

**DIVISION A, SECTION 101, SECTION 329, TITLE XI, DIVISION B, TITLES II, III, IV, DIVISION I OF THE OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1999**

[Copy of our comp to add title V of Div. A]

[Public Law 105-277; 112 Stat. 2681-856; approved Oct. 21, 1998]

[As Amended Through P.L. 118-272, Enacted January 4, 2025]

【Currency: This publication is a compilation of the text of Public Law 105-277. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

**DIVISION A—OMNIBUS CONSOLIDATED APPROPRIATIONS**

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1999, and for other purposes, namely:

SEC. 101. (a)

\* \* \* \* \*

(e) For programs, projects or activities in the Department of the Interior and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:AN ACT

AN ACT Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

**TITLE I—DEPARTMENT OF THE INTERIOR**

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**UNITED STATES FISH AND WILDLIFE SERVICE**

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**MULTINATIONAL SPECIES CONSERVATION FUND**

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201-4203, 4211-4213, 4221-4225, 4241-

4245, and 1538), the Asian Elephant Conservation Act of 1997 (Public Law 105–96), and the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301–5306), \$2,000,000, to remain available until expended: *Provided*, That unexpended balances of amounts previously appropriated to the African Elephant Conservation Fund, Rewards and Operations account, and Rhinoceros and Tiger Conservation Fund may be transferred to and merged with this appropriation: *Provided further*, That in fiscal year 1999 and thereafter, donations to provide assistance under section 5 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5304), part I of the African Elephant Conservation Act (16 U.S.C. 4211 et seq.), and section 5 of the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4264) shall be deposited to this Fund and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, all penalties received by the United States under section 2204 of the African Elephant Conservation Act (16 U.S.C. 4224) which are not used to pay rewards under section 2205 of the African Elephant Conservation Act (16 U.S.C. 4225) shall be deposited to this Fund to provide assistance under section 2101 of the African Elephant Conservation Act (16 U.S.C. 4211) and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, not more than three percent of amounts appropriated to this Fund may be used by the Secretary of the Interior to administer the Fund.

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### TITLE III

#### GENERAL PROVISIONS

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#### BULK FUEL STORAGE TANK

SEC. 329. (a) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the remainder of the balance in the Trans-Alaska Pipeline Liability Fund that is transferred and deposited into the Oil Spill Liability Trust Fund under section 8102(a)(2)(B)(ii) of the Oil Pollution Act of 1990 (43 U.S.C. 1653 note) after June 16, 1998 shall be used in accordance with this section.

(b) USE OF INTEREST ONLY.—The interest produced from the investment of the Trans-Alaska Pipeline Liability Fund balance that is transferred and deposited into the Oil Spill Liability Trust Fund under section 8102(a)(2)(B)(ii) of the Oil Pollution Act of 1990 (43 U.S.C. 1653 note) after June 16, 1998 shall be transferred annually by the National Pollution Funds Center to the Denali Commission for a program, to be developed in consultation with the Coast Guard, to repair or replace bulk fuel storage tanks in Alaska which are not in compliance with federal law, including the Oil Pollution Act of 1990, or State law or for the construction and repair of barge mooring points and barge landing sites to facilitate pumping fuel from fuel transport barges into bulk fuel storage tanks..<sup>1</sup>

<sup>1</sup> Double period so in law. See amendment in section 403, division D of Public Law 114-113.

(c) TAPS PAYMENT TO ALASKA DEDICATED TO BULK FUEL STORAGE TANK REPAIR AND REPLACEMENT.—Section 8102(a)(2)(B)(i) of Public Law 101–380 (43 U.S.C. 1653 note) is amended by inserting immediately before the semicolon, “, which, except as otherwise provided under article IX, section 15, of the Alaska Constitution, shall be used for the remediation of above-ground storage tanks”.

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#### TITLE V—LAND BETWEEN THE LAKES PROTECTION ACT

##### SEC. 501. [16 U.S.C. 460111 note] SHORT TITLE.

This title may be referred to as “The Land Between the Lakes Protection Act of 1998”.

##### SEC. 502. [16 U.S.C. 460111] DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) ADVISORY BOARD.—The term “Advisory Board” means the Land Between the Lakes Advisory Board established under section 522.

(3) CHAIRMAN.—The term “Chairman” means the Chairman of the Board of Directors of the Tennessee Valley Authority.

(4) ELIGIBLE EMPLOYEE.—The term “eligible employee” means a person that was, on the date of transfer pursuant to section 541, a full-time or part-time annual employee of the Tennessee Valley Authority at the Recreation Area.

(5) ENVIRONMENTAL LAW.—

(A) IN GENERAL The term “environmental law” means all applicable Federal, State, and local laws (including regulations) and requirements related to protection of human health, natural and cultural resources, or the environment.

(B) INCLUSIONS.—The term “environmental law” includes—

(i) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(ii) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(iv) the Clean Air Act (42 U.S.C. 7401 et seq.);

(v) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(vi) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); (vii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(viii) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ix) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(6) FOREST HIGHWAY.—The term “forest highway” has the meaning given the term in section 101(a) of title 23, United States Code.

(7) GOVERNMENTAL UNIT.—The term “governmental unit” means an agency of the Federal Government or a State or local government, local governmental unit, public or municipal corporation, or unit of a State university system.

(8) HAZARDOUS SUBSTANCE.—The term “hazardous substance” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(9) PERSON.—The term “person” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(10) POLLUTANT OR CONTAMINANT.—The term “pollutant or contaminant” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(11) QUALIFIED RESIDENT OR RELATIVE.—The term “qualified resident or relative” means—

(A) a former resident of the area within the Recreation Area or the spouse of a former resident of that area; or

(B) a widow, widower, or lineal descendant of an individual buried in a cemetery located in the Recreation Area.

(12) RECREATION AREA.—The term “Recreation Area” means the Land Between the Lakes National Recreation Area.

(13) RELEASE.—The term “release” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(14) RESPONSE ACTION.—The term “response action” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(15) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(16) STATE.—The term “State” means the State of Kentucky and the State of Tennessee.

**SEC. 503. [16 U.S.C. 460III-1] PURPOSES.**

The purposes of this title are—

(1) to transfer without consideration administrative jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary so that the Recreation Area may be managed as a unit of the National Forest System;

(2) to protect and manage the resources of the Recreation Area for optimum yield of outdoor recreation and environmental education through multiple use management by the Forest Service;

(3) to authorize, research, test, and demonstrate innovative programs and cost-effective management of the Recreation Area;

(4) to authorize the Secretary to cooperate between and among the States, Federal agencies, private organizations, and corporations, and individuals, as appropriate, in the management of the Recreation Area and to help stimulate the development of the surrounding region and extend the beneficial results as widely as practicable; and

(5) to provide for the smooth and equitable transfer of jurisdiction from the Tennessee Valley Authority to the Secretary.

### **Subtitle A—Establishment, Administration, and Jurisdiction**

#### **SEC. 511. [16 U.S.C. 46011-11] ESTABLISHMENT.**

(a) **IN GENERAL.**—On the transfer of administrative jurisdiction under section 541, the Land Between the Lakes National Recreation Area in the States of Kentucky and Tennessee is established as a unit of the National Forest System.

(b) **MANAGEMENT.**—

(1) **IN GENERAL.**—The Secretary shall manage the Recreation Area for multiple use as a unit of the National Forest System.

(2) **EMPHASES.**—The emphases in the management of the Recreation Area shall be—

(A) to provide public recreational opportunities;

(B) to conserve fish and wildlife and their habitat; and

(C) to provide for diversity of native and desirable non-native plants, animals, opportunities for hunting and fishing, and environmental education.

(3) **STATUS OF UNIT** The Secretary shall administer the Recreation Area as a separate unit of the National Forest System.

(c) **AREA INCLUDED.**—

(1) **IN GENERAL.**—The Recreation Area shall comprise the federally owned land, water, and interests in the land and water lying between Kentucky Lake and Lake Barkley in the States of Kentucky and Tennessee, as generally depicted on the map entitled “Land Between the Lakes National Recreation Area—January, 1998”.

(2) **MAP.**—The map described in paragraph (1) shall be available for public inspection in the Office of the Chief of the Forest Service, Washington, D.C.

(d) **WATERS.**—

(1) **WATER-LEVELS AND NAVIGATION.**—Nothing in this title affects the jurisdiction of the Tennessee Valley Authority or the Army Corps of Engineers to manage and regulate water levels and navigation of Kentucky Lake and Lake Barkley and areas subject to flood easements.

(2) **OCCUPANCY AND USE.**—Subject to the jurisdiction of the Tennessee Valley Authority and the Army Corps of Engineers, the Secretary shall have jurisdiction to regulate the occupancy and use of the surface waters of the lakes for recreational purposes.

**SEC. 512. [16 U.S.C. 46011-12] CIVIL AND CRIMINAL JURISDICTION.**

(a) **ADMINISTRATION.**—The Secretary, acting through the Chief of the Forest Service, shall administer the Recreation Area in accordance with this title and the laws, rules, and regulations pertaining to the National Forest System.

(b) **STATUS.**—Land within the Recreation Area shall have the status of land acquired under the Act of March 1, 1911 (commonly known as the “Weeks Act”) (16 U.S.C. 515 et seq.).

(c) **LAW ENFORCEMENT.**—In order to provide for a cost-effective transfer of the law enforcement responsibilities between the Forest Service and the Tennessee Valley Authority, the law enforcement authorities designated under section 4A of the Tennessee Valley Authority Act 1933 (16 U.S.C. 831c-3) are hereby granted to special agents and law enforcement officers of the Forest Service. The law enforcement authorities designated under the eleventh undesignated paragraph under the heading “Surveying the public lands” of the Act of June 4, 1897 (30 Stat. 35; 16 U.S.C. 5511, the first paragraph of that portion designated “General Expenses, Forest Service” of the Act of March 3, 1905 (33 U.S.C. 873; 16 U.S.C. 559), the National Forest System Drug Control Act of 1986 (16 U.S.C. 559b-559g) are hereby granted to law enforcement agents of the Tennessee Valley Authority, within the boundaries of the Recreation Area, for a period of 1 year from the date on which this section takes effect.

**SEC. 513. [16 U.S.C. 46011-13] PAYMENTS TO STATES AND COUNTIES.**

(a) **PAYMENTS IN LIEU OF TAXES.**—Land within the Recreation Area shall be subject to the provisions for payments in lieu of taxes under chapter 69 of title 31, United States Code.

(b) **DISTRIBUTION.**—All amounts received from charges, use fees, and natural resource utilization, including timber and agricultural receipts, shall not be subject to distribution to States under the Act of May 23, 1908 (16 U.S.C. 500).

(c) **PAYMENTS BY THE TENNESSEE VALLEY AUTHORITY.**—After the transfer of administrative jurisdiction is made under section 541—

(1) the Tennessee Valley Authority shall continue to calculate the amount of payments to be made to States and counties under section 13 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 8311); and

(2) each State (including, for the purposes of this subsection, the State of Kentucky, the State of Tennessee, and any other State) that receives a payment under that section shall continue to calculate the amounts to be distributed to the State and local governments, as though the transfer had not been made.

**SEC. 514. [16 U.S.C. 46011-14] FOREST HIGHWAYS.**

(a) **IN GENERAL.**—For purposes of section 204 of title 23, United States Code, the road known as “The Trace” and every other paved road within the Recreation Area (including any road constructed to secondary standards) shall be considered to be a forest highway.

(b) **STATE RESPONSIBILITY.**—

(1) **IN GENERAL.**—The States shall be responsible for the maintenance of forest highways within the Recreation Area.

(2) **REIMBURSEMENT.**—To the maximum extent provided by law, from funds appropriated to the Department of Transportation and available for purposes of highway construction and maintenance, the Secretary of Transportation shall reimburse the States for all or a portion of the costs of maintenance of forest highways in the Recreation Area.

### **Subtitle B—Management Provisions**

#### **SEC. 521. [16 U.S.C. 460III-21] LAND AND RESOURCE MANAGEMENT PLAN.**

(a) **IN GENERAL.**—As soon as practicable after the effective date of the transfer of jurisdiction under section 541, the Secretary shall prepare a land and resource management plan for the Recreation Area in conformity with the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.) and other applicable law.

(b) **INTERIM PROVISION.**—Until adoption of the land and resource management plan, the Secretary may use, as appropriate, the existing Tennessee Valley Authority Natural Resource Management Plan to provide interim management direction. Use of all or a portion of the management plan by the Secretary shall not be considered to be a major Federal action significantly affecting the quality of the human environment.

#### **SEC. 522. [16 U.S.C. 460III-22] ADVISORY BOARD.**

(a) **ESTABLISHMENT.**—Not later than 90 days after the date of transfer pursuant to section 541, the Secretary shall establish the Land Between the Lakes Advisory Board.

(b) **MEMBERSHIP.**—The Advisory Board shall be composed of 13 members, of whom—

(1) 4 individuals shall be appointed by the Secretary, including—

(A) 2 residents of the State of Kentucky; and

(B) 2 residents of the State of Tennessee;

(2) 2 individuals shall be appointed by the Kentucky Fish and Wildlife Commissioner or designee;

(3) 1 individual shall be appointed by the Tennessee Fish and Wildlife Commission or designee; and

(4) 2 individuals shall be appointed by appropriate officials of each of the 3 counties containing the Recreation Area.

(c) **TERM.**—

(1) **IN GENERAL.**—The term of a member of the Advisory Board shall be 5 years.

(2) **NONCONSECUTIVE TERMS** Members of the Advisory Board may serve multiple terms, but may not serve consecutive terms.

(d) **CHAIRPERSON.**—The Regional Forester shall serve as chairperson of the Advisory Board.

(e) **RULES OF PROCEDURE.**—The Secretary shall prescribe the rules of procedure for the Advisory Board.

(f) **FUNCTIONS.**—The Advisory Board shall advise the Secretary on—

- (1) means of promoting public participation for the land and resource management plan for the Recreation Area;
- (2) environmental education;
- (3) an annual work plan for recreation and environment education areas in the Recreation Area, including the heritage program, with the nonappropriated amounts in the Land Between the Lakes Management Fund;
- (4) an annual forest management and harvest plan for the Recreation Area; and
- (5) the Land Between the Lakes Management Fund.

(g) MEETINGS.—

(1) FREQUENCY.—The Advisory Board shall meet at least twice each year.

(2) PUBLIC MEETING.—A meeting of the Advisory Board shall be open to the general public.

(3) NOTICE OF MEETINGS.—The chairperson, through the placement of notices in local news media, on a public website of the Department of Agriculture, and by other appropriate means shall give 2 weeks' public notice of each meeting of the Advisory Board.

(4) MINUTES.—The Secretary shall publish the minutes of each meeting of the Advisory Board on a public website of the Department of Agriculture.

(h) NO TERMINATION.—Section 1013(a) of title 5, United States Code, shall not apply to the Advisory Board.

**SEC. 523. [16 U.S.C. 46011–23] FEES.**

(a) AUTHORITY.—The Secretary shall charge reasonable fees, in consultation with the Advisory Board and consistent with the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.), for admission to and the use of the designated sites, or for activities, within the Recreation Area.

(b) FACTORS.—In determining whether to charge fees, the Secretary may consider the costs of collection weighed against potential income.

(c) LIMITATION.—No general entrance fees shall be charged within the Recreation Area.

**SEC. 524. [16 U.S.C. 46011–24] DISPOSITION OF RECEIPTS.**

(a) IN GENERAL.—All amounts received from charges, use fees, and natural resource utilization, including timber and agricultural receipts, shall be deposited in a special fund in the Treasury of the United States to be known as the “Land Between the Lakes Management Fund”.

(b) USE.—Amounts in the Land Between the Lakes Management Fund shall be available to the Secretary until expended, without further appropriation, for construction, improvement, or maintenance in the Recreation Area.

(c) RESTRICTION ON USE OF FUND.—Except as provided in subsection (b), amounts in the Land Between the Lakes Management Fund shall not be used for management of the Recreation Area, including salaries and expenses.

**SEC. 525. [16 U.S.C. 46011–25] SPECIAL USE AUTHORIZATIONS.**

(a) IN GENERAL.—In addition to other authorities for the authorization of special uses within the National Forest System, with-



in the Recreation Area, the Secretary may, on such terms and conditions as the Secretary may prescribe—

(1) convey for no consideration perpetual easements to governmental units for public roads over United States Route 68 and the Trace, and such other rights-of-way as the Secretary and a governmental unit may agree;

(2) transfer or lease to governmental units developed recreation sites or other facilities to be managed for public purposes; and

(3) lease or authorize recreational sites or other facilities, consistent with sections 503(2) and 511(b)(2).

(b) CONSIDERATION.—

(1) IN GENERAL.—Consideration for a lease or other special use authorization within the Recreation Area shall be based on fair market value.

(2) REDUCTION OR WAIVER.—The Secretary may reduce or waive a fee to a governmental unit or nonprofit organization commensurate with other consideration provided to the United States, as determined by the Secretary.

(c) PROCEDURE.—The Secretary may use any fair and equitable method for authorizing special uses within the Recreation Area, including public solicitation of proposals.

(d) EXISTING AUTHORIZATIONS.—

(1) IN GENERAL.—A permit or other authorization granted by the Tennessee Valley Authority that is in effect on the date of transfer pursuant to section 541 may continue on transfer of administration of the Recreation Area to the Secretary.

(2) REISSUANCE.—A permit or authorization described in paragraph (1) may be reissued or terminated under terms and conditions prescribed by the Secretary.

(3) EXERCISE OF RIGHTS.—The Secretary may exercise any of the rights of the Tennessee Valley Authority contained in any permit or other authorization, including any right to amend, modify, and revoke the permit or authorization.

**SEC. 526. [16 U.S.C. 460III-26] COOPERATIVE AUTHORITIES AND GIFTS.**

(a) FISH AND WILDLIFE SERVICE.—

(1) MANAGEMENT.—

(A) IN GENERAL.—Subject to such terms and conditions as the Secretary may prescribe, the Secretary may issue a special use authorization to the United States Fish and Wildlife Service for the management by the Service of facilities and land agreed on by the Secretary and the Secretary of the Interior.

(B) FEES.—

(i) IN GENERAL.—Reasonable admission and use fees may be charged for all areas administered by the United States Fish and Wildlife Service.

(ii) DEPOSIT.—The fees shall be deposited in accordance with section 524.

(2) COOPERATION.—The Secretary and the Secretary of the Interior may cooperate or act jointly on activities such as population monitoring and inventory of fish and wildlife with emphasis on migratory birds and endangered and threatened spe-

cies, environmental education, visitor services, conservation demonstration projects and scientific research.

(3) SUBORDINATION OF FISH AND WILDLIFE ACTIVITIES TO OVERALL MANAGEMENT.—The management and use of areas and facilities under permit to the United States Fish and Wildlife Service as authorized pursuant to this section shall be subordinate to the overall management of the Recreation Area as directed by the Secretary.

(b) AUTHORITIES.—For the management, maintenance, operation, and interpretation of the Recreation Area and its facilities, the Secretary may—

(1) make grants and enter into contracts and cooperative agreements with Federal agencies, governmental units, non-profit organizations, corporations, and individuals; and

(2) accept gas under Public Law 95-442 (7 U.S.C. 2269) notwithstanding that the donor conducts business with any agency of the Department of Agriculture or is regulated by the Secretary of Agriculture.

(c) MEMORANDA OF UNDERSTANDING.—The Secretary may, for purposes of carrying out this Act—

(1) enter into memoranda of understanding with State or local government entities, including law enforcement, as appropriate, to clarify jurisdictional matters, such as road management, policing, and other functions that are typically performed by the entity on non-Federal land; and

(2) make available on a public website of the Department of Agriculture any memoranda of understanding entered into under paragraph (1).

**SEC. 527. [16 U.S.C. 460III-27] DESIGNATION OF NATIONAL RECREATION TRAIL.**

Effective on the date of transfer pursuant to section 541, the North-South Trail is designated as a national recreation trail under section 4 of the National Trails System Act (16 U.S.C. 1243).

**SEC. 528. [16 U.S.C. 460III-28] CEMETERIES.**

(a) IN GENERAL.—The Secretary shall maintain an inventory of and ensure access to cemeteries within the Recreation Area for purposes of burial, visitation, and maintenance.

(b) LAND FOR PLOTS FOR QUALIFIED RESIDENTS OR RELATIVES.—

(1) REQUESTS.—The Secretary, on request from a qualified resident or relative or a cemetery association, shall grant additional land for the minor expansion of existing cemeteries within the Recreation Area, to the extent necessary, to allow for the burial of qualified residents or relatives.

(2) EXPENSES.—Any expenses required to move border fences or markers due to an expansion under paragraph (1) shall be the responsibility of the person making the request under that paragraph.

**SEC. 529. [16 U.S.C. 460III-29] RESOURCE MANAGEMENT.**

(a) MINERALS.—

(1) WITHDRAWAL.—The land within the Recreation Area is withdrawn from the operation of the mining and mineral leasing laws of the United States.

(2) USE OF MINERAL MATERIALS.—The Secretary may permit the use of common varieties of mineral materials for the development and maintenance of the Recreation Area.

(b) HUNTING AND FISHING.—

(1) IN GENERAL.—The Secretary shall permit hunting and fishing on land and water under the jurisdiction of the Secretary within the boundaries of the Recreation Area in accordance with applicable laws of the United States and of each State, respectively.

(2) PROHIBITION.—

(A) IN GENERAL.—The Secretary may designate areas where, and establish periods when, hunting or fishing is prohibited for reasons of public safety, administration, or public use and enjoyment.

(B) CONSULTATION.—Except in emergencies, a prohibition under subparagraph (A) shall become effective only after consultation with the appropriate fish and game departments of the States.

(3) FISH AND WILDLIFE.—Nothing in this title affects the jurisdiction or responsibilities of the States with respect to wildlife and fish on national forests.

(c) HISTORICAL RESOURCES.—

(1) IN GENERAL.—The Secretary shall identify and manage the historical resources of the Recreation Area—

(A) in accordance with the requirements of division A of subtitle III of title 54, United States Code (formerly known as the “National Historic Preservation Act”); and

(B) in consultation with qualified residents or relatives.

(2) CONSIDERATION.—The Secretary shall—

(A) in accordance with applicable law, give consideration to requests by qualified residents or relatives to use and maintain traditional sites, buildings, cemeteries, and other areas of cultural importance in the Recreation Area; and

(B) consult with qualified residents or relatives in the management of the historical resources of the Recreation Area.

**SEC. 530. [16 U.S.C. 460III-30] HEMATITE DAM.**

Within one year from the date of transfer pursuant to section 541, the Tennessee Valley Authority shall cause any breach in the Hematite Dam to be repaired, or if such repairs have previously been made, the Tennessee Valley Authority shall certify in a letter to the Secretary the sound condition of the dam. Future repair costs and maintenance of the Hematite Dam shall be the responsibility of the Secretary.

**SEC. 531. [16 U.S.C. 460III-31] TRUST FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a special interest-bearing fund known as the “Land Between the Lakes Trust Fund”.

(b) AVAILABILITY.—Amounts in the Fund shall be available to the Secretary, until expended, for—

(1) public education, grants, and internships related to recreation, conservation, and multiple use land management in the Recreation Area; and

(2) regional promotion in the Recreation Area, in cooperation with development districts, chambers of commerce, and State and local governments.

(c) DEPOSITS.—The Tennessee Valley Authority shall deposit into the Fund \$1,000,000 annually for each of the 5 fiscal years commencing in the first fiscal year of the transfer. Funding to carry out this section shall be derived from funding described in section 549.

#### Subtitle C—Transfer Provisions

##### SEC. 541. [16 U.S.C. 460III–41] EFFECTIVE DATE OF TRANSFER.

Effective on October 1 of the first fiscal year for which Congress does not appropriate to the Tennessee Valley Authority at least \$6,000,000 for the Recreation Area, or, if this Act is enacted during a fiscal year for which Congress has not made such an appropriation, effective as of the date of enactment of this Act, administrative jurisdiction over the Recreation Area is transferred from the Tennessee Valley Authority to the Secretary.

##### SEC. 542. [16 U.S.C. 460III–42] STATEMENT OF POLICY.

It is the policy of the United States that, to the maximum extent practicable—

(1) the transfer of jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary should be effected in an efficient and cost-effective manner; and

(2) due consideration should be given to minimizing—

(A) disruption of the personal lives of the Tennessee Valley Authority and Forest Service employees; and

(B) adverse impacts on permittees, contractees, and others owning or operating businesses affected by the transfer.

##### SEC. 543. [16 U.S.C. 460III–43] MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 30 days after the date of transfer pursuant to section 541, the Secretary and the Tennessee Valley Authority shall enter into a memorandum of agreement concerning implementation of this title.

(b) PROVISIONS.—The memorandum of understanding shall provide procedures for—

(1) the orderly withdrawal of officers and employees of the Tennessee Valley Authority;

(2) the transfer of property, fixtures, and facilities;

(3) the interagency transfer of officers and employees;

(4) the transfer of records; and

(5) other transfer issues.

(c) TRANSITION TEAM.—

(1) IN GENERAL.—The memorandum of understanding may provide for a transition team consisting of the Tennessee Valley Authority and Forest Service employees.

(2) DURATION.—The team may continue in existence after the date of transfer.

(3) PERSONNEL COSTS.—The Tennessee Valley Authority and the Forest Service shall pay personnel costs of their respective team members.

**SEC. 544. [16 U.S.C. 460III-44] RECORDS.**

(a) RECREATION AREA RECORDS.—The Secretary shall have access to all records of the Tennessee Valley Authority pertaining to the management of the Recreation Area.

(b) PERSONNEL RECORDS.—The Tennessee Valley Authority personnel records shall be made available to the Secretary, on request, to the extent the records are relevant to Forest Service administration.

(c) CONFIDENTIALITY.—The Tennessee Valley Authority may prescribe terms and conditions on the availability of records to protect the confidentiality of private or proprietary information.

(d) LAND TITLE RECORDS.—The Tennessee Valley Authority shall provide to the Secretary original records pertaining to land titles, surveys, and other records pertaining to transferred personal property and facilities.

**SEC. 545. [16 U.S.C. 460III-45] TRANSFER OF PERSONAL PROPERTY.**

(a) SUBJECT PROPERTY.—

(1) INVENTORY.—Not later than 60 days after the date of transfer pursuant to section 541, the Tennessee Valley Authority shall provide the Secretary with an inventory of all property and facilities at the Recreation Area.

(2) AVAILABILITY FOR TRANSFER.—

(A) IN GENERAL.—All Tennessee Valley Authority property associated with the administration of the Recreation Area, including any property purchased with Federal funds appropriated for the management of the Tennessee Valley Authority land, shall be available for transfer to the Secretary.

(B) PROPERTY INCLUDED.—Property under subparagraph (A) includes buildings, office furniture and supplies, computers, office equipment, buildings, vehicles, tools, equipment, maintenance supplies, boats, engines, and publications.

(3) EXCLUSION OF PROPERTY.—At the request of the authorized representative of the Tennessee Valley Authority, the Secretary may exclude movable property from transfer based on a showing by the Tennessee Valley Authority that the property is vital to the mission of the Tennessee Valley Authority and cannot be replaced in a cost-effective manner, if the Secretary determines that the property is not needed for management of the Recreation Area.

(b) DESIGNATION.—Pursuant to such procedures as may be prescribed in the memorandum of agreement entered into under section 543, the Secretary shall identify and designate, in writing, all Tennessee Valley Authority property to be transferred to the Secretary.

(c) FACILITATION OF TRANSFER.—The Tennessee Valley Authority shall, to the maximum extent practicable, use current personnel to facilitate the transfer of necessary property and facilities to the Secretary, including replacement of signs and insignia, repainting

of vehicles, printing of public information, and training of new personnel. Funding for these costs shall be derived from funding described in section 549.

(d) SURPLUS PROPERTY.—

(1) DISPOSITION.—Any personal property, including structures and facilities, that the Secretary determines cannot be efficiently managed and maintained either by the Forest Service or by lease or permit to other persons may be declared excess by the Secretary and—

(A) sold by the Secretary on such terms and conditions as the Secretary may prescribe to achieve the maximum benefit to the Federal Government; or

(B) disposed of under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(2) DEPOSIT OF PROCEEDS.—All net proceeds from the disposal of any property shall be deposited into the Fund established by section 531.

**SEC. 546. [16 U.S.C. 46011-46] COMPLIANCE WITH ENVIRONMENTAL LAWS.**

(a) DOCUMENTATION OF EXISTING CONDITIONS.—

(1) IN GENERAL.—Not later than 60 days after the date of transfer pursuant to section 541, the Chairman and the Administrator shall provide the Secretary all documentation and information that exists on the environmental condition of the land and waters comprising the Recreation Area property.

(2) ADDITIONAL DOCUMENTATION.—The Chairman and the Administrator shall provide the Secretary with any additional documentation and information regarding the environmental condition of the Recreation Area property as such documentation and information becomes available.

(b) ACTION REQUIRED.—

(1) ASSESSMENT.—Not later than 120 days after the date of transfer pursuant to section 541, the Chairman shall provide to the Secretary an assessment indicating what action, if any, is required under any environmental law on Recreation Area property.

(2) MEMORANDUM OF UNDERSTANDING.—If the assessment concludes action is required under any environmental law with respect to any portion of the Recreation Area property, the Secretary and the Chairman shall enter into a memorandum of understanding that—

(A) provides for the performance by the Chairman of the required actions identified in the assessment; and

(B) includes a schedule providing for the prompt completion of the required actions to the satisfaction of the Secretary.

(c) DOCUMENTATION DEMONSTRATING ACTION.—On the transfer of jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary, the Chairman shall provide the Secretary with documentation demonstrating that all actions required under any environmental law have been taken, including all response actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) that are necessary to protect human health and the environment

with respect to any hazardous substance, pollutant, contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product on Recreation Area property.

(d) CONTINUATION OF RESPONSIBILITIES AND LIABILITIES.—

(1) IN GENERAL.—The transfer of the Recreation Area property under this title, and the requirements of this section, shall not in any way affect the responsibilities and liabilities of the Tennessee Valley Authority at the Recreation Area under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or any other environmental law.

(2) ACCESS.—After transfer of the Recreation Area property, the Chairman shall be accorded any access to the property that may be reasonably required to carry out the responsibility or satisfy the liability referred to in paragraph (1).

(3) NO LIABILITY.—The Secretary shall not be liable under any environmental law for matters that are related directly or indirectly to present or past activities of the Tennessee Valley Authority on the Recreation Area property, including liability for—

(A) costs or performance of response actions required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) at or related to the Recreation Area; or

(B) costs, penalties, fines, or performance of actions related to noncompliance with any environmental law at or related to the Recreation Area or related to the presence, release, or threat of release of any hazardous substance, pollutant, or contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product of any kind at or related to the Recreation Area, including contamination resulting from migration.

(4) NO EFFECT ON RESPONSIBILITIES OR LIABILITIES.—Except as provided in paragraph (3), nothing in this title affects, modifies, amends, repeals, alters, limits or otherwise changes, directly or indirectly, the responsibilities or liabilities under any environmental law with respect to the Secretary.

(e) OTHER FEDERAL AGENCIES.—Subject to the other provisions of this section, a Federal agency that carried or carries out operations at the Recreation Area resulting in the release or threatened release of a hazardous substance, pollutant, or contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product for which that agency would be liable under any environmental law shall pay the costs of related response actions and shall pay the costs of related actions to remediate petroleum products or their derivatives.

**SEC. 547. [16 U.S.C. 460III–47] PERSONNEL.**

(a) IN GENERAL.—

(1) HIRING.—Notwithstanding section 3503 of title 5, United States Code, and subject to paragraph (2), the Secretary may—

(A) appoint, hire, and discharge officers and employees to administer the Recreation Area; and

(B) pay the officers and employees at levels that are commensurate with levels at other units of the National Forest System.

(2) INTERIM RETENTION OF ELIGIBLE EMPLOYEES.—

(A) IN GENERAL.—For a period of not less than 5 months after the effective date of transfer to the Forest Service—

(I) all eligible employees shall be retained in the employment of the Tennessee Valley Authority;

(ii) those eligible employees shall be considered to be placed on detail to the Secretary and shall be subject to the direction of the Secretary; and

(iii) the Secretary shall reimburse the Tennessee Valley Authority for the amount of the basic pay and all other compensation of those eligible employees.

(B) NOTICE TO EMPLOYEES.—The Secretary shall provide eligible employees a written notice of not less than 60 days before termination.

(C) TERMINATION FOR CAUSE.—Subparagraph (A) does not preclude a termination for cause during the period described in subparagraph (A).

(b) APPLICATIONS FOR TRANSFER AND APPOINTMENT.—An eligible employee shall have the right to apply for employment by the Secretary under procedures for transfer and appointment of Federal employees outside the Department of Agriculture.

(c) HIRING BY THE SECRETARY.—

(1) IN GENERAL.—Subject to subsection (b), in filling personnel positions within the Recreation Area, the Secretary shall follow all laws (including regulations) and policies applicable to the Department of Agriculture.

(2) NOTIFICATION AND HIRING.—Notwithstanding paragraph (1), the Secretary—

(A) shall notify all eligible employees of all openings for positions with the Forest Service at the Recreation Area before notifying other individuals or considering applications by other individuals for the positions; and

(B) after applications by eligible employees have received consideration, if any positions remain unfilled, shall notify other individuals of the openings.

(3) NONCOMPETITIVE APPOINTMENTS.—Notwithstanding other placement of career transition programs authorized by the Office of Personnel Management of the United States Department of Agriculture, the Secretary may noncompetitively appoint eligible employees to positions in the Recreation Area.

(4) PERIOD OF SERVICE.—Except to the extent that an eligible employee that is appointed by the Secretary may be otherwise compensated for the period of service as an employee of the Tennessee Valley Authority, that period of service shall be treated as a period of service as an employee of the Secretary for the purposes of probation, career tenure, time-in-grade, and leave.

(d) TRANSFER TO POSITIONS IN OTHER UNITS OF THE TENNESSEE VALLEY AUTHORITY.—The Tennessee Valley Authority—



(1) shall notify all eligible employees of all openings for positions in other units of the Tennessee Valley Authority before notifying other individuals or considering applications by other individuals for the positions; and

(2) after applications by eligible employees have received consideration, if any positions remain unfilled, shall notify other individuals of the openings.

(e) EMPLOYEE BENEFIT TRANSITION.—

(1) MEMORANDUM OF UNDERSTANDING.—

(A) IN GENERAL.—The Secretary and the heads of the Office of Personnel Management, the Tennessee Valley Authority and the Tennessee Valley Authority Retirement System shall enter into a memorandum of understanding providing for the transition for all eligible employees of compensation made available through the Tennessee Valley Authority Retirement System.

(B) EMPLOYEE PARTICIPATION.—In deciding on the terms of the memorandum of understanding, the Secretary and the heads of the Office of Personnel Management, the Tennessee Valley Authority and the Tennessee Valley Authority Retirement System shall meet and consult with and give full consideration to the views of employees and representatives of the employees of the Tennessee Valley Authority.

(2) ELIGIBLE EMPLOYEES THAT ARE TRANSFERRED TO OTHER UNITS OF TVA.—An eligible employee that is transferred to another unit of the Tennessee Valley Authority shall experience no interruption in coverage for or reduction of any retirement, health, leave, or other employee benefit.

(3) ELIGIBLE EMPLOYEES THAT ARE HIRED BY THE SECRETARY.—

(A) LEVEL OF BENEFITS.—The Secretary shall provide to an eligible employee that is hired by the Forest Service a level of retirement and health benefits that is equivalent to the level to which the eligible employee would have been entitled if the eligible employee had remained an employee of the Tennessee Valley Authority.

(B) TRANSFER OF RETIREMENT BENEFITS.—

(I) IN GENERAL.—Eligible employees hired by the Forest Service shall become members of the Civil Service Retirement System (CSRS) Offset Plan and shall have the option to transfer into the Federal Employees Retirement System (FERS) within six months of their date of transfer. Such employees shall have the option at any time to receive credit in CSRS Offset or FERS for all of their TVA service in accordance with applicable procedures. Any deposits necessary to receive credit for such service shall be considered transfers to a qualified plan for purposes of favorable tax treatment of such amount under the Internal Revenue Code.

(ii) FUNDING SHORTFALL.—

(I) IN GENERAL.—For all eligible employees that are not part of the Civil Service Retirement

System, the Tennessee Valley Authority shall meet any funding shortfall resulting from the transfer of retirement benefits.

(II) NOTIFICATION.—The Secretary shall notify the Tennessee Valley Authority Board of the cost associated with the transfer of retirement benefits.

(III) PAYMENT.—The Tennessee Valley Authority shall fully compensate the Secretary for the costs associated with the transfer of retirement benefits.

(IV) NO INTERRUPTION.—An eligible employee that is hired by the Forest Service and is eligible for Civil Service Retirement shall not experience any interruption in retirement benefits.

(C) NO INTERRUPTION.—An eligible employee that is hired by the Secretary—

(i) shall experience no interruption in coverage for any health, leave, or other employee benefit; and

(ii) shall be entitled to carry over any leave time accumulated during employment by the Tennessee Valley Authority.

(D) PERIOD OF SERVICE.—Notwithstanding section 8411(b)(3) of title 5, United States Code, except to the extent that an eligible employee may be otherwise compensated (including the provision of retirement benefits in accordance with the memorandum of understanding) for the period of service as an employee of the Tennessee Valley Authority, that period of service shall be treated as a period of service as an employee of the U.S. Department of Agriculture for all purposes relating to the Federal employment of the eligible employee.

(4) ELIGIBLE EMPLOYEES THAT ARE DISCHARGED NOT FOR CAUSE.—

(A) LEVEL OF BENEFITS.—The parties to the memorandum of understanding shall have authority to deem any applicable requirement to be met, to make payments to an employee, or take any other action necessary to provide to an eligible employee that is discharged as being excess to the needs of the Tennessee Valley Authority or the Secretary and not for cause and that does not accept an offer of employment from the Secretary, an optimum level of retirement and health benefits that is equivalent to the level that has been afforded employees discharged in previous reductions in force by the Tennessee Valley Authority.

(B) MINIMUM BENEFITS.—An eligible employee that is discharged as being excess to the needs of the Tennessee Valley Authority or the Secretary and not for cause shall, at a minimum be entitled to—

(I) at the option of the eligible employee—

(I) a lump-sum equal to \$1,000, multiplied by the number of years of service of the eligible em-

ployee (but not less than \$15,000 nor more than \$25,000);

(II) a lump-sum payment equal to the amount of pay earned by the eligible employee for the last 26 weeks of the eligible employee's service; or

(III) the deemed addition of 5 years to the age and the years of service of an eligible employee;

(ii) 15 months of health benefits for employees and dependents at the same level provided as of the date of transfer pursuant to section 541;

(iii) 1 week of pay per year of service as provided by the Tennessee Valley Authority Retirement System;

(iv) a lump-sum payment of all accumulated annual leave;

(v) unemployment compensation in accordance with State law;

(vi) eligible pension benefits as provided by the Tennessee Valley Authority Retirement System; and

(vii) retraining assistance provided by the Tennessee Valley Authority.

(C) **SHORTFALL.**—If the board of directors of the Tennessee Valley Authority Retirement System determines that the cost of providing the benefits described in subparagraphs (A) and (B) would have a negative impact on the overall retirement system, the Tennessee Valley Authority shall be required to meet any funding shortfalls.

**SEC. 548. [16 U.S.C. 460III-48] TENNESSEE VALLEY AUTHORITY TRANSFER COSTS.**

Any costs incurred by Tennessee Valley Authority associated with the transfer under this subtitle shall be derived from funding described in section 549.

**SEC. 549. [16 U.S.C. 460III-49] TENNESSEE VALLEY AUTHORITY TRANSFER FUNDING.**

(a) **IN GENERAL.**—The funding described in this section is funding derived from only 1 or more of the following sources:

(1) Nonpower fund balances and collections.

(2) Investment returns of the nonpower program.

(3) Applied programmatic savings in the power and nonpower programs.

(4) Savings from the suspension of bonuses and awards.

(5) Savings from reductions in memberships and contributions.

(6) Increases in collections resulting from nonpower activities, including user fees.

(7) Increases in charges to private and public utilities both investor and cooperatively owned, as well as to direct load customers.

(b) **AVAILABILITY.**—Funds from the sources described in subsection (a) shall be available notwithstanding section 11, 14, 15, or 29 or any other provision of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) or any provisions of the covenants contained in any power bonds issued by the Tennessee Valley Authority.

(c) SUFFICIENCY OF SAVINGS.—The savings from and the revenue adjustment to the budget of the Tennessee Valley Authority for the first fiscal year of the transfer and each fiscal year thereafter shall be sufficient so that the net spending authority and resulting outlays to carry out activities with funding described in subsection (a) shall not exceed \$0 for the first fiscal year of the transfer and each fiscal year thereafter.

(d) ITEMIZED LIST OF REDUCTIONS AND INCREASED RECEIPTS.—

(1) PROPOSED CHANGES.—Not later than 30 days after the date of transfer pursuant to section 541, the Chairman of the Tennessee Valley Authority shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate an itemized list of the amounts of reductions in spending and increases in receipts that are proposed to be made as a result of activities under this subsection during the first fiscal year of the transfer.

(2) ACTUAL CHANGES.—Not later than 24 months after the effective date of the transfer, the Chairman of the Tennessee Valley Authority shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate an itemized list of the amounts of reductions in spending and increases in receipts as a result of activities under this subsection during the first fiscal year of the transfer.

#### Subtitle D—Funding

#### SEC. 551. [16 U.S.C. 46011–51] AUTHORIZATION OF APPROPRIATIONS.

(a) AGRICULTURE.—There are authorized to be appropriated to the Secretary of Agriculture such sums as are necessary to—

(1) permit the Secretary to exercise administrative jurisdiction over the Recreation Area under this title; and

(2) administer the Recreation Area as a unit of the National Forest System.

(b) INTERIOR.—There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to carry out activities within the Recreation Area.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of Agriculture may expend amounts appropriated to carry out this title in a manner consistent with the authorities exercised by the Tennessee Valley Authority before the transfer of the Recreation Area to the administrative jurisdiction of the Secretary of Agriculture, including campground management and visitor services, paid advertisement, and procurement of food and supplies for resale purposes.

(2) EXCEPTION.—The Secretary of Agriculture shall not use amounts appropriated to carry out this title for an activity described in section 524(b).

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**TITLE XI—EMERGENCY AND MARKET LOSS ASSISTANCE**<sup>3</sup>TABLE OF CONTENTS<sup>2</sup>

## TITLE XI—EMERGENCY AND MARKET LOSS ASSISTANCE

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**Subtitle A—Emergency Assistance for Crop and Livestock Feed Losses Due to Disasters****SEC. 1101. [7 U.S.C. 1421 note] GENERAL PROVISIONS.**

(a) **FAIR AND EQUITABLE DISTRIBUTION.**—Assistance made available under this subtitle shall be distributed in a fair and equitable manner to producers who have incurred crop and livestock feed losses in all affected geographic regions of the United States.

(b) **PROGRAM ADMINISTRATION.**—In carrying out this subtitle, the Secretary of Agriculture (referred to in this title as the “Secretary”) may determine—

(1) 1 or more loss thresholds producers on a farm must incur with respect to a crop to be eligible for assistance;

(2) the payment rate for crop and livestock feed losses incurred; and

(3) eligibility and payment limitation criteria (as defined by the Secretary) for persons to receive assistance under this subtitle, which, in the case of assistance received under any section of this subtitle, shall be in addition to—

(A) assistance made available under any other section of this subtitle and subtitle B;

(B) payments or loans received by a person under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.);

(C) payments received by a person for the 1998 crop under the noninsured crop assistance program established under section 196 of that Act (7 U.S.C. 7333);

<sup>2</sup>This table of contents is not part of the Act but is included for user convenience.

<sup>3</sup>Title XI of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105-277).

(D) crop insurance indemnities provided for the 1998 crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

(E) emergency loans made available for the 1998 crop under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

**SEC. 1102. [7 U.S.C. 1421 note] CROP LOSS ASSISTANCE.**

(a) **IN GENERAL.**—The Secretary shall administer a program under which emergency financial assistance is made available to producers on a farm who have incurred losses associated with crops due to disasters (as determined by the Secretary).

(b) **LOSSES INCURRED FOR 1998 CROP.**—Subject to section 1132, the Secretary shall use not more than \$1,500,000,000 to make available assistance to producers on a farm who have incurred losses in the 1998 crop due to disasters.

(c) **MULTIYEAR LOSSES.**—Subject to section 1132, the Secretary shall use not more than \$875,000,000 to make available assistance to producers on a farm who have incurred multiyear losses (as defined by the Secretary) in the 1998 and preceding crops of a commodity due to disasters (including, but not limited to, diseases such as scab).

(d) **RELATIONSHIP BETWEEN ASSISTANCE.**—The Secretary shall make assistance available to producers on a farm under either subsection (b) or (c).

(e) **QUALIFYING LOSSES.**—Assistance under this section may be made for losses associated with crops that are due to, as determined by the Secretary—

(1) quantity losses;

(2) quality (including, but not limited to, aflatoxin) losses;

or

(3) severe economic losses due to damaging weather or related condition.

(f) **CROPS COVERED.**—Assistance under this section shall be applicable to losses for all crops (including losses of trees from which a crop is harvested), as determined by the Secretary, due to disasters.

(g) **CROP INSURANCE.**—

(1) **ADMINISTRATION.**—In carrying out this section, the Secretary shall not discriminate against or penalize producers on a farm who have purchased crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(2) **ENCOURAGING FUTURE CROP INSURANCE PARTICIPATION.**—Subject to section 1132, the Secretary, acting through the Federal Crop Insurance Corporation, may use the funds made available under subsections (b) and (c), and only those funds, to provide premium refunds or other assistance to purchasers of crop insurance for their 1998 insured crops, or their preceding (including 1998) insured crops.

(3) **PRODUCERS WHO HAVE NOT PURCHASED CROP INSURANCE FOR 1998 CROP.**—As a condition of receiving assistance under this section, producers on a farm who have not purchased crop insurance for the 1998 crop under that Act shall

agree by contract to purchase crop insurance for the 1999 and 2000 crops produced by the producers.

(4) LIQUIDATED DAMAGES.—

(A) IN GENERAL.—The contract under paragraph (3) shall provide for liquidated damages to be paid by the producers due to the failure of the producers to purchase crop insurance as provided in paragraph (3).

(B) NOTICE OF DAMAGES.—The amount of the liquidated damages shall be established by the Secretary and specified in the contract agreed to by the producers.

(5) FUNDING FOR CROP INSURANCE PURCHASE REQUIREMENT.—Subject to section 1132, such sums as may be necessary, to remain available until expended, shall be available to the Federal Crop Insurance Corporation to cover costs incurred by the Corporation as a result of the crop insurance purchase requirement of paragraph (3). Funds made available under subsections (b) and (c) may not be used to cover such costs.

**SEC. 1103. [7 U.S.C. 1421 note] EMERGENCY LIVESTOCK FEED ASSISTANCE.**

Subject to section 1132, the Secretary shall use not more than \$200,000,000 to make available livestock feed assistance to livestock producers affected by disasters during calendar year 1998.

**Subtitle B—Market Loss Assistance**

**SEC. 1111. [7 U.S.C. 1421 note] MARKET LOSS ASSISTANCE.**

(a) IN GENERAL.—Subject to section 1132 and except as provided in subsection (d), the Secretary shall use not more than \$3,057,000,000 for assistance to owners and producers on a farm who are eligible for final payments for fiscal year 1998 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) to partially compensate the owners and producers for the loss of markets for the 1998 crop of a commodity.

(b) AMOUNT.—Except as provided in subsection (d), the amount of assistance made available to owners and producers on a farm under this section shall be proportional to the amount of the contract payment received by the owners and producers for fiscal year 1998 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

(c) TIME FOR PAYMENT.—The assistance made available under this section for an eligible owner or producer shall be made as soon as practicable after the date of enactment of this Act.

(d) Of the total amount provided under subsection (a), \$200,000,000 shall be available to provide assistance to dairy producers in a manner determined by the Secretary: *Provided*, That no payments made under this section shall affect any decision with respect to rulemaking activities described under section 143 of Public Law 104–127.

**Subtitle C—Other Assistance****SEC. 1121. [7 U.S.C. 1421 note] INDEMNITY PAYMENTS FOR COTTON PRODUCERS.**

(a) **FEDERAL CONTRIBUTION.**—Subject to subsection (b), the Secretary of Agriculture shall pay \$5,000,000 to the State of Georgia to help fund an indemnity fund, to be established and managed by that State, to compensate cotton producers in that State for losses incurred in 1998 or 1999 from the loss of properly stored, harvested cotton as the result of the bankruptcy of a warehouseman or other party in possession of warehouse receipts evidencing title to the commodity, an improper conversion or transfer of the cotton, or such other potential hazards as determined appropriate by the State.

(b) **CONDITIONS ON PAYMENT TO STATE.**—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

(1) contributes \$5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.

(c) **REPORTING REQUIREMENTS.**—The State of Georgia shall submit a report to the Secretary of Agriculture and the Congress describing the State's efforts to use the indemnity fund to provide compensation to injured cotton producers.

(d) **ADDITIONAL DISBURSEMENT TO COTTON GINNERS.**—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginner (as defined and provided in such section) that—

(1) incurred a loss as the result of—

(A) the business failure of any cotton buyer doing business in Georgia; or

(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and



(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims.

**SEC. 1122. [7 U.S.C. 1421 note] HONEY RECOURSE LOANS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, in order to assist producers of honey to market their honey in an orderly manner during a period of disastrously low prices, the Secretary shall make available recourse loans to producers of the 1998 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary.

(b) **LOAN RATE.**—The loan rate of the loans shall be 85 percent of the average price of honey during the 5-crop year period preceding the 1998 crop year, excluding the crop year in which the average price of honey was the highest and the crop year in which the average price of honey was the lowest in the period.

(c) **NO NET COST BASIS.**—Repayment of a loan under this section shall include repayment for interest and administrative costs as necessary to operate the program established under this section on a no net cost basis: *Provided*, That no administrative costs shall be charged against this program which would have been incurred otherwise.

**SEC. 1123. [7 U.S.C. 1421 note] NONINSURED CROP ASSISTANCE TO RAISIN PRODUCERS.**

Notwithstanding any of the provisions of section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) that would exclude the following producers from benefits thereunder, the Secretary shall make Noninsured Crop Assistance Program payments in fiscal year 1999 to raisin producers who obtained catastrophic risk protection but because of adverse weather conditions were not able to comply with the policy deadlines for laying the raisins in trays.

**SEC. 1124. [7 U.S.C. 1421 note] EMERGENCY ASSISTANCE.**

In addition to amounts appropriated or otherwise made available by this Act, \$50,000,000 is appropriated to the Department of Agriculture, to remain available until expended, to provide emergency disaster assistance to persons or entities who have incurred losses from a failure under section 312(a) of Public Law 94–265 or a fisheries failure in the Norton Sound region of Alaska that has resulted in the closure of commercial and subsistence fisheries to persons that depend on fish as their primary source of food and income.

**SEC. 1125. FOOD FOR PROGRESS.**

**[Omitted-Consisted of amendments to the Food for Progress Act of 1985 (7 U.S.C. 1736o)]**

**SEC. 1126. TEMPORARY EXPANSION OF RECOURSE LOAN AUTHORITY.**

**[Omitted-Consisted of amendments to section 137 of the Agricultural Market Transition Act (7 U.S.C. 7237)]**

**SEC. 1127. [7 U.S.C. 1421 note] PILOT PROGRAMS.**

(a) **DOMESTIC MARKET REPORTING PILOT PROGRAM.**—**[Omitted-Added section 416 to the Packers and Stockyards Act, 1921]**

(b) **EXPORT MARKET REPORTING.**—The Secretary shall—

(1) implement a streamlined electronic system for collecting export sales and shipments data, in the least intrusive manner possible, for fresh or frozen muscle cuts of meat food products; and

(2) develop a data-reporting program to disseminate summary information in a timely manner (in the case of beef, consistent with the reporting under section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a))).

(c) FUNDING.—An amount of \$250,000 is hereby appropriated to carry out subsection (b).

**Subtitle D—Administration**

**SEC. 1131. [7 U.S.C. 1421 note] COMMODITY CREDIT CORPORATION.**

Subject to section 1132, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out subtitles A, B, and C of this title.

**SEC. 1132. [7 U.S.C. 1421 note] EMERGENCY REQUIREMENT.**

Notwithstanding the last sentence of section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, amounts made available by subtitles A, B, and C of this title are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided*, That such amounts shall be available only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

**SEC. 1133. [7 U.S.C. 1421 note] REGULATIONS.**

(a) ISSUANCE OF REGULATIONS.—As soon as practicable after the date of enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement subtitles A, B, and C of this title. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

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**DIVISION B—EMERGENCY SUPPLEMENTAL APPROPRIATIONS**

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## TITLE II—ANTITERRORISM

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## CHAPTER 5—ARCHITECT OF THE CAPITOL

## CAPITOL VISITOR CENTER

For necessary expenses for the planning, engineering, design, and construction, as each such milestone is approved by the United States Capitol Preservation Commission established under section 801 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a), of a new facility to provide greater security for all persons working in or visiting the United States Capitol and to enhance the educational experience of those who have come to learn about the Capitol building and Congress, \$100,000,000, to be supplemented by private funds, which shall remain available until expended: *Provided*, That Section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) shall not apply to the funds made available under this heading: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

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## DIVISION C—OTHER MATTERS

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TITLE II—FISHERIES <sup>4</sup>

## Subtitle I—Fishery Endorsements

**SEC. 201. [46 U.S.C. 2101 note] SHORT TITLE.**

This title may be cited as the “American Fisheries Act”.

**SEC. 202. STANDARD FOR FISHERY ENDORSEMENTS.**

[(a) STANDARD.—Made amendments to section 12102(c) of title 46, United States Code.]

[(b) PREFERRED MORTGAGE.—Made amendments to section 31322(a) of title 46, United States Code.]

**SEC. 203. ENFORCEMENT OF STANDARD.**

(a) [46 U.S.C. 12102 note] EFFECTIVE DATE.—The amendments made by section 202 shall take effect on October 1, 2001.

