 adopt necessary procedures, including audits, to ensure
19 that grants made under this section are expended in ac-
20 cordance with the purposes of this Act and the priorities
21 and other criteria developed by the Under Secretary.

22 (c) EQUITABLE ALLOCATION.—The Under Secretary
23 shall equitably distribute the funds authorized by this sec-
24 tion, taking into account geographic location, and shall en-
25 courage non-Federal financial participation in awarding

1 grants. With respect to grants for passenger rail security,
2 the Under Secretary shall also take into account passenger
3 volume and whether a station is used by commuter rail
4 passengers as well as intercity rail passengers.

5 (d) CONDITIONS.—The Secretary of Transportation
6 may not disburse funds to Amtrak under subsection (a)
7 unless Amtrak meets the conditions set forth in section
8 410(b).

9 (e) ALLOCATION BETWEEN RAILROADS AND OTH-
10 ERS.—Unless as a result of the assessment required by
11 section 402(a) the Under Secretary of Homeland Security
12 for Border and Transportation Security determines that
13 critical rail transportation security needs require reim-
14 bursement in greater amounts to any eligible entity, no
15 grants under this section may be made—

16 (1) in excess of \$65,000,000 to Amtrak; or

17 (2) in excess of \$100,000,000 for the purposes
18 described in paragraphs (3) and (5) of subsection
19 (a).

20 (f) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to the Under Secretary
22 of Homeland Security for Border and Transportation Se-
23 curity \$350,000,000 for fiscal year 2006 to carry out this
24 section. Amounts appropriated pursuant to this subsection
25 shall remain available until expended.

1 (g) HIGH HAZARD MATERIALS DEFINED.—In this
2 section, the term “high hazard materials” means poison
3 inhalation hazard materials, Class 2.3 gases, Class 6.1
4 materials, and anhydrous ammonia.

5 **SEC. 412. OVERSIGHT AND GRANT PROCEDURES.**

6 (a) SECRETARIAL OVERSIGHT.—The Secretary of
7 Transportation may use up to 0.5 percent of amounts
8 made available to Amtrak for capital projects under this
9 Act to enter into contracts for the review of proposed cap-
10 ital projects and related program management plans and
11 to oversee construction of such projects.

12 (b) USE OF FUNDS.—The Secretary may use
13 amounts available under subsection (a) to make contracts
14 for safety, procurement, management, and financial com-
15 pliance reviews and audits of a recipient of amounts under
16 such subsection.

17 (c) PROCEDURES FOR GRANT AWARD.—The Under
18 Secretary of Homeland Security for Border Transpor-
19 tation Security shall prescribe procedures and schedules
20 for the awarding of grants under this Act, including appli-
21 cation and qualification procedures (including a require-
22 ment that the applicant have a security plan), and a
23 record of decision on applicant eligibility. The procedures
24 shall include the execution of a grant agreement between
25 the grant recipient and the Under Secretary. The Under

1 Secretary shall issue a final rule establishing the proce-
2 dures not later than 90 days after the date of enactment
3 of this Act.

4 **SEC. 413. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

5 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
6 MENT PROGRAM.—The Under Secretary of Homeland Se-
7 curity for Border and Transportation Security, in conjunc-
8 tion with the Secretary of Transportation, shall carry out
9 a research and development program for the purpose of
10 improving freight and intercity passenger rail security that
11 may include research and development projects to—

12 (1) reduce the vulnerability of passenger trains,
13 stations, and equipment to explosives and hazardous
14 chemical, biological, and radioactive substances;

15 (2) test new emergency response techniques and
16 technologies;

17 (3) develop improved freight technologies, in-
18 cluding—

19 (A) technologies for sealing rail cars;

20 (B) automatic inspection of rail cars;

21 (C) communication-based train controls;

22 and

23 (D) emergency response training;

24 (4) test wayside detectors that can detect tam-
25 pering with railroad equipment;

1 (5) support enhanced security for the transpor-
2 tation of hazardous materials by rail, including—

3 (A) technologies to detect a breach in a
4 tank car and transmit information about the in-
5 tegrity of tank cars to the train crew;

6 (B) research to improve tank car integrity,
7 with a focus on tank cars that carry high haz-
8 ard materials (as defined in section 411(g));
9 and

10 (C) techniques to transfer hazardous mate-
11 rials from rail cars that are damaged or other-
12 wise represent an unreasonable risk to human
13 life or public safety; and

14 (6) other projects recommended in reports sub-
15 mitted under section 402.