(b) [46 U.S.C. 12102 note] REGULATIONS.—Final regulations to implement this subtitle shall be published in the Federal Register by April 1, 2000. Letter rulings and other interim interpretations about the effect of this subtitle and amendments made by this subtitle on specific vessels may not be issued prior to the publication of such final regulations. The regulations to implement this subtitle shall prohibit impermissible transfers of ownership or control, specify any transactions which require prior approval of an implementing agency, identify transactions which do not require prior

<sup>4</sup>This title was enacted as part of division C of Public Law 105–277 (112 Stat. 2681–616).

agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of such industry, and to the opportunity to form fishery cooperatives.

(c) **[46 U.S.C. 12102 note] VESSELS MEASURING 100 FEET AND GREATER.**—(1) The Administrator of the Maritime Administration shall administer section 12102(c) of title 46, United States Code, as amended by this subtitle, with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator of the Maritime Administration on an annual basis to demonstrate compliance with such section. Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement under this paragraph shall be written in a manner to allow the owner of each such vessel to satisfy any annual renewal requirements for a certificate of documentation for such vessel and to comply with this subsection and section 12102(c) of title 46, United States Code, as amended by this Act, and shall not be required to be notarized.

(2) After October 1, 2001, transfers of ownership and control of vessels subject to section 12102(c) of title 46, United States Code, as amended by this Act, which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of such section, with particular attention given to leases, charters, mortgages, financing, and similar arrangements, to the control of persons not eligible to own a vessel with a fishery endorsement under section 12102(c) of title 46, United States Code, as amended by this Act, over the management, sales, financing, or other operations of an entity, and to contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

(d) **[46 U.S.C. 12102 note] VESSELS MEASURING LESS THAN 100 FEET.**—The Secretary of Transportation shall establish such requirements as are reasonable and necessary to demonstrate compliance with section 12102(c) of title 46, United States Code, as amended by this Act, with respect to vessels measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate such vessels.

(e) **[46 U.S.C. 12102 note] ENDORSEMENTS REVOKED.**—The Secretary of Transportation shall revoke the fishery endorsement of any vessel subject to section 12102(c) of title 46, United States Code, as amended by this Act, whose owner does not comply with such section.

**[(f) PENALTY.**—Made an amendment to section 12122 of title 46, United States Code.]

**SEC. 204. REPEAL OF OWNERSHIP SAVINGS CLAUSE.**

(a) **REPEAL.**—Section 7(b) of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100–239; 46 U.S.C. 12102 note) is hereby repealed.

(b) [46 U.S.C. 12102 note] EFFECTIVE DATE.—Subsection (a) shall take effect on October 1, 2001.

### Subtitle II—Bering Sea Pollock Fishery

#### SEC. 205. [16 U.S.C. 1851 note] DEFINITIONS.

As used in this subtitle—

(1) the term “Bering Sea and Aleutian Islands Management Area” has the same meaning as the meaning given for such term in part 679.2 of title 50, Code of Federal Regulations, as in effect on October 1, 1998;

(2) the term “catcher/processor” means a vessel that is used for harvesting fish and processing that fish;

(3) the term “catcher vessel” means a vessel that is used for harvesting fish and that does not process pollock onboard;

(4) the term “directed pollock fishery” means the fishery for the directed fishing allowances allocated under paragraphs (1), (2), and (3) of section 206(b);

(5) the term “harvest” means to commercially engage in the catching, taking, or harvesting of fish or any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish;

(6) the term “inshore component” means the following categories that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area:

(A) shoreside processors, including those eligible under section 208(f); and

(B) vessels less than 125 feet in length overall that process less than 126 metric tons per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod;

(7) the term “Magnuson-Stevens Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(8) the term “mothership” means a vessel that receives and processes fish from other vessels in the exclusive economic zone of the United States and is not used for, or equipped to be used for, harvesting fish;

(9) the term “North Pacific Council” means the North Pacific Fishery Management Council established under section 302(a)(1)(G) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(G));

(10) the term “offshore component” means all vessels not included in the definition of “inshore component” that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area;

(11) the term “Secretary” means the Secretary of Commerce; and

(12) the term “shoreside processor” means any person or vessel that receives unprocessed fish, except catcher/processors, motherships, buying stations, restaurants, or persons receiving fish for personal consumption or bait.

**SEC. 206. [16 U.S.C. 1851 note] ALLOCATIONS.**

(a) **POLLOCK COMMUNITY DEVELOPMENT QUOTA.**—Effective January 1, 1999, 10 percent of the total allowable catch of pollock in the Bering Sea and Aleutian Islands Management Area shall be allocated as a directed fishing allowance to the western Alaska community development quota program established under section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)).

(b) **INSHORE/OFFSHORE.**—Effective January 1, 1999, the remainder of the pollock total allowable catch in the Bering Sea and Aleutian Islands Management Area, after the subtraction of the allocation under subsection (a) and the subtraction of allowances for the incidental catch of pollock by vessels harvesting other ground-fish species (including under the western Alaska community development quota program) shall be allocated as directed fishing allowances as follows—

(1) 50 percent to catcher vessels harvesting pollock for processing by the inshore component;

(2) 40 percent to catcher/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component; and

(3) 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component.

**SEC. 207. [16 U.S.C. 1851 note] BUYOUT.**

(a) **FEDERAL LOAN.**—Under the authority of sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) and notwithstanding the requirements of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a), the Secretary shall, subject to the availability of appropriations for the cost of the direct loan, provide up to \$75,000,000 through a direct loan obligation for the payments required under subsection (d).

(b) **INSHORE FEE SYSTEM.**—Notwithstanding the requirements of section 304(d) or 312 of the Magnuson-Stevens Act (16 U.S.C. 1854(d) and 1861a), the Secretary shall establish a fee for the repayment of such loan obligation which—

(1) shall be six-tenths (0.6) of one cent for each pound round-weight of all pollock harvested from the directed fishing allowance under section 206(b)(1); and

(2) shall begin with such pollock harvested on or after January 1, 2000, and continue without interruption until such loan obligation is fully repaid; and

(3) shall be collected in accordance with section 312(d)(2)(C) of the Magnuson-Stevens Act (16 U.S.C. 1861a(d)(2)(C)) and in accordance with such other conditions as the Secretary establishes.

(c) **FEDERAL APPROPRIATION.**—Under the authority of section 312(c)(1)(B) of the Magnuson-Stevens Act (16 U.S.C. 1861a(c)(1)(B)), there are authorized to be appropriated \$20,000,000 for the payments required under subsection (d).

(d) **PAYMENTS.**—Subject to the availability of appropriations for the cost of the direct loan under subsection (a) and funds under subsection (c), the Secretary shall pay by not later than December 31, 1998—

(1) up to \$90,000,000 to the owner or owners of the catcher/processors listed in paragraphs (1) through (9) of section

209, in such manner as the owner or owners, with the concurrence of the Secretary, agree, except that—

(A) the portion of such payment with respect to the catcher/processor listed in paragraph (1) of section 209 shall be made only after the owner submits a written certification acceptable to the Secretary that neither the owner nor a purchaser from the owner intends to use such catcher/processor outside of the exclusive economic zone of the United States to harvest any stock of fish (as such term is defined in section 3 of the Magnuson-Stevens Act (16 U.S.C. 1802)) that occurs within the exclusive economic zone of the United States; and

(B) the portion of such payment with respect to the catcher/processors listed in paragraphs (2) through (9) of section 209 shall be made only after the owner or owners of such catcher/processors submit a written certification acceptable to the Secretary that such catcher/processors will be scrapped by December 31, 2000 and will not, before that date, be used to harvest or process any fish; and

(2)(A) if a contract has been filed under section 210(a) by the catcher/processors listed in section 208(e), \$5,000,000 to the owner or owners of the catcher/processors listed in paragraphs (10) through (14) of such section in such manner as the owner or owners, with the concurrence of the Secretary, agree; or

(B) if such a contract has not been filed by such date, \$5,000,000 to the owners of the catcher vessels eligible under section 208(b) and the catcher/processors eligible under paragraphs (1) through (20) of section 208(e), divided based on the amount of the harvest of pollock in the directed pollock fishery by each such vessel in 1997 in such manner as the Secretary deems appropriate,

except that any such payments shall be reduced by any obligation to the federal government that has not been satisfied by such owner or owners of any such vessels.

(e) **PENALTY.**—If the catcher/processor under paragraph (1) of section 209 is used outside of the exclusive economic zone of the United States to harvest any stock of fish that occurs within the exclusive economic zone of the United States while the owner who received the payment under subsection (d)(1)(A) has an ownership interest in such vessel, or if the catcher/processors listed in paragraphs (2) through (9) of section 209 are determined by the Secretary not to have been scrapped by December 31, 2000 or to have been used in a manner inconsistent with subsection (d)(1)(B), the Secretary may suspend any or all of the federal permits which allow any vessels owned in whole or in part by the owner or owners who received payments under subsection (d)(1) to harvest or process fish within the exclusive economic zone of the United States until such time as the obligations of such owner or owners under subsection (d)(1) have been fulfilled to the satisfaction of the Secretary.

(f) **PROGRAM DEFINED; MATURITY.**—For the purposes of section 1111 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f), the fishing capacity reduction program in this subtitle shall be within

the meaning of the term “program” as defined and used in such section. Notwithstanding section 1111(b)(4) of such Act (46 U.S.C. App. 1279f(b)(4)), the debt obligation under subsection (a) of this section may have a maturity not to exceed 30 years.

(g) FISHERY CAPACITY REDUCTION REGULATIONS.—The Secretary of Commerce shall by not later than October 15, 1998 publish proposed regulations to implement subsections (b), (c), (d), and (e) of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a) and sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g).

**SEC. 208. [16 U.S.C. 1851 note] ELIGIBLE VESSELS AND PROCESSORS.**

(a) CATCHER VESSELS ONSHORE.—Effective January 1, 2000, only catcher vessels which are—

- (1) determined by the Secretary—
  - (A) to have delivered at least 250 metric tons of pollock; or
  - (B) to be less than 60 feet in length overall and to have delivered at least 40 metric tons of pollock, for processing by the inshore component in the directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998 and September 1, 1998;
- (2) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary; and
- (3) not listed in subsection (b),

shall be eligible to harvest the directed fishing allowance under section 206(b)(1) pursuant to a federal fishing permit.

(b) CATCHER VESSELS TO CATCHER/PROCESSORS.—Effective January 1, 1999, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:

- (1) AMERICAN CHALLENGER (United States official number 633219);
- (2) FORUM STAR (United States official number 925863);
- (3) MUIR MILACH (United States official number 611524);
- (4) NEAHKAHNIE (United States official number 599534);
- (5) OCEAN HARVESTER (United States official number 549892);
- (6) SEA STORM (United States official number 628959);
- (7) TRACY ANNE (United States official number 904859);

and

- (8) any catcher vessel—
  - (A) determined by the Secretary to have delivered at least 250 metric tons and at least 75 percent of the pollock it harvested in the directed pollock fishery in 1997 to catcher/processors for processing by the offshore component; and
  - (B) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary.



(c) CATCHER VESSELS TO MOTHERSHIPS.—Effective January 1, 2000, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit:

(1) ALEUTIAN CHALLENGER (United States official number 603820);

(2) ALYESKA (United States official number 560237);

(3) AMBER DAWN (United States official number 529425);

(4) AMERICAN BEAUTY (United States official number 613847);

(5) CALIFORNIA HORIZON (United States official number 590758);

(6) MAR-GUN (United States official number 525608);

(7) MARGARET LYN (United States official number 615563);

(8) MARK I (United States official number 509552);

(9) MISTY DAWN (United States official number 926647);

(10) NORDIC FURY (United States official number 542651);

(11) OCEAN LEADER (United States official number 561518);

(12) OCEANIC (United States official number 602279);

(13) PACIFIC ALLIANCE (United States official number 612084);

(14) PACIFIC CHALLENGER (United States official number 518937);

(15) PACIFIC FURY (United States official number 561934);

(16) PAPADO II (United States official number 536161);

(17) TRAVELER (United States official number 929356);

(18) VESTERAALEN (United States official number 611642);

(19) WESTERN DAWN (United States official number 524423); and

(20) any vessel—

(A) determined by the Secretary to have delivered at least 250 metric tons of pollock for processing by motherships in the offshore component of the directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998 and September 1, 1998;

(B) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary; and

(C) not listed in subsection (b).

(d) MOTHERSHIPS.—Effective January 1, 2000, only the following motherships shall be eligible to process the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit:

(1) EXCELLENCE (United States official number 967502);

(2) GOLDEN ALASKA (United States official number 651041); and

(3) OCEAN PHOENIX (United States official number 296779).

(e) CATCHER/PROCESSORS.—Effective January 1, 1999, only the following catcher/processors shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:

(1) AMERICAN DYNASTY (United States official number 951307);

(2) KATIE ANN (United States official number 518441);

(3) AMERICAN TRIUMPH (United States official number 646737);

(4) NORTHERN EAGLE (United States official number 506694);

(5) NORTHERN HAWK (United States official number 643771);

(6) NORTHERN JAEGER (United States official number 521069);

(7) OCEAN ROVER (United States official number 552100);

(8) ALASKA OCEAN (United States official number 637856);

(9) ENDURANCE (United States official number 592206);

(10) AMERICAN ENTERPRISE (United States official number 594803);

(11) ISLAND ENTERPRISE (United States official number 610290);

(12) KODIAK ENTERPRISE (United States official number 579450);

(13) SEATTLE ENTERPRISE (United States official number 904767);

(14) US ENTERPRISE (United States official number 921112);

(15) ARCTIC STORM (United States official number 903511);

(16) ARCTIC FJORD (United States official number 940866);

(17) NORTHERN GLACIER (United States official number 663457);

(18) PACIFIC GLACIER (United States official number 933627);

(19) HIGHLAND LIGHT (United States official number 577044);

(20) STARBOUND (United States official number 944658);  
and

(21) any catcher/processor not listed in this subsection and determined by the Secretary to have harvested more than 2,000 metric tons of the pollock in the 1997 directed pollock fishery and determined to be eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary, except that catcher/processors eligible under this paragraph shall be prohibited from harvesting in the aggregate a total of more than one-half (0.5) of a percent of the pollock apportioned for the directed pollock fishery under section 206(b)(2).

Notwithstanding section 213(a), failure to satisfy the requirements of section 4(a) of the Commercial Fishing Industry Vessel Anti-Relicensing Act of 1987 (Public Law 100-239; 46 U.S.C. 12108 note) shall not make a catcher/processor listed under this subsection ineligible for a fishery endorsement.

(f) SHORESIDE PROCESSORS.—(1) Effective January 1, 2000 and except as provided in paragraph (2), the catcher vessels eligible under subsection (a) may deliver pollock harvested from the directed fishing allowance under section 206(b)(1) only to—

(A) shoreside processors (including vessels in a single geographic location in Alaska State waters) determined by the Secretary to have processed more than 2,000 metric tons round-weight of pollock in the inshore component of the directed pollock fishery during each of 1996 and 1997; and

(B) shoreside processors determined by the Secretary to have processed pollock in the inshore component of the directed pollock fishery in 1996 or 1997, but to have processed less than 2,000 metric tons round-weight of such pollock in each year, except that effective January 1, 2000, each such shoreside processor may not process more than 2,000 metric tons round-weight from such directed fishing allowance in any year.

(2) Upon recommendation by the North Pacific Council, the Secretary may approve measures to allow catcher vessels eligible under subsection (a) to deliver pollock harvested from the directed fishing allowance under section 206(b)(1) to shoreside processors not eligible under paragraph (1) if the total allowable catch for pollock in the Bering Sea and Aleutian Islands Management Area increases by more than 10 percent above the total allowable catch in such fishery in 1997, or in the event of the actual total loss or constructive total loss of a shoreside processor eligible under paragraph (1)(A).

(g) VESSEL REBUILDING AND REPLACEMENT.—

(1) IN GENERAL.—

(A) REBUILD OR REPLACE.—Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010 and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.

(B) SAME REQUIREMENTS.—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.

(C) TRANSFER OF PERMITS AND LICENSES.—Each fishing permit and license held by the owner of a vessel or vessels to be rebuilt or replaced under subparagraph (A) shall

be transferred to the rebuilt or replacement vessel or its owner, as necessary to permit such rebuilt or replacement vessel to operate in the same manner as the vessel prior to the rebuilding or the vessel it replaced, respectively.

(2) RECOMMENDATIONS OF NORTH PACIFIC FISHERY MANAGEMENT COUNCIL.—The North Pacific Fishery Management Council may recommend for approval by the Secretary such conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.

(3) SPECIAL RULE FOR REPLACEMENT OF CERTAIN VESSELS.—

(A) IN GENERAL.—Notwithstanding the requirements of subsections (b)(2), (c)(1), and (c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), or (e) and that qualifies to be documented with a fishery endorsement pursuant to section 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 213(g) before the replacement vessel is documented with a fishery endorsement under section 12113 of title 46, United States Code.

(B) APPLICABILITY.—A replacement vessel under subparagraph (A) and its owner and mortgagee are subject to the same limitations under section 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

(4) SPECIAL RULES FOR CERTAIN CATCHER VESSELS.—

(A) IN GENERAL.—A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any Regional Fishery Management Council (other than the North Pacific Fishery Management Council) established under section 302(a) of the Magnuson-Stevens Act.

(B) COVERED VESSELS.—A covered vessel referred to in subparagraph (A) is—

- (i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or
- (ii) a vessel eligible under subsection (a), (b), or (c) that is rebuilt to increase its registered length, gross tonnage, or shaft horsepower.

(5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this subsection shall thereafter not be eligible for a fishery endorsement under section 12113 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1).

(6) GULF OF ALASKA LIMITATION.—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is re-

built or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010.

(7) **AUTHORITY OF PACIFIC COUNCIL.**—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.

(h) **ELIGIBILITY DURING IMPLEMENTATION.**—In the event the Secretary is unable to make a final determination about the eligibility of a vessel under subsection (b)(8) or subsection (e)(21) before January 1, 1999, or a vessel or shoreside processor under subsection (a), subsection (c)(21), or subsection (f) before January 1, 2000, such vessel or shoreside processor, upon the filing of an application for eligibility, shall be eligible to participate in the directed pollock fishery pending final determination by the Secretary with respect to such vessel or shoreside processor.

(i) **ELIGIBILITY NOT A RIGHT.**—Eligibility under this section shall not be construed—

(1) to confer any right of compensation, monetary or otherwise, to the owner of any catcher vessel, catcher/processor, mothership, or shoreside processor if such eligibility is revoked or limited in any way, including through the revocation or limitation of a fishery endorsement or any federal permit or license;

(2) to create any right, title, or interest in or to any fish in any fishery; or

(3) to waive any provision of law otherwise applicable to such catcher vessel, catcher/processor, mothership, or shoreside processor.

**SEC. 209. [16 U.S.C. 1851 note] LIST OF INELIGIBLE VESSELS.**

Effective December 31, 1998, the following vessels shall be permanently ineligible for fishery endorsements, and any claims (including relating to catch history) associated with such vessels that could qualify any owners of such vessels for any present or future limited access system permit in any fishery within the exclusive economic zone of the United States (including a vessel moratorium permit or license limitation program permit in fisheries under the authority of the North Pacific Council) are hereby extinguished:

(1) **AMERICAN EMPRESS** (United States official number 942347);

(2) **PACIFIC SCOUT** (United States official number 934772);

(3) **PACIFIC EXPLORER** (United States official number 942592);

(4) **PACIFIC NAVIGATOR** (United States official number 592204);

- (5) VICTORIA ANN (United States official number 592207);
- (6) ELIZABETH ANN (United States official number 534721);
- (7) CHRISTINA ANN (United States official number 653045);
- (8) REBECCA ANN (United States official number 592205); and
- (9) BROWNS POINT (United States official number 587440).

**SEC. 210. [16 U.S.C. 1851 note] FISHERY COOPERATIVE LIMITATIONS.**

(a) PUBLIC NOTICE.—(1) Any contract implementing a fishery cooperative under section 1 of the Act of June 25, 1934 (15 U.S.C. 521) in the directed pollock fishery and any material modifications to any such contract shall be filed not less than 30 days prior to the start of fishing under the contract with the North Pacific Council and with the Secretary, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request. Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a) or any other provision of law, but taking into account the interest of parties to any such contract in protecting the confidentiality of proprietary information, the North Pacific Council and Secretary shall—

(A) make available to the public such information about the contract, contract modifications, or fishery cooperative the North Pacific Council and Secretary deem appropriate, which at a minimum shall include a list of the parties to the contract, a list of the vessels involved, and the amount of pollock and other fish to be harvested by each party to such contract; and

(B) make available to the public in such manner as the North Pacific Council and Secretary deem appropriate information about the harvest by vessels under a fishery cooperative of all species (including bycatch) in the directed pollock fishery on a vessel-by-vessel basis.

(b) CATCHER VESSELS ONSHORE.—

(1) CATCHER VESSEL COOPERATIVES.—Effective January 1, 2000, upon the filing of a contract implementing a fishery cooperative under subsection (a) which—

(A) is signed by the owners of 80 percent or more of the qualified catcher vessels that delivered pollock for processing by a shoreside processor in the directed pollock fishery in the year prior to the year in which the fishery cooperative will be in effect; and

(B) specifies, except as provided in paragraph (6), that such catcher vessels will deliver pollock in the directed pollock fishery only to such shoreside processor during the year in which the fishery cooperative will be in effect and that such shoreside processor has agreed to process such pollock,

the Secretary shall allow only such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) to harvest the aggregate percentage of the di-

rected fishing allowance under section 206(b)(1) in the year in which the fishery cooperative will be in effect that is equivalent to the aggregate total amount of pollock harvested by such catcher vessels (and by such catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) in the directed pollock fishery for processing by the inshore component during 1995, 1996, and 1997 relative to the aggregate total amount of pollock harvested in the directed pollock fishery for processing by the inshore component during such years and shall prevent such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) from harvesting in aggregate in excess of such percentage of such directed fishing allowance.

(2) VOLUNTARY PARTICIPATION.—Any contract implementing a fishery cooperative under paragraph (1) must allow the owners of other qualified catcher vessels to enter into such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the qualified catcher vessels who entered into such contract upon filing.

(3) QUALIFIED CATCHER VESSEL.—For the purposes of this subsection, a catcher vessel shall be considered a “qualified catcher vessel” if, during the year prior to the year in which the fishery cooperative will be in effect, it delivered more pollock to the shoreside processor to which it will deliver pollock under the fishery cooperative in paragraph (1) than to any other shoreside processor.

(4) CONSIDERATION OF CERTAIN VESSELS.—Any contract implementing a fishery cooperative under paragraph (1) which has been entered into by the owner of a qualified catcher vessel eligible under section 208(a) that harvested pollock for processing by catcher/processors or motherships in the directed pollock fishery during 1995, 1996, and 1997 shall, to the extent practicable, provide fair and equitable terms and conditions for the owner of such qualified catcher vessel.

(5) OPEN ACCESS.—A catcher vessel eligible under section 208(a) the catch history of which has not been attributed to a fishery cooperative under paragraph (1) may be used to deliver pollock harvested by such vessel from the directed fishing allowance under section 206(b)(1) (other than pollock reserved under paragraph (1) for a fishery cooperative) to any of the shoreside processors eligible under section 208(f). A catcher vessel eligible under section 208(a) the catch history of which has been attributed to a fishery cooperative under paragraph (1) during any calendar year may not harvest any pollock apportioned under section 206(b)(1) in such calendar year other than the pollock reserved under paragraph (1) for such fishery cooperative.

(6) TRANSFER OF COOPERATIVE HARVEST.—A contract implementing a fishery cooperative under paragraph (1) may, notwithstanding the other provisions of this subsection, provide for up to 10 percent of the pollock harvested under such cooperative to be processed by a shoreside processor eligible

under section 208(f) other than the shoreside processor to which pollock will be delivered under paragraph (1).

(7) FISHERY COOPERATIVE EXIT PROVISIONS.—

(A) FISHING ALLOWANCE DETERMINATION.—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010; and

(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

(B) ELIGIBILITY FOR FISHERY ENDORSEMENT.—Except as provided in subparagraph (C), a vessel that is removed pursuant to this paragraph shall be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

(C) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this paragraph shall be construed—

(i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NORDIC EXPLORER (United States official number 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Act; or

(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act.

(c) CATCHER VESSELS TO CATCHER/PROCESSORS.—Effective January 1, 1999, not less than 8.5 percent of the directed fishing allowance under section 206(b)(2) shall be available for harvest only by



the catcher vessels eligible under section 208(b). The owners of such catcher vessels may participate in a fishery cooperative with the owners of the catcher/processors eligible under paragraphs (1) through (20) of the section 208(e). The owners of such catcher vessels may participate in a fishery cooperative that will be in effect during 1999 only if the contract implementing such cooperative establishes penalties to prevent such vessels from exceeding in 1999 the traditional levels harvested by such vessels in all other fisheries in the exclusive economic zone of the United States.

(d) CATCHER VESSELS TO MOTHERSHIPS.—

(1) PROCESSING.—Effective January 1, 2000, the authority in section 1 of the Act of June 25, 1934 (48 Stat. 1213 and 1214; 15 U.S.C. 521 et seq.) shall extend to processing by motherships eligible under section 208(d) solely for the purposes of forming or participating in a fishery cooperative in the directed pollock fishery upon the filing of a contract to implement a fishery cooperative under subsection (a) which has been entered into by the owners of 80 percent or more of the catcher vessels eligible under section 208(c) for the duration of such contract, provided that such owners agree to the terms of the fishery cooperative involving processing by the motherships.

(2) VOLUNTARY PARTICIPATION.—Any contract implementing a fishery cooperative described in paragraph (1) must allow the owners of any other catcher vessels eligible under section 208(c) to enter such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the catcher vessels who entered into such contract upon filing.

(e) EXCESSIVE SHARES.—

(1) HARVESTING.—No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.

(2) PROCESSING.—Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from processing an excessive share of the pollock available to be harvested in the directed pollock fishery. In the event the North Pacific Council recommends and the Secretary approves an excessive processing share that is lower than 17.5 percent, any individual or entity that previously processed a percentage greater than such share shall be allowed to continue to process such percentage, except that their percentage may not exceed 17.5 percent (excluding pollock processed by catcher/processors that was harvested in the directed pollock fishery by catcher vessels eligible under 208(b)) and shall be reduced if their percentage decreases, until their percentage is below such share. In recommending the excessive processing share, the North Pacific Council shall consider the need of catcher vessels in the directed pollock fishery to have competitive buyers for the pollock harvested by such vessels.

(3) REVIEW BY MARITIME ADMINISTRATION.—At the request of the North Pacific Council or the Secretary, any individual or entity believed by such Council or the Secretary to have exceeded the percentage in either paragraph (1) or (2) shall submit such information to the Administrator of the Maritime Administration as the Administrator deems appropriate to allow the Administrator to determine whether such individual or entity has exceeded either such percentage. The Administrator shall make a finding as soon as practicable upon such request and shall submit such finding to the North Pacific Council and the Secretary. For the purposes of this subsection, any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

(f) LANDING TAX JURISDICTION.—Any contract filed under subsection (a) shall include a contract clause under which the parties to the contract agree to make payments to the State of Alaska for any pollock harvested in the directed pollock fishery which is not landed in the State of Alaska, in amounts which would otherwise accrue had the pollock been landed in the State of Alaska subject to any landing taxes established under Alaska law. Failure to include such a contract clause or for such amounts to be paid shall result in a revocation of the authority to form fishery cooperatives under section 1 of the Act of June 25, 1934 (15 U.S.C. 521 et seq.).

(g) PENALTIES.—The violation of any of the requirements of this subtitle or any regulation or permit issued pursuant to this subtitle shall be considered the commission of an act prohibited by section 307 of the Magnuson-Stevens Act (16 U.S.C. 1857), and sections 308, 309, 310, and 311 of such Act (16 U.S.C. 1858, 1859, 1860, and 1861) shall apply to any such violation in the same manner as to the commission of an act prohibited by section 307 of such Act (16 U.S.C. 1857). In addition to the civil penalties and permit sanctions applicable to prohibited acts under section 308 of such Act (16 U.S.C. 1858), any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have violated a requirement of this section shall be subject to the forfeiture to the Secretary of Commerce of any fish harvested or processed during the commission of such act.

**SEC. 211. [16 U.S.C. 1851 note] PROTECTIONS FOR OTHER FISHERIES; CONSERVATION MEASURES.**

(a) GENERAL.—The North Pacific Council shall recommend for approval by the Secretary such conservation and management measures as it determines necessary to protect other fisheries under its jurisdiction and the participants in those fisheries, including processors, from adverse impacts caused by this Act or fishery cooperatives in the directed pollock fishery.

(b) CATCHER/PROCESSOR RESTRICTIONS.—

(1) GENERAL.—The restrictions in this subsection shall take effect on January 1, 1999 and shall remain in effect thereafter except that they may be superceded (with the exception of paragraph (4)) by conservation and management measures recommended after the date of the enactment of this Act by the

North Pacific Council and approved by the Secretary in accordance with the Magnuson-Stevens Act.

(2) **BERING SEA FISHING.**—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from, in the aggregate—

(A) exceeding the percentage of the harvest available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total harvest by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997;

(B) exceeding the percentage of the prohibited species available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total of the prohibited species harvested by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount of prohibited species available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997; and

(C) fishing for Atka mackerel in the eastern area of the Bering Sea and Aleutian Islands and from exceeding the following percentages of the directed harvest available in the Bering Sea and Aleutian Islands Atka mackerel fishery—

- (i) 11.5 percent in the central area; and
- (ii) 20 percent in the western area.

(3) **BERING SEA PROCESSING.**—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from—

(A) processing any of the directed fishing allowances under paragraphs (1) or (3) of section 206(b); and

(B) processing any species of crab harvested in the Bering Sea and Aleutian Islands Management Area.

(4) **GULF OF ALASKA.**—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from—

(A) harvesting any fish in the Gulf of Alaska;

(B) processing any groundfish harvested from the portion of the exclusive economic zone off Alaska known as area 630 under the fishery management plan for Gulf of Alaska groundfish; or

(C) processing any pollock in the Gulf of Alaska (other than as bycatch in non-pollock groundfish fisheries) or processing, in the aggregate, a total of more than 10 percent of the cod harvested from areas 610, 620, and 640 of the Gulf of Alaska under the fishery management plan for Gulf of Alaska groundfish.

(5) **FISHERIES OTHER THAN NORTH PACIFIC.**—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) and motherships eligible under section 208(d) are hereby prohibited from harvesting fish in any fishery under the au-

thority of any regional fishery management council established under section 302(a) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)) other than the North Pacific Council, except for the Pacific whiting fishery, and from processing fish in any fishery under the authority of any such regional fishery management council other than the North Pacific Council, except in the Pacific whiting fishery, unless the catcher/processor or mothership is authorized to harvest or process fish under a fishery management plan recommended by the regional fishery management council of jurisdiction and approved by the Secretary.

(6) OBSERVERS AND SCALES.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) shall—

(A) have two observers onboard at all times while groundfish is being harvested, processed, or received from another vessel in any fishery under the authority of the North Pacific Council; and

(B) weigh its catch on a scale onboard approved by the National Marine Fisheries Service while harvesting groundfish in fisheries under the authority of the North Pacific Council.

This paragraph shall take effect on January 1, 1999 for catcher/processors eligible under paragraphs (1) through (20) of section 208(e) that will harvest pollock allocated under section 206(a) in 1999, and shall take effect on January 1, 2000 for all other catcher/processors eligible under such paragraphs of section 208(e).

(c) CATCHER VESSEL AND SHORESIDE PROCESSOR RESTRICTIONS.—

(1) REQUIRED COUNCIL RECOMMENDATIONS.—By not later than July 1, 1999, the North Pacific Council shall recommend for approval by the Secretary conservation and management measures to—

(A) prevent the catcher vessels eligible under subsections (a), (b), and (c) of section 208 from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the North Pacific Council as a result of fishery cooperatives in the directed pollock fishery; and

(B) protect processors not eligible to participate in the directed pollock fishery from adverse effects as a result of this Act or fishery cooperatives in the directed pollock fishery.

If the North Pacific Council does not recommend such conservation and management measures by such date, or if the Secretary determines that such conservation and management measures recommended by the North Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may by regulation restrict or change the authority in section 210(b) to the extent the Secretary deems appropriate, including by preventing fishery cooperatives from being formed pursuant to such section and by providing greater flexibility with respect to the shoreside processor or shoreside processors

to which catcher vessels in a fishery cooperative under section 210(b) may deliver pollock.

(2) BERING SEA CRAB AND GROUND FISH.—

(A) Effective January 1, 2000, the owners of the motherships eligible under section 208(d) and the shore-side processors eligible under section 208(f) that receive pollock from the directed pollock fishery under a fishery cooperative are hereby prohibited from processing, in the aggregate for each calendar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, 1997. For the purposes of this subparagraph, the term “facilities” means any processing plant, catcher/processor, mothership, floating processor, or any other operation that processes fish. Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity for the purposes of this subparagraph.

(B) Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from harvesting or processing an excessive share of crab or of groundfish in fisheries in the Bering Sea and Aleutian Islands Management Area.

(C) The catcher vessels eligible under section 208(b) are hereby prohibited from participating in a directed fishery for any species of crab in the Bering Sea and Aleutian Islands Management Area unless the catcher vessel harvested crab in the directed fishery for that species of crab in such Area during 1997 and is eligible to harvest such crab in such directed fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary. The North Pacific Council is directed to recommend measures for approval by the Secretary to eliminate latent licenses under such program, and nothing in this subparagraph shall preclude the Council from recommending measures more restrictive than under this paragraph.

(3) FISHERIES OTHER THAN NORTH PACIFIC.—

(A) By not later than July 1, 2000, the Pacific Fishery Management Council established under section 302(a)(1)(F) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(F)) shall recommend for approval by the Secretary conservation and management measures to protect fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by this Act or by any fishery cooperatives in the directed pollock fishery.

(B) If the Pacific Council does not recommend such conservation and management measures by such date, or

if the Secretary determines that such conservation and management measures recommended by the Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may by regulation implement adequate measures including, but not limited to, restrictions on vessels which harvest pollock under a fishery cooperative which will prevent such vessels from harvesting Pacific groundfish, and restrictions on the number of processors eligible to process Pacific groundfish.

(d) **BYCATCH INFORMATION.**—Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a), the North Pacific Council may recommend and the Secretary may approve, under such terms and conditions as the North Pacific Council and Secretary deem appropriate, the public disclosure of any information from the groundfish fisheries under the authority of such Council that would be beneficial in the implementation of section 301(a)(9) or section 303(a)(11) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(9) and 1853(a)(11)).

(e) **COMMUNITY DEVELOPMENT LOAN PROGRAM.**—Under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), and subject to the availability of appropriations, the Secretary is authorized to provide direct loan obligations to communities eligible to participate in the western Alaska community development quota program established under 304(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)) for the purposes of purchasing all or part of an ownership interest in vessels and shore-side processors eligible under subsections (a), (b), (c), (d), (e), or (f) of section 208. Notwithstanding the eligibility criteria in section 208(a) and section 208(c), the LISA MARIE (United States official number 1038717) shall be eligible under such sections in the same manner as other vessels eligible under such sections.

**SEC. 212. RESTRICTION ON FEDERAL LOANS.**

【Made amendments to section 302(b) of the Fisheries Financing Act (46 U.S.C. 1274 note).】

**SEC. 213. [16 U.S.C. 1851 note] DURATION.**

(a) **GENERAL.**—Except as otherwise provided in this title, the provisions of this title shall take effect upon the date of the enactment of this Act. There are authorized to be appropriated \$6,700,000 per year to carry out the provisions of this Act through fiscal year 2004.

(b) **EXISTING AUTHORITY.**—Except for the measures required by this subtitle, nothing in this subtitle shall be construed to limit the authority of the North Pacific Council or the Secretary under the Magnuson-Stevens Act.

(c) **CHANGES TO FISHERY COOPERATIVE LIMITATIONS AND POLLOCK CDQ ALLOCATION.**—The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act—

(1) that supersede the provisions of this title<sup>5</sup>, except for sections 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title<sup>5</sup> or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery;

(2) that supersede the allocation in section 206(a) for any of the years 2002, 2003, and 2004, upon the finding by such Council that the western Alaska community development quota program for pollock has been adversely affected by the amendments in this subtitle; or

(3) that supersede the criteria required in paragraph (1) of section 210(b) to be used by the Secretary to set the percentage allowed to be harvested by catcher vessels pursuant to a fishery cooperative under such paragraph.

(d) REPORT TO CONGRESS.—Not later than October 1, 2000, the North Pacific Council shall submit a report to the Secretary and to Congress on the implementation and effects of this Act, including the effects on fishery conservation and management, on bycatch levels, on fishing communities, on business and employment practices of participants in any fishery cooperatives, on the western Alaska community development quota program, on any fisheries outside of the authority of the North Pacific Council, and such other matters as the North Pacific Council deems appropriate.

(e) REPORT ON FILLET PRODUCTION.—Not later than June 1, 2000, the General Accounting Office shall submit a report to the North Pacific Council, the Secretary, and the Congress on whether this Act has negatively affected the market for fillets and fillet blocks, including through the reduction in the supply of such fillets and fillet blocks. If the report determines that such market has been negatively affected, the North Pacific Council shall recommend measures for the Secretary's approval to mitigate any negative effects.

(f) SEVERABILITY.—If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(g) INTERNATIONAL AGREEMENTS.—In the event that any provision of section 12102(c) or section 31322(a) of title 46, United States Code, as amended by this Act, is determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party with respect to the owner or mortgagee on of<sup>6</sup> a vessel with a fishery endorsement, such provision shall not apply to that owner or mortgagee with re-

<sup>5</sup> Paragraph (6) of section 3027(a) of Public Law 106-31 (113 Stat. 101) amends this paragraph by striking "title" and inserting "subtitle". The amendment was not executed, because it did not specify which occurrence of the word "title" to strike.

<sup>6</sup> So in law. See amendment made by section 2202(e)(1)(A) of Public Law 107-20, 115 Stat. 170.

spect to their ownership or mortgage interest in such vessel on that date to the extent of any such inconsistency. The provisions of section 12102(c) and section 31322(a) of title 46, United States Code, as amended by this Act, shall apply to all subsequent owners and mortgagees of such vessel, and shall apply, notwithstanding the preceding sentence, to the owner on of<sup>6</sup> such vessel if any ownership interest in that owner is transferred to or otherwise acquired by a foreign individual or entity after or if the percentage of foreign ownership in the vessel is increased after the effective date of this subsection.

### TITLE III—DENALI COMMISSION

**SEC. 301. [42 U.S.C. 3121 note] SHORT TITLE.**

This title may be cited as the “Denali Commission Act of 1998”.

**SEC. 302. [42 U.S.C. 3121 note] PURPOSES.**

The purposes of this title are as follows:

(1) To deliver the services of the Federal Government in the most cost-effective manner practicable by reducing administrative and overhead costs.

(2) To provide job training and other economic development services in rural communities particularly distressed communities (many of which have a rate of unemployment that exceeds 50 percent).

(3) To promote rural development, provide power generation and transmission facilities, modern communication systems, water and sewer systems and other infrastructure needs.

**SEC. 303. [42 U.S.C. 3121 note] ESTABLISHMENT OF COMMISSION.**

(a) **ESTABLISHMENT.**—There is established a commission to be known as the Denali Commission (referred to in this title as the “Commission”).

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Commission shall be composed of 7 members, who shall be appointed by the Secretary of Commerce (referred to in this title as the “Secretary”), of whom—

(A) one shall be the Governor of the State of Alaska, or an individual selected from nominations submitted by the Governor, who shall serve as the State Cochairperson;

(B) one shall be the President of the University of Alaska, or an individual selected from nominations submitted by the President of the University of Alaska;

(C) one shall be the President of the Alaska Municipal League or an individual selected from nominations submitted by the President of the Alaska Municipal League;

(D) one shall be the President of the Alaska Federation of Natives or an individual selected from nominations submitted by the President of the Alaska Federation of Natives;

(E) one shall be the Executive President of the Alaska State AFL–CIO or an individual selected from nominations submitted by the Executive President;

(F) one shall be the President of the Associated General Contractors of Alaska or an individual selected from



nominations submitted by the President of the Associated General Contractors of Alaska; and

(G) one shall be the Federal Cochairperson, who shall be selected in accordance with the requirements of paragraph (2).

(2) FEDERAL COCHAIRPERSON.—

(A) IN GENERAL.—The President pro tempore of the Senate and the Speaker of the House of Representatives shall each submit a list of nominations for the position of the Federal Cochairperson under paragraph (1)(G), including pertinent biographical information, to the Secretary.

(B) APPOINTMENT.—The Secretary shall appoint the Federal Cochairperson from among the list of nominations submitted under subparagraph (A). The Federal Cochairperson shall serve as an employee of the Department of Commerce, and may be removed by the Secretary for cause.

(C) FEDERAL COCHAIRPERSON VOTE.—The Federal Cochairperson appointed under this paragraph shall break any tie in the voting of the Commission.

(4) DATE.—The appointments of the members of the Commission shall be made no later than January 1, 1999.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) TERM OF FEDERAL COCHAIRPERSON.—The Federal Cochairperson shall serve for a term of four years and may be reappointed. shall be appointed for the life of the Commission.

(2) INTERIM FEDERAL COCHAIRPERSON.—In the event of a vacancy for any reason in the position of Federal Cochairperson, the Secretary may appoint an Interim Federal Cochairperson, who shall have all the authority of the Federal Cochairperson, to serve until such time as the vacancy in the position of Federal Cochairperson is filled in accordance with subsection (b)(2)).

(3) TERM OF ALL OTHER MEMBERS.—All other members shall be appointed for the life of the Commission.

(4) VACANCIES.—Except as provided in paragraph (2), any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at the call of the Federal Cochairperson not less frequently than 2 times each year, and may, as appropriate, conduct business by telephone or other electronic means.

(2) NOTIFICATION.—Not later than 2 weeks before calling a meeting under this subsection, the Federal Cochairperson shall—

(A) notify each member of the Commission of the time, date and location of that meeting; and

(B) provide each member of the Commission with a written agenda for the meeting, including any proposals for discussion and consideration, and any appropriate background materials.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) NO FEDERAL EMPLOYEE STATUS.—No member of the Commission, other than the Federal Cochairperson, shall be considered to be a Federal employee for any purpose.

(g) CONFLICTS OF INTEREST.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no member of the Commission (referred to in this subsection as a “member”) shall participate personally or substantially, through recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract claim, controversy, or other matter in which, to the knowledge of the member, 1 or more of the following has a direct financial interest:

(A) The member.

(B) The spouse, minor child, or partner of the member.

(C) An organization described in subparagraph (B), (C), (D), (E), or (F) of subsection (b)(1) for which the member is serving as an officer, director, trustee, partner, or employee.

(D) Any individual, person, or organization with which the member is negotiating or has any arrangement concerning prospective employment.

(2) DISCLOSURE.—Paragraph (1) shall not apply if the member—

(A) immediately advises the designated agency ethics official for the Commission of the nature and circumstances of the matter presenting a potential conflict of interest;

(B) makes full disclosure of the financial interest; and

(C) before the proceeding concerning the matter presenting the conflict of interest, receives a written determination by the designated agency ethics official for the Commission that the interest is not so substantial as to be likely to affect the integrity of the services that the Commission may expect from the member. The written determination shall specify the rationale and any evidence or support for the decision, identify steps, if any, that should be taken to mitigate any conflict of interest, and be available to the public.

(3) ANNUAL DISCLOSURES.—Once each calendar year, each member shall make full disclosure of financial interests, in a manner to be determined by the designated agency ethics official for the Commission.

(4) TRAINING.—Once each calendar year, each member shall undergo disclosure of financial interests training, as prescribed by the designated agency ethics official for the Commission.

(5) CLARIFICATION.—A member of the Commission may continue to participate personally or substantially, through decision, approval, or disapproval on the focus of applications to be considered but not on individual applications where a conflict of interest exists.

(6) VIOLATION.—Any person that violates this subsection shall be fined not more than \$10,000, imprisoned for not more than 2 years, or both.

**SEC. 304. [42 U.S.C. 3121 note] DUTIES OF THE COMMISSION.**

(a) WORK PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Commission shall develop a proposed work plan for Alaska that meets the requirements of paragraph (2) and submit that plan to the Federal Cochairperson for review in accordance with the requirements of subsection (b).

(2) WORK PLAN.—In developing the work plan, the Commission shall—

(A) solicit project proposals from local governments and other entities and organizations; and

(B) provide for a comprehensive work plan for rural and infrastructure development and necessary job training in the area covered under the work plan.

(3) REPORT.—Upon completion of a work plan under this subsection, the Commission shall prepare, and submit to the Secretary, the Federal Cochairperson, and the Director of the Office of Management and Budget, a report that outlines the work plan and contains recommendations for funding priorities.

(b) REVIEW BY FEDERAL COCHAIRPERSON.—

(1) IN GENERAL.—Upon receiving a work plan under this section, the Secretary, acting through the Federal Cochairperson, shall publish the work plan in the Federal Register, with notice and an opportunity for public comment. The period for public review and comment shall be the 30-day period beginning on the date of publication of that notice.

(2) CRITERIA FOR REVIEW.—In conducting a review under paragraph (1), the Secretary, acting through the Federal Cochairperson, shall—

(A) take into consideration the information, views, and comments received from interested parties through the public review and comment process specified in paragraph (1); and

(B) consult with appropriate Federal officials in Alaska including but not limited to Bureau of Indian Affairs, Economic Development Administration, and Rural Development Administration.

(3) APPROVAL.—Not later than 30 days after the end of the period specified in paragraph (1), the Secretary acting through the Federal Cochairperson, shall—

(A) approve, disapprove, or partially approve the work plan that is the subject of the review; and

(B) issue to the Commission a notice of the approval, disapproval, or partial approval that—

(i) specifies the reasons for disapproving any portion of the work plan; and

(ii) if applicable, includes recommendations for revisions to the work plan to make the plan subject to approval.

(4) REVIEW OF DISAPPROVAL OR PARTIAL APPROVAL.—If the Secretary, acting through the Federal Cochairperson, disapproves or partially approves a work plan, the Federal Cochairperson shall submit that work plan to the Commission for review and revision.

**SEC. 305. [42 U.S.C. 3121 note] POWERS OF THE COMMISSION.**

(a) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as it considers necessary to carry out the provisions of this Act. Upon request of the Federal Cochairperson of the Commission, the head of such department or agency shall furnish such information to the Commission. Agencies must provide the Commission with the requested information in a timely manner. Agencies are not required to provide the Commission any information that is exempt from disclosure by the Freedom of Information Act. Agencies may, upon request by the Commission, make services and personnel available to the Commission to carry out the duties of the Commission. To the maximum extent practicable, the Commission shall contract for completion of necessary work utilizing local firms and labor to minimize costs.

(b) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) GIFTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Commission, on behalf of the United States, may accept use, and dispose of gifts or donations of services, property, or money for purposes of carrying out this Act.

(2) CONDITIONAL.—With respect to conditional gifts—

(A)(i) the Commission, on behalf of the United States, may accept conditional gifts for purposes of carrying out this Act, if approved by the Federal Cochairperson; and

(ii) the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with the condition applicable to the gift; but

(B) no gift shall be accepted that is conditioned on any expenditure not to be funded from the gift or from the income generated by the gift unless the expenditure has been approved by Act of Congress.

(d) The Commission, acting through the Federal Cochairperson, is authorized to enter into contracts and cooperative agreements, award grants, enter into leases (including the lease of office space for any term), and make payments necessary to carry out the purposes of the Commission. With respect to funds appropriated to the Commission for fiscal year 1999, the Commission, acting through the Federal Cochairperson, is authorized to enter into contracts and cooperative agreements, award grants, and make payments to implement an interim work plan for fiscal year 1999 approved by the Commission.

(e) USE OF FUNDS TOWARD NON-FEDERAL SHARE OF CERTAIN PROJECTS.—Notwithstanding any other provision of law regarding payment of a non-Federal share in connection with a grant-in-aid program, the Commission may use amounts made available to the Commission for the payment of such a non-Federal share for programs undertaken to carry out the purposes of the Commission.

**SEC. 306. [42 U.S.C. 3121 note] COMMISSION PERSONNEL MATTERS.**

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during the time such member is engaged in the performance of the duties of the Commission. The Federal Cochairperson shall be compensated at the annual rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code. All members of the Commission who are officers or employees of the United States shall serve without compensation that is in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Federal Cochairperson of the Commission may, without regard to the civil service laws and regulations, appoint such personnel as may be necessary to enable the Commission to perform its duties.

(2) COMPENSATION.—The Federal Cochairperson of the Commission may fix the compensation of personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Federal Cochairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) OFFICES.—The principal office of the Commission shall be located in Alaska, at a location that the Commission shall select.

(g) ADMINISTRATIVE EXPENSES AND RECORDS.—The Commission is hereby prohibited from using more than 5 percent of the amounts appropriated under the authority of this Act or transferred pursuant to section 329 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (section 101(g) of

division A of this Act) for administrative expenses. The Commission and its grantees shall maintain accurate and complete records which shall be available for audit and examination by the Comptroller General or his or her designee.

(h) INSPECTOR GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App. 3, section 8G(a)(2)) is amended by inserting “the Denali Commission,” after “the Corporation for Public Broadcasting,”.

**SEC. 307. [42 U.S.C. 3121 note] SPECIAL FUNCTIONS.**

(a) BULK FUELS.—Funds transferred to the Commission pursuant to section 329 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (section 101(g) of division A of this Act) shall be available without further appropriation and until expended. The Commission, in consultation with the Commandant of the Coast Guard, shall develop a plan to provide for the repair or replacement of bulk fuel storage tanks in Alaska that are not in compliance with applicable—

- (1) Federal law, including the Oil Pollution Act of 1990 (104 Stat. 484); or
- (2) State law.

(b) DEMONSTRATION HEALTH PROJECTS.—In order to demonstrate the value of adequate health facilities and services to the economic development of the region, the Secretary of Health and Human Services is authorized to make interagency transfers to the Denali Commission to plan, construct, and equip demonstration health, nutrition, and child care projects, including hospitals, health care clinics, and mental health facilities (including drug and alcohol treatment centers) in accordance with the Work Plan referred to under section 304 of Title III-Denali Commission of Division C-Other Matters of Public Law 105–277. No grant for construction or equipment of a demonstration project shall exceed 50 percentum of such costs, unless the project is located in a severely economically distressed community, as identified in the Work Plan referred to under section 304 of Title III-Denali Commission of Division C-Other Matters of Public Law 105–277, in which case no grant shall exceed 80 percentum of such costs. To carry out this section, there is authorized to be appropriated such sums as may be necessary.

(c) SOLID WASTE.—The Secretary of Agriculture is authorized to make direct lump sum payments, including interagency transfers, which shall remain available until expended to the Denali Commission to address deficiencies in solid waste disposal sites which threaten to contaminate rural drinking water supplies.

(d) DOCKS, WATERFRONT TRANSPORTATION DEVELOPMENT, AND RELATED INFRASTRUCTURE PROJECTS.—The Secretary of Transportation is authorized to make direct lump sum payments to the Commission to construct docks, waterfront development projects, and related transportation infrastructure, provided the local community provides a ten percent non-Federal match in the form of any necessary land or planning and design funds. To carry out this section, there is authorized to be appropriated such sums as may be necessary.

**SEC. 308. [42 U.S.C. 3121 note] EXEMPTION FROM CHAPTER 10 OF TITLE 5, UNITED STATES CODE.**

Chapter 10 of title 5, United States Code, shall not apply to the Commission.

**SEC. 309. [42 U.S.C. 3121 note] DENALI ACCESS SYSTEM PROGRAM.**

(a) **ESTABLISHMENT OF THE DENALI ACCESS SYSTEM PROGRAM.**—Not later than 3 months after the date of enactment of the SAFETEA-LU, the Secretary of Transportation shall establish a program to pay the costs of planning, designing, engineering, and constructing road and other surface transportation infrastructure identified for the Denali access system program under this section.

(b) **DENALI ACCESS SYSTEM PROGRAM ADVISORY COMMITTEE.**—

(1) **ESTABLISHMENT.**—Not later than 3 months after the date of enactment of the SAFETEA-LU, the Denali Commission shall establish a Denali Access System Program Advisory Committee (referred to in this section as the “advisory committee”).

(2) **MEMBERSHIP.**—The advisory committee shall be composed of nine members to be appointed by the Governor of the State of Alaska as follows:

(A) The chairman of the Denali Commission.

(B) Four members who represent existing regional native corporations, native nonprofit entities, or tribal governments, including one member who is a civil engineer.

(C) Four members who represent rural Alaska regions or villages, including one member who is a civil engineer.

(3) **TERMS.**—

(A) **IN GENERAL.**—Except for the chairman of the Commission who shall remain a member of the advisory committee, members shall be appointed to serve a term of 4 years.

(B) **INITIAL MEMBERS.**—Except for the chairman of the Commission, of the eight initial members appointed to the advisory committee, two shall be appointed for a term of 1 year, two shall be appointed for a term of 2 years, two shall be appointed for a term of 3 years, and two shall be appointed for a term of 4 years. All subsequent appointments shall be for 4 years.

(4) **RESPONSIBILITIES.**—The advisory committee shall be responsible for the following activities:

(A) Advising the Commission on the surface transportation needs of Alaska Native villages and rural communities, including projects for the construction of essential access routes within remote Alaska Native villages and rural communities and for the construction of roads and facilities necessary to connect isolated rural communities to a road system.

(B) Advising the Commission on considerations for coordinated transportation planning among the Alaska Native villages, Alaska rural villages, the State of Alaska, and other government entities.

(C) Establishing a list of transportation priorities for Alaska Native village and rural community transportation

projects on an annual basis, including funding recommendations.

(D) Facilitate the Commission's work on transportation projects involving more than one region.

(5) CHAPTER 10 OF TITLE 5, UNITED STATES CODE, EXEMPTION.—The provisions of chapter 10 of title 5, United States Code, shall not apply to the advisory committee.

(c) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary of Transportation shall allocate funding authorized and made available for the Denali access system program to the Commission to carry out this section.

(2) DISTRIBUTION OF FUNDING.—In distributing funds for surface transportation projects funded under the program, the Commission shall consult the list of transportation priorities developed by the advisory committee.

(d) PREFERENCE TO ALASKA MATERIALS AND PRODUCTS.—To construct a project under this section, the Commission shall encourage, to the maximum extent practicable, the use of employees and businesses that are residents of Alaska.

(e) DESIGN STANDARDS.—Each project carried out under this section shall use technology and design standards determined by the Commission to be appropriate given the location and the functionality of the project.

(f) MAINTENANCE.—Funding for a construction project under this section may include an additional amount equal to not more than 10 percent of the total cost of construction, to be retained for future maintenance of the project. All such retained funds shall be dedicated for maintenance of the project and may not be used for other purposes.

(g) LEAD AGENCY DESIGNATION.—For purposes of projects carried out under this section, the Commission shall be designated as the lead agency for purposes of accepting Federal funds and for purposes of carrying out this project.

(h) NON-FEDERAL SHARE.—Notwithstanding any other provision of law, funds made available to carry out this section may be used to meet the non-Federal share of the cost of projects under title 23, United States Code.

(i) SURFACE TRANSPORTATION PROGRAM TRANSFERABILITY.—

(1) TRANSFERABILITY.—In any fiscal year, up to 15 percent of the amounts made available to the State of Alaska for surface transportation by section 133 of title 23, United States Code, may be transferred to the Denali access system program.

(2) NO EFFECT ON SET-ASIDE.—Paragraph (2) of section 133(d), United States Code, shall not apply to funds transferred under paragraph (1).

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$15,000,000 for each of fiscal years 2006 through 2009.

(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter



1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of any project carried out using such funds shall be determined in accordance with section 120(b).

SEC. 310. [42 U.S.C. 3121 note] (a) The Federal Co-chairman of the Denali Commission shall appoint an economic development committee to be chaired by the president of the Alaska federation of natives which shall include the commissioner of community and economic affairs for the state of Alaska, a representative from the Alaska bankers association, the chairman of the Alaska permanent fund, a representative from the Alaska state chamber of commerce, and a representative from each region. of the regional representatives, at least two each shall be from native regional corporations, native non-profit corporations, tribes, and borough governments

(b) The Economic Development Committee is authorized to consider and approve applications from Regional Advisory Committees for grants and loans to promote economic development and promote private sector investment to reduce poverty in economically distressed rural villages. The Economic Development Committee may make mini-grants to individual applicants and may issue loans under such terms and conditions as it determines.

(c) The State Co-chairman of the Denali Commission shall appoint a Regional Advisory Committee for each region which may include representatives from local, borough, and tribal governments, the Alaska Native non-profit corporation operating in the region, local Chambers of Commerce, and representatives of the private sector. Each Regional Advisory Committee shall develop a regional economic development plan for consideration by the Economic Development Committee.

(d) The Economic Development Committee, in consultation with the First Alaskans Institute, may develop rural development performance measures linking economic growth to poverty reduction to measure the success of its program which may include economic, educational, social, and cultural indicators. The performance measures will be tested in one region for years and evaluated by the University of Alaska before being deployed statewide. Thereafter, performance in each region shall be evaluated using the performance measures, and the Economic Development Committee shall not fund projects which do not demonstrate success.

(e) Within the amounts made available annually to the Denali Commission for training, the Commission may make a grant to the First Alaskans Foundation upon submittal of an acceptable work plan to assist Alaska Natives and other rural residents in acquiring the skills and training necessary to participate fully in private sector business and economic and development opportunities through fellowships, scholarships, internships, public service programs, and other leadership initiatives.

(f) The Committee shall sponsor a statewide economic development summit in consultation with the World Bank to evaluate the best practices for economic development worldwide and how they can be incorporated into regional economic development plans.

(g) There is authorized to be appropriated such sums as may be necessary to the following agencies which shall be transferred

to the Denali Commission as a direct lump sum payment to implement this section—

- (1) Department of Commerce, Economic Development Administration,
- (2) Department of Housing and Urban Development,
- (3) Department of the Interior, Bureau of Indian Affairs,
- (4) Department of Agriculture, Rural Development Administration, and
- (5) Small Business Administration.

**SEC. 311. [42 U.S.C. 3121 note] TRANSFER OF FUNDS FROM OTHER FEDERAL AGENCIES.**

(a) **IN GENERAL.**—Subject to subsection (c), for purposes of this Act, the Commission may accept transfers of funds from other Federal agencies.

(b) **TRANSFERS.**—Any Federal agency authorized to carry out an activity that is within the authority of the Commission may transfer to the Commission any appropriated funds for the activity.

(c) **TREATMENT.**—Any funds transferred to the Commission under this subsection—

- (1) shall remain available until expended;
- (2) may, to the extent necessary to carry out this Act, be transferred to, and merged with, the amounts made available by appropriations Acts for the Commission by the Federal Co-chairperson; and
- (3) notwithstanding any other provision of law, shall—
  - (A) be treated as if directly appropriated to the Commission and subject to applicable provisions of this Act; and
  - (B) not be subject to any requirements that applied to the funds before the transfer, including a requirement in an appropriations Act or a requirement or regulation of the Federal agency from which the funds are transferred.

**SEC. 312.<sup>7</sup> [42 U.S.C. 3121 note] AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated to the Commission to carry out the duties of the Commission consistent with the purposes of this title and pursuant to the work plan approved under section 304, \$35,000,000 for each of fiscal years 2025 through 2029.

(b) **AVAILABILITY.**—Any sums appropriated under the authorization contained in this section shall remain available until expended.

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**SEC. 323. [16 U.S.C. 1011a] (a) WATERSHED RESTORATION AND ENHANCEMENT AGREEMENTS.**—For fiscal year 2006 and each fiscal year thereafter, to the extent funds are otherwise available, appropriations for the Forest Service may be used by the Secretary of Agriculture for the purpose of entering into cooperative agreements with willing Federal, tribal, State and local governments, private and nonprofit entities and landowners for the protection, restora-

<sup>7</sup>The placement of section 312 reflects the probable intent of Congress. The amendment made by paragraph (2) of section 5002(b) of Public Law 114-322 did not include language to transfer section 312 (as so redesignated) to appear after section 311.

tion and enhancement of fish and wildlife habitat, and other resources on public or private land, the reduction of risk from natural disaster where public safety is threatened, or a combination thereof or both that benefit these resources within the watershed.

(b) **DIRECT AND INDIRECT WATERSHED AGREEMENTS.**—The Secretary of Agriculture may enter into a watershed restoration and enhancement agreement—

(1) directly with a willing private landowner; or

(2) indirectly through an agreement with a State, local or tribal government or other public entity, educational institution, or private nonprofit organization.

(c) **TERMS AND CONDITIONS.**—In order for the Secretary to enter into a watershed restoration and enhancement agreement—

(1) the agreement shall—

(A) include such terms and conditions mutually agreed to by the Secretary and the landowner, state<sup>8</sup> or local government, or private or nonprofit entity;

(B) improve the viability of and otherwise benefit the fish, wildlife, and other resources on national forests lands within the watershed;

(C) authorize the provision of technical assistance by the Secretary in the planning of management activities that will further the purposes of the agreement;

(D) provide for the sharing of costs of implementing the agreement among the Federal Government, the landowner(s), and other entities, as mutually agreed on by the affected interests; and

(E) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to be in the public interest; and

(2) the Secretary may require such other terms and conditions as are necessary to protect the public investment on non-Federal lands, provided such terms and conditions are mutually agreed to by the Secretary and other landowners, State and local governments or both.

(d) **APPLICABLE LAW.**—Chapter 63 of title 31, United States Code, shall not apply to—

(1) a watershed restoration and enhancement agreement entered into under this section; or

(2) an agreement entered into under the first section of Public Law 94–148 (16 U.S.C. 565a–1).

(e) **REPORTING REQUIREMENTS.**—Not later than December 31, 1999, the Secretary shall submit a report to the Committees on Appropriations of the House and Senate, which contains—

(1) A concise description of each project, including the project purpose, location on federal and non-federal land, key activities, and all parties to the agreement.

(2) the<sup>9</sup> funding and/or other contributions provided by each party for each project agreement.

**SEC. 329. [16 U.S.C. 535a] (a) PROHIBITION ON TIMBER PURCHASER ROAD CREDITS.**—In financing any forest development road

<sup>8</sup>The term “state” should be capitalized in subsection (c)(1)(A).

<sup>9</sup>The first letter of subsection (e)(2) should be capitalized.

pursuant to section 4 of Public Law 88–657 (16 U.S.C. 535, commonly known as the National Forest Roads and Trails Act), the Secretary of Agriculture may not provide effective credit for road construction to any purchaser of national forest timber or other forest products or for the construction and repair of barge mooring points and barge landing sites to facilitate pumping fuel from fuel transport barges into bulk fuel storage tanks..

(b)(1) CONSTRUCTION OF ROADS BY TIMBER PURCHASERS.—Whenever the Secretary of Agriculture makes a determination that a forest development road referred to in subsection (a) shall be constructed or paid for, in whole or in part, by a purchaser of national forest timber or other forest products, the Secretary shall include notice of the determination in the notice of sale of the timber or other forest products or for the construction and repair of barge mooring points and barge landing sites to facilitate pumping fuel from fuel transport barges into bulk fuel storage tanks.. The notice of sale shall contain, or announce the availability of, sufficient information related to the road described in the notice to permit a prospective bidder on the sale to calculate the likely cost that would be incurred by the bidder to construct or finance the construction of the road so that the bidder may reflect such cost in the bid.

(2) If there is an increase or decrease in the cost of roads constructed by the timber purchaser, caused by variations in quantities, changes or modifications subsequent to the sale of timber made in accordance with applicable timber sale contract provisions, then an adjustment to the price paid for timber harvested by the purchaser shall be made. The adjustment shall be applied by the Secretary as soon as practicable after any such design change is implemented.

(c) SPECIAL ELECTION BY SMALL BUSINESS CONCERNS.—(1) A notice of sale referred to in subsection (b) containing specified road construction of \$50,000 or more, shall give a purchaser of national forest timber or other forest products that qualifies as a “small business concern” under the Small Business Act (15 U.S.C. 631 et seq.), and regulations issued thereunder, the option to elect that the Secretary of Agriculture build the roads described in the notice. The Secretary shall provide the small business concern with an estimate of the cost that would be incurred by the Secretary to construct the roads on behalf of the small business concern. The notice of sale shall also include the date on which the roads described in the notice will be completed by the Secretary if the election is made.

(2) If the election referred to in paragraph (1) is made, the purchaser of the national forest timber or other forest products shall pay to the Secretary of Agriculture, in addition to the price paid for the timber or other forest products, an amount equal to the estimated cost of the roads which otherwise would be paid by the purchaser as provided in the notice of sale. Pending receipt of such amount, the Secretary may use receipts from the sale of national forest timber or other forest products and such additional sums as may be appropriated for the construction of roads, such funds to be available until expended, to accomplish the requested road construction.

(d) **POST CONSTRUCTION HARVESTING.**—In each sale of national forest timber or other forest products referred to in this section, the Secretary of Agriculture is encouraged to authorize harvest of the timber or other forest products in a unit included in the sale as soon as road work for that unit is completed and the road work is approved by the Secretary.

(e) **CONSTRUCTION STANDARD.**—For any forest development road that is to be constructed or paid for by a purchaser of national forest timber or other forest products, the Secretary of Agriculture may not require the purchaser to design, construct, or maintain the road (or pay for the design, construction, or maintenance of the road) to a standard higher than the standard, consistent with applicable environmental laws and regulations, that is sufficient for the harvesting and removal of the timber or other forest products, unless the Secretary bears that part of the cost necessary to meet the higher standard.

(f) **TREATMENT OF ROAD VALUE.**—For any forest development road that is constructed or paid for by a purchaser of national forest timber or other forest products, the estimated cost of the road construction, including subsequent design changes, shall be considered to be money received for purposes of the payments required to be made under the sixth paragraph under the heading “FOREST SERVICE” in the Act of May 23, 1908 (35 Stat. 260, 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (35 Stat. 963; commonly known as the Weeks Act; 16 U.S.C. 500). To the extent that the appraised value of road construction determined under this subsection reflects funds contributed by the Secretary of Agriculture to build the road to a higher standard pursuant to subsection (e), the Secretary shall modify the appraisal of the road construction to exclude the effect of the Federal funds.

(g) **EFFECTIVE DATE.**—(1) This section and the requirements of this section shall take effect (and apply thereafter) upon the earlier of—

(A) April 1, 1999; or

(B) the date that is the later of—

(i) the effective date of regulations issued by the Secretary of Agriculture to implement this section; and

(ii) the date on which new timber sale contract provisions designed to implement this section, that have been published for public comment, are approved by the Secretary.

(2) Notwithstanding paragraph (1), any sale of national forest timber or other forest products for which notice of sale is provided before the effective date of this section, and any effective purchaser road credit earned pursuant to a contract resulting from such a notice of sale or otherwise earned before that effective date shall remain in effect, and shall continue to be subject to section 4 of Public Law 88–657 and section 14(i) of the National Forest Management Act of 1976 (16 U.S.C. 472a(i)), and rules issued thereunder, as in effect on the day before the date of the enactment of this Act.

【Section 347 (relating to Stewardship End Result Contracting Projects) was repealed by section 8205(b) of Public Law 113–79.】

**TITLE IV—AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT**

**SEC. 401. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.**

(a) **SHORT TITLE.**—This title may be cited as the “American Competitiveness and Workforce Improvement Act of 1998”.

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**SEC. 414. COLLECTION AND USE OF H-1B NONIMMIGRANT FEES FOR SCHOLARSHIPS FOR LOW-INCOME MATH, ENGINEERING, AND COMPUTER SCIENCE STUDENTS AND JOB TRAINING OF UNITED STATES WORKERS.**

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(c) **[29 U.S.C. 3224a] JOB TRAINING GRANTS.**—

(1) **IN GENERAL.**—The Secretary of Labor shall use funds available under section 286(s)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(2)) to award grants to eligible entities to provide job training and related activities for workers to assist them in obtaining or upgrading employment in industries and economic sectors identified pursuant to paragraph (4) that are projected to experience significant growth and ensure that job training and related activities funded by such grants are coordinated with the public workforce investment system.

(2) **USE OF FUNDS.**—

(A) **TRAINING PROVIDED.**—Funds under this subsection may be used to provide job training services and related activities that are designed to assist workers (including unemployed and employed workers) in gaining the skills and competencies needed to obtain or upgrade career ladder employment positions in the industries and economic sectors identified pursuant to paragraph (4).

(B) **ENHANCED TRAINING PROGRAMS AND INFORMATION.**—In order to facilitate the provision of job training services described in subparagraph (A), funds under this subsection may be used to assist in the development and implementation of model activities such as developing appropriate curricula to build core competencies and train workers, identifying and disseminating career and skill information, and increasing the integration of community and technical college activities with activities of businesses and the public workforce investment system to meet the training needs for the industries and economic sectors identified pursuant to paragraph (4).

(3) **ELIGIBLE ENTITIES.**—Grants under this subsection may be awarded to partnerships of private and public sector entities, which may include—

(A) businesses or business-related nonprofit organizations, such as trade associations;

(B) education and training providers, including community colleges and other community-based organizations; and

- (C) entities involved in administering the workforce development system, as defined in section 3 of the Workforce Innovation and Opportunity Act, and economic development agencies.
- (4) **HIGH GROWTH INDUSTRIES AND ECONOMIC SECTORS.**—For purposes of this subsection, the Secretary of Labor, in consultation with State workforce investment boards, shall identify industries and economic sectors that are projected to experience significant growth, taking into account appropriate factors, such as the industries and sectors that—
- (A) are projected to add substantial numbers of new jobs to the economy;
  - (B) are being transformed by technology and innovation requiring new skill sets for workers;
  - (C) are new and emerging businesses that are projected to grow; or
  - (D) have a significant impact on the economy overall or on the growth of other industries and economic sectors.
- (5) **EQUITABLE DISTRIBUTION.**—In awarding grants under this subsection, the Secretary of Labor shall ensure an equitable distribution of such grants across geographically diverse areas.
- (6) **LEVERAGING OF RESOURCES AND AUTHORITY TO REQUIRE MATCH.**—
- (A) **LEVERAGING OF RESOURCES.**—In awarding grants under this subsection, the Secretary of Labor shall take into account, in addition to other factors the Secretary determines are appropriate—
    - (i) the extent to which resources other than the funds provided under this subsection will be made available by the eligible entities applying for grants to support the activities carried out under this subsection; and
    - (ii) the ability of such entities to continue to carry out and expand such activities after the expiration of the grants.
  - (B) **AUTHORITY TO REQUIRE MATCH.**—The Secretary of Labor may require the provision of specified levels of a matching share of cash or noncash resources from resources other than the funds provided under this subsection for projects funded under this subsection.
- (7) **PERFORMANCE ACCOUNTABILITY.**—The Secretary of Labor shall require grantees to report on the employment outcomes obtained by workers receiving training under this subsection using indicators of performance that are consistent with other indicators used for employment and training programs administered by the Secretary, such as entry into employment, retention in employment, and increases in earnings. The Secretary of Labor may also require grantees to participate in evaluations of projects carried out under this subsection.
- (d) **[16 U.S.C. 1869c] LOW-INCOME SCHOLARSHIP PROGRAM.**—
- (1) **ESTABLISHMENT.**—The Director of the National Science Foundation (referred to in this subsection as the “Director”)

shall award scholarships to low-income individuals to enable such individuals to pursue associate, undergraduate, or graduate level degrees in mathematics, engineering, computer science, or cybersecurity.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to receive a scholarship under this subsection, an individual—

(i) must be a citizen of the United States, a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act), an alien admitted as a refugee under section 207 of the Immigration and Nationality, or an alien lawfully admitted to the United States for permanent residence;

(ii) shall prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

(iii) shall certify to the Director that the individual intends to use amounts received under the scholarship to enroll or continue enrollment at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965) in order to pursue an associate, undergraduate, or graduate level degree in mathematics, engineering, computer science, cybersecurity, or other technology and science programs designated by the Director.

(B) ABILITY.—Awards of scholarships under this subsection shall be made by the Director solely on the basis of the ability of the applicant, except that in any case in which 2 or more applicants for scholarships are deemed by the Director to be possessed of substantially equal ability, and there are not sufficient scholarships available to grant one to each of such applicants, the available scholarship or scholarships shall be awarded to the applicants in a manner that will tend to result in a geographically wide distribution throughout the United States of recipients' places of permanent residence.

(3) LIMITATION.—The amount of a scholarship awarded under this subsection shall be determined by the Director. The Director may renew scholarships for up to 5 years.

(4) FUNDING.—The Director shall carry out this subsection only with funds made available under section 286(s)(3) of the Immigration and Nationality Act. The Director may use no more than 50 percent of such funds for undergraduate programs for curriculum development, professional and workforce development, and to advance technological education. Funds for these other programs may be used for purposes other than scholarships.

(5) FEDERAL REGISTER.—Not later than 60 days after the date of enactment of the L-1 Visa and H-1B Visa Reform Act, the Director shall publish in the Federal Register a list of eligible programs of study.



(e) **[8 U.S.C. 1356 note] REPORTING REQUIREMENT.**—The Secretary of Labor and the Director of the National Science Foundation shall—

(1) track and monitor the performance of programs receiving H-1B Nonimmigrant Fee grant money; and

(2) not later than one year after the date of enactment of this subsection, submit a report to the Committees on the Judiciary of the House of Representatives and the Senate—

(A) the tracking system to monitor the performance of programs receiving H-1B grant funding; and

(B) the number of individuals who have completed training and have entered the high-skill workforce through these programs.

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#### TITLE VII—OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION

##### **SEC. 701. [21 U.S.C. 1701 note] SHORT TITLE.**

This title may be cited as the “Office of National Drug Control Policy Reauthorization Act of 1998”.

##### **SEC. 702. [21 U.S.C. 1701] DEFINITIONS.**

In this title:

(1) **AGENCY.**—The term “agency” has the meaning given the term “executive agency” in section 102 of title 31, United States Code.

(2) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—

(A) **IN GENERAL.**—The term “appropriate congressional committees” means—

(i) the Committee on the Judiciary, the Committee on Appropriations, and the Committee on Health, Education, Labor, and Pensions of the Senate; and

(ii) the Committee on Oversight and Government Reform, the Committee on the Judiciary, the Committee on Energy and Commerce, and the Committee on Appropriations of the House of Representatives.

(B) **SUBMISSION TO CONGRESS.**—Any submission to Congress shall mean submission to the appropriate congressional committees.

(3) **DEMAND REDUCTION.**—The term “demand reduction” means any activity conducted by a National Drug Control Program agency, other than an enforcement activity, that is intended to reduce or prevent the use of drugs or support, expand, or provide treatment and recovery efforts, including—

(A) education about the dangers of illicit drug use;

(B) services, programs, or strategies to prevent substance use disorder, including evidence-based education campaigns, community-based prevention programs, collection and disposal of unused prescription drugs, and services to at-risk populations to prevent or delay initial use of an illicit drug;

(C) substance use disorder treatment;

(D) support for long-term recovery from substance use disorders;

(E) drug-free workplace programs;

(F) drug testing, including the testing of employees;

(G) interventions for illicit drug use and dependence;

(H) expanding availability of access to health care services for the treatment of substance use disorders;

(I) international drug control coordination and cooperation with respect to activities described in this paragraph;

(J) pre- and post-arrest criminal justice interventions such as diversion programs, drug courts, and the provision of evidence-based treatment to individuals with substance use disorders who are arrested or under some form of criminal justice supervision, including medication assisted treatment;

(K) other coordinated and joint initiatives among Federal, State, local, and Tribal agencies to promote comprehensive drug control strategies designed to reduce the demand for, and the availability of, illegal drugs;

(L) international illicit drug use education, prevention, treatment, recovery, research, rehabilitation activities, and interventions for illicit drug use and dependence; and

(M) research related to illicit drug use and any of the activities described in this paragraph.

(4) DIRECTOR.—The term “Director” means the Director of National Drug Control Policy.

(5) DRUG.—The term “drug” has the meaning given the term “controlled substance” in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(6) DRUG CONTROL.—The term “drug control” means any activity conducted by a National Drug Control Program agency involving supply reduction or demand reduction.

(7) EMERGING DRUG THREAT.—The term “emerging drug threat” means the occurrence of a new and growing trend in the use of an illicit drug or class of drugs, including rapid expansion in the supply of or demand for such drug.

(8) ILLICIT DRUG USE; ILLICIT DRUGS; ILLEGAL DRUGS.—The terms “illicit drug use”, “illicit drugs”, and “illegal drugs” include the illegal or illicit use of prescription drugs.

(9) LAW ENFORCEMENT.—The term “law enforcement” or “drug law enforcement” means all efforts by a Federal, State, local, or Tribal government agency to enforce the drug laws of the United States or any State, including investigation, arrest, prosecution, and incarceration or other punishments or penalties.

(10) NATIONAL DRUG CONTROL PROGRAM.—The term “National Drug Control Program” means programs, policies, and activities undertaken by National Drug Control Program agencies pursuant to the responsibilities of such agencies under the National Drug Control Strategy, including any activities involving supply reduction, demand reduction, or State, local, and tribal affairs.

(11) NATIONAL DRUG CONTROL PROGRAM AGENCY.—The term “National Drug Control Program agency” means any agency (or bureau, office, independent agency, board, division, commission, subdivision, unit, or other component thereof) that is responsible for implementing any aspect of the National Drug Control Strategy, including any agency that receives Federal funds to implement any aspect of the National Drug Control Strategy, but does not include any agency that receives funds for drug control activity solely under the National Intelligence Program or the Joint Military Intelligence Program.

(12) NATIONAL DRUG CONTROL STRATEGY.—The term “National Drug Control Strategy” or “Strategy” means the strategy developed and submitted to Congress under section 706, including any report, plan, or strategy required to be incorporated into or issued concurrently with such strategy.

(13) NONPROFIT ORGANIZATION.—The term “nonprofit organization” means an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

(14) OFFICE.—The term “Office” means the Office of National Drug Control Policy established under section 703(a).

(15) STATE, LOCAL, AND TRIBAL AFFAIRS.—The term “State, local, and Tribal affairs” means domestic activities conducted by a National Drug Control Program agency that are intended to reduce the availability and use of illegal drugs, including—

(A) coordination and enhancement of Federal, State, local, and Tribal law enforcement drug control efforts;

(B) coordination and enhancement of efforts among National Drug Control Program agencies and State, local, and Tribal demand reduction and supply reduction agencies;

(C) coordination and enhancement of Federal, State, local, and Tribal law enforcement initiatives to gather, analyze, and disseminate information and law enforcement intelligence relating to drug control among domestic law enforcement agencies; and

(D) other coordinated and joint initiatives among Federal, State, local, and Tribal agencies to promote comprehensive drug control strategies designed to reduce the demand for, and the availability of, illegal drugs.

(16) SUBSTANCE USE DISORDER TREATMENT.—The term “substance use disorder treatment” means an evidence-based, professionally directed, deliberate, and planned regimen including evaluation, observation, medical monitoring, and rehabilitative services and interventions such as pharmacotherapy, behavioral therapy, and individual and group counseling, on an inpatient or outpatient basis, to help patients with substance use disorder reach recovery.

(17) SUPPLY REDUCTION.—The term “supply reduction” means any activity or program conducted by a National Drug Control Program agency that is intended to reduce the availability or use of illegal drugs in the United States or abroad, including—

(A) law enforcement outside the United States;

- (B) domestic law enforcement;
- (C) source country programs, including economic development programs primarily intended to reduce the production or trafficking of illicit drugs;
- (D) activities to control international trafficking in, and availability of, illegal drugs, including—
  - (i) accurate assessment and monitoring of international drug production and interdiction programs and policies; and
  - (ii) coordination and promotion of compliance with international treaties relating to the production, transportation, or interdiction of illegal drugs;
- (E) activities to conduct and promote international law enforcement programs and policies to reduce the supply of drugs;
- (F) activities to facilitate and enhance the sharing of domestic and foreign intelligence information among National Drug Control Program agencies, relating to the production and trafficking of drugs in the United States and in foreign countries;
- (G) activities to prevent the diversion of drugs for their illicit use; and
- (H) research related to any of the activities described in this paragraph.

**SEC. 703. [21 U.S.C. 1702] OFFICE OF NATIONAL DRUG CONTROL POLICY.**

(a) ESTABLISHMENT OF OFFICE.—There is established in the Executive Office of the President an Office of National Drug Control Policy, which shall—

- (1) lead the national drug control effort, including coordinating with the National Drug Control Program agencies;
- (2) coordinate and oversee the implementation of the national drug control policy, including the National Drug Control Strategy;
- (3) assess and certify the adequacy of National Drug Control Programs and the budget for those programs;
- (4) evaluate the effectiveness of national drug control policy efforts, including the National Drug Control Program Agencies' <sup>10</sup>programs, by developing and applying specific goals and performance measurements and monitoring the agencies' program-level spending;
- (5) identify and respond to emerging drug threats related to illicit drug use;
- (6) administer the Drug-Free Communities Program, the High Intensity Drug Trafficking Areas Program, and other grant programs directly authorized to be administered by the Office in furtherance of the National Drug Control Strategy; and
- (7) facilitate broad-scale information sharing and data standardization among Federal, State, and local entities to support the national drug control efforts.

<sup>10</sup>Probably should read "agencies".

【Subsection (b) was repealed by section 8222(1) of Public Law 115–271.】

(c) ACCESS BY CONGRESS.—The location of the Office in the Executive Office of the President shall not be construed as affecting access by Congress, or any committee of the House of Representatives or the Senate, to any—

(1) information, document, or study in the possession of, or conducted by or at the direction of the Director; or

(2) personnel of the Office.

(d) OFFICE OF NATIONAL DRUG CONTROL POLICY GIFT FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund for the receipt of gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office under section 704(c).

(2) CONTRIBUTIONS.—The Office may accept, hold, and administer contributions to the Fund.

(3) USE OF AMOUNTS DEPOSITED.—Amounts deposited in the Fund are authorized to be appropriated, to remain available until expended for authorized purposes at the discretion of the Director.

(4) ETHICS GUIDELINES.—The Director shall establish written guidelines setting forth the criteria to be used in determining whether a gift or donation should be declined under this subsection because the acceptance of the gift or donation would—

(A) reflect unfavorably upon the ability of the Director or the Office, or any employee of the Office, to carry out responsibilities or official duties under this title in a fair and objective manner; or

(B) compromise the integrity or the appearance of integrity of programs or services provided under this title or of any official involved in those programs or services.

(5) REGISTRY OF GIFTS.—The Director shall maintain a list of—

(A) the source and amount of each gift or donation accepted by the Office; and

(B) the source and amount of each gift or donation accepted by a contractor to be used in its performance of a contract for the Office.

(6) REPORT TO CONGRESS.—The Director shall include in the annual assessment under section 706(g) a copy of the registry maintained under paragraph (5).

**SEC. 704. [21 U.S.C. 1703] APPOINTMENT AND DUTIES OF DIRECTOR AND DEPUTY DIRECTORS.**

(a) APPOINTMENT.—

(1) IN GENERAL.—

(A) DIRECTOR.—

(i) IN GENERAL.—There shall be at the head of the Office a Director who shall hold the same rank and status as the head of an executive department listed in section 101 of title 5, United States Code.

(ii) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and

consent of the Senate, and shall serve at the pleasure of the President.

(B) DEPUTY DIRECTOR.—There shall be a Deputy Director who shall report directly to the Director, and who shall be appointed by the President, and shall serve at the pleasure of the President.

(C) COORDINATORS.—The following coordinators shall be appointed by the Director:

(i) Performance Budget Coordinator, as described in subsection (c)(5).

(ii) Interdiction Coordinator, as described in section 711.

(iii) Emerging and Continuing Threats Coordinator, as described in section 709.

(iv) State, Local, and Tribal Affairs Coordinator, to carry out the activities described in subsection (j).

(v) Demand Reduction Coordinator, as described in subparagraph (D).

(D) DEMAND REDUCTION COORDINATOR.—The Director shall designate or appoint a United States Demand Reduction Coordinator to be responsible for the activities described in section 702(3). For purposes of carrying out the previous sentence, the Director shall designate or appoint an appointee in the Senior Executive Service or an appointee in a position at level 15 of the General Schedule (or equivalent).

(2) DUTIES OF DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—The Deputy Director of National Drug Control Policy shall—

(A) carry out the duties and powers prescribed by the Director; and

(B) serve as the Director in the absence of the Director or during any period in which the office of the Director is vacant.

(3) ACTING DIRECTOR.—If the Director dies, resigns, or is otherwise unable to perform the functions and duties of the office, the Deputy Director shall perform the functions and duties of the Director temporarily in an acting capacity pursuant to subchapter III of chapter 33 of title 5, United States Code.

(4) PROHIBITION.—No person shall serve as Director or a Deputy Director while serving in any other position in the Federal Government.

(5) PROHIBITION ON POLITICAL CAMPAIGNING.—Any officer or employee of the Office who is appointed to that position by the President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such officer or employee is not prohibited by this paragraph from making contributions to individual candidates.

(6) PROHIBITION ON THE USE OF FUNDS FOR BALLOT INITIATIVES.—No funds authorized under this title may be obligated for the purpose of expressly advocating the passage or defeat of a State or local ballot initiative.

(b) RESPONSIBILITIES.—The Director—

(1) shall assist the President in the establishment of policies, goals, objectives, and priorities for the National Drug Control Program;

(2) shall promulgate the National Drug Control Strategy under section 706(a) and each report under section 706(b) in accordance with section 706;

(3) shall coordinate and oversee the implementation by the National Drug Control Program agencies of the policies, goals, objectives, and priorities established under paragraph (1) and the fulfillment of the responsibilities of such agencies under the National Drug Control Strategy and make recommendations to National Drug Control Program agency heads with respect to implementation of Federal counter-drug programs;

(4) shall make such recommendations to the President as the Director determines are appropriate regarding changes in the organization, management, and budgets of National Drug Control Program agencies, and changes in the allocation of personnel to and within those departments and agencies, to implement the policies, goals, priorities, and objectives established under paragraph (1) and the National Drug Control Strategy;

(5) shall consult with and assist State and local governments with respect to the formulation and implementation of National Drug Control Policy and their relations with the National Drug Control Program agencies;

(6) shall appear before duly constituted committees and subcommittees of the House of Representatives and of the Senate to represent the drug policies of the executive branch;

(7) shall notify any National Drug Control Program agency if its policies are not in compliance with the responsibilities of the agency under the National Drug Control Strategy, transmit a copy of each such notification to the President and the appropriate congressional committees, and maintain a copy of each such notification;

(8) shall provide, by July 1 of each year, budget recommendations, including requests for specific initiatives that are consistent with the priorities of the President under the National Drug Control Strategy, to the heads of departments and agencies with responsibilities under the National Drug Control Program, which recommendations shall—

(A) apply to the next budget year scheduled for formulation under the Budget and Accounting Act of 1921, and each of the 4 subsequent fiscal years; and

(B) address funding priorities developed in the National Drug Control Strategy;

(9) may serve as representative of the President in appearing before Congress on all issues relating to the National Drug Control Program;

(10) shall, in any matter affecting national security interests, work in conjunction with the Assistant to the President for National Security Affairs;

(11) may serve as spokesperson of the Administration on drug issues;

(12) shall ensure that no Federal funds appropriated to the Office of National Drug Control Policy shall be expended for

any study or contract relating to the legalization (for a medical use or any other use) of a substance listed in schedule I of section 202 of the Controlled Substances Act (21 U.S.C. 812) and take such actions as necessary to oppose any attempt to legalize the use of a substance (in any form) that—

(A) is listed in schedule I of section 202 of the Controlled Substances Act (21 U.S.C. 812); and

(B) has not been approved for use for medical purposes by the Food and Drug Administration;

**【Paragraph (13) was repealed by section 8221(b)(1)(A) of Public Law 115–271.】**

(14) shall submit to the appropriate congressional committees on an annual basis, not later than 60 days after the date of the last day of the applicable period, a summary of—

(A) each of the evaluations received by the Director under section 706(g)(2); and

(B) the progress of each National Drug Control Program agency toward the drug control program goals of the agency using the performance measures for the agency developed under section 706(c);

(15) shall ensure that drug prevention and drug treatment research and information is effectively disseminated by National Drug Control Program agencies to State and local governments and nongovernmental entities involved in demand reduction by—

(A) encouraging formal consultation between any such agency that conducts or sponsors research, and any such agency that disseminates information in developing research and information product development agendas;

(B) encouraging such agencies (as appropriate) to develop and implement dissemination plans that specifically target State and local governments and nongovernmental entities involved in demand reduction; and

(C) supporting the substance abuse information clearinghouse administered by the Administrator of the Substance Abuse and Mental Health Services Administration and established in section 501(d)(16) of the Public Health Service Act by—

(i) encouraging all National Drug Control Program agencies to provide all appropriate and relevant information; and

(ii) supporting the dissemination of information to all interested entities;

(16) shall coordinate with the private sector to promote private research and development of medications to treat addiction;

**【Paragraph (17) was repealed by section 8221(b)(1)(A) of Public Law 115–271.】**

(18) shall monitor and evaluate the allocation of resources among Federal law enforcement agencies in response to significant local and regional drug trafficking and production threats;



(19) shall submit an annual report to Congress detailing how the Office of National Drug Control Policy has consulted with and assisted State, local, and tribal governments with respect to the formulation and implementation of the National Drug Control Strategy and other relevant issues;

(20) shall, within 1 year after the date of the enactment of the Office of National Drug Control Policy Reauthorization Act of 2006, report to Congress on the impact of each Federal drug reduction strategy upon the availability, addiction rate, use rate, and other harms of illegal drugs; and

(21) in order to formulate the national drug control policies, goals, objectives, and priorities—

(A) shall consult with and assist—

(i) State and local governments;

(ii) National Drug Control Program agencies;

(iii) each committee, working group, council, or other entity established under this title, as appropriate;

(iv) the public;

(v) appropriate congressional committees; and

(vi) any other person in the discretion of the Director; and

(B) may—

(i) establish advisory councils;

(ii) acquire data from agencies; and

(iii) request data from any other entity.

(c) NATIONAL DRUG CONTROL PROGRAM BUDGET.—

(1) RESPONSIBILITIES OF NATIONAL DRUG CONTROL PROGRAM AGENCIES.—

(A) IN GENERAL.—For each fiscal year, the head of each department, agency, or program of the Federal Government with responsibilities under the National Drug Control Program Strategy shall transmit to the Director a copy of the proposed drug control budget request of the department, agency, or program at the same time as that budget request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

(B) SUBMISSION OF DRUG CONTROL BUDGET REQUESTS.—The head of each National Drug Control Program agency shall ensure timely development and submission to the Director of each proposed drug control budget request transmitted pursuant to this paragraph, in such format as may be designated by the Director with the concurrence of the Director of the Office of Management and Budget.

(C) CONTENT OF DRUG CONTROL BUDGET REQUESTS.—A drug control budget request submitted by a department, agency, or program under this paragraph shall include all requests for funds for any drug control activity undertaken by that department, agency, or program, including demand reduction, supply reduction, and State, local, and tribal af-

fairs, including any drug law enforcement activities. If an activity has both drug control and nondrug control purposes or applications, the department, agency, or program shall estimate by a documented calculation the total funds requested for that activity that would be used for drug control, and shall set forth in its request the basis and method for making the estimate.

(2) NATIONAL DRUG CONTROL PROGRAM BUDGET PROPOSAL.—For each fiscal year, following the transmission of proposed drug control budget requests to the Director under paragraph (1), the Director shall, in consultation with the head of each National Drug Control Program agency and the head of each major national organization that represents law enforcement officers, agencies, or associations—

(A) develop a consolidated National Drug Control Program budget proposal designed to implement the National Drug Control Strategy and to inform Congress and the public about the total amount proposed to be spent on all supply reduction, demand reduction, State, local, and tribal affairs, including any drug law enforcement, and other drug control activities by the Federal Government, which shall conform to the content requirements set forth in paragraph (1)(C) and include—

(i) the funding level for each National Drug Control Program agency; and

(ii) alternative funding structures that could improve progress on achieving the goals of the National Drug Control Strategy; and

(B) submit the consolidated budget proposal to the President and Congress.

(3) REVIEW AND CERTIFICATION OF BUDGET REQUESTS AND BUDGET SUBMISSIONS OF NATIONAL DRUG CONTROL PROGRAM AGENCIES.—

(A) IN GENERAL.—The Director shall review each drug control budget request submitted to the Director under paragraph (1).

(B) REVIEW OF BUDGET REQUESTS.—

(i) INADEQUATE REQUESTS.—If the Director concludes that a budget request submitted under paragraph (1) is inadequate, in whole or in part, to implement the objectives of the National Drug Control Strategy with respect to the department, agency, or program at issue for the year for which the request is submitted, the Director shall submit to the head of the applicable National Drug Control Program agency a written description of funding levels and specific initiatives that would, in the determination of the Director, make the request adequate to implement those objectives.

(ii) ADEQUATE REQUESTS.—If the Director concludes that a budget request submitted under paragraph (1) is adequate to implement the objectives of the National Drug Control Strategy with respect to the department, agency, or program at issue for the

year for which the request is submitted, the Director shall submit to the head of the applicable National Drug Control Program agency a written statement confirming the adequacy of the request.

(iii) RECORD.—The Director shall maintain a record of each description submitted under clause (i) and each statement submitted under clause (ii).

(C) SPECIFIC REQUESTS.—The Director shall not confirm the adequacy of any budget request that requests a level of funding that will not enable achievement of the goals of the National Drug Control Strategy, including—

(i) requests funding for Federal law enforcement activities that do not adequately compensate for transfers of drug enforcement resources and personnel to law enforcement and investigation activities;

(ii) requests funding for law enforcement activities on the borders of the United States that do not adequately direct resources to drug interdiction and enforcement;

(iii) requests funding for substance use disorder prevention and treatment activities that do not provide adequate results and accountability measures; and

(iv) requests funding for drug treatment activities that do not adequately support and enhance Federal drug treatment programs and capacity.

(D) AGENCY RESPONSE.—

(i) IN GENERAL.—The head of a National Drug Control Program agency that receives a description under subparagraph (B)(i) shall include the funding levels and initiatives described by the Director in the budget submission for that agency to the Office of Management and Budget.

(ii) IMPACT STATEMENT.—The head of a National Drug Control Program agency that has altered its budget submission under this subparagraph shall include as an appendix to the budget submission for that agency to the Office of Management and Budget an impact statement that summarizes—

(I) the changes made to the budget under this subparagraph; and

(II) the impact of those changes on the ability of that agency to perform its other responsibilities, including any impact on specific missions or programs of the agency.

(iii) CONGRESSIONAL NOTIFICATION.—The head of a National Drug Control Program agency shall submit a copy of any impact statement under clause (ii) to the Senate and the House of Representatives and the appropriate congressional committees,<sup>11</sup> at the time the

<sup>11</sup>Sections 103(c)(1) and 105(c)(3) of Public Law 109–469 (120 Stat. 3507, 3513) amend clause (iii) by inserting “and the appropriate congressional committees” after “House of Representatives”. The amendment made by section 105(c)(3) of such Public Law was not carried out.

budget for that agency is submitted to Congress under section 1105(a) of title 31, United States Code.

(E) CERTIFICATION OF BUDGET SUBMISSIONS.—

(i) IN GENERAL.—At the time a National Drug Control Program agency submits its budget request to the Office of Management and Budget, the head of the National Drug Control Program agency shall submit a copy of the budget request to the Director.

(ii) CERTIFICATION.—The Director shall—

(I) review each budget submission submitted under clause (i);

(II) based on the review under subclause (I), make a determination as to whether the budget submission of a National Drug Control Program agency includes the funding levels and initiatives described in subparagraph (B); and

(III) submit to the appropriate congressional committees—

(aa) a written statement that either—

(AA) certifies that the budget submission includes sufficient funding; or

(BB) decertifies the budget submission as not including sufficient funding;

(bb) a copy of the description made under subparagraph (B); and

(cc) the budget recommendations made under subsection (b)(8).

(4) REPROGRAMMING AND TRANSFER REQUESTS.—

(A) IN GENERAL.—No National Drug Control Program agency shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds in an amount exceeding \$5,000,000 or 10 percent of a specific program or account that is included in the National Drug Control Program budget unless the request has been approved by the Director. If the Director has not responded to a request for reprogramming subject to this subparagraph within 30 days after receiving notice of the request having been made, the request shall be deemed approved by the Director under this subparagraph and forwarded to Congress.

(B) APPEAL.—The head of any National Drug Control Program agency may appeal to the President any disapproval by the Director of a reprogramming or transfer request under this paragraph.

(5) PERFORMANCE-BUDGET COORDINATOR.—

(A) DESIGNATION.—The Director shall designate or appoint a United States Performance-Budget Coordinator to—

(i) ensure the Director has sufficient information necessary to analyze the performance of each National Drug Control Program agency, the impact Federal funding has had on the goals in the Strategy, and the likely contributions to the goals of the Strategy based on funding levels of each National Drug Control Pro-

gram agency, to make an independent assessment of the budget request of each agency under this subsection;

(ii) advise the Director on agency budgets, performance measures and targets, and additional data and research needed to make informed policy decisions under this section and section 706; and

(iii) other duties as may be determined by the Director with respect to measuring or assessing performance or agency budgets.

(B) DETERMINATION OF POSITION.—For purposes of carrying out subparagraph (A), the Director shall designate or appoint an appointee in the Senior Executive Service or an appointee in a position at level 15 of the General Schedule (or equivalent).

(6) BUDGET ESTIMATE OR REQUEST SUBMISSION TO CONGRESS.—Whenever the Director submits any budget estimate or request to the President or the Office of Management and Budget, the Director shall concurrently transmit to the appropriate congressional committees a detailed statement of the budgetary needs of the Office to execute its mission based on the good-faith assessment of the Director.

(d) POWERS OF THE DIRECTOR.—In carrying out subsection (b), the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees of the Office as may be necessary to carry out the functions of the Office under this title;

(2) subject to subsection (e)(3), request the head of a department or agency, or program of the Federal Government to place department, agency, or program personnel who are engaged in drug control activities on temporary detail to another department, agency, or program in order to implement the National Drug Control Strategy, and the head of the department or agency shall comply with such a request;

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable under level IV of the Executive Schedule under section 5311 of title 5, United States Code;

(5) accept and use gifts and donations of property from Federal, State, and local government agencies, and from the private sector, as authorized in section 703(d);

(6) use the mails in the same manner as any other department or agency of the executive branch;

(7) monitor implementation of the National Drug Control Program, including—

(A) conducting program and performance audits and evaluations; and

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations;

(8) transfer funds made available to a National Drug Control Program agency for National Drug Control Strategy programs and activities to another account within such agency or to another National Drug Control Program agency for National Drug Control Strategy programs and activities, except that—

(A) the authority under this paragraph may be limited in an annual appropriations Act or other provision of Federal law;

(B) the Director may exercise the authority under this paragraph only with the concurrence of the head of each affected agency;

(C) in the case of an interagency transfer, the total amount of transfers under this paragraph may not exceed 3 percent of the total amount of funds made available for National Drug Control Strategy programs and activities to the agency from which those funds are to be transferred;

(D) funds transferred to an agency under this paragraph may only be used to increase the funding for programs or activities authorized by law;

(E) the Director shall—

(i) submit to the appropriate congressional committees and any other applicable committees of jurisdiction, a reprogramming or transfer request in advance of any transfer under this paragraph in accordance with the regulations of the affected agency; and

(ii) annually submit to the appropriate congressional committees a report describing the effect of all transfers of funds made pursuant to this paragraph or subsection (c)(4) during the 12-month period preceding the date on which the report is submitted; and

(F) funds may only be used for—

(i) expansion of demand reduction activities;

(ii) interdiction of illicit drugs on the high seas, in United States territorial waters, and at United States ports of entry by officers and employees of National Drug Control Program agencies and domestic and foreign law enforcement officers;

(iii) accurate assessment and monitoring of international drug production and interdiction programs and policies;

(iv) activities to facilitate and enhance the sharing of domestic and foreign intelligence information among National Drug Control Program agencies related to the production and trafficking of drugs in the United States and foreign countries; and

(v) research related to any of these activities;

(9) issue to the head of a National Drug Control Program agency a fund control notice described in subsection (f) to ensure compliance with the National Drug Control Program Strategy and notify the appropriate congressional committees

of any fund control notice issued in accordance with subsection (f)(5); and<sup>12</sup>

(10) participate in the drug certification process pursuant to section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) and section 706 of the Department of State Authorization Act for Fiscal Year 2003 (22 U.S.C. 229j-1).<sup>13</sup>

(e) PERSONNEL DETAILED TO OFFICE.—

(1) EVALUATIONS.—Notwithstanding any provision of chapter 43 of title 5, United States Code, the Director shall perform the evaluation of the performance of any employee detailed to the Office for purposes of the applicable performance appraisal system established under such chapter for any rating period, or part thereof, that such employee is detailed to such office.

(2) COMPENSATION.—

(A) BONUS PAYMENTS.—Subject to the availability of appropriations, the Director may provide periodic bonus payments to any employee detailed to the Office.

(B) RESTRICTIONS.—An amount paid under this paragraph to an employee for any period—

(i) shall not be greater than 20 percent of the basic pay paid or payable to such employee for such period; and

(ii) shall be in addition to the basic pay of such employee.

(C) AGGREGATE AMOUNT.—The aggregate amount paid during any fiscal year to an employee detailed to the Office as basic pay, awards, bonuses, and other compensation shall not exceed the annual rate payable at the end of such fiscal year for positions at level III of the Executive Schedule.

(3) MAXIMUM NUMBER OF DETAILEES.—The maximum number of personnel who may be detailed to another department or agency (including the Office) under subsection (d)(2) during any fiscal year is—

(A) for the Department of Defense, 50; and

(B) for any other department or agency, 10.

(f) FUND CONTROL NOTICES.—

(1) IN GENERAL.—A fund control notice may direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated by—

(A) months, fiscal year quarters, or other time periods; and

(B) activities, functions, projects, or object classes.

(2) UNAUTHORIZED OBLIGATION OR EXPENDITURE PROHIBITED.—An officer or employee of a National Drug Control Pro-

<sup>12</sup> Sections 103(d)(1) and 105(e)(2) of Public Law 109-469 (120 Stat. 3507, 3513) both provide for amendments to paragraph (9). The amendment made by section 105(e)(2) of such Public Law could not be executed. Paragraph (2) of section 105(e) provides as follows:

(2) in paragraph (9), by striking “Strategy; and” and inserting “Strategy and notify the appropriate congressional committees of any fund control notice issued; and”;

<sup>13</sup> Sections 103(d)(2) and 105(e)(3) of Public Law 109-469 (120 Stat. 3507, 3513) both provide for amendments to paragraph (10). The amendment made by section 105(e)(3) of such Public Law could not be executed. Paragraph (3) of section 105(e) provides as follows:

(3) in paragraph (10), by striking “(22 U.S.C. 2291j).” and inserting “(22 U.S.C. 2291j) and section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2291j-1).”.

gram agency shall not make or authorize an expenditure or obligation contrary to a fund control notice issued by the Director.

(3) DISCIPLINARY ACTION FOR VIOLATION.—In the case of a violation of paragraph (2) by an officer or employee of a National Drug Control Program agency, the head of the agency, upon the request of and in consultation with the Director, may subject the officer or employee to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office.

(4) CONGRESSIONAL NOTICE.—A copy of each fund control notice shall be transmitted to the appropriate congressional committees.

(5) RESTRICTIONS.—The Director shall not issue a fund control notice to direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated, modified, or altered in any manner contrary, in whole or in part, to a specific appropriation or statute.

(g) INAPPLICABILITY TO CERTAIN PROGRAMS.—The provisions of this section shall not apply to the National Intelligence Program, the Joint Military Intelligence Program, and Tactical and Related Activities, unless such program or an element of such program is designated as a National Drug Control Program—

(1) by the President; or

(2) jointly by—

(A) in the case of the National Intelligence Program, the Director and the Director of National Intelligence; or

(B) in the case of the Joint Military Intelligence Program and Tactical and Related Activities, the Director, the Director of National Intelligence, and the Secretary of Defense.

(h) CONSTRUCTION.—Nothing in this Act shall be construed as derogating the authorities and responsibilities of the Director of National Intelligence or the Director of the Central Intelligence Agency contained in the National Security Act of 1947 (50 U.S.C. 401 et seq.), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), or any other law.

(i) MODEL ACTS PROGRAM.—

(1) IN GENERAL.—The Director shall provide for or shall enter into an agreement with a nonprofit organization to—

(A) advise States on establishing laws and policies to address illicit drug use issues; and

(B) revise such model State drug laws and draft supplementary model State laws to take into consideration changes in illicit drug use issues in the State involved.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$1,250,000 for each of fiscal years 2018 through 2023.

(j) STATE, LOCAL, AND TRIBAL AFFAIRS COORDINATOR.—The Director shall designate or appoint a United States State, Local, and Tribal Affairs Coordinator to perform the duties of the Office outlined in this section and section 706 and such other duties as may be determined by the Director with respect to coordination of drug control efforts between agencies and State, local, and Tribal gov-



ernments. For purposes of carrying out the previous sentence, the Director shall designate or appoint an appointee in the Senior Executive Service or an appointee in a position at level 15 of the General Schedule (or equivalent).

(k) HARM REDUCTION PROGRAMS.—When developing the national drug control policy, any policy of the Director, including policies relating to syringe exchange programs for intravenous drug users, shall be based on the best available medical and scientific evidence regarding the effectiveness of such policy in promoting individual health and preventing the spread of infectious disease and the impact of such policy on drug addiction and use. In making any policy relating to harm reduction programs, the Director shall consult with the National Institutes of Health and the National Academy of Sciences.

**SEC. 705. [21 U.S.C. 1704] COORDINATION WITH NATIONAL DRUG CONTROL PROGRAM AGENCIES IN DEMAND REDUCTION, SUPPLY REDUCTION, AND STATE AND LOCAL AFFAIRS.**

(a) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Upon the request of the Director, the head of any National Drug Control Program agency shall cooperate with and provide to the Director any statistics, studies, reports, and other information prepared or collected by the agency concerning the responsibilities of the agency under the National Drug Control Strategy that relate to—

(A) drug control; or

(B) the manner in which amounts made available to that agency for drug control are being used by that agency.

(2) PROTECTION OF INTELLIGENCE INFORMATION.—

(A) IN GENERAL.—The authorities conferred on the Office and the Director by this title shall be exercised in a manner consistent with provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.). The Director of National Intelligence shall prescribe such regulations as may be necessary to protect information provided pursuant to this title regarding intelligence sources and methods.

(B) DUTIES OF DIRECTOR.—The Director of National Intelligence and the Director of the Central Intelligence Agency shall, to the maximum extent practicable in accordance with subparagraph (A), render full assistance and support to the Office and the Director.

(3) REQUIRED REPORTS.—

(A) SECRETARIES OF THE INTERIOR AND AGRICULTURE.—Not later than July 1 of each year, the Secretaries of Agriculture and the Interior shall jointly submit to the Director and the appropriate congressional committees an assessment of the quantity of illegal drug cultivation and manufacturing in the United States on lands owned or under the jurisdiction of the Federal Government for the preceding year.

(B) SECRETARY OF HOMELAND SECURITY.—Not later than July 1 of each year, the Secretary of Homeland Security shall submit to the Director and the appropriate congressional committees information for the preceding year regarding—

(i) the number and type of seizures of drugs by each component of the Department of Homeland Security seizing drugs, as well as statistical information on the geographic areas of such seizures; and

(ii) the number of air and maritime patrol hours primarily dedicated to drug supply reduction missions undertaken by each component of the Department of Homeland Security.

(C) SECRETARY OF DEFENSE.—The Secretary of Defense shall, by July 1 of each year, submit to the Director and the appropriate congressional committees information for the preceding year regarding the number of air and maritime patrol hours primarily dedicated to drug supply reduction missions undertaken by each component of the Department of Defense.

(D) ATTORNEY GENERAL.—The Attorney General shall, by July 1 of each year, submit to the Director and the appropriate congressional committees information for the preceding year regarding the number and type of—

(i) arrests for drug violations;

(ii) prosecutions for drug violations by United States Attorneys; and

(iii) seizures of drugs by each component of the Department of Justice seizing drugs, as well as statistical information on the geographic areas of such seizures.