16 (b) COORDINATION WITH OTHER RESEARCH INITIA-
17 TIVES.—The Under Secretary of Homeland Security for
18 Border and Transportation Security shall ensure that the
19 research and development program authorized by this sec-
20 tion is coordinated with other research and development
21 initiatives at the Department of Homeland Security and
22 the Department of Transportation. The Under Secretary
23 of Homeland Security for Border and Transportation Se-
24 curity shall carry out any research and development
25 project authorized by this section through a reimbursable

1 agreement with the Secretary of Transportation if the Sec-
2 retary of Transportation—

3 (1) is already sponsoring a research and devel-
4 opment project in a similar area; or

5 (2) has a unique facility or capability that
6 would be useful in carrying out the project.

7 (c) ACCOUNTABILITY.—The Under Secretary shall
8 adopt necessary procedures, including audits, to ensure
9 that grants made under this section are expended in ac-
10 cordance with the purposes of this Act and the priorities
11 and other criteria developed by the Under Secretary.

12 (d) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Under Secretary
14 of Homeland Security for Border and Transportation Se-
15 curity \$50,000,000 in each of fiscal years 2006 and 2007
16 to carry out this section. Amounts appropriated pursuant
17 to this subsection shall remain available until expended.

18 **SEC. 414. WELDED RAIL AND TANK CAR SAFETY IMPROVE-**
19 **MENTS.**

20 (a) TRACK STANDARDS.—Not later than 90 days
21 after the date of enactment of this Act, the Administrator
22 of the Federal Railroad Administration shall—

23 (1) require each track owner using continuous
24 welded rail track to include procedures (in its proce-
25 dures filed with the Administration pursuant to sec-

1 tion 213.119 of title 49, Code of Federal Regula-
2 tions) to improve the identification of cracks in rail
3 joint bars;

4 (2) instruct Administration track inspectors to
5 obtain copies of the most recent continuous welded
6 rail programs of each railroad within the inspectors'
7 areas of responsibility and require that inspectors
8 use those programs when conducting track inspec-
9 tions; and

10 (3) establish a program to periodically review
11 continuous welded rail joint bar inspection data from
12 railroads and Administration track inspectors and,
13 whenever the Administrator determines that it is
14 necessary or appropriate, require railroads to in-
15 crease the frequency or improve the methods of in-
16 spection of joint bars in continuous welded rail.

17 (b) TANK CAR STANDARDS.—The Administrator of
18 the Federal Railroad Administration shall—

19 (1) not later than 1 year after the date of en-
20 actment of this Act, validate the predictive model it
21 is developing to quantify the relevant dynamic forces
22 acting on railroad tank cars under accident condi-
23 tions; and

24 (2) not later than 18 months after the date of
25 enactment of this Act, initiate a rulemaking to de-

1 velop and implement appropriate design standards
2 for pressurized tank cars.

3 (c) **OLDER TANK CAR IMPACT RESISTANCE ANAL-**
4 **YSIS AND REPORT.**—Not later than 2 years after the date
5 of enactment of this Act, the Administrator of the Federal
6 Railroad Administration shall—

7 (1) conduct a comprehensive analysis to deter-
8 mine the impact resistance of the steels in the shells
9 of pressure tank cars constructed before 1989; and

10 (2) submit to the Committee on Commerce,
11 Science, and Transportation of the Senate and the
12 Committee on Transportation and Infrastructure of
13 the House of Representatives a report with rec-
14 ommendations for measures to eliminate or mitigate
15 the risk of catastrophic failure.

16 **SEC. 415. NORTHERN BORDER RAIL PASSENGER REPORT.**

17 Not later than 180 days after the date of enactment
18 of this Act, the Under Secretary of Homeland Security
19 for Border and Transportation Security, in consultation
20 with the heads of other appropriate Federal departments
21 and agencies and the National Railroad Passenger Cor-
22 poration, shall submit to the Committee on Commerce,
23 Science, and Transportation of the Senate and the Com-
24 mittee on Transportation and Infrastructure of the House
25 of Representatives a report that contains—

1 (1) a description of the current system for
2 screening passengers and baggage on passenger rail
3 service between the United States and Canada;

4 (2) an assessment of the current program to
5 provide preclearance of airline passengers between
6 the United States and Canada as outlined in “The
7 Agreement on Air Transport Preclearance between
8 the Government of Canada and the Government of
9 the United States of America”, dated January 18,
10 2001;

11 (3) an assessment of the current program to
12 provide preclearance of freight railroad traffic be-
13 tween the United States and Canada as outlined in
14 the “Declaration of Principle for the Improved Secu-
15 rity of Rail Shipments by Canadian National Rail-
16 way and Canadian Pacific Railway from Canada to
17 the United States”, dated April 2, 2003;

18 (4) information on progress by the Department
19 of Homeland Security and other Federal agencies to-
20 wards finalizing a bilateral protocol with Canada
21 that would provide for preclearance of passengers on
22 trains operating between the United States and Can-
23 ada;

24 (5) a description of legislative, regulatory,
25 budgetary, or policy barriers within the United

1 States Government to providing prescreened pas-
2 senger lists for rail passengers travelling between the
3 United States and Canada to the Department of
4 Homeland Security;

5 (6) a description of the position of the Govern-
6 ment of Canada and relevant Canadian agencies
7 with respect to preclearance of such passengers; and

8 (7) a draft of any changes in existing Federal
9 law necessary to provide for prescreening of such
10 passengers and providing prescreened passenger lists
11 to the Department of Homeland Security.

12 **SEC. 416. REPORT REGARDING IMPACT ON SECURITY OF**
13 **TRAIN TRAVEL IN COMMUNITIES WITHOUT**
14 **GRADE SEPARATION.**

15 (a) STUDY.—The Secretary of Homeland Security
16 shall, in consultation with State and local government offi-
17 cials, conduct a study on the impact of blocked highway-
18 railroad grade crossings on the ability of emergency re-
19 sponders, including ambulances and police, fire, and other
20 emergency vehicles, to perform public safety and security
21 duties in the event of a terrorist attack.

22 (b) REPORT.—Not later than 1 year after the date
23 of enactment of this Act, the Secretary of Homeland Secu-
24 rity shall submit to the Committee on Commerce, Science,
25 and Transportation of the Senate and the Committee on

1 Transportation and Infrastructure of the House of Rep-
2 resentatives a report on the findings of the study con-
3 ducted under subsection (a), including recommendations
4 for reducing the impact of blocked crossings on emergency
5 response.

6 **SEC. 417. WHISTLEBLOWER PROTECTION PROGRAM.**

7 (a) IN GENERAL.—Subchapter I of chapter 201 of
8 title 49, United States Code, is amended by inserting after
9 section 20115 the following new section:

10 **“§ 20116. Whistleblower protection for rail security**
11 **matters**

12 “(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail
13 carrier engaged in interstate or foreign commerce may dis-
14 charge a railroad employee or otherwise discriminate
15 against a railroad employee because the employee (or any
16 person acting pursuant to a request of the employee)—

17 (1) provided, caused to be provided, or is about
18 to provide or cause to be provided, to the employer
19 or the Federal Government information relating to a
20 perceived threat to security;

21 “(2) provided, caused to be provided, or is
22 about to provide or cause to be provided, testimony
23 before Congress or at any Federal or State pro-
24 ceeding regarding a perceived threat to security; or

1 “(3) refused to violate or assist in the violation
2 of any law, rule, or regulation related to rail secu-
3 rity.