(b) CERTIFICATION OF POLICY CHANGES TO DIRECTOR.—

(1) IN GENERAL.—Subject to paragraph (2), the head of a National Drug Control Program agency shall, unless exigent circumstances require otherwise, notify the Director in writing regarding any proposed change in policies relating to the activities of that agency under the National Drug Control Program prior to implementation of such change. The Director shall promptly review such proposed change and certify to the head of that agency in writing whether such change is consistent with the National Drug Control Strategy.

(2) EXCEPTION.—If prior notice of a proposed change under paragraph (1) is not practicable—

(A) the head of the National Drug Control Program agency shall notify the Director of the proposed change as soon as practicable; and

(B) upon such notification, the Director shall review the change and certify to the head of that agency in writing whether the change is consistent with the National Drug Control Strategy.

(c) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Director, on a reimbursable basis, such administrative support services as the Director may request.

(d) ACCOUNTING OF FUNDS EXPENDED.—

(1) IN GENERAL.—Not later than February 1 of each year, in accordance with guidance issued by the Director, the head of each National Drug Control Program agency shall submit to the Director a detailed accounting of all funds expended by the

agency for National Drug Control Program activities during the previous fiscal year and shall ensure such detailed accounting is authenticated for the previous fiscal year by the Inspector General for such agency prior to the submission to the Director as frequently as determined by the Inspector General but not less frequently than every 3 years.

(2) SUBMISSION TO CONGRESS.—The Director shall submit to Congress not later than April 1 of each year the information submitted to the Director under paragraph (1).

(e) DRUG COURT TRAINING AND TECHNICAL ASSISTANCE PROGRAM.—

(1) GRANTS AUTHORIZED.—The Director may make a grant to a nonprofit organization for the purpose of providing training and technical assistance to drug courts.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$2,000,000 for each of fiscal years 2018 through 2023.

(f) TRACKING SYSTEM FOR FEDERALLY FUNDED GRANT PROGRAMS.—

(1) ESTABLISHMENT.—The Director, or the head of an agency designated by the Director, in coordination with the Secretary of Health and Human Services, shall track federally-funded grant programs to—

(A) ensure the public has electronic access to information identifying:

(i) all drug control grants and pertinent identifying information for each grant; and

(ii) any available performance metrics, evaluations, or other information indicating the effectiveness of such programs;

(B) facilitate efforts to identify duplication, overlap, or gaps in funding to provide increased accountability of Federally-funded grants for substance use disorder treatment, prevention, and enforcement; and

(C) identify barriers that may impede applicants in the grant application process.

(2) NATIONAL DRUG CONTROL PROGRAM AGENCIES.—The head of each National Drug Control Program agency shall provide to the Director a complete list of all drug control program grant programs and any other relevant information for inclusion in the system developed under paragraph (1) and annually update such list.

(3) UPDATING EXISTING SYSTEMS.—The Director may meet the requirements of this subsection by utilizing, updating, or improving existing Federal information systems to ensure they meet the requirements of this subsection.

(4) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Comptroller General of the United States shall submit to Congress a report examining implementation of this subsection.

**SEC. 706. [21 U.S.C. 1705] DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.**

(a) IN GENERAL.—

(1) STATEMENT OF DRUG POLICY PRIORITIES.—The Director shall release a statement of drug control policy priorities in the calendar year of a Presidential inauguration following the inauguration, but not later than April 1.

(2) NATIONAL DRUG CONTROL STRATEGY SUBMITTED BY THE PRESIDENT.—Not later than the first Monday in February following the year in which the term of the President commences, and every 2 years thereafter, the President shall submit to Congress a National Drug Control Strategy.

(b) DEVELOPMENT OF THE NATIONAL DRUG CONTROL STRATEGY.—

(1) PROMULGATION.—The Director shall promulgate the National Drug Control Strategy, which shall set forth a comprehensive plan to reduce illicit drug use and the consequences of such illicit drug use in the United States by limiting the availability of and reducing the demand for illegal drugs and promoting prevention, early intervention, treatment, and recovery support for individuals with substance use disorders.

(2) STATE AND LOCAL COMMITMENT.—The Director shall seek the support and commitment of State, local, and Tribal officials in the formulation and implementation of the National Drug Control Strategy.

(3) STRATEGY BASED ON EVIDENCE.—The Director shall ensure the National Drug Control Strategy is based on the best available evidence regarding the policies that are most effective in reducing the demand for and supply of illegal drugs.

(4) PROCESS FOR DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.—In developing and effectively implementing the National Drug Control Strategy, the Director—

(A) shall consult with—

(i) the heads of the National Drug Control Program agencies;

(ii) each Coordinator listed in section 704;

(iii) the Interdiction Committee and the Emerging Threats Committee;

(iv) the appropriate congressional committees and any other committee of jurisdiction;

(v) State, local, and Tribal officials;

(vi) private citizens and organizations, including community and faith-based organizations, with experience and expertise in demand reduction;

(vii) private citizens and organizations with experience and expertise in supply reduction; and

(viii) appropriate representatives of foreign governments; and

(B) in satisfying the requirements of subparagraph (A), shall ensure, to the maximum extent possible, that State, local, and Tribal officials and relevant private organizations commit to support and take steps to achieve the goals and objectives of the National Drug Control Strategy.

(c) CONTENTS OF THE NATIONAL DRUG CONTROL STRATEGY.—

(1) IN GENERAL.—The National Drug Control Strategy submitted under subsection (a)(2) shall include the following:

(A) A mission statement detailing the major functions of the National Drug Control Program.

(B) Comprehensive, research-based, long-range, quantifiable goals for reducing illicit drug use, and the consequences of illicit drug use in the United States.

(C) Annual quantifiable and measurable objectives and specific targets to accomplish long-term quantifiable goals that the Director determines may be achieved during each year beginning on the date on which the National Drug Control Strategy is submitted.

(D) A 5-year projection for the National Drug Control Program and budget priorities.

(E) A review of international, State, local, and private sector drug control activities to ensure that the United States pursues coordinated and effective drug control at all levels of government.

(F) A description of how each goal established under subparagraph (B) will be achieved, including for each goal—

(i) a list of each relevant National Drug Control Program agency and each such agency's related programs, activities, and available assets and the role of each such program, activity, and asset in achieving such goal;

(ii) a list of relevant stakeholders and each such stakeholder's role in achieving such goal;

(iii) an estimate of Federal funding and other resources needed to achieve such goal;

(iv) a list of each existing or new coordinating mechanism needed to achieve such goal; and

(v) a description of the Office's role in facilitating the achievement of such goal.

(G) For each year covered by the Strategy, a performance evaluation plan for each goal established under subparagraph (B) for each National Drug Control Program agency, including—

(i) specific performance measures for each National Drug Control Program agency;

(ii) annual and, to the extent practicable, quarterly objectives and targets for each performance measure; and

(iii) an estimate of Federal funding and other resources needed to achieve each performance objective and target.

(H) A list identifying existing data sources or a description of data collection needed to evaluate performance, including a description of how the Director will obtain such data.

(I) A list of any anticipated challenges to achieving the National Drug Control Strategy goals and planned actions to address such challenges.

(J) A description of how each goal established under subparagraph (B) was determined, including—

(i) a description of each required consultation and a description of how such consultation was incorporated; and

(ii) data, research, or other information used to inform the determination to establish the goal.

(K) A description of the current prevalence of illicit drug use in the United States, including both the availability of illicit drugs and the prevalence of substance use disorders.

(L) Such other statistical data and information as the Director considers appropriate to demonstrate and assess trends relating to illicit drug use, the effects and consequences of illicit drug use (including the effects on children), supply reduction, demand reduction, drug-related law enforcement, and the implementation of the National Drug Control Strategy.

(M) A systematic plan for increasing data collection to enable real time surveillance of drug control threats, developing analysis and monitoring capabilities, and identifying and addressing policy questions related to the National Drug Control Strategy and Program, which shall include—

(i) a list of policy-relevant questions for which the Director and each National Drug Control Program agency intends to develop evidence to support the National Drug Control Program and Strategy;

(ii) a list of data the Director and each National Drug Control Program agency intends to collect, use, or acquire to facilitate the use of evidence in drug control policymaking and monitoring;

(iii) a list of methods and analytical approaches that may be used to develop evidence to support the National Drug Control Program and Strategy and related policy;

(iv) a list of any challenges to developing evidence to support policymaking, including any barriers to accessing, collecting, or using relevant data;

(v) a description of the steps the Director and the head of each National Drug Control Program agency will take to effectuate the plan; and

(vi) any other relevant information as determined by the Director.

(N) A plan to expand treatment of substance use disorders, which shall—

(i) identify unmet needs for treatment for substance use disorders and a strategy for closing the gap between available and needed treatment;

(ii) describe the specific roles and responsibilities of the relevant National Drug Control Program agencies for implementing the plan;

(iii) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement that strategy; and

(iv) identify the resources, including private sources, required to eliminate the unmet need for evidence-based substance use disorder treatment.

(2) CONSULTATION.—In developing the plan required under paragraph (1)(M), the Director shall consult with the following:

(A) The public.

(B) Any evaluation or analysis units and personnel of the Office.

(C) Office officials responsible for implementing privacy policy.

(D) Office officials responsible for data governance.

(E) The appropriate congressional committees.

(F) Any other individual or entity as determined by the Director.

(3) ADDITIONAL STRATEGIES.—

(A) IN GENERAL.—The Director shall include in the National Drug Control Strategy the additional strategies described under this paragraph and shall comply with the following:

(i) Provide a copy of the additional strategies to the appropriate congressional committees and to the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate.

(ii) Issue the additional strategies in consultation with the head of each relevant National Drug Control Program agency, any relevant official of a State, local, or Tribal government, and the government of other relevant countries.

(iii) Not change any existing agency authority or construe any strategy described under this paragraph to amend or modify any law governing interagency relationship but may include recommendations about changes to such authority or law.

(iv) Present separately from the rest of any strategy described under this paragraph any information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Director or the head of any relevant National Drug Control Program agency, would be detrimental to the law enforcement or national security activities of any Federal, State, local, or Tribal agency.

(B) REQUIREMENT FOR SOUTHWEST BORDER COUNTER-NARCOTICS STRATEGY.—

(i) PURPOSES.—The Southwest Border Counter-narcotics Strategy shall—

(I) set forth the Government's strategy for preventing the illegal trafficking of drugs across the international border between the United States and Mexico, including through ports of entry and between ports of entry on that border;

(II) state the specific roles and responsibilities of the relevant National Drug Control Program agencies for implementing that strategy; and

(III) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement that strategy.

(ii) SPECIFIC CONTENT RELATED TO DRUG TUNNELS BETWEEN THE UNITED STATES AND MEXICO.—The Southwest Border Counternarcotics Strategy shall include—

(I) a strategy to end the construction and use of tunnels and subterranean passages that cross the international border between the United States and Mexico for the purpose of illegal trafficking of drugs across such border; and

(II) recommendations for criminal penalties for persons who construct or use such a tunnel or subterranean passage for such a purpose.

(C) REQUIREMENT FOR NORTHERN BORDER COUNTER-NARCOTICS STRATEGY.—

(i) PURPOSES.—The Northern Border Counternarcotics Strategy shall—

(I) set forth the strategy of the Federal Government for preventing the illegal trafficking of drugs across the international border between the United States and Canada, including through ports of entry and between ports of entry on the border;

(II) state the specific roles and responsibilities of each relevant National Drug Control Program agency for implementing the strategy;

(III) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement the strategy;

(IV) be designed to promote, and not hinder, legitimate trade and travel; and

(V) reflect the unique nature of small communities along the international border between the United States and Canada, ongoing cooperation and coordination with Canadian law, enforcement authorities, and variations in the volumes of vehicles and pedestrians crossing through ports of entry along the international border between the United States and Canada.

(ii) SPECIFIC CONTENT RELATED TO CROSS-BORDER INDIAN RESERVATIONS.—The Northern Border Counternarcotics Strategy shall include—

(I) a strategy to end the illegal trafficking of drugs to or through Indian reservations on or near the international border between the United States and Canada; and

(II) recommendations for additional assistance, if any, needed by Tribal law enforcement agencies relating to the strategy, including an



evaluation of Federal technical and financial assistance, infrastructure capacity building, and interoperability deficiencies.

(4) CLASSIFIED INFORMATION.—Any contents of the National Drug Control Strategy that involve information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the National Drug Control Strategy.

(5) SELECTION OF DATA AND INFORMATION.—In selecting data and information for inclusion in the Strategy, the Director shall ensure—

(A) the inclusion of data and information that will permit analysis of current trends against previously compiled data and information where the Director believes such analysis enhances long-term assessment of the National Drug Control Strategy; and

(B) the inclusion of data and information to permit a standardized and uniform assessment of the effectiveness of drug treatment programs in the United States.

(d) SUBMISSION OF REVISED STRATEGY.—The President may submit to Congress a revised National Drug Control Strategy that meets the requirements of this section—

(1) at any time, upon a determination of the President, in consultation with the Director, that the National Drug Control Strategy in effect is not sufficiently effective; or

(2) if a new President or Director takes office.

(e) FAILURE OF DIRECTOR TO SUBMIT NATIONAL DRUG CONTROL STRATEGY.—If the Director does not submit a National Drug Control Strategy to Congress in accordance with subsection (a)(2), not later than five days after the first Monday in February following the year in which the term of the President commences, the Director shall send a notification to the appropriate congressional committees—

(1) explaining why the Strategy was not submitted; and

(2) specifying the date by which the Strategy will be submitted.

(f) DRUG CONTROL DATA DASHBOARD.—

(1) IN GENERAL.—The Director shall collect and disseminate, as appropriate, such information as the Director determines is appropriate, but not less than the information described in this subsection. The data shall be publicly available in a machine-readable format on the online portal of the Office, and to the extent practicable on the Drug Control Data Dashboard.

(2) ESTABLISHMENT.—The Director shall publish to the online portal of the Office in a machine-readable, sortable, and searchable format, or to the extent practicable, establish and maintain a data dashboard on the online portal of the Office to be known as the “Drug Control Data Dashboard”. To the extent practicable, when establishing the Drug Control Dashboard, the Director shall ensure the user interface of the dashboard is constructed with modern design standards. To the extent practicable, the data made available on the dashboard

shall be publicly available in a machine-readable format and searchable by year, agency, drug, and location.

(3) DATA.—The data included in the Drug Control Data Dashboard shall be updated quarterly to the extent practicable, but not less frequently than annually and shall include, at a minimum, the following:

(A) For each substance identified by the Director as having a significant impact on the prevalence of illicit drug use—

(i) data sufficient to show the quantities of such substance available in the United States, including—

(I) the total amount seized and disrupted in the calendar year and each of the previous 3 calendar years, including to the extent practicable the amount seized by State, local, and Tribal governments;

(II) the known and estimated flows into the United States from all sources in the calendar year and each of the previous 3 calendar years;

(III) the total amount of known flows that could not be interdicted or disrupted in the calendar year and each of the previous 3 calendar years;

(IV) the known and estimated levels of domestic production in the calendar year and each of the previous three calendar years, including the levels of domestic production if the drug is a prescription drug, as determined under the Federal Food, Drug, and Cosmetic Act, for which a listing is in effect under section 202 of the Controlled Substances Act (21 U.S.C. 812);

(V) the average street price for the calendar year and the highest known street price during the preceding 10-year period; and

(VI) to the extent practicable, related prosecutions by State, local, and Tribal governments;

(ii) data sufficient to show the frequency of use of such substance, including—

(I) use of such substance in the workplace and productivity lost by such use;

(II) use of such substance by arrestees, probationers, and parolees;

(III) crime and criminal activity related to such substance; and

(IV) to the extent practicable, related prosecutions by State, local, and Tribal governments.

(B) For the calendar year and each of the previous three years data sufficient to show, disaggregated by State and, to the extent feasible, by region within a State, county, or city, the following:

(i) The number of fatal and non-fatal overdoses caused by each drug identified under subparagraph (A)(i).

(ii) The prevalence of substance use disorders.

(iii) The number of individuals who have received substance use disorder treatment, including medication assisted treatment, for a substance use disorder, including treatment provided through publicly-financed health care programs.

(iv) The extent of the unmet need for substance use disorder treatment, including the unmet need for medication-assisted treatment.

(C) Data sufficient to show the extent of prescription drug diversion, trafficking, and misuse in the calendar year and each of the previous 3 calendar years.

(D) Any quantifiable measures the Director determines to be appropriate to detail progress toward the achievement of the goals of the National Drug Control Strategy.

(g) DEVELOPMENT OF AN ANNUAL NATIONAL DRUG CONTROL ASSESSMENT.—

(1) TIMING.—Not later than the first Monday in February of each year, the Director shall submit to the President, Congress, and the appropriate congressional committees, a report assessing the progress of each National Drug Control Program agency toward achieving each goal, objective, and target contained in the National Drug Control Strategy applicable to the prior fiscal year.

(2) PROCESS FOR DEVELOPMENT OF THE ANNUAL ASSESSMENT.—Not later than November 1 of each year, the head of each National Drug Control Program agency shall submit, in accordance with guidance issued by the Director, to the Director an evaluation of progress by the agency with respect to the National Drug Control Strategy goals using the performance measures for the agency developed under this title, including progress with respect to—

(A) success in achieving the goals of the National Drug Control Strategy;

(B) success in reducing domestic and foreign sources of illegal drugs;

(C) success in expanding access to and increasing the effectiveness of substance use disorder treatment;

(D) success in protecting the borders of the United States (and in particular the Southwestern border of the United States) from penetration by illegal narcotics;

(E) success in reducing crime associated with drug use in the United States;

(F) success in reducing the negative health and social consequences of drug use in the United States;

(G) implementation of evidence-based substance use disorder treatment and prevention programs in the United States and improvements in the adequacy and effectiveness of such programs; and

(H) success in increasing the prevention of illicit drug use.

(3) CONTENTS OF THE ANNUAL ASSESSMENT.—The Director shall include in the annual assessment required under paragraph (1)—

- (A) a summary of each evaluation received by the Director under paragraph (2);
- (B) a summary of the progress of each National Drug Control Program agency toward the National Drug Control Strategy goals of the agency using the performance measures for the agency developed under this title;
- (C) an assessment of the effectiveness of each National Drug Control Program agency and program in achieving the National Drug Control Strategy for the previous year, including a specific evaluation of whether the applicable goals, measures, objectives, and targets for the previous year were met; and
- (D) the assessments required under this subsection shall be based on the Performance Measurement System.
- (h) PERFORMANCE MEASUREMENT SYSTEM.—Not later than February 1 of each year, the Director shall submit to Congress as part of the National Drug Control Strategy, a description of a national drug control performance measurement system, that—
- (1) develops 2-year and 5-year performance measures and targets for each National Drug Control Strategy goal and objective established for reducing drug use, availability, and the consequences of drug use;
  - (2) describes the sources of information and data that will be used for each performance measure incorporated into the performance measurement system;
  - (3) identifies major programs and activities of the National Drug Control Program agencies that support the goals and annual objectives of the National Drug Control Strategy;
  - (4) evaluates the contribution of demand reduction and supply reduction activities as defined in section 702 implemented by each National Drug Control Program agency in support of the National Drug Control Strategy;
  - (5) monitors consistency between the drug-related goals and objectives of the National Drug Control Program agencies and ensures that each agency's goals and budgets support and are fully consistent with the National Drug Control Strategy;
  - (6) coordinates the development and implementation of national drug control data collection and reporting systems to support policy formulation and performance measurement, including an assessment of—
    - (A) the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;
    - (B) the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the illicit drug user population, and groups that are at risk for illicit drug use;
    - (C) the adequacy of the coverage of existing national treatment outcome monitoring systems to measure the effectiveness of drug abuse treatment in reducing illicit drug use and criminal behavior during and after the completion of substance abuse treatment; and

(D) the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B) of this subsection; and

(7) develops performance measures and targets for the National Drug Control Strategy for supplemental strategies (the Southwest Border, Northern Border, and Caribbean Border Counternarcotics Strategies) to effectively evaluate region-specific goals, to the extent the performance measurement system does not adequately measure the effectiveness of the strategies, as determined by the Director, such strategies may evaluate interdiction efforts at and between ports of entry, interdiction technology, intelligence sharing, diplomacy, and other appropriate metrics, specific to each supplemental strategies region, as determined by the Director.

(i) MODIFICATIONS.—A description of any modifications made during the preceding year to the national drug performance measurement system described in subsection (c) shall be included in each report submitted under subsection (b).

**SEC. 707. [21 U.S.C. 1706] HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Office a program to be known as the High Intensity Drug Trafficking Areas Program (in this section referred to as the “Program”).

(2) PURPOSE.—The purpose of the Program is to reduce drug trafficking and drug production in the United States by—

(A) facilitating cooperation among Federal, State, local, and tribal law enforcement agencies to share information and implement coordinated enforcement activities;

(B) enhancing law enforcement intelligence sharing among Federal, State, local, and tribal law enforcement agencies;

(C) providing reliable law enforcement intelligence to law enforcement agencies needed to design effective enforcement strategies and operations; and

(D) supporting coordinated law enforcement strategies which maximize use of available resources to reduce the supply of illegal drugs in designated areas and in the United States as a whole.

(b) DESIGNATION.—

(1) IN GENERAL.—The Director, in consultation with the Attorney General, the Secretary of the Treasury, the Secretary of Homeland Security, heads of the National Drug Control Program agencies, and the Governor of each applicable State, may designate any specified area of the United States as a high intensity drug trafficking area.

(2) ACTIVITIES.—After making a designation under paragraph (1) and in order to provide Federal assistance to the area so designated, the Director may—

(A) obligate such sums as are appropriated for the Program;

(B) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the head of the department or agency that employs such personnel;

(C) take any other action authorized under section 704 to provide increased Federal assistance to those areas; and

(D) coordinate activities under this section (specifically administrative, recordkeeping, and funds management activities) with State, local, and tribal officials.

(c) PETITIONS FOR DESIGNATION.—The Director shall establish regulations under which a coalition of interested law enforcement agencies from an area may petition for designation as a high intensity drug trafficking area. Such regulations shall provide for a regular review by the Director of the petition, including a recommendation regarding the merit of the petition to the Director by a panel of qualified, independent experts.

(d) FACTORS FOR CONSIDERATION.—In considering whether to designate an area under this section as a high intensity drug trafficking area, the Director shall consider, in addition to such other criteria as the Director considers to be appropriate, the extent to which—

(1) the area is a significant center of illegal drug production, manufacturing, importation, or distribution;

(2) State, local, and tribal law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

(3) drug-related activities in the area are having a significant harmful impact in the area, and in other areas of the country; and

(4) a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

(e) ORGANIZATION OF HIGH INTENSITY DRUG TRAFFICKING AREAS.—

(1) EXECUTIVE BOARD AND OFFICERS.—To be eligible for funds appropriated under this section, each high intensity drug trafficking area shall be governed by an Executive Board. The Executive Board shall designate a chairman, vice chairman, and any other officers to the Executive Board that it determines are necessary.

(2) RESPONSIBILITIES.—The Executive Board of a high intensity drug trafficking area shall be responsible for—

(A) providing direction and oversight in establishing and achieving the goals of the high intensity drug trafficking area;

(B) managing the funds of the high intensity drug trafficking area;

(C) reviewing and approving all funding proposals consistent with the overall objective of the high intensity drug trafficking area; and

(D) reviewing and approving all reports to the Director on the activities of the high intensity drug trafficking area.

(3) BOARD REPRESENTATION.—None of the funds appropriated under this section may be expended for any high intensity drug trafficking area, or for a partnership or region of a high intensity drug trafficking area, if the Executive Board for such area, region, or partnership, does not apportion an equal

number of votes between representatives of participating Federal agencies and representatives of participating State, local, and tribal agencies. Where it is impractical for an equal number of representatives of Federal agencies and State, local, and tribal agencies to attend a meeting of an Executive Board in person, the Executive Board may use a system of proxy votes or weighted votes to achieve the voting balance required by this paragraph.

(4) NO AGENCY RELATIONSHIP.—The eligibility requirements of this section are intended to ensure the responsible use of Federal funds. Nothing in this section is intended to create an agency relationship between individual high intensity drug trafficking areas and the Federal Government.

(f) USE OF FUNDS.—The Director shall ensure that not more than a total of 5 percent of Federal funds appropriated for the Program are expended for substance use disorder treatment programs and drug prevention programs.

(g) COUNTERTERRORISM ACTIVITIES.—

(1) ASSISTANCE AUTHORIZED.—The Director may authorize use of resources available for the Program to assist Federal, State, local, and tribal law enforcement agencies in investigations and activities related to terrorism and prevention of terrorism, especially but not exclusively with respect to such investigations and activities that are also related to drug trafficking.

(2) LIMITATION.—The Director shall ensure—

(A) that assistance provided under paragraph (1) remains incidental to the purpose of the Program to reduce drug availability and carry out drug-related law enforcement activities; and

(B) that significant resources of the Program are not redirected to activities exclusively related to terrorism, except on a temporary basis under extraordinary circumstances, as determined by the Director.

(h) ROLE OF DRUG ENFORCEMENT ADMINISTRATION.—The Director, in consultation with the Attorney General, shall ensure that a representative of the Drug Enforcement Administration is included in the Intelligence Support Center for each high intensity drug trafficking area.

(i) ANNUAL HIDTA PROGRAM BUDGET SUBMISSIONS.—As part of the documentation that supports the President's annual budget request for the Office, the Director shall submit to Congress a budget justification that includes—

(1) the amount proposed for each high intensity drug trafficking area, conditional upon a review by the Office of the request submitted by the HIDTA and the performance of the HIDTA, with supporting narrative descriptions and rationale for each request;

(2) a detailed justification that explains—

(A) the reasons for the proposed funding level; how such funding level was determined based on a current assessment of the drug trafficking threat in each high intensity drug trafficking area;

- (B) how such funding will ensure that the goals and objectives of each such area will be achieved; and
- (C) how such funding supports the National Drug Control Strategy; and
- (3) the amount of HIDTA funds used to investigate and prosecute organizations and individuals trafficking in methamphetamine in the prior calendar year, and a description of how those funds were used.
- (j) EMERGING THREAT RESPONSE FUND.—
- (1) IN GENERAL.—Subject to the availability of appropriations, the Director may expend up to 10 percent of the amounts appropriated under this section on a discretionary basis, to respond to any emerging drug trafficking threat in an existing high intensity drug trafficking area, or to establish a new high intensity drug trafficking area or expand an existing high intensity drug trafficking area, in accordance with the criteria established under paragraph (2).
- (2) CONSIDERATION OF IMPACT.—In allocating funds under this subsection, the Director shall consider—
- (A) the impact of activities funded on reducing overall drug traffic in the United States, or minimizing the probability that an emerging drug trafficking threat will spread to other areas of the United States; and
- (B) such other criteria as the Director considers appropriate.
- (k) EVALUATION.—
- (1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this section, the Director shall, after consulting with the Executive Boards of each designated high intensity drug trafficking area, submit a report to Congress that describes, for each designated high intensity drug trafficking area—
- (A) the specific purposes for the high intensity drug trafficking area;
- (B) the specific long-term and short-term goals and objectives for the high intensity drug trafficking area;
- (C) the measurements that will be used to evaluate the performance of the high intensity drug trafficking area in achieving the long-term and short-term goals; and
- (D) the reporting requirements needed to evaluate the performance of the high intensity drug trafficking area in achieving the long-term and short-term goals.
- (2) EVALUATION OF HIDTA PROGRAM AS PART OF NATIONAL DRUG CONTROL STRATEGY.—For each designated high intensity drug trafficking area, the Director shall submit, as part of the annual National Drug Control Strategy report, a report that—
- (A) describes—
- (i) the specific purposes for the high intensity drug trafficking area; and
- (ii) the specific long-term and short-term goals and objectives for the high intensity drug trafficking area; and
- (B) includes an evaluation of the performance of the high intensity drug trafficking area in accomplishing the



specific long-term and short-term goals and objectives identified under paragraph (1)(B).

(1) ASSESSMENT OF DRUG ENFORCEMENT TASK FORCES IN HIGH INTENSITY DRUG TRAFFICKING AREAS.—Not later than 1 year after the date of enactment of this subsection, and as part of each subsequent annual National Drug Control Strategy report, the Director shall submit to Congress a report—

(1) assessing the number and operation of all federally funded drug enforcement task forces within each high intensity drug trafficking area; and

(2) describing—

(A) each Federal, State, local, and tribal drug enforcement task force operating in the high intensity drug trafficking area;

(B) how such task forces coordinate with each other, with any high intensity drug trafficking area task force, and with investigations receiving funds from the Organized Crime and Drug Enforcement Task Force;

(C) what steps, if any, each such task force takes to share information regarding drug trafficking and drug production with other federally funded drug enforcement task forces in the high intensity drug trafficking area;

(D) the role of the high intensity drug trafficking area in coordinating the sharing of such information among task forces;

(E) the nature and extent of cooperation by each Federal, State, local, and tribal participant in ensuring that such information is shared among law enforcement agencies and with the high intensity drug trafficking area;

(F) the nature and extent to which information sharing and enforcement activities are coordinated with joint terrorism task forces in the high intensity drug trafficking area; and

(G) any recommendations for measures needed to ensure that task force resources are utilized efficiently and effectively to reduce the availability of illegal drugs in the high intensity drug trafficking areas.

(m) ASSESSMENT OF LAW ENFORCEMENT INTELLIGENCE SHARING IN HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.—Not later than 180 days after the date of the enactment of this section, and as part of each subsequent annual National Drug Control Strategy report, the Director, in consultation with the Director of National Intelligence, shall submit to Congress a report—

(1) evaluating existing and planned law enforcement intelligence systems supported by each high intensity drug trafficking area, or utilized by task forces receiving any funding under the Program, including the extent to which such systems ensure access and availability of law enforcement intelligence to Federal, State, local, and tribal law enforcement agencies within the high intensity drug trafficking area and outside of it;

(2) the extent to which Federal, State, local, and tribal law enforcement agencies participating in each high intensity drug trafficking area are sharing law enforcement intelligence infor-

mation to assess current drug trafficking threats and design appropriate enforcement strategies; and

(3) the measures needed to improve effective sharing of information and law enforcement intelligence regarding drug trafficking and drug production among Federal, State, local, and tribal law enforcement participating in a high intensity drug trafficking area, and between such agencies and similar agencies outside the high intensity drug trafficking area.

(n) COORDINATION OF LAW ENFORCEMENT INTELLIGENCE SHARING WITH ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PROGRAM.—The Director, in consultation with the Attorney General, shall ensure that any drug enforcement intelligence obtained by the Intelligence Support Center for each high intensity drug trafficking area is shared, on a timely basis, with the drug intelligence fusion center operated by the Organized Crime Drug Enforcement Task Force of the Department of Justice.

(o) USE OF FUNDS TO COMBAT METHAMPHETAMINE TRAFFICKING.—

(1) REQUIREMENT.—As part of the documentation that supports the President's annual budget request for the Office, the Director shall submit to Congress a report describing the use of HIDTA funds to investigate and prosecute organizations and individuals trafficking in methamphetamine in the prior calendar year.

(2) CONTENTS.—The report shall include—

(A) the number of methamphetamine manufacturing facilities discovered through HIDTA-funded initiatives in the previous fiscal year;

(B) the amounts of methamphetamine or listed chemicals (as that term is defined in section 102(33) of the Controlled Substances Act (21 U.S.C. 802(33))) seized by HIDTA-funded initiatives in the area during the previous year; and

(C) law enforcement intelligence and predictive data from the Drug Enforcement Administration showing patterns and trends in abuse, trafficking, and transportation in methamphetamine and listed chemicals.

(3) CERTIFICATION.—Before the Director awards any funds to a high intensity drug trafficking area, the Director shall certify that the law enforcement entities participating in that HIDTA are providing laboratory seizure data to the national clandestine laboratory database at the El Paso Intelligence Center.

(p) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Office of National Drug Control Policy to carry out this section—

(1) \$240,000,000 for fiscal year 2007;

(2) \$250,000,000 for fiscal year 2008;

(3) \$260,000,000 for fiscal year 2009;

(4) \$270,000,000 for fiscal year 2010;

(5) \$280,000,000 for each of fiscal year 2011; and

(6) \$280,000,000 for each of fiscal years 2018 through 2023.

(q) SPECIFIC PURPOSES.—

(1) IN GENERAL.—The Director shall ensure that, of the amounts appropriated for a fiscal year for the Program, at least \$7,000,000 is used in high intensity drug trafficking areas with severe neighborhood safety and illegal drug distribution problems.

(2) REQUIRED USES.—The funds used under paragraph (1) shall be used to ensure the safety of neighborhoods and the protection of communities, including the prevention of the intimidation of witnesses of illegal drug distribution and related activities and the establishment of, or support for, programs that provide protection or assistance to witnesses in court proceedings.

(3) BEST PRACTICE MODELS.—The Director shall work with HIDTAs to develop and maintain best practice models to assist State, local, and Tribal governments in addressing witness safety, relocation, financial and housing assistance, or any other services related to witness protection or assistance in cases of illegal drug distribution and related activities. The Director shall ensure dissemination of the best practice models to each HIDTA.

(r) DRUG OVERDOSE RESPONSE STRATEGY IMPLEMENTATION.—The Director may use funds appropriated to carry out this section to implement a drug overdose response strategy in high intensity drug trafficking areas on a nationwide basis by—

(1) coordinating multi-disciplinary efforts to prevent, reduce, and respond to drug overdoses, including the uniform reporting of fatal and non-fatal overdoses to public health and safety officials;

(2) increasing data sharing among public safety and public health officials concerning drug-related abuse trends, including new psychoactive substances, and related crime; and

(3) enabling collaborative deployment of prevention, intervention, and enforcement resources to address substance use addiction and narcotics trafficking.

(s) SUPPLEMENTAL GRANTS.—The Director is authorized to use not more than \$10,000,000 of the amounts otherwise appropriated to carry out this section to provide supplemental competitive grants to high intensity drug trafficking areas that have experienced high seizures of fentanyl and new psychoactive substances for the purposes of—

(1) purchasing portable equipment to test for fentanyl and other substances;

(2) training law enforcement officers and other first responders on best practices for handling fentanyl and other substances; and

(3) purchasing protective equipment, including overdose reversal drugs.

【Section 708 was repealed by section 8222(3) of Public Law 115–271.】

**SEC. 709. [21 U.S.C. 1708] EMERGING THREATS COMMITTEE, PLAN, AND MEDIA CAMPAIGN.**

(a) EMERGING AND CONTINUING THREATS COORDINATOR.—The Director shall designate or appoint a United States Emerging and

Continuing Threats Coordinator to perform the duties of that position described in this section and such other duties as may be determined by the Director. For purposes of carrying out the previous sentence, the Director shall designate or appoint an appointee in the Senior Executive Service or an appointee in a position at level 15 of the General Schedule (or equivalent).

(b) EMERGING THREATS COMMITTEE.—

(1) IN GENERAL.—The Emerging Threats Committee shall—

(A) monitor evolving and emerging drug threats in the United States;

(B) identify and discuss evolving and emerging drug trends in the United States using the criteria required to be established under paragraph (6);

(C) assist in the formulation of and oversee implementation of any plan described in subsection (d);

(D) provide such other advice to the Coordinator and Director concerning strategy and policies for emerging drug threats and trends as the Committee determines to be appropriate; and

(E) disseminate and facilitate the sharing with Federal, State, local, and Tribal officials and other entities as determined by the Director of pertinent information and data relating to—

(i) recent trends in drug supply and demand;

(ii) fatal and nonfatal overdoses;

(iii) demand for and availability of evidence-based substance use disorder treatment, including the extent of the unmet treatment need, and treatment admission trends;

(iv) recent trends in drug interdiction, supply, and demand from State, local, and Tribal law enforcement agencies; and

(v) other subject matter as determined necessary by the Director.

(2) CHAIRPERSON.—The Director shall designate one of the members of the Emerging Threats Committee to serve as Chairperson.

(3) MEMBERS.—The Director shall appoint other members of the Committee, which shall include—

(A) representatives from National Drug Control Program agencies or other agencies;

(B) representatives from State, local, and Tribal governments; and

(C) representatives from other entities as designated by the Director.

(4) MEETINGS.—The members of the Emerging Threats Committee shall meet, in person and not through any delegate or representative, not less frequently than once per calendar year, before June 1. At the call of the Director or the Chairperson, the Emerging Threats Committee may hold additional meetings as the members may choose.

(5) CONTRACT, AGREEMENT, AND OTHER AUTHORITY.—The Director may award contracts, enter into interagency agree-

ments, manage individual projects, and conduct other activities in support of the identification of emerging drug threats and in support of the development, implementation, and assessment of any Emerging Threat Response Plan.

(6) CRITERIA TO IDENTIFY EMERGING DRUG THREATS.—Not later than 180 days after the date on which the Committee first meets, the Committee shall develop and recommend to the Director criteria to be used to identify an emerging drug threat or the termination of an emerging drug threat designation based on information gathered by the Committee, statistical data, and other evidence.

(c) DESIGNATION.—

(1) IN GENERAL.—The Director, in consultation with the Coordinator, the Committee, and the head of each National Drug Control Program agency, may designate an emerging drug threat in the United States.

(2) STANDARDS FOR DESIGNATION.—The Director, in consultation with the Coordinator, shall promulgate and make publicly available standards by which a designation under paragraph (1) and the termination of such designation may be made. In developing such standards, the Director shall consider the recommendations of the committee and other criteria the Director considers to be appropriate.

(3) PUBLIC STATEMENT REQUIRED.—The Director shall publish a public written statement on the portal of the Office explaining the designation of an emerging drug threat or the termination of such designation and shall notify the appropriate congressional committees of the availability of such statement when a designation or termination of such designation has been made.

(d) PLAN.—

(1) PUBLIC AVAILABILITY OF PLAN.—Not later than 90 days after making a designation under subsection (c), the Director shall publish and make publicly available an Emerging Threat Response Plan and notify the President and the appropriate congressional committees of such plan's availability.

(2) TIMING.—Concurrently with the annual submissions under section 706(g), the Director shall update the plan and report on implementation of the plan, until the Director issues the public statement required under subsection (c)(3) to terminate the emerging drug threat designation.

(3) CONTENTS OF AN EMERGING THREAT RESPONSE PLAN.—The Director shall include in the plan required under this subsection—

(A) a comprehensive strategic assessment of the emerging drug threat, including the current availability of, demand for, and effectiveness of evidence-based prevention, treatment, and enforcement programs and efforts to respond to the emerging drug threat;

(B) comprehensive, research-based, short- and long-term, quantifiable goals for addressing the emerging drug threat, including for reducing the supply of the drug designated as the emerging drug threat and for expanding the availability and effectiveness of evidence-based substance

use disorder treatment and prevention programs to reduce the demand for the emerging drug threat;

(C) performance measures pertaining to the plan's goals, including quantifiable and measurable objectives and specific targets;

(D) the level of funding needed to implement the plan, including whether funding is available to be reprogrammed or transferred to support implementation of the plan or whether additional appropriations are necessary to implement the plan;

(E) an implementation strategy for the media campaign under subsection (f), including goals as described under subparagraph (B) of this paragraph and performance measures, objectives, and targets, as described under subparagraph (C) of this paragraph; and

(F) any other information necessary to inform the public of the status, progress, or response to an emerging drug threat.

(4) IMPLEMENTATION.—

(A) IN GENERAL.—Not later than 120 days after the date on which a designation is made under subsection (c), the Director, in consultation with the President, the appropriate congressional committees, and the head of each National Drug Control Program agency, shall issue guidance on implementation of the plan described in this subsection to the National Drug Control Program agencies and any other relevant agency determined to be necessary by the Director.

(B) COORDINATOR'S RESPONSIBILITIES.—The Coordinator shall—

(i) direct the implementation of the plan among the agencies identified in the plan, State, local, and Tribal governments, and other relevant entities;

(ii) facilitate information-sharing between agencies identified in the plan, State, local, and Tribal governments, and other relevant entities; and

(iii) monitor implementation of the plan by coordinating the development and implementation of collection and reporting systems to support performance measurement and adherence to the plan by agencies identified in the plan, where appropriate.

(C) REPORTING.—Not later than 180 days after the date on which a designation is made under subsection (c) and in accordance with subparagraph (A), the head of each agency identified in the plan shall submit to the Coordinator a report on implementation of the plan.

(e) EVALUATION OF MEDIA CAMPAIGN.—Upon designation of an emerging drug threat, the Director shall evaluate whether a media campaign would be appropriate to address that threat.

(f) NATIONAL ANTI-DRUG MEDIA CAMPAIGN.—

(1) IN GENERAL.—The Director shall, to the extent feasible and appropriate, conduct a national anti-drug media campaign (referred to in this subsection as the “national media campaign”) in accordance with this subsection for the purposes of—

(A) preventing substance abuse among people in the United States;

(B) educating the public about the dangers and negative consequences of substance use and abuse, including patient and family education about the characteristics and hazards of substance abuse and methods to safeguard against substance use, to include the safe disposal of prescription medications;

(C) supporting evidence-based prevention programs targeting the attitudes, perception, and beliefs of persons concerning substance use and intentions to initiate or continue such use;

(D) encouraging individuals affected by substance use disorders to seek treatment and providing such individuals with information on—

(i) how to recognize addiction issues;

(ii) what forms of evidence-based treatment options are available; and

(iii) how to access such treatment;

(E) combating the stigma of addiction and substance use disorders, including the stigma of treating such disorders with medication-assisted treatment therapies; and

(F) informing the public about the dangers of any drug identified by the Director as an emerging drug threat as appropriate.

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts made available to carry out this subsection for the national media campaign may only be used for the following:

(i) The purchase of media time and space, including the strategic planning for, tracking, and accounting of, such purchases.

(ii) Creative and talent costs, consistent with subparagraph (B)(i).

(iii) Advertising production costs, which may include television, radio, internet, social media, and other commercial marketing venues.

(iv) Testing and evaluation of advertising.

(v) Evaluation of the effectiveness of the national media campaign.

(vi) Costs of contracts to carry out activities authorized by this subsection.

(vii) Partnerships with professional and civic groups, community-based organizations, including faith-based organizations, and government organizations related to the national media campaign.

(viii) Entertainment industry outreach, interactive outreach, media projects and activities, public information, news media outreach, and corporate sponsorship and participation.

(ix) Operational and management expenses.

(B) SPECIFIC REQUIREMENTS.—

(i) CREATIVE SERVICES.—In using amounts for creative and talent costs under subparagraph (A)(ii), the

Director shall use creative services donated at no cost to the Government wherever feasible and may only procure creative services for advertising—

(I) responding to high-priority or emergent campaign needs that cannot timely be obtained at no cost; or

(II) intended to reach a minority, ethnic, or other special audience that cannot reasonably be obtained at no cost.

(ii) TESTING AND EVALUATION OF ADVERTISING.—In using amounts for testing and evaluation of advertising under subparagraph (A)(iv), the Director shall test all advertisements prior to use in the national media campaign to ensure that the advertisements are effective with the target audience and meet industry-accepted standards. The Director may waive this requirement for advertisements using no more than 10 percent of the purchase of advertising time purchased under this subsection in a fiscal year and no more than 10 percent of the advertising space purchased under this subsection in a fiscal year, if the advertisements respond to emergent and time-sensitive campaign needs or the advertisements will not be widely utilized in the national media campaign.

(iii) CONSULTATION.—For the planning of the campaign under paragraph (1), the Director may consult with—

(I) the head of any appropriate National Drug Control Program agency;

(II) experts on the designated drug;

(III) State, local, and Tribal government officials and relevant agencies;

(IV) communications professionals;

(V) the public; and

(VI) appropriate congressional committees.

(iv) EVALUATION OF EFFECTIVENESS OF NATIONAL MEDIA CAMPAIGN.—In using amounts for the evaluation of the effectiveness of the national media campaign under subparagraph (A)(v), the Director shall—

(I) designate an independent entity to evaluate by April 20 of each year the effectiveness of the national media campaign based on data from—

(aa) the Monitoring the Future Study published by the Department of Health and Human Services;

(bb) the National Survey on Drug Use and Health; and

(cc) other relevant studies or publications, as determined by the Director, including tracking and evaluation data collected according to marketing and advertising industry standards; and



(II) ensure that the effectiveness of the national media campaign is evaluated in a manner that enables consideration of whether the national media campaign has contributed to changes in attitude or behaviors among the target audience with respect to substance use and such other measures of evaluation as the Director determines are appropriate.

(3) ADVERTISING.—In carrying out this subsection, the Director shall ensure that sufficient funds are allocated to meet the stated goals of the national media campaign.

(4) RESPONSIBILITIES AND FUNCTIONS UNDER THE PROGRAM.—

(A) IN GENERAL.—The Director shall determine the overall purposes and strategy of the national media campaign.

(B) DIRECTOR.—

(i) IN GENERAL.—The Director shall approve—

(I) the strategy of the national media campaign;

(II) all advertising and promotional material used in the national media campaign; and

(III) the plan for the purchase of advertising time and space for the national media campaign.

(ii) IMPLEMENTATION.—The Director shall be responsible for implementing a focused national media campaign to meet the purposes set forth in paragraph (1) and shall ensure—

(I) information disseminated through the campaign is accurate and scientifically valid; and

(II) the campaign is designed using strategies demonstrated to be the most effective at achieving the goals and requirements of paragraph (1), which may include—

(aa) a media campaign, as described in paragraph (2);

(bb) local, regional, or population specific messaging;

(cc) the development of websites to publicize and disseminate information;

(dd) conducting outreach and providing educational resources for parents;

(ee) collaborating with law enforcement agencies; and

(ff) providing support for school-based public health education classes to improve teen knowledge about the effects of substance use.

(5) PROHIBITIONS.—None of the amounts made available under paragraph (2) may be obligated or expended for any of the following:

(A) To supplant current anti-drug community-based coalitions.

(B) To supplant pro bono public service time donated by national and local broadcasting networks for other public service campaigns.

(C) For partisan political purposes, or to express advocacy in support of or to defeat any clearly identified candidate, clearly identified ballot initiative, or clearly identified legislative or regulatory proposal.

(D) To fund advertising that features any elected officials, persons seeking elected office, cabinet level officials, or other Federal officials employed pursuant to section 213 of Schedule C of title 5, Code of Federal Regulations.

(E) To fund advertising that does not contain a primary message intended to reduce or prevent substance use.

(F) To fund advertising containing a primary message intended to promote support for the national media campaign or private sector contributions to the national media campaign.

(6) MATCHING REQUIREMENT.—

(A) IN GENERAL.—Amounts made available under paragraph (2) for media time and space shall be matched by an equal amount of non-Federal funds for the national media campaign, or be matched with in-kind contributions of the same value.

(B) NO-COST MATCH ADVERTISING DIRECT RELATIONSHIP REQUIREMENT.—The Director shall ensure that not less than 85 percent of no-cost match advertising directly relates to substance abuse prevention consistent with the specific purposes of the national media campaign.

(C) NO-COST MATCH ADVERTISING NOT DIRECTLY RELATED.—The Director shall ensure that no-cost match advertising that does not directly relate to substance abuse prevention consistent with the purposes of the national media campaign includes a clear anti-drug message. Such message is not required to be the primary message of the match advertising.

(7) FINANCIAL AND PERFORMANCE ACCOUNTABILITY.—The Director shall cause to be performed—

(A) audits and reviews of costs of the national media campaign pursuant to section 4706 of title 41, United States Code; and

(B) an audit to determine whether the costs of the national media campaign are allowable under chapter 43 of title 41, United States Code.

(8) REPORT TO CONGRESS.—The Director shall submit on an annual basis a report to Congress that describes—

(A) the strategy of the national media campaign and whether specific objectives of the national media campaign were accomplished;

(B) steps taken to ensure that the national media campaign operates in an effective and efficient manner consistent with the overall strategy and focus of the national media campaign;

(C) plans to purchase advertising time and space;

(D) policies and practices implemented to ensure that Federal funds are used responsibly to purchase advertising time and space and eliminate the potential for waste, fraud, and abuse;

(E) all contracts entered into with a corporation, partnership, or individual working on behalf of the national media campaign;

(F) the results of any financial audit of the national media campaign;

(G) a description of any evidence used to develop the national media campaign;

(H) specific policies and steps implemented to ensure compliance with this section;

(I) a detailed accounting of the amount of funds obligated during the previous fiscal year for carrying out the national media campaign, including each recipient of funds, the purpose of each expenditure, the amount of each expenditure, any available outcome information, and any other information necessary to provide a complete accounting of the funds expended; and

(J) a review and evaluation of the effectiveness of the national media campaign strategy for the past year.

(9) **REQUIRED NOTICE FOR COMMUNICATION FROM THE OFFICE.**—Any communication, including an advertisement, paid for or otherwise disseminated by the Office directly or through a contract awarded by the Office shall include a prominent notice informing the audience that the communication was paid for by the Office.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Office to carry out this section, \$25,000,000 for each of fiscal years 2018 through 2023.

**[SEC. 710. REPEALED BY SECTION 1101(A) OF PUBLIC LAW 109-469]**

**SEC. 711. [21 U.S.C. 1710] DRUG INTERDICTION COORDINATOR AND COMMITTEE.**

(a) **UNITED STATES INTERDICTION COORDINATOR.**—

(1) **IN GENERAL.**—The Director shall designate or appoint an appointee in the Senior Executive Service or an appointee in a position at level 15 of the General Schedule (or equivalent) as the United States Interdiction Coordinator to perform the duties of that position described in paragraph (2) and such other duties as may be determined by the Director with respect to coordination of efforts to interdict illicit drugs from entering the United States.

(2) **RESPONSIBILITIES.**—The United States Interdiction Coordinator shall be responsible to the Director for—

(A) coordinating the interdiction activities of the National Drug Control Program agencies to ensure consistency with the National Drug Control Strategy;

(B) on behalf of the Director, developing and issuing, on or before September 1 of each year and in accordance with paragraph (4), a National Interdiction Command and Control Plan to ensure the coordination and consistency described in subparagraph (A);

(C) assessing the sufficiency of assets committed to illicit drug interdiction by the relevant National Drug Control Program agencies; and

(D) advising the Director on the efforts of each National Drug Control Program agency to implement the National Interdiction Command and Control Plan.

(3) STAFF.—The Director shall assign such permanent staff of the Office as he considers appropriate to assist the United States Interdiction Coordinator to carry out the responsibilities described in paragraph (2), and may request that appropriate National Drug Control Program agencies detail or assign staff to assist in carrying out such responsibilities.

(4) NATIONAL INTERDICTION COMMAND AND CONTROL PLAN.—

(A) PURPOSES.—The National Interdiction Command and Control Plan shall—

(i) set forth the Government's strategy for drug interdiction;

(ii) state the specific roles and responsibilities of the relevant National Drug Control Program agencies for implementing that strategy; and

(iii) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement that strategy.

(B) CONSULTATION WITH OTHER AGENCIES.—Before submission of the National Drug Control Strategy or annual assessment required under section 706, as applicable, the United States Interdiction Coordinator shall issue the National Interdiction Command and Control Plan in consultation with the other members of the Interdiction Committee described in subsection (b).

(C) REPORT TO CONGRESS.—On or before September 1 of each year, the Director, acting through the United States Interdiction Coordinator, shall provide to the appropriate congressional committees, to the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives, and to the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate a report that—

(i) includes—

(I) a copy of that year's National Interdiction Command and Control Plan, including information about how each National Drug Control Program agency conducting drug interdiction activities is engaging with relevant international partners;

(II) information for the previous 10 years regarding the number and type of seizures of drugs by each National Drug Control Program agency conducting drug interdiction activities and statistical information on the geographic areas of such seizures; and

(III) information for the previous 10 years regarding the number of air and maritime patrol hours undertaken by each National Drug Control Program agency conducting drug interdiction activities and statistical information on the geographic areas in which such patrol hours took place; and

(ii) may include recommendations for changes to existing agency authorities or laws governing inter-agency relationships.

(D) CLASSIFIED ANNEX.—Each report required to be submitted under subparagraph (C) shall be in unclassified form, but may include a classified annex.

(b) INTERDICTION COMMITTEE.—

(1) IN GENERAL.—The Interdiction Committee shall meet to—

(A) discuss and resolve issues related to the coordination, oversight and integration of international, border, and domestic drug interdiction efforts in support of the National Drug Control Strategy;

(B) review the annual National Interdiction Command and Control Plan, and provide advice to the Director and the United States Interdiction Coordinator concerning that plan and how to strengthen international partnerships to better achieve the goals of that plan; and

(C) provide such other advice to the Director concerning drug interdiction strategy and policies as the committee determines is appropriate.

(2) CHAIRPERSON.—The Director shall designate one of the members of the Interdiction Committee to serve as Chairperson.

(3) MEETINGS.—The members of the Interdiction Committee shall meet, in person and not through any delegate or representative, at least once per calendar year, before June 1. At the call of the Director or the Chairperson, the Interdiction Committee may hold additional meetings, which shall be attended by the members in person, or through such delegates or representatives as the members may choose.

(4) REPORT.—Not later than September 30 of each year, the Chairperson of the Interdiction Committee shall submit to the Director and to the appropriate congressional committees a report describing the results of the meetings and any significant findings of the Committee during the previous 12 months. The report required under this paragraph shall be in unclassified form, but may include a classified annex.

(c) INTERNATIONAL COORDINATION.—The Director may facilitate international drug control coordination efforts.

**SEC. 712. [21 U.S.C. 1710a] REQUIREMENT FOR DISCLOSURE OF FEDERAL SPONSORSHIP OF ALL FEDERAL ADVERTISING OR OTHER COMMUNICATION MATERIALS.**

(a) REQUIREMENT.—Each advertisement or other communication paid for by the Office, either directly or through a contract awarded by the Office, shall include a prominent notice informing

the target audience that the advertisement or other communication is paid for by the Office.

(b) **ADVERTISEMENT OR OTHER COMMUNICATION.**—In this section, the term “advertisement or other communication” includes—

(1) an advertisement disseminated in any form, including print or by any electronic means; and

(2) a communication by an individual in any form, including speech, print, or by any electronic means.

**SEC. 713. TECHNICAL AND CONFORMING AMENDMENTS.**

【Made technical amendments to several laws.】

**SEC. 714. [21 U.S.C. 1711] AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this title except activities otherwise specified, to remain available until expended, \$18,400,000 for each of fiscal years 2018 through 2023.

【Section 715 was repealed by section 8202(b)(2) of Public Law 115–271.】

**SEC. 716. [21 U.S.C. 1714] AWARDS FOR DEMONSTRATION PROGRAMS BY LOCAL PARTNERSHIPS TO COERCE ABSTINENCE IN CHRONIC HARD-DRUG USERS UNDER COMMUNITY SUPERVISION THROUGH THE USE OF DRUG TESTING AND SANCTIONS.**

(a) **AWARDS REQUIRED.**—The Director shall make competitive awards to fund demonstration programs by eligible partnerships for the purpose of reducing the use of illicit drugs by chronic hard-drug users living in the community while under the supervision of the criminal justice system.

(b) **USE OF AWARD AMOUNTS.**—Award amounts received under this section shall be used—

(1) to support the efforts of the agencies, organizations, and researchers included in the eligible partnership;

(2) to develop and field a drug testing and graduated sanctions program for chronic hard-drug users living in the community under criminal justice supervision; and

(3) to assist individuals described in subsection (a) by strengthening rehabilitation efforts through such means as job training, drug treatment, or other services.

(c) **ELIGIBLE PARTNERSHIP DEFINED.**—In this section, the term “eligible partnership” means a working group whose application to the Director—

(1) identifies the roles played, and certifies the involvement of, two or more agencies or organizations, which may include—

(A) State, local, or tribal agencies (such as those carrying out police, probation, prosecution, courts, corrections, parole, or treatment functions);

(B) Federal agencies (such as the Drug Enforcement Agency, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and United States Attorney offices); and

(C) community-based organizations;

(2) includes a qualified researcher;

(3) includes a plan for using judicial or other criminal justice authority to administer drug tests to individuals described in subsection (a) at least twice a week, and to swiftly and cer-

tainly impose a known set of graduated sanctions for non-compliance with community-release provisions relating to drug abstinence (whether imposed as a pre-trial, probation, or parole condition or otherwise);

(4) includes a strategy for responding to a range of substance use and abuse problems and a range of criminal histories;

(5) includes a plan for integrating data infrastructure among the agencies and organizations included in the eligible partnership to enable seamless, real-time tracking of individuals described in subsection (a);

(6) includes a plan to monitor and measure the progress toward reducing the percentage of the population of individuals described in subsection (a) who, upon being summoned for a drug test, either fail to show up or who test positive for drugs.

(d) REPORTS TO CONGRESS.—

(1) INTERIM REPORT.—Not later than June 1, 2009, the Director shall submit to Congress a report that identifies the best practices in reducing the use of illicit drugs by chronic hard-drug users, including the best practices identified through the activities funded under this section.

(2) FINAL REPORT.—Not later than June 1, 2010, the Director shall submit to Congress a report on the demonstration programs funded under this section, including on the matters specified in paragraph (1).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$4,900,000 for each of fiscal years 2007 through 2009.

\* \* \* \* \*

## TITLE XI—MORATORIUM ON CERTAIN TAXES

**SEC. 1100. [47 U.S.C. 151 note] SHORT TITLE.**

This title may be cited as the “Internet Tax Freedom Act”.

**SEC. 1101. [47 U.S.C. 151 note] MORATORIUM.**

(a) MORATORIUM.—No State or political subdivision thereof may impose any of the following taxes:

(1) Taxes on Internet access.

(2) Multiple or discriminatory taxes on electronic commerce.

(b) PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.—Except as provided in this section, nothing in this title shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.

(c) LIABILITIES AND PENDING CASES.—Nothing in this title affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this title affect ongoing litigation relating to such taxes.

(d) EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply in the case of any person or entity who knowingly and with knowledge of the character of the material, in interstate or foreign commerce by means of the World Wide Web, makes any communication for commercial purposes that is available to any minor and that includes any material that is harmful to minors unless such person or entity has restricted access by minors to material that is harmful to minors—

(A) by requiring use of a credit card, debit account, adult access code, or adult personal identification number;

(B) by accepting a digital certificate that verifies age;

or

(C) by any other reasonable measures that are feasible under available technology.

(2) SCOPE OF EXCEPTION.—For purposes of paragraph (1), a person shall not be considered to making a communication for commercial purposes of material to the extent that the person is—

(A) a telecommunications carrier engaged in the provision of a telecommunications service;

(B) a person engaged in the business of providing an Internet access service;

(C) a person engaged in the business of providing an Internet information location tool; or

(D) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the communication.

(3) DEFINITIONS.—In this subsection:

(A) BY MEANS OF THE WORLD WIDE WEB.—The term “by means of the World Wide Web” means by placement of material in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol, file transfer protocol, or other similar protocols.

(B) COMMERCIAL PURPOSES; ENGAGED IN THE BUSINESS.—

(i) COMMERCIAL PURPOSES.—A person shall be considered to make a communication for commercial purposes only if such person is engaged in the business of making such communications.

(ii) ENGAGED IN THE BUSINESS.—The term “engaged in the business” means that the person who makes a communication, or offers to make a communication, by means of the World Wide Web, that includes any material that is harmful to minors, devotes time, attention, or labor to such activities, as a regular course of such person’s trade or business, with the objective of earning a profit as a result of such activities (although it is not necessary that the person make a profit or that the making or offering to make such communications be the person’s sole or principal business or source of income). A person may be considered to be engaged in the business of making, by means of



the World Wide Web, communications for commercial purposes that include material that is harmful to minors, only if the person knowingly causes the material that is harmful to minors to be posted on the World Wide Web or knowingly solicits such material to be posted on the World Wide Web.

(C) INTERNET.—The term “Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(D) INTERNET ACCESS SERVICE.—The term “Internet access service” means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. The term “Internet access service” does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.

(E) INTERNET INFORMATION LOCATION TOOL.—The term “Internet information location tool” means a service that refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

(F) MATERIAL THAT IS HARMFUL TO MINORS.—The term “material that is harmful to minors” means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that is obscene or that—

(i) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

(ii) depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(G) MINOR.—The term “minor” means any person under 17 years of age.

(H) TELECOMMUNICATIONS CARRIER; TELECOMMUNICATIONS SERVICE.—The terms “telecommunications carrier” and “telecommunications service” have the meanings given such terms in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

## (e) ADDITIONAL EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply with respect to an Internet access provider, unless, at the time of entering into an agreement with a customer for the provision of Internet access services, such provider offers such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

## (2) DEFINITIONS.—In this subsection:

(A) INTERNET ACCESS PROVIDER.—The term “Internet access provider” means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

(B) INTERNET ACCESS SERVICES.—The term “Internet access services” means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

(C) SCREENING SOFTWARE.—The term “screening software” means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

(3) APPLICABILITY.—Paragraph (1) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

**SEC. 1102. [47 U.S.C. 151 note] ADVISORY COMMISSION ON ELECTRONIC COMMERCE.**

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the “Commission”). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

## (b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax and one

representative shall be from a State that does not impose an income tax).

(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable intrastate, interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on electronic commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of model State legislation that—

(i) would provide uniform definitions of categories of property, goods, service, or information subject to or exempt from sales and use taxes; and

(ii) would ensure that Internet access services, online services, and communications and transactions using the Internet, Internet access service, or online services would be treated in a tax and technologically neutral manner relative to other forms of remote sales;

(E) an examination of the effects of taxation, including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers; and

(F) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

(3) EFFECT ON THE COMMUNICATIONS ACT OF 1934.—Nothing in this section shall include an examination of any fees or charges imposed by the Federal Communications Commission or States related to—

(A) obligations under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(B) the implementation of the Telecommunications Act of 1996 (or of amendments made by that Act).

(h) NATIONAL TAX ASSOCIATION COMMUNICATIONS AND ELECTRONIC COMMERCE TAX PROJECT.—The Commission shall, to the extent possible, ensure that its work does not undermine the efforts

of the National Tax Association Communications and Electronic Commerce Tax Project.

**SEC. 1103. [47 U.S.C. 151 note] REPORT.**

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress for its consideration a report reflecting the results, including such legislative recommendations as required to address the findings of the Commission's study under this title. Any recommendation agreed to by the Commission shall be tax and technologically neutral and apply to all forms of remote commerce. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

**SEC. 1104. [47 U.S.C. 151 note] GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.**

(a) PRE-OCTOBER 1998 TAXES.—

(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date—

(A) the tax was authorized by statute; and

(B) either—

(i) a provider of Internet access services had a reasonable opportunity to know, by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

(ii) a State or political subdivision thereof generally collected such tax on charges for Internet access.

(2) TERMINATION.—

(A) IN GENERAL.—Except as provided in subparagraph

(B), this subsection shall not apply after June 30, 2020.

(B) STATE TELECOMMUNICATIONS SERVICE TAX.—

(i) DATE FOR TERMINATION.—This subsection shall not apply after November 1, 2006, with respect to a State telecommunications service tax described in clause (ii).

(ii) DESCRIPTION OF TAX.—A State telecommunications service tax referred to in subclass (i) is a State tax—

(I) enacted by State law on or after October 1, 1991, and imposing a tax on telecommunications service; and

(II) applied to Internet access through administrative code or regulation issued on or after December 1, 2002.

(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to any State that has, more than 24 months prior to the date of enactment of this paragraph, enacted legislation to repeal the State's taxes on Internet access or issued a rule or other proclamation made by the appropriate agency of the State that

such State agency has decided to no longer apply such tax to Internet access.

(b) PRE-NOVEMBER 2003 TAXES.—

(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced as of November 1, 2003, if, as of that date, the tax was authorized by statute and—

(A) a provider of Internet access services had a reasonable opportunity to know by virtue of a public rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; and

(B) a State or political subdivision thereof generally collected such tax on charges for Internet access.

(2) TERMINATION.—This subsection shall not apply after November 1, 2005.

(c) APPLICATION OF DEFINITION.—

(1) IN GENERAL.—Effective as of November 1, 2003—

(A) for purposes of subsection (a), the term “Internet access” shall have the meaning given such term by section 1104(5) of this Act, as enacted on October 21, 1998; and

(B) for purposes of subsection (b), the term “Internet access” shall have the meaning given such term by section 1104(5) of this Act as enacted on October 21, 1998, and amended by section 2(c) of the Internet Tax Non-discrimination Act (Public Law 108–435).

(2) EXCEPTIONS.—Paragraph (1) shall not apply until June 30, 2008, to a tax on Internet access that is—

(A) generally imposed and actually enforced on telecommunications service purchased, used, or sold by a provider of Internet access, but only if the appropriate administrative agency of a State or political subdivision thereof issued a public ruling prior to July 1, 2007, that applied such tax to such service in a manner that is inconsistent with paragraph (1); or

(B) the subject of litigation instituted in a judicial court of competent jurisdiction prior to July 1, 2007, in which a State or political subdivision is seeking to enforce, in a manner that is inconsistent with paragraph (1), such tax on telecommunications service purchased, used, or sold by a provider of Internet access.

(3) NO INFERENCE.—No inference of legislative construction shall be drawn from this subsection or the amendments to section 1105(5) made by the Internet Tax Freedom Act Amendments Act of 2007 for any period prior to June 30, 2008, with respect to any tax subject to the exceptions described in subparagraphs (A) and (B) of paragraph (2).

**SEC. 1105. [47 U.S.C. 151 note] DEFINITIONS.**

For the purposes of this title:

(1) BIT TAX.—The term “bit tax” means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the

volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications.

(2) **DISCRIMINATORY TAX.**—The term “discriminatory tax” means—

(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

(iv) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

(B) any tax imposed by a State or political subdivision thereof, if—

(i) the sole ability to access a site on a remote seller’s out-of-State computer server is considered a factor in determining a remote seller’s tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations solely as a result of—

(I) the display of a remote seller’s information or content on the out-of-State computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.

(3) **ELECTRONIC COMMERCE.**—The term “electronic commerce” means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) **INTERNET.**—The term “Internet” means collectively the myriad of computer and telecommunications facilities, includ-

ing equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(5) INTERNET ACCESS.—The term “Internet access”—

(A) means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

(B) includes the purchase, use or sale of telecommunications by a provider of a service described in subparagraph (A) to the extent such telecommunications are purchased, used or sold—

(i) to provide such service; or

(ii) to otherwise enable users to access content, information or other services offered over the Internet;

(C) includes services that are incidental to the provision of the service described in subparagraph (A) when furnished to users as part of such service, such as a home page, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity;

(D) does not include voice, audio or video programming, or other products and services (except services described in subparagraph (A), (B), (C), or (E)) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated with the charge for services described in subparagraph (A), (B), (C), or (E); and

(E) includes a homepage, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity, that are provided independently or not packaged with Internet access.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing



such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term “tax” means—

(i) any charge imposed by any governmental entity for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred; or

(ii) the imposition on a seller of an obligation to collect and to remit to a governmental entity any sales or use tax imposed on a buyer by a governmental entity.

(B) EXCEPTION.—Such term does not include any franchise fee or similar fee imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573), or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(9) TELECOMMUNICATIONS.—The term “telecommunications” means “telecommunications” as such term is defined in section 3(43) of the Communications Act of 1934 (47 U.S.C. 153(43)) and “telecommunications service” as such term is defined in section 3(46) of such Act (47 U.S.C. 153(46)), and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986 (26 U.S.C. 4251)).

(10) TAX ON INTERNET ACCESS.—

(A) IN GENERAL.—The term “tax on Internet access” means a tax on Internet access, regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax.

(B) GENERAL EXCEPTION.—The term “tax on Internet access” does not include a tax levied upon or measured by net income, capital stock, net worth, or property value.

(C) SPECIFIC EXCEPTION.—

(i) SPECIFIED TAXES.—Effective November 1, 2007, the term “tax on Internet access” also does not include a State tax expressly levied on commercial activity, modified gross receipts, taxable margin, or gross income of the business, by a State law specifically using one of the foregoing terms, that—

(I) was enacted after June 20, 2005, and before November 1, 2007 (or, in the case of a State business and occupation tax, was enacted after January 1, 1932, and before January 1, 1936);

(II) replaced, in whole or in part, a modified value-added tax or a tax levied upon or measured by net income, capital stock, or net worth (or, is a State business and occupation tax that was en-

acted after January 1, 1932 and before January 1, 1936);

(III) is imposed on a broad range of business activity; and

(IV) is not discriminatory in its application to providers of communication services, Internet access, or telecommunications.

(ii) MODIFICATIONS.—Nothing in this subparagraph shall be construed as a limitation on a State's ability to make modifications to a tax covered by clause (i) of this subparagraph after November 1, 2007, as long as the modifications do not substantially narrow the range of business activities on which the tax is imposed or otherwise disqualify the tax under clause (i).

(iii) NO INFERENCE.—No inference of legislative construction shall be drawn from this subparagraph regarding the application of subparagraph (A) or (B) to any tax described in clause (i) for periods prior to November 1, 2007.

**SEC. 1106. [47 U.S.C. 151 note] ACCOUNTING RULE.**

(a) IN GENERAL.—If charges for Internet access are aggregated with and not separately stated from charges for telecommunications or other charges that are subject to taxation, then the charges for Internet access may be subject to taxation unless the Internet access provider can reasonably identify the charges for Internet access from its books and records kept in the regular course of business.

(b) DEFINITIONS.—In this section:

(1) CHARGES FOR INTERNET ACCESS.—The term “charges for Internet access” means all charges for Internet access as defined in section 1105(5).

(2) CHARGES FOR TELECOMMUNICATIONS.—The term “charges for telecommunications” means all charges for telecommunications, except to the extent such telecommunications are purchased, used, or sold by a provider of Internet access to provide Internet access or to otherwise enable users to access content, information or other services offered over the Internet.

**SEC. 1107. [47 U.S.C. 151 note] EFFECT ON OTHER LAWS.**

(a) UNIVERSAL SERVICE.—Nothing in this Act shall prevent the imposition or collection of any fees or charges used to preserve and advance Federal universal service or similar State programs—

(1) authorized by section 254 of the Communications Act of 1934 (47 U.S.C. 254); or

(2) in effect on February 8, 1996.

(b) 911 AND E-911 SERVICES.—Nothing in this Act shall prevent the imposition or collection, on a service used for access to 911 or E-911 services, of any fee or charge specifically designated or presented as dedicated by a State or political subdivision thereof for the support of 911 or E-911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 or E-911 services.

(c) NON-TAX REGULATORY PROCEEDINGS.—Nothing in this Act shall be construed to affect any Federal or State regulatory proceeding that is not related to taxation.

**[SEC. 1108. REPEALED.]**

**SEC. 1109. [47 U.S.C. 151 note] EXCEPTION FOR TEXAS MUNICIPAL ACCESS LINE FEE.**

Nothing in this Act shall prohibit Texas or a political subdivision thereof from imposing or collecting the Texas municipal access line fee pursuant to Texas Local Govt. Code Ann. ch. 283 (Vernon 2005) and the definition of access line as determined by the Public Utility Commission of Texas in its “Order Adopting Amendments to Section 26.465 As Approved At The February 13, 2003 Public Hearing”, issued March 5, 2003, in Project No. 26412.

**TITLE XII—OTHER PROVISIONS**

**SEC. 1201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.**

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 1101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

**SEC. 1202. NATIONAL TRADE ESTIMATE.**

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

- (i) by striking “and” at the end of clause (i);
- (ii) by inserting “and” at the end of clause (ii); and
- (iii) by inserting after clause (ii) the following new clause:

“(iii) United States electronic commerce,”; and

(B) in subparagraph (C)—

- (i) by striking “and” at the end of clause (i);
- (ii) by inserting “and” at the end of clause (ii);
- (iii) by inserting after clause (ii) the following new clause:

“(iii) the value of additional United States electronic commerce,”; and

(iv) by inserting “or transacted with,” after “or invested in”;

(2) in subsection (a)(2)(E)—

- (A) by striking “and” at the end of clause (i);
- (B) by inserting “and” at the end of clause (ii); and
- (C) by inserting after clause (ii) the following new clause:

“(iii) the value of electronic commerce transacted with,”; and

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

“(d) ELECTRONIC COMMERCE.—For purposes of this section, the term ‘electronic commerce’ has the meaning given that term in section 1104(3) of the Internet Tax Freedom Act.”.

**SEC. 1203. [19 U.S.C. 2241 note] DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.**

(a) **IN GENERAL.**—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) **NEGOTIATING OBJECTIVES.**—The negotiating objectives of the United States shall be—

- (1) to assure that electronic commerce is free from—
  - (A) tariff and nontariff barriers;
  - (B) burdensome and discriminatory regulation and standards; and
  - (C) discriminatory taxation; and
- (2) to accelerate the growth of electronic commerce by expanding market access opportunities for—
  - (A) the development of telecommunications infrastructure;
  - (B) the procurement of telecommunications equipment;
  - (C) the provision of Internet access and telecommunications services; and
  - (D) the exchange of goods, services, and digitalized information.

(c) **ELECTRONIC COMMERCE.**—For purposes of this section, the term “electronic commerce” has the meaning given that term in section 1104(3).

**SEC. 1204. [19 U.S.C. 2241 note] NO EXPANSION OF TAX AUTHORITY.**

Nothing in this title shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

**SEC. 1205. [19 U.S.C. 2241 note] PRESERVATION OF AUTHORITY.**

Nothing in this title shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

**SEC. 1206. [19 U.S.C. 2241 note] SEVERABILITY.**

If any provision of this title, or any amendment made by this title, or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that title, and the application of that provision to other persons and circumstances, shall not be affected.

**TITLE XIII—CHILDREN’S ONLINE PRIVACY PROTECTION****SEC. 1301. [15 U.S.C. 6501 note] SHORT TITLE.**

This title may be cited as the “Children’s Online Privacy Protection Act of 1998”.

**SEC. 1302. [15 U.S.C. 6501] DEFINITIONS.**

In this title:

(1) CHILD.—The term “child” means an individual under the age of 13.

(2) OPERATOR.—The term “operator”—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term “Commission” means the Federal Trade Commission.

(4) DISCLOSURE.—The term “disclosure” means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term “Federal agency” means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term “Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any

predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term “parent” includes a legal guardian.

(8) PERSONAL INFORMATION.—The term “personal information” means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contacting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term “verifiable parental consent” means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator’s personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term “website or online service directed to children” means—

(i) a commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term “person” means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term “online contact information” means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

**SEC. 1303. [15 U.S.C. 6502] REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.****(a) ACTS PROHIBITED.—**

(1) **IN GENERAL.**—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) **DISCLOSURE TO PARENT PROTECTED.**—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

**(b) REGULATIONS.—**

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to

protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;



(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) **TERMINATION OF SERVICE.**—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) **ENFORCEMENT.**—Subject to sections 1304 and 1306, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) **INCONSISTENT STATE LAW.**—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

**SEC. 1304. [15 U.S.C. 6503] SAFE HARBORS.**

(a) **GUIDELINES.**—An operator may satisfy the requirements of regulations issued under section 1303(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) **INCENTIVES.**—

(1) **SELF-REGULATORY INCENTIVES.**—In prescribing regulations under section 1303, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) **DEEMED COMPLIANCE.**—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 1303 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 1303.

(3) **EXPEDITED RESPONSE TO REQUESTS.**—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) **APPEALS.**—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

**SEC. 1305. [15 U.S.C. 6504] ACTIONS BY STATES.**

(a) **IN GENERAL.**—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 1303(b), the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

- (A) enjoin that practice;
- (B) enforce compliance with the regulation;
- (C) obtain damage, restitution, or other compensation on behalf of residents of the State; or
- (D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

- (i) written notice of that action; and
- (ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

- (A) to be heard with respect to any matter that arises in that action; and
- (B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file *amicus curiae* in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

- (1) conduct investigations;
- (2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 1303, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

**SEC. 1306. [15 U.S.C. 6505] ADMINISTRATION AND APPLICABILITY OF ACT.**

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 1303 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

**SEC. 1307. [15 U.S.C. 6506] REVIEW.**

Not later than 5 years after the effective date of the regulations initially issued under section 1303, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

**SEC. 1308. [15 U.S.C. 6501 note] EFFECTIVE DATE.**

Sections 1303(a), 1305, and 1306 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application filed for safe harbor treatment under section 1304 if the Commission does not rule on the first such application

within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.

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## TITLE XVII—GOVERNMENT PAPERWORK ELIMINATION ACT

### SEC. 1701. SHORT TITLE.

This title may be cited as the “Government Paperwork Elimination Act”.

### SEC. 1702. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

### SEC. 1703. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

(a) **IN GENERAL.**—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

(b) **REQUIREMENTS FOR PROCEDURES.**—(1) The procedures developed under subsection (a)—

(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

(B) may not inappropriately favor one industry or technology;

(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

### SEC. 1704. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Pub-

lic Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide—

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

**SEC. 1705. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.**

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

**SEC. 1706. STUDY ON USE OF ELECTRONIC SIGNATURES.**

(a) ONGOING STUDY REQUIRED.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on—

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) REPORTS.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

**SEC. 1707. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.**

Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

**SEC. 1708. DISCLOSURE OF INFORMATION.**

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

**SEC. 1709. APPLICATION WITH INTERNAL REVENUE LAWS.**

No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

(1) involves the administration of the internal revenue laws; or

(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

**SEC. 1710. DEFINITIONS.**

For purposes of this title:

(1) **ELECTRONIC SIGNATURE.**—The term “electronic signature” means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of the electronic message; and

(B) indicates such person’s approval of the information contained in the electronic message.

(2) **EXECUTIVE AGENCY.**—The term “Executive agency” has the meaning given that term in section 105 of title 5, United States Code.

**DIVISION D—DRUG DEMAND REDUCTION ACT**

\* \* \* \* \*

**TITLE I—TARGETED SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAMS****Subtitle A—National Youth Anti-Drug Media Campaign****SEC. 101. [21 U.S.C. 1801 note] SHORT TITLE.**

This subtitle may be cited as the “Drug-Free Media Campaign Act of 1998”.

**SEC. 102. [21 U.S.C. 1801] REQUIREMENT TO CONDUCT NATIONAL MEDIA CAMPAIGN.**

(a) **IN GENERAL.**—The Director of the Office of National Drug Control Policy (in this subtitle referred to as the “Director”) shall conduct a national media campaign in accordance with this subtitle for the purpose of reducing and preventing drug abuse among young people in the United States.

(b) **LOCAL TARGET REQUIREMENT.**—The Director shall, to the maximum extent feasible, use amounts made available to carry out this subtitle under section 105 for media that focuses on, or includes specific information on, prevention or treatment resources for consumers within specific local areas.

**SEC. 103. [21 U.S.C. 1802] USE OF FUNDS.**

(a) **AUTHORIZED USES.**—

(1) **IN GENERAL.**—Amounts made available to carry out this subtitle for the support of the national media campaign may only be used for—

(A) the purchase of media time and space;

(B) talent reuse payments;

(C) out-of-pocket advertising production costs;

(D) testing and evaluation of advertising;

(E) evaluation of the effectiveness of the media campaign;

(F) the negotiated fees for the winning bidder on request for proposals issued by the Office of National Drug Control Policy;

(G) partnerships with community, civic, and professional groups, and government organizations related to the media campaign; and

(H) entertainment industry collaborations to fashion antidrug messages in motion pictures, television programming, popular music, interactive (Internet and new) media projects and activities, public information, news media outreach, and corporate sponsorship and participation.

(2) ADVERTISING.—In carrying out this subtitle, the Director shall devote sufficient funds to the advertising portion of the national media campaign to meet the stated reach and frequency goals of the campaign.

(b) PROHIBITIONS.—None of the amounts made available under section 105 may be obligated or expended—

(1) to supplant current antidrug community based coalitions;

(2) to supplant current pro bono public service time donated by national and local broadcasting networks;

(3) for partisan political purposes; or

(4) to fund media campaigns that feature any elected officials, persons seeking elected office, cabinet level officials, or other Federal officials employed pursuant to section 213 of Schedule C of title 5, Code of Federal Regulations, unless the Director provides advance notice to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Government Reform and Oversight of the House of Representatives and the Committee on the Judiciary of the Senate.

(c) MATCHING REQUIREMENT.—Amounts made available under section 105 should be matched by an equal amount of non-Federal funds for the national media campaign, or be matched with in-kind contributions to the campaign of the same value.

**SEC. 104. [21 U.S.C. 1803] REPORTS TO CONGRESS.**

The Director shall—

(1) submit to Congress on an annual basis a report on the activities for which amounts made available under section 105 have been obligated during the preceding year, including information for each quarter of such year, and on the specific parameters of the national media campaign; and

(2) not later than 1 year after the date of enactment of this Act, submit to Congress a report on the effectiveness of the national media campaign based on measurable outcomes provided to Congress previously.



**SEC. 105. [21 U.S.C. 1804] AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to the Office of National Drug Control Policy to carry out this subtitle \$195,000,000 for each of fiscal years 1999 through 2002.

\*                    \*                    \*                    \*                    \*                    \*

**DIVISION G—FOREIGN AFFAIRS REFORM AND  
RESTRUCTURING ACT OF 1998**

**SEC. 1001. [22 U.S.C. 6501 note] SHORT TITLE.**

This division may be cited as the “Foreign Affairs Reform and Restructuring Act of 1998”.

**SEC. 1002. ORGANIZATION OF DIVISION INTO SUBDIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This division is organized into three subdivisions as follows:

(1) SUBDIVISION A.—Foreign Affairs Agencies Consolidation Act of 1998.

(2) SUBDIVISION B.—Foreign Relations Authorization Act, Fiscal Years 1998 and 1999.

(3) SUBDIVISION C.—United Nations Reform Act of 1998.

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

DIVISION G—FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF  
1998

Sec. 1001. Short title.

Sec. 1002. Organization of division into subdivisions; table of contents.

SUBDIVISION A—CONSOLIDATION OF FOREIGN AFFAIRS AGENCIES

TITLE XI—GENERAL PROVISIONS

Sec. 1101. Short title.

Sec. 1102. Purposes.

Sec. 1103. Definitions.

Sec. 1104. Report on budgetary cost savings resulting from reorganization.

TITLE XII—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

CHAPTER 1—GENERAL PROVISIONS

Sec. 1201. Effective date.

CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

Sec. 1211. Abolition of United States Arms Control and Disarmament Agency.

Sec. 1212. Transfer of functions to Secretary of State.

Sec. 1213. Under Secretary for Arms Control and International Security.

CHAPTER 3—CONFORMING AMENDMENTS

Sec. 1221. References.

Sec. 1222. Repeals.

Sec. 1223. Amendments to the Arms Control and Disarmament Act.

Sec. 1224. Compensation of officers.

Sec. 1225. Additional conforming amendments.

TITLE XIII—UNITED STATES INFORMATION AGENCY

CHAPTER 1—GENERAL PROVISIONS

Sec. 1301. Effective date.

CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

Sec. 1311. Abolition of United States Information Agency.

**Sec. 1002 DIVISION A, SECTION 101, SECTION 329, TITLE XI, D... 138**

- Sec. 1312. Transfer of functions.  
 Sec. 1313. Under Secretary of State for Public Diplomacy.  
 Sec. 1314. Abolition of Office of Inspector General of United States Information Agency and transfer of functions.

## CHAPTER 3—INTERNATIONAL BROADCASTING

- Sec. 1321. Congressional findings and declaration of purpose.  
 Sec. 1322. Continued existence of Broadcasting Board of Governors.  
 Sec. 1323. Conforming amendments to the United States International Broadcasting Act of 1994.  
 Sec. 1324. Amendments to the Radio Broadcasting to Cuba Act.  
 Sec. 1325. Amendments to the Television Broadcasting to Cuba Act.  
 Sec. 1326. Transfer of broadcasting related funds, property, and personnel.  
 Sec. 1327. Savings provisions.  
 Sec. 1328. Report on the privatization of RFE/RL, Incorporated.

## CHAPTER 4—CONFORMING AMENDMENTS

- Sec. 1331. References.  
 Sec. 1332. Amendments to title 5, United States Code.  
 Sec. 1333. Application of certain laws.  
 Sec. 1334. Abolition of United States Advisory Commission on Public Diplomacy.  
 Sec. 1335. Conforming amendments.  
 Sec. 1336. Repeals.

## TITLE XIV—UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

## CHAPTER 1—GENERAL PROVISIONS

- Sec. 1401. Effective date.

## CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

- Sec. 1411. Abolition of United States International Development Cooperation Agency.  
 Sec. 1412. Transfer of functions and authorities.  
 Sec. 1413. Status of AID.

## CHAPTER 3—CONFORMING AMENDMENTS

- Sec. 1421. References.  
 Sec. 1422. Conforming amendments.

## TITLE XV—AGENCY FOR INTERNATIONAL DEVELOPMENT

## CHAPTER 1—GENERAL PROVISIONS

- Sec. 1501. Effective date.

## CHAPTER 2—REORGANIZATION AND TRANSFER OF FUNCTIONS

- Sec. 1511. Reorganization of Agency for International Development.

## CHAPTER 3—AUTHORITIES OF THE SECRETARY OF STATE

- Sec. 1521. Definition of United States assistance.  
 Sec. 1522. Administrator of AID reporting to the Secretary of State.  
 Sec. 1523. Assistance programs coordination and oversight.

## TITLE XVI—TRANSITION

## CHAPTER 1—REORGANIZATION PLAN

- Sec. 1601. Reorganization plan and report.

## CHAPTER 2—REORGANIZATION AUTHORITY

- Sec. 1611. Reorganization authority.  
 Sec. 1612. Transfer and allocation of appropriations.  
 Sec. 1613. Transfer, appointment, and assignment of personnel.  
 Sec. 1614. Incidental transfers.  
 Sec. 1615. Savings provisions.  
 Sec. 1616. Authority of Secretary of State to facilitate transition.  
 Sec. 1617. Final report.

## SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION

## TITLE XX—GENERAL PROVISIONS

- Sec. 2001. Short title.  
 Sec. 2002. Definition of appropriate congressional committees.

## TITLE XXI—AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF STATE

- Sec. 2101. Administration of foreign affairs.  
 Sec. 2102. International commissions.  
 Sec. 2103. Grants to The Asia Foundation.  
 Sec. 2104. Voluntary contributions to international organizations.  
 Sec. 2105. Voluntary contributions to peacekeeping operations.  
 Sec. 2106. Limitation on United States voluntary contributions to United Nations Development Program.

## TITLE XXII—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

## CHAPTER 1—AUTHORITIES AND ACTIVITIES

- Sec. 2201. Reimbursement of Department of State for assistance to overseas educational facilities.  
 Sec. 2202. Revision of Department of State rewards program.  
 Sec. 2203. Retention of additional defense trade controls registration fees.  
 Sec. 2204. Fees for commercial services.  
 Sec. 2205. Pilot program for foreign affairs reimbursement.<sup>14</sup>  
 Sec. 2206. Fee for use of diplomatic reception rooms.  
 Sec. 2207. Budget presentation documents.  
 Sec. 2208. Office of the Inspector General.  
 Sec. 2209. Capital Investment Fund.  
 Sec. 2210. Contracting for local guards services overseas.  
 Sec. 2211. Authority of the Foreign Claims Settlement Commission.  
 Sec. 2212. Expenses relating to certain international claims and proceedings.  
 Sec. 2213. Grants to remedy international abductions of children.  
 Sec. 2214. Counterdrug and anticrime activities of the Department of State.  
 Sec. 2215. Annual report on overseas surplus properties.  
 Sec. 2216. Human rights reports.  
 Sec. 2217. Reports and policy concerning diplomatic immunity.  
 Sec. 2218. Reaffirming United States international telecommunications policy.  
 Sec. 2219. Reduction of reporting.

## CHAPTER 2—CONSULAR AUTHORITIES OF THE DEPARTMENT OF STATE

- Sec. 2221. Use of certain passport processing fees for enhanced passport services.  
 Sec. 2222. Consular officers.  
 Sec. 2223. Repeal of outdated consular receipt requirements.  
 Sec. 2224. Elimination of duplicate Federal Register publication for travel advisories.  
 Sec. 2225. Denial of visas to confiscators of American property.  
 Sec. 2226. Inadmissibility of any alien supporting an international child abductor.

## CHAPTER 3—REFUGEES AND MIGRATION

## SUBCHAPTER A—AUTHORIZATION OF APPROPRIATIONS

- Sec. 2231. Migration and refugee assistance.

## SUBCHAPTER B—AUTHORITIES

- Sec. 2241. United States policy regarding the involuntary return of refugees.  
 Sec. 2242. United States policy with respect to the involuntary return of persons in danger of subjection to torture.  
 Sec. 2243. Reprogramming of migration and refugee assistance funds.  
 Sec. 2244. Eligibility for refugee status.  
 Sec. 2245. Reports to Congress concerning Cuban emigration policies.

<sup>14</sup>Section 318(1) of Public Law 107-228 (116 Stat. 1379) amends the heading of section 2205 by striking “pilot” without providing a conforming amendment to the table of contents.

TITLE XXIII—ORGANIZATION OF THE DEPARTMENT OF STATE;  
DEPARTMENT OF STATE PERSONNEL; THE FOREIGN SERVICE

CHAPTER 1—ORGANIZATION OF THE DEPARTMENT OF STATE

- Sec. 2301. Coordinator for Counterterrorism.
- Sec. 2302. Elimination of Deputy Assistant Secretary of State for Burdensharing.
- Sec. 2303. Personnel management.
- Sec. 2304. Diplomatic security.
- Sec. 2305. Number of senior official positions authorized for the Department of State.
- Sec. 2306. Nomination of Under Secretaries and Assistant Secretaries of State.

CHAPTER 2—PERSONNEL OF THE DEPARTMENT OF STATE; THE FOREIGN SERVICE

- Sec. 2311. Foreign Service reform.
- Sec. 2312. Retirement benefits for involuntary separation.
- Sec. 2313. Authority of Secretary to separate convicted felons from the Foreign Service.
- Sec. 2314. Career counseling.
- Sec. 2315. Limitations on management assignments.
- Sec. 2316. Availability pay for certain criminal investigators within the Diplomatic Security Service.
- Sec. 2317. Nonovertime differential pay.
- Sec. 2318. Report concerning minorities and the Foreign Service.

TITLE XXIV—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND  
CULTURAL PROGRAMS

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

- Sec. 2401. International information activities and educational and cultural exchange programs.

CHAPTER 2—AUTHORITIES AND ACTIVITIES

- Sec. 2411. Retention of interest.
- Sec. 2412. Use of selected program fees.
- Sec. 2413. Muskie Fellowship Program.
- Sec. 2414. Working Group on United States Government-Sponsored International Exchanges and Training.
- Sec. 2415. Educational and cultural exchanges and scholarships for Tibetans and Burmese.
- Sec. 2416. Surrogate broadcasting study.
- Sec. 2417. Radio broadcasting to Iran in the Farsi language.
- Sec. 2418. Authority to administer summer travel and work programs.
- Sec. 2419. Permanent administrative authorities regarding appropriations.
- Sec. 2420. Voice of America broadcasts.

TITLE XXV—INTERNATIONAL ORGANIZATIONS OTHER THAN UNITED  
NATIONS

- Sec. 2501. International conferences and contingencies.
- Sec. 2502. Restriction relating to United States accession to any new international criminal tribunal.
- Sec. 2503. United States membership in the Bureau of the Interparliamentary Union.
- Sec. 2504. Service in international organizations.
- Sec. 2505. Reports regarding foreign travel.

TITLE XXVI—UNITED STATES ARMS CONTROL AND DISARMAMENT  
AGENCY

- Sec. 2601. Authorization of appropriations.
- Sec. 2602. Statutory construction.

TITLE XXVII—EUROPEAN SECURITY ACT OF 1998

- Sec. 2701. Short title.
- Sec. 2702. Statement of policy.
- Sec. 2703. Authorities relating to NATO enlargement.
- Sec. 2704. Sense of Congress with respect to the Treaty on Conventional Armed Forces in Europe.
- Sec. 2705. Restrictions and requirements relating to ballistic missile defense.

**TITLE XXVIII—OTHER FOREIGN POLICY PROVISIONS**

- Sec. 2801. Reports on claims by United States firms against the Government of Saudi Arabia.
- Sec. 2802. Reports on determinations under title IV of the Libertad Act.
- Sec. 2803. Report on compliance with the Hague Convention on International Child Abduction.
- Sec. 2804. Sense of Congress relating to recognition of the Ecumenical Patriarchate by the Government of Turkey.
- Sec. 2805. Report on relations with Vietnam.
- Sec. 2806. Reports and policy concerning human rights violations in Laos.
- Sec. 2807. Report on an alliance against narcotics trafficking in the Western Hemisphere.
- Sec. 2808. Congressional statement regarding the accession of Taiwan to the World Trade Organization.
- Sec. 2809. Programs or projects of the International Atomic Energy Agency in Cuba.
- Sec. 2810. Limitation on assistance to countries aiding Cuba nuclear development.
- Sec. 2811. International Fund for Ireland.
- Sec. 2812. Support for democratic opposition in Iraq.
- Sec. 2813. Development of democracy in the Republic of Serbia.

**SUBDIVISION A—CONSOLIDATION OF FOREIGN AFFAIRS AGENCIES****TITLE XI—GENERAL PROVISIONS****SEC. 1101. [22 U.S.C. 6501 note] SHORT TITLE.**

This subdivision may be cited as the “Foreign Affairs Agencies Consolidation Act of 1998”.

**SEC. 1102. [22 U.S.C. 6501] PURPOSES.**

The purposes of this subdivision are—

- (1) to strengthen—
  - (A) the coordination of United States foreign policy; and
  - (B) the leading role of the Secretary of State in the formulation and articulation of United States foreign policy;
- (2) to consolidate and reinvigorate the foreign affairs functions of the United States within the Department of State by—
  - (A) abolishing the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency, and transferring the functions of these agencies to the Department of State while preserving the special missions and skills of these agencies;
  - (B) transferring certain functions of the Agency for International Development to the Department of State; and
  - (C) providing for the reorganization of the Department of State to maximize the efficient use of resources, which may lead to budget savings, eliminate redundancy in functions, and improvement in the management of the Department of State;
- (3) to ensure that programs critical to the promotion of United States national interests be maintained;
- (4) to assist congressional efforts to balance the Federal budget and reduce the Federal debt;
- (5) to ensure that the United States maintains effective representation abroad within budgetary restraints; and

(6) to encourage United States foreign affairs agencies to maintain a high percentage of the best qualified, most competent United States citizens serving in the United States Government.

**SEC. 1103. [22 U.S.C. 6502] DEFINITIONS.**

In this subdivision:

(1) ACDA.—The term “ACDA” means the United States Arms Control and Disarmament Agency.

(2) AID.—The term “AID” means the United States Agency for International Development.

(3) AGENCY; FEDERAL AGENCY.—The term “agency” or “Federal agency” means an Executive agency as defined in section 105 of title 5, United States Code.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(5) COVERED AGENCY.—The term “covered agency” means any of the following agencies: ACDA, USIA, IDCA, and AID.

(6) DEPARTMENT.—The term “Department” means the Department of State.

(7) FUNCTION.—The term “function” means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(8) IDCA.—The term “IDCA” means the United States International Development Cooperation Agency.

(9) OFFICE.—The term “office” includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(10) SECRETARY.—The term “Secretary” means the Secretary of State.

(11) USIA.—The term “USIA” means the United States Information Agency.

**SEC. 1104. [22 U.S.C. 6503] REPORT ON BUDGETARY COST SAVINGS RESULTING FROM REORGANIZATION.**

The Secretary of State shall submit a report, together with the congressional presentation document for the budget of the Department of State for each of the fiscal years 2000 and 2001, to the appropriate congressional committees describing the total anticipated and achieved cost savings in budget outlays and budget authority related to the reorganization implemented under this subdivision, including cost savings by each of the following categories:

- (1) Reductions in personnel.
- (2) Administrative consolidation, including procurement.
- (3) Program consolidation.
- (4) Consolidation of real properties and leases.

**TITLE XII—UNITED STATES ARMS CONTROL AND  
DISARMAMENT AGENCY****CHAPTER 1—GENERAL PROVISIONS****SEC. 1201. [22 U.S.C. 6511 note] EFFECTIVE DATE.**

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) April 1, 1999; or
- (2) the date of abolition of the United States Arms Control and Disarmament Agency pursuant to the reorganization plan described in section 1601.

**CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS****SEC. 1211. [22 U.S.C. 6511] ABOLITION OF UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.**

The United States Arms Control and Disarmament Agency is abolished.

**SEC. 1212. [22 U.S.C. 6512] TRANSFER OF FUNCTIONS TO SECRETARY OF STATE.**

There are transferred to the Secretary of State all functions of the Director of the United States Arms Control and Disarmament Agency, and all functions of the United States Arms Control and Disarmament Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this title.

**SEC. 1213. UNDER SECRETARY FOR ARMS CONTROL AND INTERNATIONAL SECURITY.**

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651(b)) is amended—

- (1) by striking “There” and inserting the following:  
“(1) IN GENERAL.—There”; and
- (2) by adding at the end the following:  
“(2) UNDER SECRETARY FOR ARMS CONTROL AND INTERNATIONAL SECURITY.—There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Arms Control and International Security, who shall assist the Secretary and the Deputy Secretary in matters related to international security policy, arms control, and nonproliferation. Subject to the direction of the President, the Under Secretary may attend and participate in meetings of the National Security Council in his role as Senior Advisor to the President and the Secretary of State on Arms Control and Nonproliferation Matters.”.

**CHAPTER 3—CONFORMING AMENDMENTS****SEC. 1221. [22 U.S.C. 6521] REFERENCES.**

Except as otherwise provided in section 1223 or 1225, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

- (1) the Director of the United States Arms Control and Disarmament Agency, the Director of the Arms Control and

Disarmament Agency, or any other officer or employee of the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Secretary of State; or

(2) the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Department of State.

**SEC. 1222. REPEALS.**

The following sections of the Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) are repealed: Sections 21 through 26 (22 U.S.C. 2561–2566), section 35 (22 U.S.C. 2575), section 42 (22 U.S.C. 2582), section 43 (22 U.S.C. 2583), sections 45 through 50 (22 U.S.C. 2585–2593), section 53 (22 U.S.C. 2593c), section 54 (22 U.S.C. 2593d), and section 63 (22 U.S.C. 2595b).

**SEC. 1223. AMENDMENTS TO THE ARMS CONTROL AND DISARMAMENT ACT.**

The Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) is amended—

- (1) in section 2 (22 U.S.C. 2551)—
  - (A) in the first undesignated paragraph, by striking “creating a new agency of peace to deal with” and inserting “addressing”;
  - (B) by striking the second undesignated paragraph; and
  - (C) in the third undesignated paragraph—
    - (i) by striking “This organization” and inserting “The Secretary of State”;
    - (ii) by striking “It shall have” and inserting “The Secretary shall have”;
    - (iii) by striking “and the Secretary of State”;
    - (iv) by inserting “, nonproliferation,” after “arms control” in paragraph (1);
    - (v) by striking paragraph (2);
    - (vi) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and
    - (vii) by striking “, as appropriate,” in paragraph (3) (as redesignated);
- (2) in section 3 (22 U.S.C. 2552), by striking subsection (c);
- (3) in the heading for title II, by striking “ORGANIZATION<sup>15</sup>” and inserting “SPECIAL REPRESENTATIVES AND VISITING SCHOLARS<sup>15</sup>”;
- (4) in section 27 (22 U.S.C. 2567)—
  - (A) by striking the third sentence;
  - (B) in the fourth sentence, by striking “, acting through the Director”; and
  - (C) in the fifth sentence, by striking “Agency” and inserting “Department of State”;
- (5) in section 28 (22 U.S.C. 2568)—
  - (A) by striking “Director” each place it appears and inserting “Secretary of State”;
  - (B) in the second sentence—

<sup>15</sup>So in original. Should have been light face caps.



- (i) by striking “Agency” each place it appears and inserting “Department of State”; and
- (ii) by striking “Agency’s” and inserting “Department of State’s”; and
- (6) in section 31 (22 U.S.C. 2571)—
  - (A) by inserting “this title in” after “powers in”;
  - (B) by striking “Director” each place it appears and inserting “Secretary of State”;
  - (C) by striking “insure” each place it appears and inserting “ensure”;
  - (D) in the second sentence, by striking “in accordance with procedures established under section 35 of this Act”;
  - (E) in the fourth sentence by striking “The authority” and all that follows through “disarmament:” and inserting the following: “The authority of the Secretary under this Act with respect to research, development, and other studies concerning arms control, nonproliferation, and disarmament shall be limited to participation in the following:”; and
  - (F) in subsection (l), by inserting “and” at the end;
- (7) in section 32 (22 U.S.C. 2572)—
  - (A) by striking “Director” and inserting “Secretary of State”; and
  - (B) by striking “subsection” and inserting “section”;
- (8) in section 33(a) (22 U.S.C. 2573(a))—
  - (A) by striking “the Secretary of State,”; and
  - (B) by striking “Director” and inserting “Secretary of State”;
- (9) in section 34 (22 U.S.C. 2574)—
  - (A) in subsection (a)—
    - (i) in the first sentence, by striking “Director” and inserting “Secretary of State”;
    - (ii) in the first sentence, by striking “and the Secretary of State”;
    - (iii) in the first sentence, by inserting “, nonproliferation,” after “in the fields of arms control”;
    - (iv) in the first sentence, by striking “and shall have primary responsibility, whenever directed by the President, for the preparation, conduct, and management of the United States participation in international negotiations and implementation fora in the field of nonproliferation”;
    - (v) in the second sentence, by striking “section 27” and inserting “section 201”; and
    - (vi) in the second sentence, by striking “the” after “serve as”;
  - (B) by striking subsection (b);
  - (C) by redesignating subsection (c) as subsection (b);
- and
- (D) in subsection (b) (as redesignated)—
  - (i) in the text above paragraph (1), by striking “Director” and inserting “Secretary of State”;
  - (ii) by striking paragraph (1); and

- (iii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;
- (10) in section 36 (22 U.S.C. 2576)—
- (A) by striking “Director” each place it appears and inserting “Secretary of State”; and
- (B) by striking “, in accordance with the procedures established pursuant to section 35 of this Act,”;
- (11) in section 37 (22 U.S.C. 2577)—
- (A) by striking “Director” and “Agency” each place it appears and inserting “Secretary of State” or “Department of State”, respectively; and
- (B) by striking subsection (d);
- (12) in section 38 (22 U.S.C. 2578)—
- (A) by striking “Director” each place it appears and inserting “Secretary of State”; and
- (B) by striking subsection (c);
- (13) in section 41 (22 U.S.C. 2581)—
- (A) by striking “In the performance of his functions, the Director” and inserting “In addition to any authorities otherwise available, the Secretary of State in the performance of functions under this Act”;
- (B) by striking “Agency”, “Agency’s”, “Director”, and “Director’s” each place they appear and inserting “Department of State”, “Department of State’s”, “Secretary of State”, or “Secretary of State’s”, as appropriate;
- (C) in subsection (a), by striking the sentence that begins “It is the intent”;
- (D) in subsection (b)—
- (i) by striking “appoint officers and employees, including attorneys, for the Agency in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and fix their compensation in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the Director may, to the extent the Director determines necessary to the discharge of his responsibilities,”;
- (ii) in paragraph (1), by striking “exception” and inserting “subsection”; and
- (iii) in paragraph (2)—
- (I) by striking “exception” and inserting “subsection”; and
- (II) by striking “ceiling” and inserting “positions allocated to carry out the purpose of this Act”;
- (E) by striking subsection (g);
- (F) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively;
- (G) by amending subsection (f) to read as follows:
- “(f) establish a scientific and policy advisory board to advise with and make recommendations to the Secretary of State on United States arms control, nonproliferation, and disarmament policy and activities. A majority of the board shall be

composed of individuals who have a demonstrated knowledge and technical expertise with respect to arms control, nonproliferation, and disarmament matters and who have distinguished themselves in any of the fields of physics, chemistry, mathematics, biology, or engineering, including weapons engineering. The members of the board may receive the compensation and reimbursement for expenses specified for consultants by subsection (d) of this section;” and

(H) in subsection (h) (as redesignated), by striking “Deputy Director” and inserting “Under Secretary for Arms Control and International Security”;

(14) in section 44 (22 U.S.C. 2584)—

(A) by striking “CONFLICT-OF-INTEREST AND”;

(B) by striking “The members” and all that follows through “(5 U.S.C. 2263), or any other” and inserting “Members of advisory boards and consultants may serve as such without regard to any”; and

(C) by inserting at the end the following new sentence: “This section shall apply only to individuals carrying out activities related to arms control, nonproliferation, and disarmament.”;

(15) in section 51 (22 U.S.C. 2593a)—

(A) in subsection (a)—

(i) in paragraphs (1) and (3), by inserting “, nonproliferation,” after “arms control” each place it appears;

(ii) by striking “Director, in consultation with the Secretary of State,” and inserting “Secretary of State with the concurrence of the Director of Central Intelligence and in consultation with”;

(iii) by striking “the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence” and inserting “and the Chairman of the Joint Chiefs of Staff”;

(iv) by striking paragraphs (2) and (4); and

(v) by redesignating paragraphs (3), (5), (6), and

(7) as paragraphs (2) through (5), respectively; and

(B) by adding at the end of subsection (b) the following: “The portions of this report described in paragraphs (4) and (5) of subsection (a) shall summarize in detail, at least in classified annexes, the information, analysis, and conclusions relevant to possible noncompliance by other nations that are provided by United States intelligence agencies.”;

(16) in section 52 (22 U.S.C. 2593b), by striking “Director” and inserting “Secretary of State”;

(17) in section 61 (22 U.S.C. 2593a)—

(A) in paragraph (1), by striking “United States Arms Control and Disarmament Agency” and inserting “Department of State”;

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (7) as paragraphs (2) through (6), respectively;

- (D) in paragraph (4) (as redesignated), by striking “paragraph (4)” and inserting “paragraph (3)”; and
- (E) in paragraph (6) (as redesignated), by striking “United States Arms Control and Disarmament Agency and the”;
- (18) in section 62 (22 U.S.C. 2595a)—  
in subsection (c)—  
(i) in the subsection heading, by striking “DIRECTOR” and inserting “SECRETARY OF STATE”; and  
(ii) by striking “2(d), 22, and 34(c)” and inserting “102(3) and 304(b)”; and  
(B) by striking “Director” and inserting “Secretary of State”;
- (19) in section 64 (22 U.S.C. 2595b-1)—  
(A) by striking the section title and inserting “SEC. 503. REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.”;  
(B) by striking subsection (a); and  
(C) in subsection (b)—  
(i) by striking “(b) REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.—”; and  
(ii) by striking “Foreign Affairs” and inserting “International Relations”;
- (20) in section 65(1) (22 U.S.C. 2595c(1)) by inserting “of America” after “United States”; and
- (21) by redesignating sections 1, 2, 3, 27, 28, 31, 32, 33, 34, 36, 37, 38, 39, 41, 44, 51, 52, 61, 62, 64, and 65, as amended by this section, as sections 101, 102, 103, 201, 202, 301, 302, 303, 304, 305, 306, 307, 308, 401, 402, 403, 404, 501, 502, 503, and 504, respectively.

**SEC. 1224. COMPENSATION OF OFFICERS.**

- Title 5, United States Code, is amended—
- (1) in section 5313, by striking “Director of the United States Arms Control and Disarmament Agency.”;
- (2) in section 5314, by striking “Deputy Director of the United States Arms Control and Disarmament Agency.”;
- (3) in section 5315—  
(A) by striking “Assistant Directors, United States Arms Control and Disarmament Agency (4).”; and  
(B) by striking “Special Representatives of the President for arms control, nonproliferation, and disarmament matters, United States Arms Control and Disarmament Agency”, and inserting “Special Representatives of the President for arms control, nonproliferation, and disarmament matters, Department of State”; and
- (4) in section 5316, by striking “General Counsel of the United States Arms Control and Disarmament Agency.”.