4 “(b) DISPUTE RESOLUTION.—A dispute, grievance,
5 or claim arising under this section is subject to resolution
6 under section 3 of the Railway Labor Act (45 U.S.C. 153).
7 In a proceeding by the National Railroad Adjustment
8 Board, a division or delegate of the Board, or another
9 board of adjustment established under such section to re-
10 solve the dispute, grievance, or claim, the proceeding shall
11 be expedited and the dispute, grievance, or claim shall be
12 resolved not later than 180 days after it is filed. If the
13 violation is a form of discrimination that does not involve
14 discharge, suspension, or another action affecting pay, and
15 no other remedy is available under this subsection, the
16 Board, division, delegate, or other board of adjustment
17 may award the employee reasonable damages, including
18 punitive damages, of not more than \$20,000.

19 “(c) PROCEDURAL REQUIREMENTS.—Except as pro-
20 vided in subsection (b), the procedure set forth in section
21 42121(b)(2)(B) of this title, including the burdens of
22 proof, applies to any complaint brought under this section.

23 “(d) ELECTION OF REMEDIES.—An employee of a
24 railroad carrier may not seek protection under both this

1 section and another provision of law for the same allegedly
2 unlawful act of the carrier.

3 “(e) DISCLOSURE OF IDENTITY.—

4 “(1) Except as provided in paragraph (2) of
5 this subsection, or with the written consent of the
6 employee, the Secretary of Transportation may not
7 disclose the name of an employee of a railroad car-
8 rier who has provided information about an alleged
9 violation of this section.

10 “(2) The Secretary shall disclose to the Attor-
11 ney General the name of an employee described in
12 paragraph (1) of this subsection if the matter is re-
13 ferred to the Attorney General for enforcement.”.

14 (b) CONFORMING AMENDMENT.—The chapter anal-
15 ysis for chapter 201 of title 49, United States Code, is
16 amended by inserting after the item relating to section
17 20115 the following:

“20116. Whistleblower protection for rail security matters.”.

18 **TITLE V—PROTECTING**
19 **TAXPAYERS**

20 **SEC. 501. REPORTS ON METRICS FOR MEASURING SUCCESS**
21 **IN GLOBAL WAR ON TERRORISM.**

22 (a) REQUIREMENT FOR REPORTS.—The Comptroller
23 General of the United States shall submit to Congress re-
24 ports on the metrics for use in tracking and measuring
25 acts of global terrorism, international counterterrorism ef-

1 forts, and the success of United States counterterrorism
2 policies and practices including specific, replicable defini-
3 tions, criteria, and standards of measurement to be used
4 for the following:

5 (A) Counting and categorizing acts of
6 international terrorism.

7 (B) Monitoring counterterrorism efforts of
8 foreign governments.

9 (C) Monitoring financial support provided
10 to terrorist groups.

11 (D) Assessing the success of United States
12 counterterrorism policies and practices.

13 (b) SCHEDULE OF REPORTS.—The Comptroller Gen-
14 eral shall submit to Congress an initial report under sub-
15 section (a) not later than 1 year after the date of enact-
16 ment of this Act and a second report not later than 1
17 year after the date on which the initial report is submitted.

18 **SEC. 502. PROHIBITION ON WAR PROFITEERING.**

19 (a) FINDINGS.—Congress makes the following find-
20 ings:

21 (1) War profiteering, the overcharging of tax-
22 payers for any good or service with the specific in-
23 tent to excessively profit from a conflict or recon-
24 struction situation, not only defrauds taxpayers in
25 the United States, but also threatens the safety of

1 United States troops in harms way by hindering re-
2 construction progress, damaging the credibility of
3 the United States, and wasting resources that could
4 be used for troop protection.

5 (2) Laws prohibiting fraud protect against
6 waste of tax dollars within the United States, but no
7 current fraud statute expressly prohibits waste of
8 tax dollars resulting from war profiteering during
9 conflicts in foreign countries.

10 (3) War profiteers have hindered United States
11 efforts to secure and reconstruct Iraq. In its third
12 quarterly report, the Coalition Provisional Authority
13 Inspector General reported that, as of October 12,
14 2004, it had received a total of 113 potential crimi-
15 nal cases.