**SEC. 1225. ADDITIONAL CONFORMING AMENDMENTS.**

- (a) ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended—  
(1) in section 36(b)(1)(D) (22 U.S.C. 2776(b)(1)(D)), by striking “Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Sec-

retary of Defense” and inserting “Secretary of State in consultation with the Secretary of Defense and the Director of Central Intelligence”;

(2) in section 38(a)(2) (22 U.S.C. 2778(a)(2))—

(A) in the first sentence, by striking “be made in coordination with the Director of the United States Arms Control and Disarmament Agency, taking into account the Director’s assessment as to” and inserting “take into account”; and

(B) by striking the second sentence;

(3) in section 42(a) (22 U.S.C. 2791(a))—

(A) in paragraph (1)(C), by striking “the assessment of the Director of the United States Arms Control and Disarmament Agency as to”;

(B) by striking “(1)” after “(a)”; and

(C) by striking paragraph (2);

(4) in section 71(a) (22 U.S.C. 2797(a)), by striking “, the Director of the Arms Control and Disarmament Agency,”;

(5) in section 71(b)(1) (22 U.S.C. 2797(b)(1)), by striking “and the Director of the United States Arms Control and Disarmament Agency”;

(6) in section 71(b)(2) (22 U.S.C. 2797(b)(2))—

(A) by striking “, the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency” and inserting “and the Secretary of Commerce”; and

(B) by striking “or the Director”;

(7) in section 71(c) (22 U.S.C. 2797(c)), by striking “with the Director of the United States Arms Control and Disarmament Agency,”; and

(8) in section 73(d) (22 U.S.C. 2797b(d)), by striking “, the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency” and inserting “and the Secretary of Commerce”.

(b) FOREIGN ASSISTANCE ACT.—Section 511 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321d) is amended by striking “be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to” and inserting “take into account”.

(c) UNITED STATES INSTITUTE OF PEACE ACT.—

(1) Section 1706(b) of the United States Institute of Peace Act (22 U.S.C. 4605(b)) is amended—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(C) in paragraph (4) (as redesignated), by striking “Eleven” and inserting “Twelve”.

(2) Section 1707(d)(2) of that Act (22 U.S.C. 4606(d)(2)) is amended by striking “, Director of the Arms Control and Disarmament Agency”.

(d) ATOMIC ENERGY ACT OF 1954.—The Atomic Energy Act of 1954 is amended—

(1) in section 57b. (42 U.S.C. 2077(b))—

- (A) in the first sentence, by striking “the Arms Control and Disarmament Agency,”; and
- (B) in the second sentence, by striking “the Director of the Arms Control and Disarmament Agency,”;
- (2) in section 109b. (42 U.S.C. 2129(b)), by striking “and the Director”;
- (3) in section 111b. (42 U.S.C. 2131(b)) by striking “the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission,” and inserting “the Nuclear Regulatory Commission”;
- (4) in section 123 (42 U.S.C. 2153)—
- (A) in subsection a., in the third sentence—
- (i) by striking “and in consultation with the Director of the Arms Control and Disarmament Agency (“the Director”)”;
- (ii) by inserting “and” after “Energy,”;
- (iii) by striking “Commission, and the Director, who” and inserting “Commission. The Secretary of State”; and
- (iv) after “nuclear explosive purpose.”, by inserting the following new sentence: “Each Nuclear Proliferation Assessment Statement prepared pursuant to this Act shall be accompanied by a classified annex, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information.”;
- (B) in subsection d., in the first proviso—
- (i) by striking “Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency,” and inserting “Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto,”; and
- (ii) by striking “has been” and inserting “have been”; and
- (C) in the first undesignated paragraph following subsection d., by striking “the Arms Control and Disarmament Agency,”;
- (5) in section 126a.(1), by striking “the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission” and inserting “and the Nuclear Regulatory Commission,”;
- (6) in section 131a. (42 U.S.C. 2160(a))—
- (A) in paragraph (1)—
- (i) in the first sentence, by striking “the Director,”;
- (ii) in the third sentence, by striking “the Director declares that he intends” and inserting “the Secretary of State is required”; and
- (iii) in the third sentence, by striking “the Director’s declaration” and inserting “the requirement to prepare a Nuclear Proliferation Assessment Statement”;
- (B) in paragraph (2)—

- (i) by striking “Director’s view” and inserting “view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission”; and
- (ii) by striking “he may prepare” and inserting “the Secretary of State, in consultation with such Secretary or the Commission, shall prepare”; and
- (7) in section 131c. (42 U.S.C. 2160(c))—
- (A) in the first sentence, by striking “, the Director of the Arms Control and Disarmament Agency,”;
- (B) in the sixth and seventh sentences, by striking “Director” each place it appears and inserting “Secretary of State”; and
- (C) in the seventh sentence, by striking “Director’s” and inserting “Secretary of State’s”.
- (e) NUCLEAR NON-PROLIFERATION ACT OF 1978.—The Nuclear Non-Proliferation Act of 1978 is amended—
- (1) in section 4 (22 U.S.C. 3203)—
- (A) by striking paragraph (2); and
- (B) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively;
- (2) in section 102 (22 U.S.C. 3222), by striking “, the Secretary of State, and the Director of the Arms Control and Disarmament Agency” and inserting “and the Secretary of State”;
- (3) in section 304(d) (42 U.S.C. 2156a), by striking “the Secretary of Defense, and the Director,” and inserting “and the Secretary of Defense,”;
- (4) in section 309 (42 U.S.C. 2139a)—
- (A) in subsection (b), by striking “the Department of Commerce, and the Arms Control and Disarmament Agency” and inserting “and the Department of Commerce”; and
- (B) in subsection (c), by striking “the Arms Control and Disarmament Agency,”;
- (5) in section 406 (42 U.S.C. 2160a), by inserting “, or any annexes thereto,” after “Statement”; and
- (6) in section 602 (22 U.S.C. 3282)—
- (A) in subsection (c), by striking “the Arms Control and Disarmament Agency,”; and
- (B) in subsection (e), by striking “and the Director”.
- (f) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—Section 23(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2695(a)) is amended by striking “the Agency for International Development, and the Arms Control and Disarmament Agency” and inserting “and the Agency for International Development”.
- (g) FOREIGN RELATIONS AUTHORIZATION ACT OF 1972.—Section 502 of the Foreign Relations Authorization Act of 1972 (2 U.S.C. 194a) is amended by striking “the United States Arms Control and Disarmament Agency,”.
- (h) TITLE 49.—Section 40118(d) of title 49, United States Code, is amended by striking “, or the Director of the Arms Control and Disarmament Agency”.

**TITLE XIII—UNITED STATES INFORMATION AGENCY****CHAPTER 1—GENERAL PROVISIONS****SEC. 1301. [22 U.S.C. 6531 note] EFFECTIVE DATE.**

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) October 1, 1999; or
- (2) the date of abolition of the United States Information Agency pursuant to the reorganization plan described in section 1601.

**CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS****SEC. 1311. [22 U.S.C. 6531] ABOLITION OF UNITED STATES INFORMATION AGENCY.**

The United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau) is abolished.

**SEC. 1312. [22 U.S.C. 6532] TRANSFER OF FUNCTIONS.**

(a) **IN GENERAL.**—There are transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this title.

(b) **EXCEPTION.**—Subsection (a) does not apply to the Broadcasting Board of Governors, the International Broadcasting Bureau, or any function performed by the Board or the Bureau.

**SEC. 1313. UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.**

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)), as amended by this division, is further amended by adding at the end the following new paragraph:

“(3) **UNDER SECRETARY FOR PUBLIC DIPLOMACY.**—There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Public Diplomacy, who shall have primary responsibility to assist the Secretary and the Deputy Secretary in the formation and implementation of United States public diplomacy policies and activities, including international educational and cultural exchange programs, information, and international broadcasting.”.

**SEC. 1314. [22 U.S.C. 6533] ABOLITION OF OFFICE OF INSPECTOR GENERAL OF UNITED STATES INFORMATION AGENCY AND TRANSFER OF FUNCTIONS.**

(a) **ABOLITION OF OFFICE.**—The Office of Inspector General of the United States Information Agency is abolished.

(b) **AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.**—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

- (1) in paragraph (1), by striking “the Office of Personnel Management, the United States Information Agency” and inserting “or the Office of Personnel Management”; and



(2) in paragraph (2), by striking “the United States Information Agency,”.

(c) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking the following:

“Inspector General, United States Information Agency.”.

(d) AMENDMENTS TO PUBLIC LAW 103–236.—Subsections (i) and (j) of section 308 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207 (i) and (j)) are amended—

(1) by striking “Inspector General of the United States Information Agency” each place it appears and inserting “Inspector General of the Department of State and the Foreign Service”; and

(2) by striking “, the Director of the United States Information Agency,”.

(e) TRANSFER OF FUNCTIONS.—There are transferred to the Office of the Inspector General of the Department of State and the Foreign Service the functions that the Office of Inspector General of the United States Information Agency exercised before the effective date of this title (including all related functions of the Inspector General of the United States Information Agency).

### CHAPTER 3—INTERNATIONAL BROADCASTING

#### SEC. 1321. [22 U.S.C. 6541] CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

Congress finds that—

(1) it is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom “to seek, receive, and impart information and ideas through any media and regardless of frontiers”, in accordance with Article 19 of the Universal Declaration of Human Rights;

(2) open communication of information and ideas among the peoples of the world contributes to international peace and stability, and the promotion of such communication is in the interests of the United States;

(3) it is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this chapter and the United States International Broadcasting Act of 1994; and

(4) international broadcasting is, and should remain, an essential instrument of United States foreign policy.

#### SEC. 1322. CONTINUED EXISTENCE OF BROADCASTING BOARD OF GOVERNORS.

Section 304(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203(a)) is amended to read as follows:

“(a) CONTINUED EXISTENCE WITHIN EXECUTIVE BRANCH.—

“(1) IN GENERAL.—The Broadcasting Board of Governors shall continue to exist within the Executive branch of Government as an entity described in section 104 of title 5, United States Code.

“(2) RETENTION OF EXISTING BOARD MEMBERS.—The members of the Broadcasting Board of Governors appointed by the President pursuant to subsection (b)(1)(A) before the effective date of title XIII of the Foreign Affairs Agencies Consolidation

Act of 1998 and holding office as of that date may serve the remainder of their terms of office without reappointment.

“(3) INSPECTOR GENERAL AUTHORITIES.—

“(A) IN GENERAL.—The Inspector General of the Department of State and the Foreign Service shall exercise the same authorities with respect to the Broadcasting Board of Governors and the International Broadcasting Bureau as the Inspector General exercises under the Inspector General Act of 1978 and section 209 of the Foreign Service Act of 1980 with respect to the Department of State.

“(B) RESPECT FOR JOURNALISTIC INTEGRITY OF BROADCASTERS.—The Inspector General shall respect the journalistic integrity of all the broadcasters covered by this title and may not evaluate the philosophical or political perspectives reflected in the content of broadcasts.”

**SEC. 1323. CONFORMING AMENDMENTS TO THE UNITED STATES INTERNATIONAL BROADCASTING ACT OF 1994.**

(a) REFERENCES IN SECTION.—Whenever in this section an amendment or repeal is expressed as an amendment or repeal of a provision, the reference shall be deemed to be made to the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.).

(b) SUBSTITUTION OF SECRETARY OF STATE.—Sections 304(b)(1)(B), 304(b) (2) and (3), 304(c), and 304(e) (22 U.S.C. 6203(b)(1)(B), 6203(b) (2) and (3), 6203(c), and 6203(e)) are amended by striking “Director of the United States Information Agency” each place it appears and inserting “Secretary of State”.

(c) SUBSTITUTION OF ACTING SECRETARY OF STATE.—Section 304(c) (22 U.S.C. 6203(c)) is amended by striking “acting Director of the agency” and inserting “Acting Secretary of State”.

(d) STANDARDS AND PRINCIPLES OF INTERNATIONAL BROADCASTING.—Section 303(b) (22 U.S.C. 6202(b)) is amended—

(1) in paragraph (3), by inserting “, including editorials, broadcast by the Voice of America, which present the views of the United States Government” after “policies”;

(2) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively; and

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

“(4) the capability to provide a surge capacity to support United States foreign policy objectives during crises abroad;”

(e) AUTHORITIES OF THE BOARD.—Section 305(a) (22 U.S.C. 6204(a)) is amended—

(1) in paragraph (1)—

(A) by striking “direct and”; and

(B) by striking “and the Television Broadcasting to Cuba Act” and inserting “, the Television Broadcasting to Cuba Act, and Worldnet Television, except as provided in section 306(b)”;

(2) in paragraph (4), by inserting “, after consultation with the Secretary of State,” after “annually,”;

(3) in paragraph (9)—

(A) by striking “, through the Director of the United States Information Agency,”; and

(B) by adding at the end the following new sentence: “Each annual report shall place special emphasis on the assessment described in paragraph (2).”;

(4) in paragraph (12)—

(A) by striking “1994 and 1995” and inserting “1998 and 1999”; and

(B) by striking “to the Board for International Broadcasting for such purposes for fiscal year 1993” and inserting “to the Board and the International Broadcasting Bureau for such purposes for fiscal year 1997”; and

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

“(15)(A) To procure temporary and intermittent personal services to the same extent as is authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate provided for positions classified above grade GS-15 of the General Schedule under section 5108 of title 5, United States Code.

“(B) To allow those providing such services, while away from their homes or their regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

“(16) To procure, pursuant to section 1535 of title 31, United States Code (commonly known as the ‘Economy Act’), such goods and services from other departments or agencies for the Board and the International Broadcasting Bureau as the Board determines are appropriate.

“(17) To utilize the provisions of titles III, IV, V, VII, VIII, IX, and X of the United States Information and Educational Exchange Act of 1948, and section 6 of Reorganization Plan Number 2 of 1977, as in effect on the day before the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1998, to the extent the Board considers necessary in carrying out the provisions and purposes of this title.

“(18) To utilize the authorities of any other statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding that had been available to the Director of the United States Information Agency, the Bureau, or the Board before the effective date of title XIII of the Foreign Affairs Consolidation Act of 1998 for carrying out the broadcasting activities covered by this title.”.

(f) DELEGATION OF AUTHORITY.—Section 305 (22 U.S.C. 6204) is amended—

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

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

“(b) DELEGATION OF AUTHORITY.—The Board may delegate to the Director of the International Broadcasting Bureau, or any other officer or employee of the United States, to the extent the Board determines to be appropriate, the authorities provided in this section, except those authorities provided in paragraph (1), (2), (3), (4), (5), (6), (9), or (11) of subsection (a).”.

(g) BROADCASTING BUDGETS.—Section 305(c)(1) (as redesignated) is amended—

(1) by striking “(1)” before “The Director”; and

(2) by striking “the Director of the United States Information Agency for the consideration of the Director as a part of the Agency’s budget submission to”.

(h) REPEAL.—Section 305(c)(2) (as redesignated) is repealed.

(i) IMPLEMENTATION.—Section 305(d) (as redesignated) is amended to read as follows:

“(d) PROFESSIONAL INDEPENDENCE OF BROADCASTERS.—The Secretary of State and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting Bureau, its broadcasting services, and the grantees of the Board.”

(j) FOREIGN POLICY GUIDANCE.—Section 306 (22 U.S.C. 6205) is amended—

(1) in the section heading, by striking “FOREIGN POLICY GUIDANCE” and inserting “ROLE OF THE SECRETARY OF STATE”;

(2) by inserting “(a) FOREIGN POLICY GUIDANCE.—” immediately before “To”;

(3) by striking “State, acting through the Director of the United States Information Agency,” and inserting “State”;

(4) by inserting before the period at the end the following: “, as the Secretary may deem appropriate”; and

(5) by adding at the end the following:

“(b) CERTAIN WORLDNET PROGRAMMING.—The Secretary of State is authorized to use Worldnet broadcasts for the purposes of continuing interactive dialogues with foreign media and other similar overseas public diplomacy programs sponsored by the Department of State. The Chairman of the Broadcasting Board of Governors shall provide access to Worldnet for this purpose on a nonreimbursable basis.”

(k) INTERNATIONAL BROADCASTING BUREAU.—Section 307 (22 U.S.C. 6206) is amended—

(1) in subsection (a), by striking “within the United States Information Agency” and inserting “under the Board”;

(2) in subsection (b)(1), by striking “Chairman of the Board, in consultation with the Director of the United States Information Agency and with the concurrence of a majority of the Board” and inserting “President, by and with the advice and consent of the Senate”;

(3) by redesignating subsection (b)(1) as subsection (b);

(4) by striking subsection (b)(2); and

(5) by adding at the end the following new subsection:

“(c) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall organize and chair a coordinating committee to examine and make recommendations to the Board on long-term strategies for the future of international broadcasting, including the use of new technologies, further consolidation of broadcast services, and consolidation of currently existing public affairs and legislative relations functions in the various international broadcasting entities. The coordinating committee shall include representatives of Radio Free Asia, RFE/RL, Incorporated, the Broadcasting Board of Governors,

and, as appropriate, the Office of Cuba Broadcasting, the Voice of America, and Worldnet.”.

(1) REPEALS.—The following provisions of law are repealed:

(1) Subsections (k) and (l) of section 308 (22 U.S.C. 6207 (k), (l)).

(2) Section 310 (22 U.S.C. 6209).

**SEC. 1324. AMENDMENTS TO THE RADIO BROADCASTING TO CUBA ACT.**

The Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.) is amended—

(1) by striking “United States Information Agency” each place it appears and inserting “Broadcasting Board of Governors”;

(2) by striking “Agency” each place it appears and inserting “Board”;

(3) by striking “the Director of the United States Information Agency” each place it appears and inserting “the Broadcasting Board of Governors”;

(4) in section 4 (22 U.S.C. 1465b), by striking “the Voice of America” and inserting “the International Broadcasting Bureau”;

(5) in section 5 (22 U.S.C. 1465c)—

(A) by striking “Board” each place it appears and inserting “Advisory Board”; and

(B) in subsection (a), by striking the first sentence and inserting “There is established within the Office of the President the Advisory Board for Cuba Broadcasting (in this division referred to as the ‘Advisory Board’).”; and

(6) by striking any other reference to “Director” not amended by paragraph (3) each place it appears and inserting “Board”.

**SEC. 1325. AMENDMENTS TO THE TELEVISION BROADCASTING TO CUBA ACT.**

The Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) is amended—

(1) in section 243(a) (22 U.S.C. 1465bb(a)) and section 246 (22 U.S.C. 1465dd), by striking “United States Information Agency” each place it appears and inserting “Broadcasting Board of Governors”;

(2) in section 243(c) (22 U.S.C. 1465bb(c))—

(A) in the subsection heading, by striking “USIA”; and

(B) by striking “USIA Television” and inserting “the Television”;

(3) in section 244(c) (22 U.S.C. 1465cc(c)) and section 246 (22 U.S.C. 1465dd), by striking “Agency” each place it appears and inserting “Board”;

(4) in section 244 (22 U.S.C. 1465cc)—

(A) in the section heading, by striking “OF THE UNITED STATES INFORMATION AGENCY”;

(B) in subsection (a)—

(i) in the first sentence, by striking “The Director of the United States Information Agency shall establish” and inserting “There is”; and

(ii) in the second sentence—

(I) by striking “Director of the United States Information Agency” and inserting “Broadcasting Board of Governors”; and

(II) by striking “the Director of the Voice of America” and inserting “the International Broadcasting Bureau”;

(C) in subsection (b)—

(i) by striking “Agency facilities” and inserting “Board facilities”; and

(ii) by striking “Information Agency” and inserting “International”; and

(D) in the heading of subsection (c), by striking “USIA”; and

(5) in section 245(d) (22 U.S.C. 1465c note), by striking “Board” and inserting “Advisory Board”.

**SEC. 1326. [22 U.S.C. 6542] TRANSFER OF BROADCASTING RELATED FUNDS, PROPERTY, AND PERSONNEL.**

(a) TRANSFER AND ALLOCATION OF PROPERTY AND APPROPRIATIONS.—

(1) IN GENERAL.—The assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1327(d)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices of USIA transferred to the Broadcasting Board of Governors by this chapter shall be transferred to the Broadcasting Board of Governors for appropriate allocation.

(2) ADDITIONAL TRANSFERS.—In addition to the transfers made under paragraph (1), there shall be transferred to the Chairman of the Broadcasting Board of Governors the assets, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds, as determined by the Secretary, in concurrence with the Broadcasting Board of Governors, to support the functions transferred by this chapter.

(b) TRANSFER OF PERSONNEL.—Notwithstanding any other provision of law—

(1) except as provided in subsection (c), all personnel and positions of USIA employed or maintained to carry out the functions transferred by this chapter to the Broadcasting Board of Governors shall be transferred to the Broadcasting Board of Governors at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer; and

(2) the personnel and positions of USIA, as determined by the Secretary of State, with the concurrence of the Broadcasting Board of Governors and the Director of USIA, to support the functions transferred by this chapter shall be transferred to the Broadcasting Board of Governors, including the International Broadcasting Bureau, at the same grade or class

and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) **TRANSFER AND ALLOCATION OF PROPERTY, APPROPRIATIONS, AND PERSONNEL ASSOCIATED WITH WORLDNET.**—USIA personnel responsible for carrying out interactive dialogs with foreign media and other similar overseas public diplomacy programs using the Worldnet television broadcasting system, and funds associated with such personnel, shall be transferred to the Department of State in accordance with the provisions of title XVI of this subdivision.

(d) **INCIDENTAL TRANSFERS.**—The Director of the Office of Management and Budget, when requested by the Broadcasting Board of Governors, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions and offices transferred from USIA, as may be necessary to carry out the provisions of this section.

**SEC. 1327. [22 U.S.C. 6543] SAVINGS PROVISIONS.**

(a) **CONTINUING LEGAL FORCE AND EFFECT.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions exercised by the Broadcasting Board of Governors of the United States Information Agency on the day before the effective date of this title, and

(2) that are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Broadcasting Board of Governors, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) **PENDING PROCEEDINGS.**—

(1) **IN GENERAL.**—The provisions of this chapter, or amendments made by this chapter, shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Broadcasting Board of Governors of the United States Information Agency at the time this title takes effect, with respect to functions exercised by the Board as of the effective date of this title but such proceedings and applications shall be continued.

(2) **ORDERS, APPEALS, AND PAYMENTS.**—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated,

superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(c) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the Broadcasting Board of Governors, or any commission or component thereof, shall abate by reason of the enactment of this chapter. No cause of action by or against the Broadcasting Board of Governors, or any commission or component thereof, or by or against any officer thereof in the official capacity of such officer, shall abate by reason of the enactment of this chapter.

(d) CONTINUATION OF PROCEEDINGS WITH SUBSTITUTION OF PARTIES.—

(1) SUBSTITUTION OF PARTIES.—If, before the effective date of this title, USIA or the Broadcasting Board of Governors, or any officer thereof in the official capacity of such officer, is a party to a suit which is related to the functions transferred by this chapter, then effective on such date such suit shall be continued with the Broadcasting Board of Governors or other appropriate official of the Board substituted or added as a party.

(2) LIABILITY OF THE BOARD.—The Board shall participate in suits continued under paragraph (1) where the Broadcasting Board of Governors or other appropriate official of the Board is added as a party and shall be liable for any judgments or remedies in those suits or proceedings arising from the exercise of the functions transferred by this chapter to the same extent that USIA would have been liable if such judgment or remedy had been rendered on the day before the abolition of USIA.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Broadcasting Board of Governors relating to a function exercised by the Board before the effective date of this title may be continued by the Board with the same effect as if this chapter had not been enacted.

(f) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Broadcasting Board of Governors of the United States Information Agency with regard to functions exercised before the effective date of this title, shall be deemed to refer to the Board.

**SEC. 1328. [22 U.S.C. 6544] REPORT ON THE PRIVATIZATION OF RFE/RL, INCORPORATED.**

Not later than March 1 of each year, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report on the progress of the Board and of RFE/RL, Incorporated, on any steps taken to further the policy declared in section 312(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995. The report under this subsection shall include the following:



(1) Efforts by RFE/RL, Incorporated, to terminate individual language services.

(2) A detailed description of steps taken with regard to section 312(a) of that Act.

(3) An analysis of prospects for privatization over the coming year.

(4) An assessment of the extent to which United States Government funding may be appropriate in the year 2000 and subsequent years for surrogate broadcasting to the countries to which RFE/RL, Incorporated, broadcast during the year. This assessment shall include an analysis of the environment for independent media in those countries, noting the extent of government control of the media, the ability of independent journalists and news organizations to operate, relevant domestic legislation, level of government harassment and efforts to censor, and other indications of whether the people of such countries enjoy freedom of expression.

#### CHAPTER 4—CONFORMING AMENDMENTS

##### SEC. 1331. [22 U.S.C. 6551] REFERENCES.

(a) IN GENERAL.—Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

(b) CONTINUING REFERENCES TO USIA OR DIRECTOR.—Subsection (a) shall not apply to section 146 (a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4069a(f), 4069b(g), or 4069c(f)).

##### SEC. 1332. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Title 5, United States Code, is amended—

(1) in section 5313, by striking “Director of the United States Information Agency.”;

(2) in section 5315—

(A) by striking “Deputy Director of the United States Information Agency.”; and

(B) by striking “Director of the International Broadcasting Bureau, the United States Information Agency.” and inserting “Director of the International Broadcasting Bureau.”; and

(3) in section 5316—

(A) by striking “Deputy Director, Policy and Plans, United States Information Agency.”; and

(B) by striking “Associate Director (Policy and Plans), United States Information Agency.”.

##### SEC. 1333. [22 U.S.C. 6552] APPLICATION OF CERTAIN LAWS.

(a) APPLICATION TO FUNCTIONS OF DEPARTMENT OF STATE.—Section 501 of Public Law 80–402 (22 U.S.C. 1461), section 202 of

Public Law 95–426 (22 U.S.C. 1461–1), and section 208 of Public Law 99–93 (22 U.S.C. 1461–1a) shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this subdivision.

(b) APPLICATION TO FUNCTIONS TRANSFERRED TO DEPARTMENT OF STATE.—Section 501 of Public Law 80–402 (22 U.S.C. 1461), section 202 of Public Law 95–426 (22 U.S.C. 1461–1), and section 208 of Public Law 99–93 (22 U.S.C. 1461–1a) shall apply only to public diplomacy programs of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this subdivision to the same extent that such programs were covered by these provisions prior to such transfer.

(c) LIMITATION ON USE OF FUNDS.—Except as provided in section 501 of Public Law 80–402 and section 208 of Public Law 99–93, funds specifically authorized to be appropriated for such public diplomacy programs shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States.

(d) REPORTING REQUIREMENTS.—The report submitted pursuant to section 1601(f) of this subdivision shall include a detailed statement of the manner in which the special mission of public diplomacy carried out by USIA prior to the transfer of functions under this subdivision shall be preserved within the Department of State, including the planned duties and responsibilities of any new bureaus that will perform such public diplomacy functions. Such report shall also include the best available estimates of—

(1) the amounts expended by the Department of State for public affairs programs during fiscal year 1998, and on the personnel and support costs for such programs;

(2) the amounts expended by USIA for its public diplomacy programs during fiscal year 1998, and on the personnel and support costs for such programs; and

(3) the amounts, including funds to be transferred from USIA and funds appropriated to the Department, that will be allocated for the programs described in paragraphs (1) and (2), respectively, during the fiscal year in which the transfer of functions from USIA to the Department occurs.

(e) CONGRESSIONAL PRESENTATION DOCUMENT.—The Department of State's Congressional Presentation Document for fiscal year 2000 and each fiscal year thereafter shall include—

(1) the aggregated amounts that the Department will spend on such public diplomacy programs and on costs of personnel for such programs, and a detailed description of the goals and purposes for which such funds shall be expended; and

(2) the amount of funds allocated to and the positions authorized for such public diplomacy programs, including bureaus to be created upon the transfer of functions from USIA to the Department.

**SEC. 1334. [22 U.S.C. 6553] CONTINUATION OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.**

The United States Advisory Commission on Public Diplomacy, established under section 604 of the United States Information and

Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of Reorganization Plan Numbered 2 of 1977, shall continue to exist and operate under such provisions of law.

**SEC. 1335. CONFORMING AMENDMENTS.**

(a) The United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.) is amended—

(1) in section 505 (22 U.S.C. 1464a)—

(A) by striking “Director of the United States Information Agency” each place it appears and inserting “Broadcasting Board of Governors”;

(B) by striking “United States Information Agency” each place it appears and inserting “Broadcasting Board of Governors”;

(C) in subsection (b)—

(i) by striking “Agency’s” and all that follows through “USIA-TV” and inserting “television broadcasts of the United States International Television Service”; and

(ii) in paragraphs (1), (2), and (3), by striking “USIA-TV” each place it appears and inserting “The United States International Television Service”; and

(D) in subsections (d) and (e), by striking “USIA-TV” each place it appears and inserting “the United States International Television Service”;

(2) in section 506(c) (22 U.S.C. 1464b(c))—

(A) by striking “Director of the United States Information Agency” and inserting “Broadcasting Board of Governors”;

(B) by striking “Agency” and inserting “Board”; and

(C) by striking “Director” and inserting “Board”;

(3) in section 705 (22 U.S.C. 1477c)—

(A) by striking subsections (a) and (c); and

(B) in subsection (b)—

(i) by striking “(b) In addition, the United States Information Agency” and inserting “The Department of State”; and

(ii) by striking “program grants” and inserting “grants for overseas public diplomacy programs”;

(4) in section 801(7) (22 U.S.C. 1471(7))—

(A) by striking “Agency” and inserting “overseas public diplomacy”; and

(B) by inserting “other” after “together with”; and

(5) in section 812 (22 U.S.C. 1475g)—

(A) by striking “United States Information Agency post” each place it appears and inserting “overseas public diplomacy post”;

(B) in subsection (a), by striking “United States Information Agency” the first place it appears and inserting “Department of State”;

(C) in subsection (b), by striking “Director of the United States Information Agency” and inserting “Secretary of State”; and

- (D) in the section heading, by striking “USIA” and inserting “OVERSEAS PUBLIC DIPLOMACY”.
- (b) Section 212 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 1475h) is amended—
- (1) by striking “United States Information Agency” each place it appears and inserting “Department of State”;
  - (2) in subsection (a), by inserting “for carrying out its overseas public diplomacy functions” after “grants”;
  - (3) in subsection (b)—
    - (A) by striking “a grant” the first time it appears and inserting “an overseas public diplomacy grant”; and
    - (B) in paragraph (1), by inserting “such” before “a grant” the first place it appears;
  - (4) in subsection (c)(1), by inserting “overseas public diplomacy” before “grants”;
  - (5) in subsection (c)(3), by inserting “such” before “grant”; and
  - (6) by striking subsection (d).
- (c) Section 602 of the National and Community Service Act of 1990 (22 U.S.C. 2452a) is amended—
- (1) in the second sentence of subsection (a), by striking “United States Information Agency” and inserting “Department of State”; and
  - (2) in subsection (b)—
    - (A) by striking “appropriations account of the United States Information Agency” and inserting “appropriate appropriations account of the Department of State”; and
    - (B) by striking “and the United States Information Agency”.
- (d) Section 305 of Public Law 97–446 (19 U.S.C. 2604) is amended in the first sentence, by striking “, after consultation with the Director of the United States Information Agency,”.
- (e) Section 601 of Public Law 103–227 (20 U.S.C. 5951(a)) is amended by striking “of the Director of the United States Information Agency and with” and inserting “and”.
- (f) Section 1003(b) of the Fascell Fellowship Act (22 U.S.C. 4902(b)) is amended—
- (1) in the text above paragraph (1), by striking “9 members” and inserting “7 members”;
  - (2) in paragraph (4), by striking “Six” and inserting “Five”;
  - (3) by striking paragraph (3); and
  - (4) by redesignating paragraph (4) as paragraph (3).
- (g) Section 803 of the Intelligence Authorization Act, Fiscal Year 1992 (50 U.S.C. 1903) is amended—
- (1) in subsection (b)—
    - (A) by striking paragraph (6); and
    - (B) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and
  - (2) in subsection (c), by striking “subsection (b)(7)” and inserting “subsection (b)(6)”.
- (h) Section 7 of the Federal Triangle Development Act (40 U.S.C. 1106) is amended—
- (1) in subsection (c)(1)—

- (A) in the text above subparagraph (A), by striking “15 members” and inserting “14 members”;
- (B) by striking subparagraph (F); and
- (C) by redesignating subparagraphs (G) through (J) as subparagraphs (F) through (I), respectively;
- (2) in paragraphs (3) and (5) of subsection (c), by striking “paragraph (1)(J)” each place it appears and inserting “paragraph (1)(I)”; and
- (3) in subsection (d)(3) and subsection (e), by striking “the Administrator and the Director of the United States Information Agency” each place it appears and inserting “and the Administrator”.
- (i) Section 3 of the Woodrow Wilson Memorial Act of 1968 (Public Law 90–637; 20 U.S.C. 80f) is amended—
- (1) in subsection (b)—
- (A) in the text preceding paragraph (1), by striking “19 members” and inserting “17 members”;
- (B) by striking paragraph (7);
- (C) by striking “10” in paragraph (10) and inserting “9”; and
- (D) by redesignating paragraphs (8) through (10) as paragraphs (7) through (9), respectively; and
- (2) in subsection (c), by striking “(9)” and inserting “(8)”.
- (j) Section 624 of Public Law 89–329 (20 U.S.C. 1131c) is amended by striking “the United States Information Agency.”
- (k) The Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended—
- (1) in section 202(a)(1) (22 U.S.C. 3922(a)(1)), by striking “Director of the United States Information Agency” and inserting “Broadcasting Board of Governors”;
- (2) in section 210 (22 U.S.C. 3930), by striking “United States Information Agency” and inserting “Broadcasting Board of Governors”;
- (3) in section 1003(a) (22 U.S.C. 4103(a)), by striking “United States Information Agency” and inserting “Broadcasting Board of Governors”; and
- (4) in section 1101(c) (22 U.S.C. 4131(c)), by striking “the United States Information Agency,” and inserting “Broadcasting Board of Governors.”
- (l) The State Department Authorities Act of 1956, as amended by this division, is further amended—
- (1) in section 23(a) (22 U.S.C. 2695(a)), by striking “United States Information Agency” and inserting “Broadcasting Board of Governors”;
- (2) in section 25(f) (22 U.S.C. 2697(f))—
- (A) by striking “Director of the United States Information Agency” and inserting “Broadcasting Board of Governors”; and
- (B) by striking “with respect to their respective agencies” and inserting “with respect to the Board and the Agency”;
- (3) in section 26(b) (22 U.S.C. 2698(b)), as amended by this division—

- (A) by striking “Director of the United States Information Agency, the chairman of the Board for International Broadcasting,” and inserting “Broadcasting Board of Governors,”; and
- (B) by striking “with respect to their respective agencies” and inserting “with respect to the Board and the Agency”; and
- (4) in section 32 (22 U.S.C. 2704), as amended by this division, by striking “the Director of the United States Information Agency” and inserting “the Broadcasting Board of Governors”.
- (m) Section 507(b)(3) of Public Law 103–317 (22 U.S.C. 2669a(b)(3)) is amended by striking “, the United States Information Agency,”.
- (n) Section 502 of Public Law 92–352 (2 U.S.C. 194a) is amended by striking “the United States Information Agency,”.
- (o) Section 6 of Public Law 104–288 (22 U.S.C. 2141d) is amended—
- (1) in subsection (a), by striking “Director of the United States Information Agency,”; and
- (2) in subsection (b), by striking “the Director of the United States Information Agency” and inserting “the Under Secretary of State for Public Diplomacy”.
- (p) Section 40118(d) of title 49, United States Code, is amended by striking “, the Director of the United States Information Agency,”.
- (q) Section 155 of Public Law 102–138 is amended—
- (1) by striking the comma before “Department of Commerce” and inserting “and”; and
- (2) by striking “, and the United States Information Agency”.
- (r) Section 107 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6037) is amended by striking “Director of the United States Information Agency” each place it appears and inserting “Director of the International Broadcasting Bureau”.

**SEC. 1336. REPEALS.**

The following provisions are repealed:

- (1) Sections 701 (22 U.S.C. 1476), 704 (22 U.S.C. 1477b), 807 (22 U.S.C. 1475b), 808 (22 U.S.C. 1475c), 811 (22 U.S.C. 1475f), and 1009 (22 U.S.C. 1440) of the United States Information and Educational Exchange Act of 1948.
- (2) Section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2456(c)).
- (3) Section 565(e) of the Anti-Economic Discrimination Act of 1994 (22 U.S.C. 2679c(e)).
- (4) Section 206(b) of Public Law 102–138.
- (5) Section 2241 of Public Law 104–66.
- (6) Sections 1 through 6 of Reorganization Plan Numbered 2 of 1977 (91 Stat. 636).
- (7) Section 207 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 22 U.S.C. 1463 note).

**TITLE XIV—UNITED STATES INTERNATIONAL  
DEVELOPMENT COOPERATION AGENCY****CHAPTER 1—GENERAL PROVISIONS****SEC. 1401. [22 U.S.C. 6561 note] EFFECTIVE DATE.**

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) April 1, 1999; or
- (2) the date of abolition of the United States International Development Cooperation Agency pursuant to the reorganization plan described in section 1601.

**CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS****SEC. 1411. [22 U.S.C. 6561] ABOLITION OF UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY.**

(a) **IN GENERAL.**—Except for the components specified in subsection (b), the United States International Development Cooperation Agency (including the Institute for Scientific and Technological Cooperation) is abolished.

(b) **AID AND OPIC EXEMPTED.**—Subsection (a) does not apply to the Agency for International Development or the Overseas Private Investment Corporation.

**SEC. 1412. [22 U.S.C. 6562] TRANSFER OF FUNCTIONS AND AUTHORITIES.**

(a) **ALLOCATION OF FUNDS.**—

(1) **ALLOCATION TO THE SECRETARY OF STATE.**—Funds made available under the categories of assistance deemed allocated to the Director of the International Development Cooperation Agency under section 1–801 of Executive Order No. 12163 (22 U.S.C. 2381 note) as of October 1, 1997, shall be allocated to the Secretary of State on and after the effective date of this title without further action by the President.

(2) **PROCEDURES FOR REALLOCATIONS OR TRANSFERS.**—The Secretary of State may allocate or transfer as appropriate any funds received under paragraph (1) in the same manner as previously provided for the Director of the International Development Cooperation Agency under section 1–802 of that Executive Order, as in effect on October 1, 1997.

(b) **WITH RESPECT TO THE OVERSEAS PRIVATE INVESTMENT CORPORATION.**—There are transferred to the Administrator of the Agency for International Development all functions of the Director of the United States International Development Cooperation Agency as of the day before the effective date of this title with respect to the Overseas Private Investment Corporation.

(c) **OTHER ACTIVITIES.**—The authorities and functions transferred to the United States International Development Cooperation Agency or the Director of that Agency by section 6 of Reorganization Plan Numbered 2 of 1979 shall, to the extent such authorities and functions have not been repealed, be transferred to those agencies or heads of agencies, as the case may be, in which those authorities and functions were vested by statute as of the day before the effective date of such reorganization plan.

**SEC. 1413. [22 U.S.C. 6563] STATUS OF AID.**

(a) **IN GENERAL.**—Unless abolished pursuant to the reorganization plan submitted under section 1601, and except as provided in section 1412, there is within the Executive branch of Government the United States Agency for International Development as an entity described in section 104 of title 5, United States Code.

(b) **RETENTION OF OFFICERS.**—Nothing in this section shall require the reappointment of any officer of the United States serving in the Agency for International Development of the United States International Development Cooperation Agency as of the day before the effective date of this title.

**CHAPTER 3—CONFORMING AMENDMENTS****SEC. 1421. [22 U.S.C. 6571] REFERENCES.**

Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the United States International Development Cooperation Agency (IDCA) or to the Director or any other officer or employee of IDCA—

(1) insofar as such reference relates to any function or authority transferred under section 1412(a), shall be deemed to refer to the Secretary of State;

(2) insofar as such reference relates to any function or authority transferred under section 1412(b), shall be deemed to refer to the Administrator of the Agency for International Development;

(3) insofar as such reference relates to any function or authority transferred under section 1412(c), shall be deemed to refer to the head of the agency to which such function or authority is transferred under such section; and

(4) insofar as such reference relates to any function or authority not transferred by this title, shall be deemed to refer to the President or such agency or agencies as may be specified by Executive order.

**SEC. 1422. CONFORMING AMENDMENTS.**

(a) **TERMINATION OF REORGANIZATION PLANS AND DELEGATIONS.**—The following shall cease to be effective:

(1) Reorganization Plan Numbered 2 of 1979 (5 U.S.C. App.).

(2) Section 1–101 through 1–103, sections 1–401 through 1–403, section 1–801(a), and such other provisions that relate to the United States International Development Cooperation Agency or the Director of IDCA, of Executive Order No. 12163 (22 U.S.C. 2381 note; relating to administration of foreign assistance and related functions).

(3) The International Development Cooperation Agency Delegation of Authority Numbered 1 (44 Fed. Reg. 57521), except for section 1–6 of such Delegation of Authority.

(4) Section 3 of Executive Order No. 12884 (58 Fed. Reg. 64099; relating to the delegation of functions under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, the Foreign Assistance Act of



1961, the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1993, and section 301 of title 3, United States Code).

(b) OTHER STATUTORY AMENDMENTS AND REPEAL.—

(1) TITLE 5.—Section 7103(a)(2)(B)(iv) of title 5, United States Code, is amended by striking “United States International Development Cooperation Agency” and inserting “Agency for International Development”.

(2) INSPECTOR GENERAL ACT OF 1978.—Section 8A of the Inspector General Act of 1978 (5 U.S.C. App. 3) is amended—

(A) in subsection (a)—

(i) by striking “Development” through “(1) shall” and inserting “Development shall”;

(ii) by striking “; and” at the end of subsection (a)(1) and inserting a period; and

(iii) by striking paragraph (2);

(B) by striking subsections (c) and (f); and

(C) by redesignating subsections (d), (e), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(3) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—The State Department Basic Authorities Act of 1956 is amended—

(A) in section 25(f) (22 U.S.C. 2697(f)), as amended by this division, by striking “Director of the United States International Development Cooperation Agency” and inserting “Administrator of the Agency for International Development”;

(B) in section 26(b) (22 U.S.C. 2698(b)), as amended by this division Act, by striking “Director of the United States International Development Cooperation Agency” and inserting “Administrator of the Agency for International Development”; and

(C) in section 32 (22 U.S.C. 2704), by striking “Director of the United States International Development Cooperation Agency” and inserting “Administrator of the Agency for International Development”.

(4) FOREIGN SERVICE ACT OF 1980.—The Foreign Service Act of 1980 is amended—

(A) in section 202(a)(1) (22 U.S.C. 3922(a)(1)), by striking “Director of the United States International Development Cooperation Agency” and inserting “Administrator of the Agency for International Development”;

(B) in section 210 (22 U.S.C. 3930), by striking “United States International Development Cooperation Agency” and inserting “Agency for International Development”;

(C) in section 1003(a) (22 U.S.C. 4103(a)), by striking “United States International Development Cooperation Agency” and inserting “Agency for International Development”; and

(D) in section 1101(c) (22 U.S.C. 4131(c)), by striking “United States International Development Cooperation Agency” and inserting “Agency for International Development”.

(5) REPEAL.—Section 413 of Public Law 96–53 (22 U.S.C. 3512) is repealed.

(6) TITLE 49.—Section 40118(d) of title 49, United States Code, is amended by striking “the Director of the United States International Development Cooperation Agency” and inserting “or the Administrator of the Agency for International Development”.

(7) EXPORT ADMINISTRATION ACT OF 1979.—Section 2405(g) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(g)) is amended—

(A) by striking “Director of the United States International Development Cooperation Agency” each place it appears and inserting “Administrator of the Agency for International Development”; and

(B) in the fourth sentence, by striking “Director” and inserting “Administrator”.

## TITLE XV—AGENCY FOR INTERNATIONAL DEVELOPMENT

### CHAPTER 1—GENERAL PROVISIONS

#### SEC. 1501. [22 U.S.C. 6581 note] EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on the earlier of—

(1) April 1, 1999; or

(2) the date of reorganization of the Agency for International Development pursuant to the reorganization plan described in section 1601.

### CHAPTER 2—REORGANIZATION AND TRANSFER OF FUNCTIONS

#### SEC. 1511. [22 U.S.C. 6581] REORGANIZATION OF AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) IN GENERAL.—The Agency for International Development shall be reorganized in accordance with this subdivision and the reorganization plan transmitted pursuant to section 1601.

(b) FUNCTIONS TO BE TRANSFERRED.—The reorganization of the Agency for International Development shall provide, at a minimum, for the transfer to and consolidation with the Department of State of the following functions of AID:

(1) The Press office.

(2) Certain administrative functions.

### CHAPTER 3—AUTHORITIES OF THE SECRETARY OF STATE

#### SEC. 1521. [22 U.S.C. 6591] DEFINITION OF UNITED STATES ASSISTANCE.

In this chapter, the term “United States assistance” means development and other economic assistance, including assistance made available under the following provisions of law:

(1) Chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance).

(2) Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund).

(3) Chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa).

(4) Chapter 11 of part I of the Foreign Assistance Act of 1961 (relating to assistance for the independent states of the former Soviet Union).

(5) The Support for East European Democracy Act (22 U.S.C. 5401 et seq.).

**SEC. 1522. [22 U.S.C. 6592] ADMINISTRATOR OF AID REPORTING TO THE SECRETARY OF STATE.**

The Administrator of the Agency for International Development, appointed pursuant to section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)), shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.

**SEC. 1523. [22 U.S.C. 6593] ASSISTANCE PROGRAMS COORDINATION AND OVERSIGHT.**

(a) **AUTHORITY OF THE SECRETARY OF STATE.—**

(1) **IN GENERAL.—**Under the direction of the President, the Secretary of State shall coordinate all United States assistance in accordance with this section, except as provided in paragraphs (2) and (3).

(2) **EXPORT PROMOTION ACTIVITIES.—**Coordination of activities relating to promotion of exports of United States goods and services shall continue to be primarily the responsibility of the Secretary of Commerce.

(3) **INTERNATIONAL ECONOMIC ACTIVITIES.—**Coordination of activities relating to United States participation in international financial institutions and relating to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury.

(4) **AUTHORITIES AND POWERS OF THE SECRETARY OF STATE.—**The powers and authorities of the Secretary provided in this chapter are in addition to the powers and authorities provided to the Secretary under any other Act, including section 101(b) and section 622(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(b), 2382(c)).

(b) **COORDINATION ACTIVITIES.—**Coordination activities of the Secretary of State under subsection (a) shall include—

(1) approving an overall assistance and economic cooperation strategy;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in the Foreign Assistance Act of 1961, the Arms Export Control Act, and other relevant assistance Acts;

(3) pursuing coordination with other countries and international organizations; and

(4) resolving policy, program, and funding disputes among United States Government agencies.

(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to lessen the accountability of any Federal agency administering any program, project, or activity of United States assistance for any funds made available to the Federal agency for that purpose.

(d) AUTHORITY TO PROVIDE PERSONNEL OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Administrator of the Agency for International Development is authorized to detail to the Department of State on a nonreimbursable basis such personnel employed by the Agency as the Secretary of State may require to carry out this section.

## TITLE XVI—TRANSITION

### CHAPTER 1—REORGANIZATION PLAN

#### SEC. 1601. [22 U.S.C. 6601] REORGANIZATION PLAN AND REPORT.

(a) SUBMISSION OF PLAN AND REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan and report regarding—

(1) the abolition of the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency in accordance with this subdivision;

(2) with respect to the Agency for International Development, the consolidation and streamlining of the Agency and the transfer of certain functions of the Agency to the Department in accordance with section 1511;

(3) the termination of functions of each covered agency as may be necessary to effectuate the reorganization under this subdivision, and the termination of the affairs of each agency abolished under this subdivision;

(4) the transfer to the Department of the functions and personnel of each covered agency consistent with the provisions of this subdivision; and

(5) the consolidation, reorganization, and streamlining of the Department in connection with the transfer of such functions and personnel in order to carry out such functions.

(b) COVERED AGENCIES.—The agencies covered by this section are the following:

(1) The United States Arms Control and Disarmament Agency.

(2) The United States Information Agency.

(3) The United States International Development Cooperation Agency.

(4) The Agency for International Development.

(c) PLAN ELEMENTS.—The plan transmitted under subsection (a) shall contain, consistent with this subdivision, such elements as the President deems appropriate, including elements that—

(1) identify the functions of each covered agency that will be transferred to the Department under the plan;

(2) specify the steps to be taken by the Secretary of State to reorganize internally the functions of the Department, including the consolidation of offices and functions, that will be

required under the plan in order to permit the Department to carry out the functions transferred to it under the plan;

(3) specify the funds available to each covered agency that will be transferred to the Department as a result of the transfer of functions of such agency to the Department;

(4) specify the proposed allocations within the Department of unexpended funds transferred in connection with the transfer of functions under the plan; and

(5) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of each covered agency in connection with the transfer of the functions of such agency to the Department.

(d) REORGANIZATION PLAN OF AGENCY FOR INTERNATIONAL DEVELOPMENT.—In addition to applicable provisions of subsection (c), the reorganization plan transmitted under this section for the Agency for International Development—

(1) may provide for the abolition of the Agency for International Development and the transfer of all its functions to the Department of State; or

(2) in lieu of the abolition and transfer of functions under paragraph (1)—

(A) shall provide for the transfer to and consolidation within the Department of the functions set forth in section 1511; and

(B) may provide for additional consolidation, reorganization, and streamlining of AID, including—

(i) the termination of functions and reductions in personnel of AID;

(ii) the transfer of functions of AID, and the personnel associated with such functions, to the Department; and

(iii) the consolidation, reorganization, and streamlining of the Department upon the transfer of such functions and personnel in order to carry out the functions transferred.

(e) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan transmitted under subsection (a) until that part of the plan becomes effective in accordance with subsection (g).

(f) REPORT.—The report accompanying the reorganization plan for the Department and the covered agencies submitted pursuant to this section shall describe the implementation of the plan and shall include—

(1) a detailed description of—

(A) the actions necessary or planned to complete the reorganization,

(B) the anticipated nature and substance of any orders, directives, and other administrative and operational actions which are expected to be required for completing or implementing the reorganization, and

(C) any preliminary actions which have been taken in the implementation process;

(2) the number of personnel and positions of each covered agency (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred to the Department, separated from service with such agency, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(3) the number of personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred within the Department, separated from service with the Department, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(4) a projected schedule for completion of the implementation process; and

(5) recommendations, if any, for legislation necessary to carry out changes made by this subdivision relating to personnel and to incidental transfers.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (e), shall become effective on the earlier of the date for the respective covered agency specified in paragraph (2) or the date announced by the President under paragraph (3).

(2) STATUTORY EFFECTIVE DATES.—The effective dates under this paragraph for the reorganization plan described in this section are the following:

(A) April 1, 1999, with respect to functions of the Agency for International Development described in section 1511.

(B) April 1, 1999, with respect to the abolition of the United States Arms Control and Disarmament Agency and the United States International Development Cooperation Agency.

(C) October 1, 1999, with respect to the abolition of the United States Information Agency.

(3) EFFECTIVE DATE BY PRESIDENTIAL DETERMINATION.—An effective date under this paragraph for a reorganization plan described in this section is such date as the President shall determine to be appropriate and announce by notice published in the Federal Register, which date may be not earlier than 90 calendar days after the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a).

(4) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balance of appropriations, or other assets of a covered agency on a single date.

(5) SUPERSEDES EXISTING LAW.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

(h) PUBLICATION.—The reorganization plan described in this section shall be printed in the Federal Register after the date upon which it first becomes effective.

**CHAPTER 2—REORGANIZATION AUTHORITY****SEC. 1611. [22 U.S.C. 6611] REORGANIZATION AUTHORITY.**

(a) **IN GENERAL.**—The Secretary is authorized, subject to the requirements of this subdivision, to allocate or reallocate any function transferred to the Department under any title of this subdivision, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate to carry out any reorganization under this subdivision, but this subsection does not authorize the Secretary to modify the terms of any statute that establishes or defines the functions of any bureau, office, or officer of the Department.

(b) **REQUIREMENTS AND LIMITATIONS ON REORGANIZATION PLAN.**—The reorganization plan transmitted under section 1601 may not have the effect of—

- (1) creating a new executive department;
- (2) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;
- (3) authorizing a Federal agency to exercise a function which is not authorized by law at the time the plan is transmitted to Congress;
- (4) creating a new Federal agency which is not a component or part of an existing executive department or independent agency; or
- (5) increasing the term of an office beyond that provided by law for the office.

**SEC. 1612. [22 U.S.C. 6612] TRANSFER AND ALLOCATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—Except as otherwise provided in this subdivision, the assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1615(e)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof, transferred by any title of this subdivision shall be transferred to the Secretary for appropriate allocation.

(b) **LIMITATION ON USE OF TRANSFERRED FUNDS.**—Except as provided in subsection (c), unexpended and unobligated funds transferred pursuant to any title of this subdivision shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) **FUNDS TO FACILITATE TRANSITION.**—

(1) **CONGRESSIONAL NOTIFICATION.**—Funds transferred pursuant to subsection (a) may be available for the purposes of reorganization subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

(2) **TRANSFER AUTHORITY.**—Funds in any account appropriated to the Department of State may be transferred to another such account for the purposes of reorganization, subject to notification of the appropriate congressional committees in

accordance with the procedures applicable to a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). The authority in this paragraph is in addition to any other transfer authority available to the Secretary of State and shall expire September 30, 2000.

**SEC. 1613. [22 U.S.C. 6613] TRANSFER, APPOINTMENT, AND ASSIGNMENT OF PERSONNEL.**

(a) TRANSFER OF PERSONNEL FROM ACDA AND USIA.—Except as otherwise provided in title XIII—

(1) not later than the date of abolition of ACDA, all personnel and positions of ACDA, and

(2) not later than the date of abolition of USIA, all personnel and positions of USIA,

shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(b) TRANSFER OF PERSONNEL FROM AID.—Except as otherwise provided in title XIII, not later than the date of transfer of any function of AID to the Department of State under this subdivision, all AID personnel performing such functions and all positions associated with such functions shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) ASSIGNMENT AUTHORITY.—The Secretary, for a period of not more than 6 months commencing on the effective date of the transfer to the Department of State of personnel under subsections (a) and (b), is authorized to assign such personnel to any position or set of duties in the Department of State regardless of the position held or duties performed by such personnel prior to transfer, except that, by virtue of such assignment, such personnel shall not have their grade or class or their rate of basic pay or basic salary rate reduced, nor their tenure changed. The Secretary shall consult with the relevant exclusive representatives (as defined in section 1002 of the Foreign Service Act and in section 7103 of title 5, United States Code) with regard to the exercise of this authority. This subsection does not authorize the Secretary to assign any individual to any position that by law requires appointment by the President, by and with the advice and consent of the Senate.

(d) SUPERSEDING OTHER PROVISIONS OF LAW.—Subsections (a) through (c) shall be exercised notwithstanding any other provision of law.

**SEC. 1614. [22 U.S.C. 6614] INCIDENTAL TRANSFERS.**

The Director of the Office of Management and Budget, when requested by the Secretary, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of any title of this subdivision. The Director of the Office of Management and Budget, in consultation with the Secretary, shall provide for the



termination of the affairs of all entities terminated by this subdivision and for such further measures and dispositions as may be necessary to effectuate the purposes of any title of this subdivision.

**SEC. 1615. [22 U.S.C. 6615] SAVINGS PROVISIONS.**

(a) CONTINUING LEGAL FORCE AND EFFECT.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under any title of this subdivision; and

(2) that are in effect as of the effective date of such title, or were final before the effective date of such title and are to become effective on or after the effective date of such title, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PENDING PROCEEDINGS.—

(1) IN GENERAL.—The provisions of any title of this subdivision shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of any title of this subdivision before any Federal agency, commission, or component thereof, functions of which are transferred by any title of this subdivision. Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(2) ORDERS, APPEALS, PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this subdivision had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

(3) STATUTORY CONSTRUCTION.—Nothing in this subdivision shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subdivision had not been enacted.

(4) REGULATIONS.—The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this subsection to the Department.

(c) NO EFFECT ON JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—Except as provided in subsection (e) and section 1327(d)—

(1) the provisions of this subdivision shall not affect suits commenced prior to the effective dates of the respective titles of this subdivision; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this subdivision had not been enacted.

(d) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any Federal agency, or any commission or component thereof, functions of which are transferred by any title of this subdivision, shall abate by reason of the enactment of this subdivision. No cause of action by or against any Federal agency, or any commission or component thereof, functions of which are transferred by any title of this subdivision, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this subdivision.

(e) CONTINUATION OF PROCEEDING WITH SUBSTITUTION OF PARTIES.—If, before the effective date of any title of this subdivision, any Federal agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this subdivision any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then effective on such date such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) REVIEWABILITY OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—Orders and actions of the Secretary in the exercise of functions transferred under any title of this subdivision shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Federal agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by any title of this subdivision shall apply to the exercise of such function by the Secretary.

**SEC. 1616. [22 U.S.C. 6616] AUTHORITY OF SECRETARY OF STATE TO FACILITATE TRANSITION.**

Notwithstanding any provision of this subdivision, the Secretary of State, with the concurrence of the head of the appropriate Federal agency exercising functions transferred under this subdivision, may transfer the whole or part of such functions prior to the effective dates established in this subdivision, including the transfer of personnel and funds associated with such functions.

**SEC. 1617. [22 U.S.C. 6617] FINAL REPORT.**

Not later than January 1, 2001, the President, in consultation with the Secretary of the Treasury and the Director of the Office of Management and Budget, shall submit to the appropriate congressional committees a report which provides a final accounting of the finances and operations of the agencies abolished under this subdivision.

**SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION****TITLE XX—GENERAL PROVISIONS****SEC. 2001. [22 U.S.C. 2651 note] SHORT TITLE.**

This subdivision may be cited as the “Foreign Relations Authorization Act, Fiscal Years 1998 and 1999”.

**SEC. 2002. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.**

In this subdivision, the term “appropriate congressional committees” means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

**TITLE XXI—AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF STATE****SEC. 2101. ADMINISTRATION OF FOREIGN AFFAIRS.**

The following amounts are authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including the diplomatic security program:

(1) **DIPLOMATIC AND CONSULAR PROGRAMS.**—For “Diplomatic and Consular Programs”, of the Department of State \$1,730,000,000 for the fiscal year 1998 and \$1,644,300,000 for the fiscal year 1999.

(2) **SALARIES AND EXPENSES.**—

(A) **AUTHORIZATION OF APPROPRIATIONS.**—For “Salaries and Expenses”, of the Department of State \$363,513,000 for the fiscal year 1998 and \$355,000,000 for the fiscal year 1999.

(B) **LIMITATIONS.**—Of the amounts authorized to be appropriated by subparagraph (A), \$2,000,000 for fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be appropriated only for the recruitment of minorities for careers in the Foreign Service and international affairs.

(3) **CAPITAL INVESTMENT FUND.**—For “Capital Investment Fund”, of the Department of State \$86,000,000 for the fiscal year 1998 and \$80,000,000 for the fiscal year 1999.

(4) **SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS.**—For “Security and Maintenance of United States Missions”, \$404,000,000 for the fiscal year 1998 and \$403,561,000 for the fiscal year 1999.

(5) **REPRESENTATION ALLOWANCES.**—For “Representation Allowances”, \$4,200,000 for the fiscal year 1998 and \$4,350,000 for the fiscal year 1999.

(6) **EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.**—For “Emergencies in the Diplomatic and Consular Service”, \$5,500,000 for the fiscal year 1998 and \$5,500,000 for the fiscal year 1999.

(7) OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$27,495,000 for the fiscal year 1998 and \$27,495,000 for the fiscal year 1999.

(8) PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$14,000,000 for the fiscal year 1998 and \$14,750,000 for the fiscal year 1999.

(9) PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—(A) For “Protection of Foreign Missions and Officials”, \$7,900,000 for the fiscal year 1998 and \$8,100,000 for the fiscal year 1999.

(B) Each amount appropriated pursuant to this paragraph is authorized to remain available through September 30 of the fiscal year following the fiscal year for which the amount appropriated was made.

(10) REPATRIATION LOANS.—For “Repatriation Loans”, \$1,200,000 for the fiscal year 1998 and \$1,200,000 for the fiscal year 1999, for administrative expenses.

#### SEC. 2102. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A) for “Salaries and Expenses” \$17,490,000 for the fiscal year 1998 and \$19,551,000 for the fiscal year 1999; and

(B) for “Construction” \$6,463,000 for the fiscal year 1998 and \$6,463,000 for the fiscal year 1999.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission, United States and Canada”, \$761,000 for the fiscal year 1998 and \$761,000 for the fiscal year 1999.

(3) INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$3,189,000 for the fiscal year 1998 and \$3,432,000 for the fiscal year 1999.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$14,549,000 for the fiscal year 1998 and \$14,549,000 for the fiscal year 1999.

#### SEC. 2103. GRANTS TO THE ASIA FOUNDATION.

Section 404 of The Asia Foundation Act (title IV of Public Law 98–164) is amended to read as follows:

“SEC. 404. There are authorized to be appropriated to the Secretary of State \$10,000,000 for each of the fiscal years 1998 and 1999 for grants to The Asia Foundation pursuant to this title.”

#### SEC. 2104. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Voluntary Contributions to International Organizations”, \$194,500,000 for the fiscal year 1998 and \$214,000,000 for the fiscal year 1999.

(b) LIMITATIONS.—

(1) **WORLD FOOD PROGRAM.**—Of the amounts authorized to be appropriated under subsection (a), \$4,000,000 for the fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the World Food Program.

(2) **UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.**—Of the amount authorized to be appropriated under subsection (a), \$3,000,000 for the fiscal year 1998 and \$3,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the United Nations Voluntary Fund for Victims of Torture.

(3) **INTERNATIONAL PROGRAM ON THE ELIMINATION OF CHILD LABOR.**—Of the amounts authorized to be appropriated under subsection (a), \$5,000,000 for the fiscal year 1998 and \$5,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor.

(c) **AVAILABILITY OF FUNDS.**—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

**SEC. 2105. VOLUNTARY CONTRIBUTIONS TO PEACEKEEPING OPERATIONS.**

There are authorized to be appropriated for “Peacekeeping Operations”, \$77,500,000 for the fiscal year 1998 and \$83,000,000 for the fiscal year 1999 for the Department of State to carry out section 551 of Public Law 87–195.

**SEC. 2106. LIMITATION ON UNITED STATES VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS DEVELOPMENT PROGRAM.**

(a) **LIMITATION.**—Of the amounts made available for fiscal years 1998 and 1999 for United States voluntary contributions to the United Nations Development Program an amount equal to the amount the United Nations Development Program will spend in Burma during each fiscal year shall be withheld unless during such fiscal year the President submits to the appropriate congressional committees the certification described in subsection (b).

(b) **CERTIFICATION.**—The certification referred to in subsection (a) is a certification by the President that all programs and activities of the United Nations Development Program (including United Nations Development Program—Administered Funds) in Burma—

(1) are focused on eliminating human suffering and addressing the needs of the poor;

(2) are undertaken only through international or private voluntary organizations that have been deemed independent of the State Law and Order Restoration Council (SLORC), after consultation with the leadership of the National League for Democracy and the leadership of the National Coalition Government of the Union of Burma;

(3) provide no financial, political, or military benefit to the SLORC; and

(4) are carried out only after consultation with the leadership of the National League for Democracy and the leadership of the National Coalition Government of the Union of Burma.

**TITLE XXII—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES****CHAPTER 1—AUTHORITIES AND ACTIVITIES****SEC. 2201. REIMBURSEMENT OF DEPARTMENT OF STATE FOR ASSISTANCE TO OVERSEAS EDUCATIONAL FACILITIES.**

Section 29 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2701) is amended by adding at the end the following: “Notwithstanding any other provision of law, where the child of a United States citizen employee of an agency of the United States Government who is stationed outside the United States attends an educational facility assisted by the Secretary of State under this section, the head of that agency is authorized to reimburse, or credit with advance payment, the Department of State for funds used in providing assistance to such educational facilities, by grant or otherwise, under this section.”

**SEC. 2202. REVISION OF DEPARTMENT OF STATE REWARDS PROGRAM.**

Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended to read as follows:

**“SEC. 36. DEPARTMENT OF STATE REWARDS PROGRAM.**

**“(a) ESTABLISHMENT.—**

**“(1) IN GENERAL.—**There is established a program for the payment of rewards to carry out the purposes of this section.

**“(2) PURPOSE.—**The rewards program shall be designed to assist in the prevention of acts of international terrorism, international narcotics trafficking, and other related criminal acts.

**“(3) IMPLEMENTATION.—**The rewards program shall be administered by the Secretary of State, in consultation, as appropriate, with the Attorney General.

**“(b) REWARDS AUTHORIZED.—**In the sole discretion of the Secretary (except as provided in subsection (c)(2)) and in consultation, as appropriate, with the Attorney General, the Secretary may pay a reward to any individual who furnishes information leading to—

**“(1)** the arrest or conviction in any country of any individual for the commission of an act of international terrorism against a United States person or United States property;

**“(2)** the arrest or conviction in any country of any individual conspiring or attempting to commit an act of international terrorism against a United States person or United States property;

**“(3)** the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

**“(A)** a violation of United States narcotics laws such that the individual would be a major violator of such laws;

**“(B)** the killing or kidnapping of—

**“(i)** any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual’s official duties, in connection with the enforce-

ment of United States narcotics laws or the implementing of United States narcotics control objectives; or

“(ii) a member of the immediate family of any such individual on account of that individual’s official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

“(C) an attempt or conspiracy to commit any act described in subparagraph (A) or (B);

“(4) the arrest or conviction in any country of any individual aiding or abetting in the commission of an act described in paragraph (1), (2), or (3); or

“(5) the prevention, frustration, or favorable resolution of an act described in paragraph (1), (2), or (3).

“(c) COORDINATION.—

“(1) PROCEDURES.—To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under this section, including procedures for—

“(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;

“(B) the publication of rewards;

“(C) the offering of joint rewards with foreign governments;

“(D) the receipt and analysis of data; and

“(E) the payment and approval of payment, shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

“(2) PRIOR APPROVAL OF ATTORNEY GENERAL REQUIRED.—Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

“(d) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 408), but subject to paragraph (2), there are authorized to be appropriated to the Department of State from time to time such amounts as may be necessary to carry out this section.

“(2) LIMITATION.—No amount of funds may be appropriated under paragraph (1) which, when added to the unobligated balance of amounts previously appropriated to carry out this section, would cause such amounts to exceed \$15,000,000.

“(3) ALLOCATION OF FUNDS.—To the maximum extent practicable, funds made available to carry out this section should be distributed equally for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking.

“(4) PERIOD OF AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

“(e) LIMITATIONS AND CERTIFICATION.—

“(1) MAXIMUM AMOUNT.—No reward paid under this section may exceed \$2,000,000.

“(2) APPROVAL.—A reward under this section of more than \$100,000 may not be made without the approval of the Secretary.

“(3) CERTIFICATION FOR PAYMENT.—Any reward granted under this section shall be approved and certified for payment by the Secretary.

“(4) NONDELEGATION OF AUTHORITY.—The authority to approve rewards of more than \$100,000 set forth in paragraph (2) may not be delegated.

“(5) PROTECTION MEASURES.—If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient’s immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he considers necessary to effect such protection.

“(f) INELIGIBILITY.—An officer or employee of any entity of Federal, State, or local government or of a foreign government who, while in the performance of his or her official duties, furnishes information described in subsection (b) shall not be eligible for a reward under this section.

“(g) REPORTS.—

“(1) REPORTS ON PAYMENT OF REWARDS.—Not later than 30 days after the payment of any reward under this section, the Secretary shall submit a report to the appropriate congressional committees with respect to such reward. The report, which may be submitted in classified form if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid. The report shall also discuss the significance of the information for which the reward was paid in dealing with those acts.

“(2) ANNUAL REPORTS.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit a report to the appropriate congressional committees with respect to the operation of the rewards program. The report shall provide information on the total amounts expended during the fiscal year ending in that year to carry out this section, including amounts expended to publicize the availability of rewards.

“(h) PUBLICATION REGARDING REWARDS OFFERED BY FOREIGN GOVERNMENTS.—Notwithstanding any other provision of this section, in the sole discretion of the Secretary, the resources of the rewards program shall be available for the publication of rewards offered by foreign governments regarding acts of international terrorism which do not involve United States persons or property or a violation of the narcotics laws of the United States.

“(i) DETERMINATIONS OF THE SECRETARY.—A determination made by the Secretary under this section shall be final and conclusive and shall not be subject to judicial review.

“(j) DEFINITIONS.—As used in this section:

“(1) ACT OF INTERNATIONAL TERRORISM.—The term ‘act of international terrorism’ includes—



“(A) any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in paragraph (8) of section 830 of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 3201 note)) or any nuclear explosive device (as defined in paragraph (4) of that section) by an individual, group, or non-nuclear-weapon state (as defined in paragraph (5) of that section); and

“(B) any act, as determined by the Secretary, which materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments by an individual, group, or country supporting international terrorism as determined for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)).

“(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

“(3) MEMBER OF THE IMMEDIATE FAMILY.—The term ‘member of the immediate family’, with respect to an individual, includes—

“(A) a spouse, parent, brother, sister, or child of the individual;

“(B) a person with respect to whom the individual stands in loco parentis; and

“(C) any person not covered by subparagraph (A) or (B) who is living in the individual’s household and is related to the individual by blood or marriage.

“(4) REWARDS PROGRAM.—The term ‘rewards program’ means the program established in subsection (a)(1).

“(5) UNITED STATES NARCOTICS LAWS.—The term ‘United States narcotics laws’ means the laws of the United States for the prevention and control of illicit trafficking in controlled substances (as such term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))).

“(6) UNITED STATES PERSON.—The term ‘United States person’ means—

“(A) a citizen or national of the United States; and

“(B) an alien lawfully present in the United States.”.

**SEC. 2203. RETENTION OF ADDITIONAL DEFENSE TRADE CONTROLS REGISTRATION FEES.**

Section 45(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717(a)) is amended—

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

(2) in paragraph (2)—

(A) by striking “functions” and inserting “functions, including compliance and enforcement activities,”; and

(B) by striking the period at the end and inserting “; and”;

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

“(3) the enhancement of defense trade export compliance and enforcement activities, including compliance audits of United States and foreign parties, the conduct of administra-

tive proceedings, monitoring of end-uses in cases of direct commercial arms sales or other transfers, and cooperation in proceedings for enforcement of criminal laws related to defense trade export controls.”.

**SEC. 2204. FEES FOR COMMERCIAL SERVICES.**

Section 52(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2724(b)) is amended by adding at the end the following: “Funds deposited under this subsection shall remain available for obligation through September 30 of the fiscal year following the fiscal year in which the funds were deposited.”.

**SEC. 2205. PROGRAM FOR FOREIGN AFFAIRS REIMBURSEMENT.**

(a) FOREIGN AFFAIRS REIMBURSEMENT.—

(1) IN GENERAL.—Section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021) is amended—

(A) by redesignating subsection (d)(4) as subsection (g); and

(B) by inserting after subsection (d) the following new subsections:

“(e)(1) The Secretary may provide appropriate training or related services, except foreign language training, through the institution to any United States person (or any employee or family member thereof) that is engaged in business abroad.

“(2) The Secretary may provide job-related training or related services, including foreign language training, through the institution to a United States person under contract to provide services to the United States Government or to any employee thereof that is performing such services.

“(3) Training under this subsection may be provided only to the extent that space is available and only on a reimbursable or advance-of-funds basis. Reimbursements and advances shall be credited to the currently available applicable appropriation account.

“(4) Training and related services under this subsection is authorized only to the extent that it will not interfere with the institution’s primary mission of training employees of the Department and of other agencies in the field of foreign relations.

“(5) In this subsection, the term ‘United States person’ means—

“(A) any individual who is a citizen or national of the United States; or

“(B) any corporation, company, partnership, association, or other legal entity that is 50 percent or more beneficially owned by citizens or nationals of the United States.

“(f)(1) The Secretary is authorized to provide, on a reimbursable basis, training programs to Members of Congress or the Judiciary.

“(2) Employees of the legislative branch and employees of the judicial branch may participate, on a reimbursable basis, in training programs offered by the institution.

“(3) Reimbursements collected under this subsection shall be credited to the currently available applicable appropriation account.

“(4) Training under this subsection is authorized only to the extent that it will not interfere with the institution’s primary mis-

sion of training employees of the Department and of other agencies in the field of foreign relations.”

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall take effect on October 1, 1998.

(b) **FEES FOR USE OF NATIONAL FOREIGN AFFAIRS TRAINING CENTER.**—Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by adding at the end the following new section:

**“SEC. 53. FEES FOR USE OF THE NATIONAL FOREIGN AFFAIRS TRAINING CENTER.**

“The Secretary is authorized to charge a fee for use of the National Foreign Affairs Training Center of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.”

**SEC. 2206. FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section:

**“SEC. 54. FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.**

“The Secretary is authorized to charge a fee for use of the diplomatic reception rooms of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.”

**SEC. 2207. ACCOUNTING OF COLLECTIONS IN BUDGET PRESENTATION DOCUMENTS.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section:

**“SEC. 55. ACCOUNTING OF COLLECTIONS IN BUDGET PRESENTATION DOCUMENTS.**

“The Secretary shall include in the annual Congressional Presentation Document and the Budget in Brief a detailed accounting of the total collections received by the Department of State from all sources, including fee collections. Reporting on total collections shall also cover collections from the preceding fiscal year and the projected expenditures from all collections accounts.”

**SEC. 2208. OFFICE OF THE INSPECTOR GENERAL.**

(a) **PROCEDURES.**—Section 209(c) of the Foreign Service Act of 1980 (22 U.S.C. 3929(c)) is amended by adding at the end the following:

“(4) The Inspector General shall develop and provide to employees—

“(A) information detailing their rights to counsel; and

“(B) guidelines describing in general terms the policies and procedures of the Office of Inspector General with respect to individuals under investigation other than matters exempt from disclosure under other provisions of law.”

(b) NOTICE.—Section 209(e) of the Foreign Service Act of 1980 (22 U.S.C. 3929(e)) is amended by adding at the end the following new paragraph:

“(3) The Inspector General shall ensure that only officials from the Office of the Inspector General may participate in formal interviews or other formal meetings with the individual who is the subject of an investigation, other than an intelligence-related or sensitive undercover investigation, or except in those situations when the Inspector General has a reasonable basis to believe that such notice would cause tampering with witnesses, destroying evidence, or endangering the lives of individuals, unless that individual receives prior adequate notice regarding participation by officials of any other agency, including the Department of Justice, in such interviews or meetings.”.

(c) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of State and the Foreign Service shall submit a report to the appropriate congressional committees which includes the following:

(A) Detailed descriptions of the internal guidance developed or used by the Office of the Inspector General with respect to public disclosure of any information related to an ongoing investigation of any officer or employee of the Department of State, the United States Information Agency, or the United States Arms Control and Disarmament Agency.

(B) Detailed descriptions of those instances for the year ending December 31, 1997, in which any disclosure of information to the public by an employee of the Office of Inspector General about an ongoing investigation occurred, including details on the recipient of the information, the date of the disclosure, and the internal clearance process for the disclosure.

(2) STATUTORY CONSTRUCTION.—Disclosure of information to the public under this section shall not be construed to include information shared with Congress by an employee of the Office of the Inspector General.

**SEC. 2209. CAPITAL INVESTMENT FUND.**

Section 135 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2684a) is amended—

(1) in subsection (a), by inserting “and enhancement” after “procurement”;

(2) in subsection (c), by striking “are authorized to” and inserting “shall”;

(3) in subsection (d), by striking “for expenditure to procure capital equipment and information technology” and inserting “for purposes of subsection (a)”; and

(4) by amending subsection (e) to read as follows:

“(e) REPROGRAMMING PROCEDURES.—Funds credited to the Capital Investment Fund shall not be available for obligation or expenditure except in compliance with the procedures applicable to

reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).”.

**SEC. 2210. CONTRACTING FOR LOCAL GUARDS SERVICES OVERSEAS.**

Section 136(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4864(c)) is amended—

- (1) by amending paragraph (3) to read as follows:

“(3) in evaluating proposals for such contracts, award contracts to the technically acceptable firm offering the lowest evaluated price, except that proposals of United States persons and qualified United States joint venture persons (as defined in subsection (d)) shall be evaluated by reducing the bid price by 10 percent;”;
- (2) by inserting “and” at the end of paragraph (5);
- (3) by striking “; and” at the end of paragraph (6) and inserting a period; and
- (4) by striking paragraph (7).

**SEC. 2211. AUTHORITY OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION.**

Section 4(a) of the International Claims Settlement Act of 1949 (22 U.S.C. 1623(a)) is amended—

- (1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;
- (2) in the first sentence, by striking “(a) The” and all that follows through the period and inserting the following:

“(a)(1) The Commission shall have jurisdiction to receive, examine, adjudicate, and render a final decision with respect to any claim of the Government of the United States or of any national of the United States—

  - “(A) included within the terms of the Yugoslav Claims Agreement of 1948;
  - “(B) included within the terms of any claims agreement concluded on or after March 10, 1954, between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II) similarly providing for the settlement and discharge of claims of the Government of the United States and of nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in en bloc settlement thereof; or
  - “(C) included in a category of claims against a foreign government which is referred to the Commission by the Secretary of State.”; and
- (3) by redesignating the second sentence as paragraph (2).

**SEC. 2212. EXPENSES RELATING TO CERTAIN INTERNATIONAL CLAIMS AND PROCEEDINGS.**

(a) **RECOVERY OF CERTAIN EXPENSES.**—The Department of State Appropriation Act of 1937 (22 U.S.C. 2661) is amended in the fifth undesignated paragraph under the heading entitled “INTERNATIONAL FISHERIES COMMISSION” by inserting “(including such expenses as salaries and other personnel expenses)” after “extraordinary expenses”.

(b) **PROCUREMENT OF SERVICES.**—Section 38(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710(c)) is amended in the first sentence by inserting “personal and” before “other support services”.

**SEC. 2213. GRANTS TO REMEDY INTERNATIONAL ABDUCTIONS OF CHILDREN.**

Section 7 of the International Child Abduction Remedies Act (42 U.S.C. 11606; Public Law 100–300) is amended by adding at the end the following new subsection:

“(e) **GRANT AUTHORITY.**—The United States Central Authority is authorized to make grants to, or enter into contracts or agreements with, any individual, corporation, other Federal, State, or local agency, or private entity or organization in the United States for purposes of accomplishing its responsibilities under the Convention and this Act.”

**SEC. 2214. [22 U.S.C. 6561] COUNTERDRUG AND ANTICRIME ACTIVITIES OF THE DEPARTMENT OF STATE.**

(a) **COUNTERDRUG AND LAW ENFORCEMENT STRATEGY.**—

(1) **REQUIREMENT.**—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall establish, implement, and submit to Congress a comprehensive, long-term strategy to carry out the counterdrug responsibilities of the Department of State in a manner consistent with the National Drug Control Strategy. The strategy shall involve all elements of the Department in the United States and abroad.

(2) **OBJECTIVES.**—In establishing the strategy, the Secretary shall—

(A) coordinate with the Office of National Drug Control Policy in the development of clear, specific, and measurable counterdrug objectives for the Department that support the goals and objectives of the National Drug Control Strategy;

(B) develop specific and, to the maximum extent practicable, quantifiable measures of performance relating to the objectives, including annual and long-term measures of performance, for purposes of assessing the success of the Department in meeting the objectives;

(C) assign responsibilities for meeting the objectives to appropriate elements of the Department;

(D) develop an operational structure within the Department that minimizes impediments to meeting the objectives;

(E) ensure that every United States ambassador or chief of mission is fully briefed on the strategy, and works to achieve the objectives; and

(F) ensure that—

(i) all budgetary requests and transfers of equipment (including the financing of foreign military sales and the transfer of excess defense articles) relating to international counterdrug efforts conforms with the objectives; and

commendations of the Department regarding certification determinations made by the President on

March 1 as to the counterdrug cooperation, or adequate steps on its own, of each major illicit drug producing and drug trafficking country to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances also conform to meet such objectives.

(3) **REPORTS.**—Not later than February 15 of each year subsequent to the submission of the strategy described in paragraph (1), the Secretary shall submit to Congress an update of the strategy. The update shall include—

(A) an outline of the proposed activities with respect to the strategy during the succeeding year, including the manner in which such activities will meet the objectives set forth in paragraph (2); and

(B) detailed information on how certification determinations described in paragraph (2)(F) made the previous year affected achievement of the objectives set forth in paragraph (2) for the previous calendar year.

(4) **LIMITATION ON DELEGATION.**—The Secretary shall designate an official in the Department who reports directly to the Secretary to oversee the implementation of the strategy throughout the Department.

(b) **INFORMATION ON INTERNATIONAL CRIMINALS.**—

(1) **INFORMATION SYSTEM.**—The Secretary shall, in consultation with the heads of appropriate United States law enforcement agencies, including the Attorney General and the Secretary of the Treasury, take appropriate actions to establish an information system or improve existing information systems containing comprehensive information on serious crimes committed by foreign nationals. The information system shall be available to United States embassies and missions abroad for use in consideration of applications for visas for entry into the United States.

(2) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the actions taken under paragraph (1).

(c) **OVERSEAS COORDINATION OF COUNTERDRUG AND ANTICRIME PROGRAMS, POLICY, AND ASSISTANCE.**—

(1) **STRENGTHENING COORDINATION.**—The responsibilities of every diplomatic mission of the United States shall include the strengthening of cooperation between and among the United States and foreign governmental entities and multilateral entities with respect to activities relating to international narcotics and crime.

(2) **DESIGNATION OF OFFICERS.**—

(A) **IN GENERAL.**—Consistent with existing memoranda of understanding between the Department of State and other departments and agencies of the United States, including the Department of Justice, the chief of mission of every diplomatic mission of the United States shall designate an officer or officers within the mission to carry out the responsibility of the mission under paragraph (1), in-

cluding the coordination of counterdrug, law enforcement, rule of law, and administration of justice programs, policy, and assistance. Such officer or officers shall report to the chief of mission, or the designee of the chief of mission, on a regular basis regarding activities undertaken in carrying out such responsibility.

(B) **REPORTS.**—The chief of mission of every diplomatic mission of the United States shall submit to the Secretary on a regular basis a report on the actions undertaken by the mission to carry out such responsibility.

(3) **REPORT TO CONGRESS.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the status of any proposals for action or on action undertaken to improve staffing and personnel management at diplomatic missions of the United States in order to carry out the responsibility set forth in paragraph (1).

**SEC. 2215. [22 U.S.C. 303] ANNUAL REPORT ON OVERSEAS SURPLUS PROPERTIES.**

The Foreign Service Buildings Act, 1926 (22 U.S.C. 292 et seq.) is amended by adding at the end the following new section:

“SEC. 12. Not later than March 1 of each year, the Secretary of State shall submit to Congress a report listing overseas United States surplus properties that are administered under this Act and that have been identified for sale.”.

**SEC. 2216. HUMAN RIGHTS REPORTS.**

Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(1) by striking “January 31” and inserting “February 25”;

(2) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph:

“(3) the status of child labor practices in each country, including—

“(A) whether such country has adopted policies to protect children from exploitation in the workplace, including a prohibition of forced and bonded labor and policies regarding acceptable working conditions; and

“(B) the extent to which each country enforces such policies, including the adequacy of the resources and oversight dedicated to such policies;”.

**SEC. 2217. REPORTS AND POLICY CONCERNING DIPLOMATIC IMMUNITY.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section:

**“SEC. 56. CRIMES COMMITTED BY DIPLOMATS.**

“(a) **ANNUAL REPORT CONCERNING DIPLOMATIC IMMUNITY.**—

“(1) **REPORT TO CONGRESS.**—180 days after the date of enactment, and annually thereafter, the Secretary of State shall prepare and submit to the Congress, a report concerning diplo-



matic immunity entitled 'Report on Cases Involving Diplomatic Immunity'.

"(2) CONTENT OF REPORT.—In addition to such other information as the Secretary of State may consider appropriate, the report under paragraph (1) shall include the following:

"(A) The number of persons residing in the United States who enjoy full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

"(B) Each case involving an alien described in subparagraph (A) in which an appropriate authority of a State, a political subdivision of a State, or the United States reported to the Department of State that the authority had reasonable cause to believe the alien committed a serious criminal offense within the United States, and any additional information provided to the Secretary relating to other serious criminal offenses that any such authority had reasonable cause to believe the alien committed before the period covered by the report. The Secretary may omit from such report any matter the provision of which the Secretary reasonably believes would compromise a criminal investigation or prosecution or which would directly compromise law enforcement or intelligence sources or methods.

"(C) Each case described in subparagraph (B) in which the Secretary of State has certified that a person enjoys full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

"(D) The number of United States citizens who are residing in a receiving state and who enjoy full immunity from the criminal jurisdiction of such state under laws extending diplomatic privileges and immunities.

"(E) Each case involving a United States citizen under subparagraph (D) in which the United States has been requested by the government of a receiving state to waive the immunity from criminal jurisdiction of the United States citizen.

"(F) Whether the Secretary has made the notifications referred to in subsection (c) during the period covered by the report.

"(3) SERIOUS CRIMINAL OFFENSE DEFINED.—For the purposes of this section, the term 'serious criminal offense' means—

"(A) any felony under Federal, State, or local law;

"(B) any Federal, State, or local offense punishable by a term of imprisonment of more than 1 year;

"(C) any crime of violence as defined for purposes of section 16 of title 18, United States Code; or

"(D)(i) driving under the influence of alcohol or drugs;

"(ii) reckless driving; or

"(iii) driving while intoxicated.

"(b) UNITED STATES POLICY CONCERNING REFORM OF DIPLOMATIC IMMUNITY.—It is the sense of the Congress that the Sec-

retary of State should explore, in appropriate fora, whether states should enter into agreements and adopt legislation—

“(1) to provide jurisdiction in the sending state to prosecute crimes committed in the receiving state by persons entitled to immunity from criminal jurisdiction under laws extending diplomatic privileges and immunities; and

“(2) to provide that where there is probable cause to believe that an individual who is entitled to immunity from the criminal jurisdiction of the receiving state under laws extending diplomatic privileges and immunities committed a serious crime, the sending state will waive such immunity or the sending state will prosecute such individual.

“(c) NOTIFICATION OF DIPLOMATIC CORPS.—The Secretary should periodically notify each foreign mission of United States policies relating to criminal offenses committed by individuals with immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.”.

**SEC. 2218. [22 U.S.C. 2669b] REAFFIRMING UNITED STATES INTERNATIONAL TELECOMMUNICATIONS POLICY.**

(a) **PROCUREMENT POLICY.**—It is the policy of the United States to foster and support procurement of goods and services from private, commercial companies.

(b) **IMPLEMENTATION.**—In order to achieve the policy set forth in subsection (a), the Diplomatic Telecommunications Service Program Office (DTS–PO) shall—

(1) utilize full and open competition, to the maximum extent practicable, in the procurement of telecommunications services, including satellite space segment, for the Department of State and each other Federal entity represented at United States diplomatic missions and consular posts overseas;

(2) make every effort to ensure and promote the participation in the competition for such procurement of commercial private sector providers of satellite space segment who have no ownership or other connection with an intergovernmental satellite organization; and

(3) implement the competitive procedures required by paragraphs (1) and (2) at the prime contracting level and, to the maximum extent practicable, the subcontracting level.

**SEC. 2219. REDUCTION OF REPORTING.**

(a) **REPEALS.**—The following provisions of law are repealed:

(1) **MODEL FOREIGN LANGUAGE COMPETENCE POSTS.**—The second sentence of section 161(c) of the Foreign Relations Authorization Act, Fiscal Year 1990 and 1991 (22 U.S.C. 4171 note).

(2) **ACTIONS OF THE GOVERNMENT OF HAITI.**—Section 705(c) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83).

(3) **TRAINING FACILITY FOR THE FOREIGN SERVICE INSTITUTE.**—Section 123(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93).

(4) **MILITARY ASSISTANCE FOR HAITI.**—Section 203(c) of the Special Foreign Assistance Act of 1986 (Public Law 99–529).

(5) INTERNATIONAL SUGAR AGREEMENT, 1977.—Section 5 of the Act entitled “An Act providing for the implementation of the International Sugar Agreement, 1977, and for other purposes” (Public Law 96–236; 7 U.S.C. 3605 and 3606).

(6) AUDIENCE SURVEY OF WORLDNET PROGRAM.—Section 209 (c) and (d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204).

(7) RESEARCH ON THE NEAR AND MIDDLE EAST.—Section 228(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 22 U.S.C. 2452 note).

(b) PROGRESS TOWARD REGIONAL NONPROLIFERATION.—Section 620F(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2376(c); relating to periodic reports on progress toward regional nonproliferation) is amended by striking “Not later than April 1, 1993 and every six months thereafter,” and inserting “Not later than April 1 of each year,”.

(c) REPORT ON PARTICIPATION BY UNITED STATES MILITARY PERSONNEL ABROAD IN UNITED STATES ELECTIONS.—Section 101(b)(6) of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (42 U.S.C. 1973ff(b)(6)) is amended by striking “of voter participation” and inserting “of uniformed services voter participation, a general assessment of overseas nonmilitary participation,”.

## CHAPTER 2—CONSULAR AUTHORITIES OF THE DEPARTMENT OF STATE

### SEC. 2221. USE OF CERTAIN PASSPORT PROCESSING FEES FOR ENHANCED PASSPORT SERVICES.

For each of the fiscal years 1998 and 1999, of the fees collected for expedited passport processing and deposited to an offsetting collection pursuant to title V of the Department of State and Related Agencies Appropriations Act for Fiscal Year 1995 (Public Law 103–317; 22 U.S.C. 214 note), 30 percent shall be available only for enhancing passport services for United States citizens, improving the integrity and efficiency of the passport issuance process, improving the secure nature of the United States passport, investigating passport fraud, and deterring entry into the United States by terrorists, drug traffickers, or other criminals.

### SEC. 2222. CONSULAR OFFICERS.

(a) PERSONS AUTHORIZED TO ISSUE REPORTS OF BIRTHS ABROAD.—Section 33 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2705) is amended in paragraph (2) by adding at the end the following: “For purposes of this paragraph, the term ‘consular officer’ includes any United States citizen employee of the Department of State who is designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe.”.

(b) PROVISIONS APPLICABLE TO CONSULAR OFFICERS.—Section 1689 of the Revised Statutes (22 U.S.C. 4191) is amended by inserting “and to such other United States citizen employees of the Department of State as may be designated by the Secretary of State pursuant to such regulations as the Secretary may prescribe” after “such officers”.

(c) PERSONS AUTHORIZED TO AUTHENTICATE FOREIGN DOCUMENTS.—

(1) DESIGNATED UNITED STATES CITIZENS PERFORMING NOTARIAL ACTS.—Section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221) is further amended by inserting after the first sentence: “At any post, port, or place where there is no consular officer, the Secretary of State may authorize any other officer or employee of the United States Government who is a United States citizen serving overseas, including any contract employee of the United States Government, to perform such acts, and any such contractor so authorized shall not be considered to be a consular officer.”

(2) DEFINITION OF CONSULAR OFFICERS.—Section 3492(c) of title 18, United States Code, is amended by adding at the end the following: “For purposes of this section and sections 3493 through 3496 of this title, the term ‘consular officers’ includes any United States citizen who is designated to perform notarial functions pursuant to section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221).”

(d) PERSONS AUTHORIZED TO ADMINISTER OATHS.—Section 115 of title 35, United States Code, is amended by adding at the end the following: “For purposes of this section, a consular officer shall include any United States citizen serving overseas, authorized to perform notarial functions pursuant to section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221).”

(e) DEFINITION OF CONSULAR OFFICER.—Section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)) is amended by—

(1) inserting “or employee” after “officer” the second place it appears; and

(2) inserting before the period at the end of the sentence “or, when used in title III, for the purpose of adjudicating nationality”.

(f) TRAINING FOR EMPLOYEES PERFORMING CONSULAR FUNCTIONS.—Section 704 of the Foreign Service Act of 1980 (22 U.S.C. 4024) is amended by adding at the end the following new subsection:

“(d)(1) Before a United States citizen employee (other than a diplomatic or consular officer of the United States) may be designated by the Secretary of State, pursuant to regulation, to perform a consular function abroad, the United States citizen employee shall—

“(A) be required to complete successfully a program of training essentially equivalent to the training that a consular officer who is a member of the Foreign Service would receive for purposes of performing such function; and

“(B) be certified by an appropriate official of the Department of State to be qualified by knowledge and experience to perform such function.

“(2) As used in this subsection, the term ‘consular function’ includes the issuance of visas, the performance of notarial and other legalization functions, the adjudication of passport applications, the adjudication of nationality, and the issuance of citizenship documentation.”

**SEC. 2223. REPEAL OF OUTDATED CONSULAR RECEIPT REQUIREMENTS.**

Sections 1726, 1727, and 1728 of the Revised Statutes of the United States (22 U.S.C. 4212, 4213, and 4214), as amended (relating to accounting for consular fees) are repealed.

**SEC. 2224. ELIMINATION OF DUPLICATE FEDERAL REGISTER PUBLICATION FOR TRAVEL ADVISORIES.**

(a) FOREIGN AIRPORTS.—Section 44908(a) of title 49, United States Code, is amended—

- (1) by inserting “and” at the end of paragraph (1);
- (2) by striking paragraph (2); and
- (3) by redesignating paragraph (3) as paragraph (2).

(b) FOREIGN PORTS.—Section 908(a) of the International Maritime and Port Security Act of 1986 (46 U.S.C. App. 1804(a)) is amended by striking the second sentence, relating to Federal Register publication by the Secretary of State.

**SEC. 2225. [22 U.S.C. 1182d] DENIAL OF VISAS TO CONFISCATORS OF AMERICAN PROPERTY.**

(a) DENIAL OF VISAS.—Except as otherwise provided in section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114), and subject to subsection (b), the Secretary of State may deny the issuance of a visa to any alien who—

(1) through the abuse of position, including a governmental or political party position, converts or has converted for personal gain real property that has been confiscated or expropriated, a claim to which is owned by a national of the United States, or who is complicit in such a conversion; or

(2) induces any of the actions or omissions described in paragraph (1) by any person.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any country established by international mandate through the United Nations; or

(2) any territory recognized by the United States Government to be in dispute.

(c) REPORTING REQUIREMENT.—Not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report, including—

(1) a list of aliens who have been denied a visa under this subsection; and

(2) a list of aliens who could have been denied a visa under subsection (a) but were issued a visa and an explanation as to why each such visa was issued.

**SEC. 2226. INADMISSIBILITY OF ANY ALIEN SUPPORTING AN INTERNATIONAL CHILD ABDUCTOR.**

(a) AMENDMENT OF IMMIGRATION AND NATIONALITY ACT.—Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)) is amended by striking clause (ii) and inserting the following:

“(ii) ALIENS SUPPORTING ABDUCTORS AND RELATIVES OF ABDUCTORS.—Any alien who—

“(I) is known by the Secretary of State to have intentionally assisted an alien in the conduct described in clause (i),

“(II) is known by the Secretary of State to be intentionally providing material support or safe haven to an alien described in clause (i), or

“(III) is a spouse (other than the spouse who is the parent of the abducted child), child (other than the abducted child), parent, sibling, or agent of an alien described in clause (i), if such person has been designated by the Secretary of State at the Secretary’s sole and unreviewable discretion, is inadmissible until the child described in clause (i) is surrendered to the person granted custody by the order described in that clause, and such person and child are permitted to return to the United States or such person’s place of residence.

“(iii) EXCEPTIONS.—Clauses (i) and (ii) shall not apply—

“(I) to a government official of the United States who is acting within the scope of his or her official duties;

“(II) to a government official of any foreign government if the official has been designated by the Secretary of State at the Secretary’s sole and unreviewable discretion; or

“(III) so long as the child is located in a foreign state that is a party to the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens seeking admission to the United States on or after the date of enactment of this Act.

### CHAPTER 3—REFUGEES AND MIGRATION

#### Subchapter A—Authorization of Appropriations

##### SEC. 2231. MIGRATION AND REFUGEE ASSISTANCE.

(a) MIGRATION AND REFUGEE ASSISTANCE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Migration and Refugee Assistance” for authorized activities, \$650,000,000 for the fiscal year 1998 and \$704,500,000 for the fiscal year 1999.

(2) LIMITATIONS.—

(A) LIMITATION REGARDING TIBETAN REFUGEES IN INDIA AND NEPAL.—Of the amounts authorized to be appropriated in paragraph (1), not more than \$2,000,000 for the fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be available only for humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet.

(B) REFUGEES RESETTLING IN ISRAEL.—Of the amounts authorized to be appropriated in paragraph (1),

\$80,000,000 for the fiscal year 1998 and \$80,000,000 for the fiscal year 1999 are authorized to be available for assistance for refugees resettling in Israel from other countries.

(C) HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.—Of the amounts authorized to be appropriated in paragraph (1), \$1,500,000 for the fiscal year 1998 and \$1,500,000 for the fiscal year 1999 for humanitarian assistance are authorized to be available, including food, medicine, clothing, and medical and vocational training, to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available until expended.

### Subchapter B—Authorities

#### SEC. 2241. [22 U.S.C. 2601 note] UNITED STATES POLICY REGARDING THE INVOLUNTARY RETURN OF REFUGEES.

(a) IN GENERAL.—None of the funds made available by this subdivision shall be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, except on grounds recognized as precluding protection as a refugee under the United Nations Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in the United States Senate Resolution of Ratification.

(b) MIGRATION AND REFUGEE ASSISTANCE.—None of the funds made available by section 2231 of this division or by section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) shall be available to effect the involuntary return of any person to any country unless the Secretary of State first notifies the appropriate congressional committees, except that in the case of an emergency involving a threat to human life the Secretary of State shall notify the appropriate congressional committees as soon as practicable.

(c) INVOLUNTARY RETURN DEFINED.—As used in this section, the term “to effect the involuntary return” means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person’s will, regardless of whether the person is physically present in the United States and regardless of whether the United States acts directly or through an agent.

#### SEC. 2242. [8 U.S.C. 1231 note] UNITED STATES POLICY WITH RESPECT TO THE INVOLUNTARY RETURN OF PERSONS IN DANGER OF SUBJECTION TO TORTURE.

(a) POLICY.—It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the heads of the appropriate agencies shall prescribe regulations to implement the obligations of the United States under Article 3 of the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention.

(c) EXCLUSION OF CERTAIN ALIENS.—To the maximum extent consistent with the obligations of the United States under the Convention, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention, the regulations described in subsection (b) shall exclude from the protection of such regulations aliens described in section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)).

(d) REVIEW AND CONSTRUCTION.—Notwithstanding any other provision of law, and except as provided in the regulations described in subsection (b), no court shall have jurisdiction to review the regulations adopted to implement this section, and nothing in this section shall be construed as providing any court jurisdiction to consider or review claims raised under the Convention or this section, or any other determination made with respect to the application of the policy set forth in subsection (a), except as part of the review of a final order of removal pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(e) AUTHORITY TO DETAIN.—Nothing in this section shall be construed as limiting the authority of the Attorney General to detain any person under any provision of law, including, but not limited to, any provision of the Immigration and Nationality Act.

(f) DEFINITIONS.—

(1) CONVENTION DEFINED.—In this section, the term “Convention” means the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(2) SAME TERMS AS IN THE CONVENTION.—Except as otherwise provided, the terms used in this section have the meanings given those terms in the Convention, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention.

**SEC. 2243. REPROGRAMMING OF MIGRATION AND REFUGEE ASSISTANCE FUNDS.**

Section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) is amended—

(1) in subsection (a)—

(A) by striking “Foreign Affairs” and inserting “International Relations and the Committee on Appropriations”; and

(B) by inserting “and the Committee on Appropriations” after “Foreign Relations”; and

(2) by adding at the end the following new subsection:

“(c) The Secretary of State may waive the notification requirement of subsection (a), if the Secretary determines that failure to



do so would pose a substantial risk to human health or welfare. In the case of any waiver under this subsection, notification to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives shall be provided as soon as practicable, but not later than 3 days after taking the action to which the notification requirement was applicable, and shall contain an explanation of the emergency circumstances.”

**SEC. 2244. ELIGIBILITY FOR REFUGEE STATUS.**

Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–171) is amended—

(1) in subsection (a)—

(A) by striking “For purposes” and inserting “Notwithstanding any other provision of law, for purposes”; and

(B) by striking “fiscal year 1997” and inserting “fiscal years 1997, 1998, and 1999”; and

(2) by amending subsection (b) to read as follows:

“(b) ALIENS COVERED.—

“(1) IN GENERAL.—An alien described in this subsection is an alien who—

“(A) is the son or daughter of a qualified national;

“(B) is 21 years of age or older; and

“(C) was unmarried as of the date of acceptance of the alien’s parent for resettlement under the Orderly Departure Program.

“(2) QUALIFIED NATIONAL.—For purposes of paragraph (1), the term ‘qualified national’ means a national of Vietnam who—

“(A)(i) was formerly interned in a reeducation camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

“(ii) is the widow or widower of an individual described in clause (i); and

“(B)(i) qualified for refugee processing under the reeducation camp internees subprogram of the Orderly Departure Program; and

“(ii) on or after April 1, 1995, is or has been accepted—

“(I) for resettlement as a refugee; or

“(II) for admission as an immigrant under the Orderly Departure Program.”

**SEC. 2245. REPORTS TO CONGRESS CONCERNING CUBAN EMIGRATION POLICIES.**

Beginning not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the Secretary of State shall supplement the monthly report to Congress entitled “Update on Monitoring of Cuban Migrant Returnees” with additional information concerning the methods employed by the Government of Cuba to enforce the United States-Cuba agreement of September 1994 and the treatment by the Government of Cuba of persons who

have returned to Cuba pursuant to the United States-Cuba agreement of May 1995.

**TITLE XXIII—ORGANIZATION OF THE DEPARTMENT OF STATE; DEPARTMENT OF STATE PERSONNEL; THE FOREIGN SERVICE**

**CHAPTER 1—ORGANIZATION OF THE DEPARTMENT OF STATE**

**SEC. 2301. COORDINATOR FOR COUNTERTERRORISM.**

(a) ESTABLISHMENT.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended by adding at the end the following new subsection:

“(f) COORDINATOR FOR COUNTERTERRORISM.—

“(1) IN GENERAL.—There is within the office of the Secretary of State a Coordinator for Counterterrorism (in this paragraph referred to as the ‘Coordinator’) who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) DUTIES.—

“(A) IN GENERAL.—The Coordinator shall perform such duties and exercise such powers as the Secretary of State shall prescribe.

“(B) DUTIES DESCRIBED.—The principal duty of the Coordinator shall be the overall supervision (including policy oversight of resources) of international counterterrorism activities. The Coordinator shall be the principal adviser to the Secretary of State on international counterterrorism matters. The Coordinator shall be the principal counterterrorism official within the senior management of the Department of State and shall report directly to the Secretary of State.

“(3) RANK AND STATUS OF AMBASSADOR.—The Coordinator shall have the rank and status of Ambassador at Large.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by striking subsection (e).

**SEC. 2302. ELIMINATION OF DEPUTY ASSISTANT SECRETARY OF STATE FOR BURDENSARING.**

Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2651a note) is amended by striking subsection (f).

**SEC. 2303. PERSONNEL MANAGEMENT.**

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended by adding at the end the following new subsection:

“(g) QUALIFICATIONS OF OFFICER HAVING PRIMARY RESPONSIBILITY FOR PERSONNEL MANAGEMENT.—The officer of the Department of State with primary responsibility for assisting the Secretary of State with respect to matters relating to personnel in the Department of State, or that officer’s principal deputy, shall have substantial professional qualifications in the field of human resource policy and management.”.

**SEC. 2304. DIPLOMATIC SECURITY.**

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended by adding at the end the following new subsection:

“(h) **QUALIFICATIONS OF OFFICER HAVING PRIMARY RESPONSIBILITY FOR DIPLOMATIC SECURITY.**—The officer of the Department of State with primary responsibility for assisting the Secretary of State with respect to diplomatic security, or that officer’s principal deputy, shall have substantial professional qualifications in the fields of (1) management, and (2) Federal law enforcement, intelligence, or security.”.

**SEC. 2305. NUMBER OF SENIOR OFFICIAL POSITIONS AUTHORIZED FOR THE DEPARTMENT OF STATE.****(a) UNDER SECRETARIES.—**

(1) **IN GENERAL.**—Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)) is amended by striking “5” and inserting “6”.

(2) **CONFORMING AMENDMENT TO TITLE 5.**—Section 5314 of title 5, United States Code, is amended by striking “Under Secretaries of State (5)” and inserting “Under Secretaries of State (6)”.

**(b) ASSISTANT SECRETARIES.—**

(1) **IN GENERAL.**—Section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) is amended by striking “20” and inserting “24”.

(2) **CONFORMING AMENDMENT TO TITLE 5.**—Section 5315 of title 5, United States Code, is amended by striking “Assistant Secretaries of State (20)” and inserting “Assistant Secretaries of State (24)”.

**(c) DEPUTY ASSISTANT SECRETARIES.**—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

**SEC. 2306. NOMINATION OF UNDER SECRETARIES AND ASSISTANT SECRETARIES OF STATE.**

**(a) UNDER SECRETARIES OF STATE.**—Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)), as amended by this division, is further amended by adding at the end the following new paragraph:

“(4) **NOMINATION OF UNDER SECRETARIES.**—Whenever the President submits to the Senate a nomination of an individual for appointment to a position in the Department of State that is described in paragraph (1), the President shall designate the particular Under Secretary position in the Department of State that the individual shall have.”.

**(b) ASSISTANT SECRETARIES OF STATE.**—Section 1(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)), as amended by this division, is further amended by adding at the end the following new paragraph:

“(3) **NOMINATION OF ASSISTANT SECRETARIES.**—Whenever the President submits to the Senate a nomination of an individual for appointment to a position in the Department of

State that is described in paragraph (1), the President shall designate the regional or functional bureau or bureaus of the Department of State with respect to which the individual shall have responsibility.”.

## CHAPTER 2—PERSONNEL OF THE DEPARTMENT OF STATE; THE FOREIGN SERVICE

### SEC. 2311. FOREIGN SERVICE REFORM.

(a) PERFORMANCE PAY.—Section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) is amended—

(1) in subsection (a), by striking “Members” and inserting “Subject to subsection (e), members”; and

(2) by adding at the end the following new subsection:

“(e) Notwithstanding any other provision of law, the Secretary of State may provide for recognition of the meritorious or distinguished service of any member of the Foreign Service described in subsection (a) (including any member of the Senior Foreign Service) by means other than an award of performance pay in lieu of making such an award under this section.”.

(b) EXPEDITED SEPARATION OUT.—

(1) SEPARATION OF LOWEST RANKED FOREIGN SERVICE MEMBERS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall develop and implement procedures to identify, and recommend for separation, any member of the Foreign Service ranked by promotion boards of the Department of State in the bottom 5 percent of his or her class for 2 or more of the 5 years preceding the date of enactment of this Act (in this subsection referred to as the “years of lowest ranking”) if the rating official for such member was not the same individual for any two of the years of lowest ranking.

(2) SPECIAL INTERNAL REVIEWS.—In any case where the member was evaluated by the same rating official in any 2 of the years of lowest ranking, an internal review of the member’s file shall be conducted to determine whether the member should be considered for action leading to separation.

(3) PROCEDURES.—The Secretary of State shall develop procedures for the internal reviews required under paragraph (2).

### SEC. 2312. RETIREMENT BENEFITS FOR INVOLUNTARY SEPARATION.

(a) BENEFITS.—Section 609 of the Foreign Service Act of 1980 (22 U.S.C. 4009) is amended—

(1) in subsection (a)(2)(A), by inserting “or any other applicable provision of chapter 84 of title 5, United States Code,” after “section 811”;

(2) in subsection (a), by inserting “or section 855, as appropriate” after “section 806”; and

(3) in subsection (b)(2)—

(A) by striking “(2)” and inserting “(2)(A) for those participants in the Foreign Service Retirement and Disability System,”; and

- (B) by inserting before the period at the end “; and (B) for those participants in the Foreign Service Pension System, benefits as provided in section 851”; and
- (4) in subsection (b) in the matter following paragraph (2), by inserting “(for participants in the Foreign Service Retirement and Disability System) or age 62 (for participants in the Foreign Service Pension System)” after “age 60”.
- (b) ENTITLEMENT TO ANNUITY.—Section 855(b) of the Foreign Service Act of 1980 (22 U.S.C. 4071d(b)) is amended—
- (1) in paragraph (1)—
- (A) by inserting “611,” after “608,”;
- (B) by inserting “or for participants in the Foreign Service Pension System,” after “for participants in the Foreign Service Retirement and Disability System”; and
- (C) by striking “Service shall” and inserting “Service, shall”; and
- (2) in paragraph (3), by striking “or 610” and inserting “610, or 611”.
- (c) EFFECTIVE DATES.—
- (1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.
- (2) EXCEPTIONS.—The amendments made by paragraphs (2) and (3) of subsection (a) and paragraphs (1)(A) and (2) of subsection (b) shall apply with respect to any actions taken under section 611 of the Foreign Service Act of 1980 on or after January 1, 1996.