16 (4) In nine separate reports, the Defense Con-
17 tract Audit Agency, the Coalition Provisional Au-
18 thority Inspector General, and the Government Ac-
19 countability Office have found widespread, system-
20 atic abuses by the Halliburton Company and its sub-
21 sidiaries, including instances of overcharging worth
22 tens of millions of dollars, fraudulent accounting
23 practices, and kickbacks. Contracts awarded to Cus-
24 ter Battles, LLC, were suspended by the Depart-
25 ment of Defense after it uncovered fraudulent billing

1 practices including the establishment of phantom
2 off-shore corporations. Government investigators
3 have found contract irregularities, including lack of
4 transparency and poor accounting, in contracts
5 awarded to other firms.

6 (b) PROHIBITION OF PROFITEERING.—

7 (1) PROHIBITION.—

8 (A) IN GENERAL.—Chapter 47 of title 18,
9 United States Code, is amended by adding at
10 the end the following new section:

11 **“§ 1038. War profiteering and fraud relating to mili-**
12 **tary action, relief, and reconstruction ef-**
13 **forts**

14 “(a) PROHIBITION.—

15 “(1) IN GENERAL.—Whoever, in any matter in-
16 volving a contract or the provision of goods or serv-
17 ices, directly or indirectly, in connection with the
18 war, military action, or relief or reconstruction ac-
19 tivities, knowingly and willfully—

20 “(A) executes or attempts to execute a
21 scheme or artifice to defraud the United States;

22 “(B) falsifies, conceals, or covers up by
23 any trick, scheme, or device a material fact;

24 “(C) makes any materially false, fictitious,
25 or fraudulent statements or representations, or

1 makes or uses any materially false writing or
2 document knowing the same to contain any ma-
3 terially false, fictitious, or fraudulent statement
4 or entry; or

5 “(D) materially overvalues any good or
6 service with the specific intent to excessively
7 profit from the war, military action, or relief or
8 reconstruction activities;

9 shall be fined under paragraph (2), imprisoned not
10 more than 20 years, or both.

11 “(2) FINE.—A person convicted of an offense
12 under paragraph (1) may be fined the greater of—

13 “(A) \$1,000,000; or

14 “(B) if such person derives profits or other
15 proceeds from the offense, not more than twice
16 the gross profits or other proceeds.

17 “(b) EXTRATERRITORIAL JURISDICTION.—There is
18 extraterritorial Federal jurisdiction over an offense under
19 this section.

20 “(c) VENUE.—A prosecution for an offense under
21 this section may be brought—

22 “(1) as authorized by chapter 211 of this title;

23 “(2) in any district where any act in further-
24 ance of the offense took place; or

1 “(3) in any district where any party to the con-
2 tract or provider of goods or services is located.”.

3 (2) TABLE OF SECTIONS.—The table of sections
4 for chapter 47 of title 18, United States Code, is
5 amended by adding at the end the following:

 “1038. War profiteering and fraud relating to military action, relief, and recon-
 struction efforts.”.

6 (c) CIVIL FORFEITURE.—Section 981(a)(1)(C) of
7 title 18, United States Code, is amended by inserting
8 “1038,” after “1032,”.

9 (d) CRIMINAL FORFEITURE.—Section 982(a)(2)(B)
10 of title 18, United States Code, is amended by striking
11 “or 1030” and inserting “1030, or 1038”.

12 (e) MONEY LAUNDERING.—Section 1956(e)(7)(D) of
13 title 18, United States Code, is amended by inserting “sec-
14 tion 1038 (relating to war profiteering and fraud relating
15 to military action, relief, and reconstruction efforts),”
16 after “liquidating agent of financial institution),”.

17 (f) RELATIONSHIP TO EXISTING LAW.—This section
18 shall not limit or repeal any additional authorities pro-
19 vided by law.

20 (g) EFFECTIVE DATE OF AMENDMENTS.—The
21 amendments made by this section shall be effective during
22 the 7-year period beginning on the date of enactment of
23 this Act.

○