**SEC. 2313. AUTHORITY OF SECRETARY TO SEPARATE CONVICTED FELONS FROM THE FOREIGN SERVICE.**

Section 610(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4010(a)(2)) is amended in the first sentence by striking “A member” and inserting “Except in the case of an individual who has been convicted of a crime for which a sentence of imprisonment of more than 1 year may be imposed, a member”.

**SEC. 2314. CAREER COUNSELING.**

(a) IN GENERAL.—Section 706(a) of the Foreign Service Act of 1980 (22 U.S.C. 4026(a)) is amended by adding at the end the following new sentence: “Career counseling and related services provided pursuant to this Act shall not be construed to permit an assignment that consists primarily of paid time to conduct a job search and without other substantive duties for more than one month.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective 180 days after the date of the enactment of this Act.

**SEC. 2315. LIMITATIONS ON MANAGEMENT ASSIGNMENTS.**

Section 1017(e)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4117(e)(2)) is amended to read as follows:

- “(2) For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term ‘management official’ does not include—
- “(A) any chief of mission;
- “(B) any principal officer or deputy principal officer;
- “(C) any administrative or personnel officer abroad; or

“(D) any individual described in section 1002(12) (B), (C), or (D) who is not involved in the administration of this chapter or in the formulation of the personnel policies and programs of the Department.”.

**SEC. 2316. AVAILABILITY PAY FOR CERTAIN CRIMINAL INVESTIGATORS WITHIN THE DIPLOMATIC SECURITY SERVICE.**

(a) **IN GENERAL.**—Section 5545a of title 5, United States Code, is amended by adding at the end the following:

“(k)(1) For purposes of this section, the term ‘criminal investigator’ includes a special agent occupying a position under title II of Public Law 99–399 if such special agent—

“(A) meets the definition of such term under paragraph (2) of subsection (a) (applied disregarding the parenthetical matter before subparagraph (A) thereof); and

“(B) such special agent satisfies the requirements of subsection (d) without taking into account any hours described in paragraph (2)(B) thereof.

“(2) In applying subsection (h) with respect to a special agent under this subsection—

“(A) any reference in such subsection to ‘basic pay’ shall be considered to include amounts designated as ‘salary’;

“(B) paragraph (2)(A) of such subsection shall be considered to include (in addition to the provisions of law specified therein) sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980; and

“(C) paragraph (2)(B) of such subsection shall be applied by substituting for ‘Office of Personnel Management’ the following: ‘Office of Personnel Management or the Secretary of State (to the extent that matters exclusively within the jurisdiction of the Secretary are concerned)’.”.

(b) **IMPLEMENTATION.**—Not later than the date on which the amendments made by this section take effect, each special agent of the Diplomatic Security Service who satisfies the requirements of subsection (k)(1) of section 5545a of title 5, United States Code, as amended by this section, and the appropriate supervisory officer, to be designated by the Secretary of State, shall make an initial certification to the Secretary of State that the special agent is expected to meet the requirements of subsection (d) of such section 5545a. The Secretary of State may prescribe procedures necessary to administer this subsection.

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—(1) Paragraph (2) of section 5545a(a) of title 5, United States Code, is amended (in the matter before subparagraph (A)) by striking “Public Law 99–399” and inserting “Public Law 99–399, subject to subsection (k)”.

(2) Section 5542(e) of such title is amended by striking “title 18, United States Code,” and inserting “title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956,”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first day of the first applicable pay period—

(1) which begins on or after the 90th day following the date of the enactment of this Act; and

(2) on which date all regulations necessary to carry out such amendments are (in the judgment of the Director of the

Office of Personnel Management and the Secretary of State) in effect.

**SEC. 2317. NONOVERTIME DIFFERENTIAL PAY.**

Title 5 of the United States Code is amended—

(1) in section 5544(a), by inserting after the fourth sentence the following new sentence: “For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.”; and

(2) at the end of section 5546(a), by adding the following new sentence: “For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.”.

**SEC. 2318. [22 U.S.C. 3922a note] REPORT CONCERNING MINORITIES AND THE FOREIGN SERVICE.**

The Secretary of State shall during each of calendar years 1998 and 1999 submit a report to the Congress concerning minorities and the Foreign Service officer corps. In addition to such other information as is relevant to this issue, the report shall include the following data for the last preceding examination and promotion cycles for which such information is available (reported in terms of real numbers and percentages and not as ratios):

(1) The numbers and percentages of all minorities taking the written Foreign Service examination.

(2) The numbers and percentages of all minorities successfully completing and passing the written Foreign Service examination.

(3) The numbers and percentages of all minorities successfully completing and passing the oral Foreign Service examination.

(4) The numbers and percentages of all minorities entering the junior officers class of the Foreign Service.

(5) The numbers and percentages of all minority Foreign Service officers at each grade.

(6) The numbers of and percentages of minorities promoted at each grade of the Foreign Service officer corps.

**TITLE XXIV—UNITED STATES INFORMATIONAL,  
EDUCATIONAL, AND CULTURAL PROGRAMS**

**CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 2401. INTERNATIONAL INFORMATION ACTIVITIES AND EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.**

The following amounts are authorized to be appropriated to carry out international information activities and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational

and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the North/South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL INFORMATION PROGRAMS.—For “International Information Programs”, \$427,097,000 for the fiscal year 1998 and \$455,246,000 for the fiscal year 1999.

(2) TECHNOLOGY FUND.—For the “Technology Fund” for the United States Information Agency, \$5,050,000 for the fiscal year 1998 and \$5,050,000 for the fiscal year 1999.

(3) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—

(i) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—There are authorized to be appropriated for the “Fulbright Academic Exchange Programs” (other than programs described in subparagraph (B)), \$99,236,000 for the fiscal year 1998 and \$100,000,000 for the fiscal year 1999.

(ii) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—Of the amounts authorized to be appropriated under clause (i), \$5,000,000 for the fiscal year 1998 and \$5,000,000 for the fiscal year 1999 are authorized to be available for the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(i) IN GENERAL.—There are authorized to be appropriated for other educational and cultural exchange programs authorized by law, \$100,764,000 for the fiscal year 1998 and \$102,500,000 for the fiscal year 1999.

(ii) SOUTH PACIFIC EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “South Pacific Exchanges”.

(iii) EAST TIMORESE SCHOLARSHIPS.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “East Timorese Scholarships”.

(iv) TIBETAN EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “Educational and Cultural Exchanges with Tibet” under section 236 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236).

(4) INTERNATIONAL BROADCASTING ACTIVITIES.—



(A) AUTHORIZATION OF APPROPRIATIONS.—For “International Broadcasting Activities”, \$340,315,000 for the fiscal year 1998, and \$340,365,000 for the fiscal year 1999.

(B) ALLOCATION.—Of the amounts authorized to be appropriated under subparagraph (A), the Director of the United States Information Agency and the Broadcasting Board of Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(5) RADIO CONSTRUCTION.—For “Radio Construction”, \$40,000,000 for the fiscal year 1998, and \$13,245,000 for the fiscal year 1999.

(6) RADIO FREE ASIA.—For “Radio Free Asia”, \$24,100,000 for the fiscal year 1998 and \$22,000,000 for the fiscal year 1999, and an additional \$8,000,000 in fiscal year 1998 for one-time capital costs.

(7) BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$22,095,000 for the fiscal year 1998 and \$22,095,000 for the fiscal year 1999.

(8) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For the “Center for Cultural and Technical Interchange between East and West”, not more than \$12,000,000 for the fiscal year 1998 and not more than \$12,500,000 for the fiscal year 1999.

(9) NATIONAL ENDOWMENT FOR DEMOCRACY.—For the “National Endowment for Democracy”, \$30,000,000 for the fiscal year 1998 and \$31,000,000 for the fiscal year 1999.

(10) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.—For “Center for Cultural and Technical Interchange between North and South” not more than \$1,500,000 for the fiscal year 1998 and not more than \$1,750,000 for the fiscal year 1999.

## CHAPTER 2—AUTHORITIES AND ACTIVITIES

### SEC. 2411. [22 U.S.C. 4416] RETENTION OF INTEREST.

Notwithstanding any other provision of law, with the approval of the National Endowment for Democracy, grant funds made available by the National Endowment for Democracy may be deposited in interest-bearing accounts pending disbursement, and any interest which accrues may be retained by the grantee without returning such interest to the Treasury of the United States and interest earned may be obligated and expended for the purposes for which the grant was made without further appropriation.

### SEC. 2412. USE OF SELECTED PROGRAM FEES.

Section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) is amended to read as follows:

#### “USE OF ENGLISH-TEACHING PROGRAM FEES

“SEC. 810. (a) IN GENERAL.—Notwithstanding section 3302 of title 31, United States Code, or any other law or limitation of au-

thority, fees and receipts described in subsection (b) are authorized to be credited each fiscal year for authorized purposes to the appropriate appropriations of the United States Information Agency to such extent as may be provided in advance in appropriations acts.

“(b) FEES AND RECEIPTS DESCRIBED.—The fees and receipts described in this subsection are fees and payments received by or for the use of the United States Information Agency from or in connection with—

- “(1) English-teaching and library services,
- “(2) educational advising and counseling,
- “(3) Exchange Visitor Program Services,
- “(4) advertising and business ventures of the Voice of America and the International Broadcasting Bureau,
- “(5) cooperating international organizations, and
- “(6) Agency-produced publications,
- “(7) an amount not to exceed \$100,000 of the payments from motion picture and television programs produced or conducted by or on behalf of the Agency under the authority of this Act or the Mutual Education and Cultural Exchange Act of 1961.”

**SEC. 2413. MUSKIE FELLOWSHIP PROGRAM.**

(a) GUIDELINES.—Section 227(c)(5) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended by inserting “journalism and communications, education administration, public policy, library and information science,” after “business administration,” each of the two places it appears.

(b) REDESIGNATION OF SOVIET UNION.—Section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended—

- (1) in subsections (a), (b), and (c)(5), by striking “Soviet Union” each place it appears and inserting “independent states of the former Soviet Union”;
- (2) in subsection (c)(11), by striking “Soviet republics” and inserting “independent states of the former Soviet Union”; and
- (3) in the section heading, by inserting “INDEPENDENT STATES OF THE FORMER” after “FROM THE”.

**SEC. 2414. WORKING GROUP ON UNITED STATES GOVERNMENT-SPONSORED INTERNATIONAL EXCHANGES AND TRAINING.**

Section 112 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460) is amended by adding at the end the following new subsection:

“(g) WORKING GROUP ON UNITED STATES GOVERNMENT SPONSORED INTERNATIONAL EXCHANGES AND TRAINING.—(1) In order to carry out the purposes of subsection (f) and to improve the coordination, efficiency, and effectiveness of United States Government-sponsored international exchanges and training, there is established within the United States Information Agency a senior-level interagency working group to be known as the Working Group on United States Government-Sponsored International Exchanges and Training (in this section referred to as the ‘Working Group’).

“(2) For purposes of this subsection, the term ‘Government-sponsored international exchanges and training’ means the move-

ment of people between countries to promote the sharing of ideas, to develop skills, and to foster mutual understanding and cooperation, financed wholly or in part, directly or indirectly, with United States Government funds.

“(3) The Working Group shall be composed as follows:

“(A) The Associate Director for Educational and Cultural Affairs of the United States Information Agency, who shall act as Chair.

“(B) A senior representative of the Department of State, who shall be designated by the Secretary of State.

“(C) A senior representative of the Department of Defense, who shall be designated by the Secretary of Defense.

“(D) A senior representative of the Department of Education, who shall be designated by the Secretary of Education.

“(E) A senior representative of the Department of Justice, who shall be designated by the Attorney General.

“(F) A senior representative of the Agency for International Development, who shall be designated by the Administrator of the Agency.

“(G) Senior representatives of such other departments and agencies as the Chair determines to be appropriate.

“(4) Representatives of the National Security Adviser and the Director of the Office of Management and Budget may participate in the Working Group at the discretion of the Adviser and the Director, respectively.

“(5) The Working Group shall be supported by an interagency staff office established in the Bureau of Educational and Cultural Affairs of the United States Information Agency.

“(6) The Working Group shall have the following purposes and responsibilities:

“(A) To collect, analyze, and report data provided by all United States Government departments and agencies conducting international exchanges and training programs.

“(B) To promote greater understanding and cooperation among concerned United States Government departments and agencies of common issues and challenges in conducting international exchanges and training programs, including through the establishment of a clearinghouse for information on international exchange and training activities in the governmental and nongovernmental sectors.

“(C) In order to achieve the most efficient and cost-effective use of Federal resources, to identify administrative and programmatic duplication and overlap of activities by the various United States Government departments and agencies involved in Government-sponsored international exchange and training programs, to identify how each Government-sponsored international exchange and training program promotes United States foreign policy, and to report thereon.

“(D)(i) Not later than 1 year after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, the Working Group shall develop a coordinated and cost-effective strategy for all United States Government-sponsored international exchange and training programs, including an action plan with the objective of achieving a min-

imum of 10 percent cost savings through greater efficiency, the consolidation of programs, or the elimination of duplication, or any combination thereof.

“(ii) Not later than 1 year after the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, the Working Group shall submit a report to the appropriate congressional committees setting forth the strategy and action plan required by clause (i).

“(iii) Each year thereafter the Working Group shall assess the strategy and plan required by clause (i).

“(E) Not later than 2 years after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, to develop recommendations on common performance measures for all United States Government-sponsored international exchange and training programs, and to issue a report.

“(F) To conduct a survey of private sector international exchange activities and develop strategies for expanding public and private partnerships in, and leveraging private sector support for, United States Government-sponsored international exchange and training activities.

“(G) Not later than 6 months after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, to report on the feasibility and advisability of transferring funds and program management for the ATLAS or the Mandela Fellows programs, or both, in South Africa from the Agency for International Development to the United States Information Agency. The report shall include an assessment of the capabilities of the South African Fulbright Commission to manage such programs and the cost effects of consolidating such programs under one entity.

“(7) All reports prepared by the Working Group shall be submitted to the President, through the Director of the United States Information Agency.

“(8) The Working Group shall meet at least on a quarterly basis.

“(9) All decisions of the Working Group shall be by majority vote of the members present and voting.

“(10) The members of the Working Group shall serve without additional compensation for their service on the Working Group. Any expenses incurred by a member of the Working Group in connection with service on the Working Group shall be compensated by that member’s department or agency.

“(11) With respect to any report issued under paragraph (6), a member may submit dissenting views to be submitted as part of the report of the Working Group.”

**SEC. 2415. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.**

(a) IN GENERAL.—Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104–319; 22 U.S.C. 2151 note) is amended—

(1) by striking “for fiscal year 1997” and inserting “for the fiscal year 1999”; and

(2) by inserting after “who are outside Tibet” the following: “(if practicable, including individuals active in the preservation of Tibet’s unique culture, religion, and language)”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1998.

**SEC. 2416. SURROGATE BROADCASTING STUDY.**

Not later than 6 months after the date of enactment of this Act, the Broadcasting Board of Governors, acting through the International Broadcasting Bureau, should conduct and complete a study of the appropriateness, feasibility, and projected costs of providing surrogate broadcasting service to Africa and transmit the results of the study to the appropriate congressional committees.

**SEC. 2417. RADIO BROADCASTING TO IRAN IN THE FARSI LANGUAGE.**

(a) RADIO FREE IRAN.—Not more than \$2,000,000 of the funds made available under section 2401(a)(4) of this division for each of the fiscal years 1998 and 1999 for grants to RFE/RL, Incorporated, shall be available only for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iranian people in the Farsi language, such broadcasts to be designated as “Radio Free Iran”.

(b) REPORT TO CONGRESS.—Not later than 60 days after the date of enactment of this Act, the Broadcasting Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing the costs, implementation, and plans for creation of the surrogate broadcasting service described in subsection (a).

(c) AVAILABILITY OF FUNDS.—None of the funds made available under subsection (a) may be made available until submission of the report required under subsection (b).

**SEC. 2418. [22 U.S.C. 1474 note] AUTHORITY TO ADMINISTER SUMMER TRAVEL AND WORK PROGRAMS.**

The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to preplacement requirements.

**SEC. 2419. PERMANENT ADMINISTRATIVE AUTHORITIES REGARDING APPROPRIATIONS.**

Section 701(f) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476(f)) is amended by striking paragraph (4).

**SEC. 2420. [22 U.S.C. 6202 note] VOICE OF AMERICA BROADCASTS.**

(a) IN GENERAL.—The Voice of America shall devote programming each day to broadcasting information on the individual States of the United States. The broadcasts shall include—

(1) information on the products, tourism, and cultural and educational facilities of each State;

(2) information on the potential for trade with each State; and

(3) discussions with State officials with respect to the matters described in paragraphs (1) and (2).

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Broadcasting Board of Governors of the United States Information Agency shall submit a report to Con-

gress detailing the actions that have been taken to carry out subsection (a).

(c) STATE DEFINED.—In this section, the term “State” means any of the several States of the United States, the District of Columbia, or any commonwealth or territory of the United States.

#### TITLE XXV—INTERNATIONAL ORGANIZATIONS OTHER THAN UNITED NATIONS

##### SEC. 2501. INTERNATIONAL CONFERENCES AND CONTINGENCIES.

There are authorized to be appropriated for “International Conferences and Contingencies”, \$6,537,000 for the fiscal year 1998 and \$16,223,000 for the fiscal year 1999 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

##### SEC. 2502. [22 U.S.C. 262–1] RESTRICTION RELATING TO UNITED STATES ACCESSION TO ANY NEW INTERNATIONAL CRIMINAL TRIBUNAL.

(a) PROHIBITION.—The United States shall not become a party to any new international criminal tribunal, nor give legal effect to the jurisdiction of such a tribunal over any matter described in subsection (b), except pursuant to—

(1) a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act; or

(2) any statute enacted by Congress on or after the date of enactment of this Act.

(b) JURISDICTION DESCRIBED.—The jurisdiction described in this section is jurisdiction over—

(1) persons found, property located, or acts or omissions committed, within the territory of the United States; or

(2) nationals of the United States, wherever found.

(c) STATUTORY CONSTRUCTION.—Nothing in this section precludes sharing information, expertise, or other forms of assistance with such tribunal.

(d) DEFINITION.—The term “new international criminal tribunal” means any permanent international criminal tribunal established on or after the date of enactment of this Act and does not include—

(1) the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia, as established by United Nations Security Council Resolution 827 of May 25, 1993; or

(2) the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, as established by United Nations Security Council Resolution 955 of November 8, 1994.

**SEC. 2503. [22 U.S.C. 276 note] UNITED STATES MEMBERSHIP IN THE BUREAU OF THE INTERPARLIAMENTARY UNION.**

(a) **INTERPARLIAMENTARY UNION LIMITATION.**—Unless the Secretary of State certifies to Congress that the United States will be assessed not more than \$500,000 for its annual contribution to the Bureau of the Interparliamentary Union during fiscal year 1999, then effective October 1, 1999, the authority for further participation by the United States in the Bureau shall terminate in accordance with subsection (d).

(b) **ELIMINATION OF AUTHORITY TO PAY EXPENSES OF THE AMERICAN GROUP.**—Section 1 of the Act entitled “An Act to authorize participation by the United States in the Interparliamentary Union”, approved June 28, 1935 (22 U.S.C. 276) is amended—

(1) in the first sentence—

(A) by striking “fiscal year” and all that follows through “(1) for” and inserting “fiscal year for”;

(B) by striking “; and”; and

(C) by striking paragraph (2); and

(2) by striking the second sentence.

(c) **ELIMINATION OF PERMANENT APPROPRIATION.**—Section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988 (Public Law 100–202; 22 U.S.C. 276 note)) is amended—

(1) by striking “\$440,000” and inserting “\$350,000”; and

(2) by striking “paragraph (2) of the first section of Public Law 74–170,”.

(d) **CONDITIONAL TERMINATION OF AUTHORITY.**—Unless Congress receives the certification described in subsection (a) before October 1, 1999, effective on that date the Act entitled “An Act to authorize participation by the United States in the Interparliamentary Union”, approved June 28, 1935 (22 U.S.C. 276–276a–4) is repealed.

(e) **[22 U.S.C. 276 note] TRANSFER OF FUNDS TO THE TREASURY.**—Unobligated balances of appropriations made under section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988; Public Law 100–202) that are available as of the day before the date of enactment of this Act shall be transferred on such date to the general fund of the Treasury of the United States.

**SEC. 2504. SERVICE IN INTERNATIONAL ORGANIZATIONS.**

(a) **IN GENERAL.**—Section 3582(b) of title 5, United States Code, is amended by striking all after the first sentence and inserting the following: “On reemployment, an employee entitled to the benefits of subsection (a) is entitled to the rate of basic pay to which the employee would have been entitled had the employee remained in the civil service. On reemployment, the agency shall restore the sick leave account of the employee, by credit or charge, to its status at the time of transfer. The period of separation caused by the employment of the employee with the international organization and the period necessary to effect reemployment are deemed creditable service for all appropriate civil service employ-

ment purposes. This subsection does not apply to a congressional employee.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to transfers that take effect on or after the date of enactment of this Act.

**SEC. 2505. [5 U.S.C. 5707 note] REPORTS REGARDING FOREIGN TRAVEL.**

(a) **PROHIBITION.**—Except as provided in subsection (e), none of the funds authorized to be appropriated for the Department of State for fiscal year 2000 or 2001 may be used to pay for the expenses of foreign travel by an officer or employee of an Executive branch agency to attend an international conference, or for the routine services that a United States diplomatic mission or consular post provides in support of foreign travel by such an officer or employee to attend an international conference, unless that officer or employee has submitted a preliminary report with respect to that foreign travel in accordance with subsection (b), and has not previously failed to submit a final report with respect to foreign travel to attend an international conference required by subsection (c).

(b) **PRELIMINARY REPORTS.**—A preliminary report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to proposed foreign travel to attend an international conference, submitted to the Director prior to commencement of the travel, setting forth—

- (1) the name and employing agency of the officer or employee;
- (2) the name of the official who authorized the travel; and
- (3) the purpose and duration of the travel.

(c) **FINAL REPORTS.**—A final report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to foreign travel to attend an international conference, submitted to the Director not later than 30 days after the conclusion of the travel—

- (1) setting forth the actual duration and cost of the travel; and
- (2) updating any other information included in the preliminary report.

(d) **REPORT TO CONGRESS.**—The Director shall submit a report on January 31 of the years 2000 and 2001 and July 31 of the years 2000 and 2001, to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives, setting forth with respect to each international conference for which reports described in subsection (c) were required to be submitted to the Director during the preceding six months—

- (1) the names and employing agencies of all officers and employees of Executive branch agencies who attended the international conference;
- (2) the names of all officials who authorized travel to the international conference, and the total number of officers and employees who were authorized to travel to the conference by each such official; and
- (3) the total cost of travel by officers and employees of Executive branch agencies to the international conference.



(e) EXCEPTIONS.—This section shall not apply to travel by—

- (1) the President or the Vice President;
- (2) any officer or employee who is carrying out an intelligence or intelligence-related activity, who is performing a protective function, or who is engaged in a sensitive diplomatic mission; or
- (3) any officer or employee who travels prior to January 1, 1999.

(f) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term “Director” means the Director of the Office of International Conferences of the Department of State.

(2) EXECUTIVE BRANCH AGENCY.—The terms “Executive branch agency” and “Executive branch agencies” mean—

(A) an entity or entities, other than the General Accounting Office, defined in section 105 of title 5, United States Code; and

(B) the Executive Office of the President (except as provided in subsection (e)).

(3) INTERNATIONAL CONFERENCE.—The term “international conference” means any meeting held under the auspices of an international organization or foreign government, at which representatives of more than two foreign governments are expected to be in attendance, and to which United States Executive branch agencies will send a total of ten or more representatives.

(g) REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a report describing—

(1) the total Federal expenditure of all official international travel in each Executive branch agency during the previous fiscal year; and

(2) the total number of individuals in each agency who engaged in such travel.

## **TITLE XXVI—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY**

### **SEC. 2601. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out the purposes of the Arms Control and Disarmament Act \$41,500,000 for the fiscal year 1999.

### **SEC. 2602. STATUTORY CONSTRUCTION.**

Section 303 of the Arms Control and Disarmament Act (22 U.S.C. 2573), as redesignated by section 2223 of this division, is amended by adding at the end the following new subsection:

“(c) STATUTORY CONSTRUCTION.—Nothing contained in this chapter shall be construed to authorize any policy or action by any Government agency which would interfere with, restrict, or prohibit the acquisition, possession, or use of firearms by an individual for the lawful purpose of personal defense, sport, recreation, education, or training.”.

**TITLE XXVII—EUROPEAN SECURITY ACT OF 1998****SEC. 2701. [22 U.S.C. 1928 note] SHORT TITLE.**

This title may be cited as the “European Security Act of 1998”.

**SEC. 2702. STATEMENT OF POLICY.**

(a) **POLICY WITH RESPECT TO NATO ENLARGEMENT.**—Congress urges the President to outline a clear and complete strategic rationale for the enlargement of the North Atlantic Treaty Organization (NATO), and declares that—

(1) Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO;

(2) the United States should ensure that NATO continues a process whereby all other emerging democracies in Central and Eastern Europe that wish to join NATO will be considered for membership in NATO as soon as they meet the criteria for such membership;

(3) the United States should ensure that no limitations are placed on the numbers of NATO troops or types of equipment, including tactical nuclear weapons, to be deployed on the territory of new member states;

(4) the United States should reject all efforts to condition NATO decisions on review or approval by the United Nations Security Council;

(5) the United States should clearly delineate those NATO deliberations, including but not limited to discussions on arms control, further Alliance enlargement, procurement matters, and strategic doctrine, that are not subject to review or discussion in the NATO-Russia Permanent Joint Council;

(6) the United States should work to ensure that countries invited to join the Alliance are provided an immediate seat in NATO discussions; and

(7) the United States already pays more than a proportionate share of the costs of the common defense of Europe and should obtain, in advance, agreement on an equitable distribution of the cost of NATO enlargement to ensure that the United States does not continue to bear a disproportionate burden.

(b) **POLICY WITH RESPECT TO NEGOTIATIONS WITH RUSSIA.**—

(1) **IMPLEMENTATION.**—NATO enlargement should be carried out in such a manner as to underscore the Alliance’s defensive nature and demonstrate to Russia that NATO enlargement will enhance the security of all countries in Europe, including Russia. Accordingly, the United States and its NATO allies should make this intention clear in negotiations with Russia, including negotiations regarding adaptation of the Conventional Armed Forces in Europe (CFE) Treaty of November 19, 1990.

(2) **LIMITATIONS ON COMMITMENTS TO RUSSIA.**—In seeking to demonstrate to Russia NATO’s defensive and security-enhancing intentions, it is essential that neither fundamental United States security interests in Europe nor the effectiveness and flexibility of NATO as a defensive alliance be jeopardized.

In particular, no commitments should be made to Russia that would have the effect of—

(A) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;

(B) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

(C) providing any international organization, or any country that is not a member of NATO, with authority to delay, veto, or otherwise impede deliberations and decisions of the North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO;

(D) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance;

(E) establishing a nuclear weapons-free zone in Central or Eastern Europe;

(F) requiring NATO to subsidize Russian arms sales, service, or support to the militaries of those former Warsaw Pact countries invited to join the Alliance; or

(G) legitimizing Russian efforts to link concessions in arms control negotiations to NATO enlargement.

(3) COMMITMENTS FROM RUSSIA.—In order to enhance security and stability in Europe, the United States should seek commitments from Russia—

(A) to demarcate and respect all its borders with neighboring states;

(B) to achieve the immediate and complete withdrawal of any armed forces and military equipment under the control of Russia that are deployed on the territories of the independent states of the former Soviet Union without the full and complete agreement of those states;

(C) to station its armed forces on the territory of other states only with the full and complete agreement of that state and in strict accordance with international law; and

(D) to take steps to reduce further its nuclear and conventional forces in Kaliningrad.

(4) CONSULTATIONS.—As negotiations on adaptation of the Treaty on Conventional Armed Forces in Europe proceed, the United States should engage in close and continuous consultations not only with its NATO allies, but also with the emerging democracies of Central and Eastern Europe, Ukraine, and the South Caucasus.

(c) POLICY WITH RESPECT TO BALLISTIC MISSILE DEFENSE COOPERATION.—

(1) IN GENERAL.—As the United States proceeds with efforts to develop defenses against ballistic missile attack, it

should seek to foster a climate of cooperation with Russia on matters related to missile defense. In particular, the United States and its NATO allies should seek to cooperate with Russia in such areas as early warning.

(2) **DISCUSSIONS WITH NATO ALLIES.**—The United States should initiate discussions with its NATO allies for the purpose of examining the feasibility of deploying a ballistic missile defense capable of protecting NATO's southern and eastern flanks from a limited ballistic missile attack.

(3) **CONSTITUTIONAL PREROGATIVES.**—Even as the Congress seeks to promote ballistic missile defense cooperation with Russia, it must insist on its constitutional prerogatives regarding consideration of arms control agreements with Russia that bear on ballistic missile defense.

**SEC. 2703. AUTHORITIES RELATING TO NATO ENLARGEMENT.**

(a) **POLICY OF SECTION.**—This section is enacted in order to implement the policy set forth in section 2702(a).

(b) **DESIGNATION OF ADDITIONAL COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.**—

(1) **DESIGNATION OF ADDITIONAL COUNTRIES.**—Romania, Estonia, Latvia, Lithuania, and Bulgaria are each designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (22 U.S.C. 1928 note) and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(2) **RULE OF CONSTRUCTION.**—The designation of countries pursuant to paragraph (1) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

(A) is in addition to the designation of other countries by law or pursuant to section 203(d)(2) of such Act as eligible to receive assistance under the program established under section 203(a) of such Act; and

(B) shall not preclude the designation by the President of other emerging democracies in Central and Eastern Europe pursuant to section 203(d)(2) of such Act as eligible to receive assistance under the program established under section 203(a) of such Act.

(3) **SENSE OF CONGRESS.**—It is the sense of Congress that Romania, Estonia, Latvia, Lithuania, and Bulgaria—

(A) are to be commended for their progress toward political and economic reform and meeting the guidelines for prospective NATO members;

(B) would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members; and

(C) upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date.

(c) **REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.**—

(1) IN GENERAL.—Funds described in paragraph (2) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—

(A) the procurement of items in support of these programs; and

(B) the transfer of such items to countries participating in these programs.

(2) FUNDS DESCRIBED.—Funds described in this paragraph are funds that are available—

(A) during any fiscal year under the NATO Participation Act of 1994 with respect to countries eligible for assistance under that Act; or

(B) during fiscal year 1998 under any Act to carry out the Warsaw Initiative.

(d) EXTENSION OF AUTHORITY REGARDING EXCESS DEFENSE ARTICLES.—Section 105 of Public Law 104–164 (110 Stat. 1427) is amended by striking “1996 and 1997” and inserting “1997, 1998, and 1999”.

(e) CONFORMING AMENDMENTS TO THE NATO PARTICIPATION ACT OF 1994.—Section 203(c) of the NATO Participation Act of 1994 (22 U.S.C. 1928 note) is amended—

(1) in paragraph (1), by striking “, without regard to the restrictions” and all that follows through “section”;

(2) by striking paragraph (2);

(3) in paragraph (6), by striking “appropriated under the ‘Nonproliferation and Disarmament Fund’ account” and inserting “made available for the ‘Nonproliferation and Disarmament Fund’”; and

(4) in paragraph (8)—

(A) by striking “any restrictions in sections 516 and 519” and inserting “section 516(e)”;

(B) by striking “as amended,”; and

(C) by striking “paragraphs (1) and (2)” and inserting “paragraph (1)”;

(5) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively.

**SEC. 2704. SENSE OF CONGRESS WITH RESPECT TO THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE.**

It is the sense of Congress that no revisions to the Treaty on Conventional Armed Forces in Europe will be approved for entry into force with respect to the United States that jeopardize fundamental United States security interests in Europe or the effectiveness and flexibility of NATO as a defensive alliance by—

(1) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;

(2) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

(3) providing any international organization, or any country that is not a member of NATO, with the authority to delay, veto, or otherwise impede deliberations and decisions of the North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO; or

(4) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance.

**SEC. 2705. RESTRICTIONS AND REQUIREMENTS RELATING TO BALLISTIC MISSILE DEFENSE.**

(a) **POLICY OF SECTION.**—This section is enacted in order to implement the policy set forth in section 2702(c).

(b) **RESTRICTION ON ENTRY INTO FORCE OF ABM/TMD DEMARCATION AGREEMENTS.**—An ABM/TMD demarcation agreement shall not be binding on the United States, and shall not enter into force with respect to the United States, unless, after the date of enactment of this Act, that agreement is specifically approved with the advice and consent of the United States Senate pursuant to Article II, section 2, clause 2 of the Constitution.

(c) **SENSE OF CONGRESS WITH RESPECT TO DEMARCATION AGREEMENTS.**—

(1) **RELATIONSHIP TO MULTILATERALIZATION OF ABM TREATY.**—It is the sense of Congress that no ABM/TMD demarcation agreement will be considered for advice and consent to ratification unless, consistent with the certification of the President pursuant to condition (9) of the resolution of ratification of the CFE Flank Document, the President submits for Senate advice and consent to ratification any agreement, arrangement, or understanding that would—

(A) add one or more countries as State Parties to the ABM Treaty, or otherwise convert the ABM Treaty from a bilateral treaty to a multilateral treaty; or

(B) change the geographic scope or coverage of the ABM Treaty, or otherwise modify the meaning of the term “national territory” as used in Article VI and Article IX of the ABM Treaty.

(2) **PRESERVATION OF UNITED STATES THEATER BALLISTIC MISSILE DEFENSE POTENTIAL.**—It is the sense of Congress that no ABM/TMD demarcation agreement that would reduce the capabilities of United States theater missile defense systems, or the numbers or deployment patterns of such systems, will be approved for entry into force with respect to the United States.

(d) **REPORT ON COOPERATIVE PROJECTS WITH RUSSIA.**—Not later than January 1, 1999, and January 1, 2000, the President shall submit to the Committees on International Relations, National Security, and Appropriations of the House of Representatives and the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate a report on cooperative projects with Russia in the area of ballistic missile defense, including in the area of early warning. Each such report shall include the following:

(1) COOPERATIVE PROJECTS.—A description of all cooperative projects conducted in the area of early warning and ballistic missile defense during the preceding fiscal year and the fiscal year during which the report is submitted.

(2) FUNDING.—A description of the funding for such projects during the preceding fiscal year and the year during which the report is submitted and the proposed funding for such projects for the next fiscal year.

(3) STATUS OF DIALOGUE OR DISCUSSIONS.—A description of the status of any dialogue or discussions conducted during the preceding fiscal year between the United States and Russia aimed at exploring the potential for mutual accommodation of outstanding issues between the two nations on matters relating to ballistic missile defense and the ABM Treaty, including the possibility of developing a strategic relationship not based on mutual nuclear threats.

(e) DEFINITIONS.—In this section:

(1) ABM/TMD DEMARCATION AGREEMENT.—The term “ABM/TMD demarcation agreement” means any agreement that establishes a demarcation between theater ballistic missile defense systems and strategic antiballistic missile defense systems for purposes of the ABM Treaty.

(2) ABM TREATY.—The term “ABM Treaty” means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972 (23 UST 3435), and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974 (27 UST 1645).

## TITLE XXVIII—OTHER FOREIGN POLICY PROVISIONS

### SEC. 2801. REPORTS ON CLAIMS BY UNITED STATES FIRMS AGAINST THE GOVERNMENT OF SAUDI ARABIA.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and every 180 days thereafter, the Secretary of State, after consultation with the Secretary of Defense and the Secretary of Commerce, shall submit a report to the appropriate congressional committees on specific actions taken by the Department of State, the Department of Defense, and the Department of Commerce toward progress in resolving the commercial disputes between United States firms and the Government of Saudi Arabia that are described in the June 30, 1993, report by the Secretary of Defense pursuant to section 9140(c) of the Department of Defense Appropriations Act, 1993 (Public Law 102–396), including the additional claims noticed by the Department of Commerce on page 2 of that report.

(b) TERMINATION.—Subsection (a) shall cease to have effect on the earlier of—

(1) the date of submission of the eleventh report under that subsection; or

(2) the date that the Secretary of State, after consultation with the Secretary of Defense and the Secretary of Commerce,

certifies in writing to the appropriate congressional committees that the commercial disputes referred to in subsection (a) have been resolved satisfactorily.

**SEC. 2802. REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT.**

(a) **REPORTS REQUIRED.**—Not later than 30 days after the date of the enactment of this Act and every 3 months thereafter during the period ending September 30, 2003, the Secretary of State shall submit to the appropriate congressional committees a report on the implementation of section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6091). Each report shall include—

(1) an unclassified list, by economic sector, of the number of entities then under review pursuant to that section;

(2) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined to be subject to that section;

(3) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined are no longer subject to that section;

(4) an explanation of the status of the review underway for the cases referred to in paragraph (1); and

(5) an unclassified explanation of each determination of the Secretary of State under section 401(a) of that Act and each finding of the Secretary under section 401(c) of that Act—

(A) since the date of the enactment of this Act, in the case of the first report under this subsection; and

(B) in the preceding 3-month period, in the case of each subsequent report.

(b) **PROTECTION OF IDENTITY OF CONCERNED ENTITIES.**—In preparing the report under subsection (a), the names of entities shall not be identified under paragraph (1) or (4).

**[Section 28033 repealed by section 101(e) of Public Law 113–150.]**

**SEC. 2804. SENSE OF CONGRESS RELATING TO RECOGNITION OF THE ECUMENICAL PATRIARCHATE BY THE GOVERNMENT OF TURKEY.**

It is the sense of Congress that the United States should use its influence with the Government of Turkey to suggest that the Government of Turkey—

(1) recognize the Ecumenical Patriarchate and its non-political, religious mission;

(2) ensure the continued maintenance of the institution's physical security needs, as provided for under Turkish and international law, including the Treaty of Lausanne, the 1968 Protocol, the Helsinki Final Act (1975), and the Charter of Paris;

(3) provide for the proper protection and safety of the Ecumenical Patriarch and Patriarchate personnel; and

(4) reopen the Ecumenical Patriarchate's Halki Patriarchal School of Theology.



**SEC. 2805. REPORT ON RELATIONS WITH VIETNAM.**

In order to provide Congress with the necessary information by which to evaluate the relationship between the United States and Vietnam, the Secretary of State shall submit a report to the appropriate congressional committees, not later than 90 days after the date of enactment of this Act and every 180 days thereafter during the period ending September 30, 2001, on the extent to which—

(1) the Government of the Socialist Republic of Vietnam is cooperating with the United States in providing the fullest possible accounting of all unresolved cases of prisoners of war (POWs) or persons missing-in-action (MIAs) through the provision of records and the unilateral and joint recovery and repatriation of American remains;

(2) the Government of the Socialist Republic of Vietnam has made progress toward the release of all political and religious prisoners, including Catholic, Protestant, and Buddhist clergy;

(3) the Government of the Socialist Republic of Vietnam is cooperating with requests by the United States to obtain full and free access to persons of humanitarian interest to the United States for interviews under the Orderly Departure (ODP) and Resettlement Opportunities for Vietnamese Refugees (ROVR) programs, and in providing exit visas for such persons;

(4) the Government of the Socialist Republic of Vietnam has taken vigorous action to end extortion, bribery, and other corrupt practices in connection with such exit visas; and

(5) the Government of the United States is making vigorous efforts to interview and resettle former reeducation camp victims, their immediate families including unmarried sons and daughters, former United States Government employees, and other persons eligible for the ODP program, and to give such persons the full benefit of all applicable United States laws including sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1990 (Public Law 101-167).

**SEC. 2806. REPORTS AND POLICY CONCERNING HUMAN RIGHTS VIOLATIONS IN LAOS.**

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees on the allegations of persecution and abuse of the Hmong and Laotian refugees who have returned to Laos. The report shall include the following:

(1) A full investigation, including full documentation of individual cases of persecution, of the Lao Government's treatment of Hmong and Laotian refugees who have returned to Laos.

(2) The steps the Department of State will take to continue to monitor any systematic human rights violations by the Government of Laos.

(3) The actions which the Department of State will take to seek to ensure the cessation of human rights violations.

**SEC. 2807. REPORT ON AN ALLIANCE AGAINST NARCOTICS TRAFFICKING IN THE WESTERN HEMISPHERE.****(a) SENSE OF CONGRESS ON DISCUSSIONS FOR ALLIANCE.—**

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President should discuss with the democratically-elected governments of the Western Hemisphere, the prospect of forming a multilateral alliance to address problems relating to international drug trafficking in the Western Hemisphere.

(2) CONSULTATIONS.—In the consultations on the prospect of forming an alliance described in paragraph (1), the President should seek the input of such governments on the possibility of forming one or more structures within the alliance—

(A) to develop a regional, multilateral strategy to address the threat posed to nations in the Western Hemisphere by drug trafficking; and

(B) to establish a new mechanism for improving multilateral coordination of drug interdiction and drug-related law enforcement activities in the Western Hemisphere.

**(b) REPORT.—**

(1) REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report on the proposal discussed under subsection (a). The report shall include the following:

(A) An analysis of the reactions of the governments concerned to the proposal.

(B) An assessment of the proposal, including an evaluation of the feasibility and advisability of forming the alliance.

(C) A determination in light of the analysis and assessment whether or not the formation of the alliance is in the national interests of the United States.

(D) If the President determines that the formation of the alliance is in the national interests of the United States, a plan for encouraging and facilitating the formation of the alliance.

(E) If the President determines that the formation of the alliance is not in the national interests of the United States, an alternative proposal to improve significantly efforts against the threats posed by narcotics trafficking in the Western Hemisphere, including an explanation of how the alternative proposal will—

(i) improve upon current cooperation and coordination of counter-drug efforts among nations in the Western Hemisphere;

(ii) provide for the allocation of the resources required to make significant progress in disrupting and disbanding the criminal organizations responsible for the trafficking of illegal drugs in the Western Hemisphere; and

(iii) differ from and improve upon past strategies adopted by the United States Government which have failed to make sufficient progress against the trafficking of illegal drugs in the Western Hemisphere.

(2) UNCLASSIFIED FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

**SEC. 2808. CONGRESSIONAL STATEMENT REGARDING THE ACCESSION OF TAIWAN TO THE WORLD TRADE ORGANIZATION.**

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

(1) The people of the United States and the people of the Republic of China on Taiwan have long enjoyed extensive ties.

(2) Taiwan is currently the 8th largest trading partner of the United States.

(3) The executive branch of Government has committed publicly to support Taiwan's bid to join the World Trade Organization and has declared that the United States will not oppose this bid solely on the grounds that the People's Republic of China, which also seeks membership in the World Trade Organization, is not yet eligible because of its unacceptable trade practices.

(4) The United States and Taiwan have concluded discussions on a variety of outstanding trade issues that remain unresolved with the People's Republic of China and that are necessary for the United States to support Taiwan's membership in the World Trade Organization.

(5) The reversion of control over Hong Kong—a member of the World Trade Organization—to the People's Republic of China in many respects affords to the People's Republic of China the practical benefit of membership in the World Trade Organization for a substantial portion of its trade in goods despite the fact that the trade practices of the People's Republic of China currently fall far short of what the United States expects for membership in the World Trade Organization.

(6) The executive branch of Government has announced its interest in the admission of the People's Republic of China to the World Trade Organization; the fundamental sense of fairness of the people of the United States warrants the United States Government's support for Taiwan's relatively more meritorious application for membership in the World Trade Organization.

(7) Despite having made significant progress in negotiations for its accession to the World Trade Organization, Taiwan has yet to offer acceptable terms of accession in agricultural and certain other market sectors.

(8) It is in the economic interest of United States consumers and exporters for Taiwan to complete those requirements for accession to the World Trade Organization at the earliest possible moment.

(b) CONGRESSIONAL STATEMENT.—The Congress favors public support by officials of the Department of State for the accession of Taiwan to the World Trade Organization.

**SEC. 2809. PROGRAMS OR PROJECTS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY IN CUBA.**

(a) WITHHOLDING OF UNITED STATES PROPORTIONAL SHARE OF ASSISTANCE.—Section 307(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(c)) is amended—

(1) by striking “The limitations” and inserting “(1) Subject to paragraph (2), the limitations”; and

(2) by adding at the end the following:

“(2)(A) Except as provided in subparagraph (B), with respect to funds authorized to be appropriated by this chapter and available for the International Atomic Energy Agency, the limitations of subsection (a) shall apply to programs or projects of such Agency in Cuba.

“(B)(i) Subparagraph (A) shall not apply with respect to programs or projects of the International Atomic Energy Agency that provide for the discontinuation, dismantling, or safety inspection of nuclear facilities or related materials, or for inspections and similar activities designed to prevent the development of nuclear weapons by a country described in subsection (a).

“(ii) Clause (i) shall not apply with respect to the Juragua Nuclear Power Plant near Cienfuegos, Cuba, or the Pedro Pi Nuclear Research Center unless Cuba—

“(I) ratifies the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty for the Prohibition of Nuclear Weapons in Latin America (commonly known as the Treaty of Tlatelolco);

“(II) negotiates full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

“(III) incorporates internationally accepted nuclear safety standards.”.

(b) **[22 U.S.C. 2021 note] OPPOSITION TO CERTAIN PROGRAMS OR PROJECTS.**—The Secretary of State shall direct the United States representative to the International Atomic Energy Agency to oppose the following:

(1) Technical assistance programs or projects of the Agency at the Juragua Nuclear Power Plant near Cienfuegos, Cuba, and at the Pedro Pi Nuclear Research Center.

(2) Any other program or project of the Agency in Cuba that is, or could become, a threat to the security of the United States.

(c) **[22 U.S.C. 2021 note] REPORTING REQUIREMENTS.**—

(1) **REQUEST FOR IAEA REPORTS.**—The Secretary of State shall direct the United States representative to the International Atomic Energy Agency to request the Director-General of the Agency to submit to the United States all reports prepared with respect to all programs or projects of the Agency that are of concern to the United States, including the programs or projects described in subsection (b).

(2) **ANNUAL REPORTS TO THE CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, and on an annual basis thereafter, the Secretary of State, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to the Congress a report containing a description of all programs or projects of the Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)).

**SEC. 2810. LIMITATION ON ASSISTANCE TO COUNTRIES AIDING CUBA NUCLEAR DEVELOPMENT.**

(a) **IN GENERAL.**—Section 620 of the Foreign Assistance Act of 1961 (22 U.S.C. 2370), as amended by this division, is further amended by adding at the end the following:

“(y)(1) Except as provided in paragraph (2), the President shall withhold from amounts made available under this Act or any other Act and allocated for a country for a fiscal year an amount equal to the aggregate value of nuclear fuel and related assistance and credits provided by that country, or any entity of that country, to Cuba during the preceding fiscal year.

“(2) The requirement to withhold assistance for a country for a fiscal year under paragraph (1) shall not apply if Cuba—

“(A) has ratified the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty of Tlatelelco, and Cuba is in compliance with the requirements of either such Treaty;

“(B) has negotiated and is in compliance with full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

“(C) incorporates and is in compliance with internationally accepted nuclear safety standards.

“(3) The Secretary of State shall prepare and submit to the Congress each year a report containing a description of the amount of nuclear fuel and related assistance and credits provided by any country, or any entity of a country, to Cuba during the preceding year, including the terms of each transfer of such fuel, assistance, or credits.”

(b) **EFFECTIVE DATE.**—Section 620(y) of the Foreign Assistance Act of 1961, as added by subsection (a), shall apply with respect to assistance provided in fiscal years beginning on or after the date of the enactment of this Act.

**SEC. 2811. INTERNATIONAL FUND FOR IRELAND.**

(a) **PURPOSES.**—Section 2(b) of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415; 100 Stat. 947) is amended by adding at the end the following new sentences: “United States contributions should be used in a manner that effectively increases employment opportunities in communities with rates of unemployment higher than the local or urban average of unemployment in Northern Ireland. In addition, such contributions should be used to benefit individuals residing in such communities.”

(b) **CONDITIONS AND UNDERSTANDINGS.**—Section 5(a) of such Act is amended—

(1) in the first sentence—

(A) by striking “The United States” and inserting the following:

“(1) **IN GENERAL.**—The United States”;

(B) by striking “in this Act may be used” and inserting the following: “in this Act—

“(A) may be used”;

(C) by striking the period and inserting “; and”; and

(D) by adding at the end the following:

- “(B) should be provided to individuals or entities in Northern Ireland which employ practices consistent with the principles of economic justice.”; and
- (2) in the second sentence, by striking “The restrictions” and inserting the following:
- “(2) ADDITIONAL REQUIREMENTS.—The restrictions”.
- (c) PRIOR CERTIFICATIONS.—Section 5(c)(2) of such Act is amended—
- (1) in subparagraph (A), by striking “in accordance with the principle of equality” and all that follows and inserting “to individuals and entities whose practices are consistent with principles of economic justice; and”; and
- (2) in subparagraph (B), by inserting before the period at the end the following: “and will create employment opportunities in regions and communities of Northern Ireland suffering from high rates of unemployment”.
- (d) ANNUAL REPORTS.—Section 6 of such Act is amended—
- (1) in paragraph (2), by striking “and” at the end;
- (2) in paragraph (3), by striking the period and inserting “; and”; and
- (3) by adding at the end the following new paragraph:
- “(4) the extent to which the practices of each individual or entity receiving assistance from United States contributions to the International Fund has been consistent with the principles of economic justice.”
- (e) REQUIREMENTS RELATING TO FUNDS.—Section 7 of such Act is amended by adding at the end the following:
- “(c) PROHIBITION.—Nothing included herein shall require quotas or reverse discrimination or mandate their use.”.
- (f) DEFINITIONS.—Section 8 of such Act is amended—
- (1) in paragraph (1), by striking “and” at the end;
- (2) in paragraph (2), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following new paragraph:
- “(3) the term ‘principles of economic justice’ means the following principles:
- “(A) Increasing the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical, and technical jobs.
- “(B) Providing adequate security for the protection of minority employees at the workplace.
- “(C) Banning provocative sectarian or political emblems from the workplace.
- “(D) Providing that all job openings be advertised publicly and providing that special recruitment efforts be made to attract applicants from underrepresented religious groups.
- “(E) Providing that layoff, recall, and termination procedures do not favor a particular religious group.
- “(F) Abolishing job reservations, apprenticeship restrictions, and differential employment criteria which discriminate on the basis of religion.

“(G) Providing for the development of training programs that will prepare substantial numbers of minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.

“(H) Establishing procedures to assess, identify, and actively recruit minority employees with the potential for further advancement.

“(I) Providing for the appointment of a senior management staff member to be responsible for the employment efforts of the entity and, within a reasonable period of time, the implementation of the principles described in subparagraphs (A) through (H).”.

**SEC. 2812. SUPPORT FOR DEMOCRATIC OPPOSITION IN IRAQ.**

(a) ASSISTANCE FOR JUSTICE IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$3,000,000 for assistance to an international commission to establish an international record for the criminal culpability of Saddam Hussein and other Iraqi officials and for an international criminal tribunal established for the purpose of indicting, prosecuting, and punishing Saddam Hussein and other Iraqi officials responsible for crimes against humanity, genocide, and other violations of international law.

(b) ASSISTANCE TO THE DEMOCRATIC OPPOSITION IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$15,000,000 to provide support for democratic opposition forces in Iraq, of which—

(1) not more than \$10,000,000 shall be for assistance to the democratic opposition, including leadership organization, training political cadre, maintaining offices, disseminating information, and developing and implementing agreements among opposition elements; and

(2) not more than \$5,000,000 of the funds made available under this subsection shall be available only for grants to RFE/RL, Incorporated, for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iraqi people in the Arabic language, such broadcasts to be designated as “Radio Free Iraq”.

(c) ASSISTANCE FOR HUMANITARIAN RELIEF AND RECONSTRUCTION.—There are authorized to be appropriated for fiscal year 1998 \$20,000,000 for the relief, rehabilitation, and reconstruction of people living in Iraq, and communities located in Iraq, who are not under the control of the Saddam Hussein regime.

(d) AVAILABILITY.—Amounts authorized to be appropriated by this section shall be provided in addition to amounts otherwise made available and shall remain available until expended.

(e) NOTIFICATION.—All assistance provided pursuant to this section shall be notified to Congress in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(f) RELATION TO OTHER LAWS.—Funds made available to carry out the provisions of this section may be made available notwithstanding any other provision of law.

(g) REPORT.—Not later than 45 days after the date of enactment of this Act, the Secretary of State and the Broadcasting

Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing—

- (1) the costs, implementation, and plans for the establishment of an international war crimes tribunal described in subsection (a);
- (2) the establishment of a political assistance program, and the surrogate broadcasting service, as described in subsection (b); and
- (3) the humanitarian assistance program described in subsection (c).

**SEC. 2813. DEVELOPMENT OF DEMOCRACY IN THE REPUBLIC OF SERBIA.**

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

- (1) The United States stands as the beacon of democracy and freedom in the world.
- (2) A stable and democratic Republic of Serbia is important to the interests of the United States, the international community, and to peace in the Balkans.
- (3) Democratic forces in the Republic of Serbia are beginning to emerge, notwithstanding the efforts of Europe's longest-standing communist dictator, Slobodan Milosevic.
- (4) The Serbian authorities have sought to continue to hinder the growth of free and independent news media in the Republic of Serbia, in particular the broadcast news media, and have harassed journalists performing their professional duties.
- (5) Under Slobodan Milosevic, the political opposition in Serbia has been denied free, fair, and equal opportunity to participate in the democratic process.

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

- (1) the United States, the international community, non-governmental organizations, and the private sector should continue to promote the building of democratic institutions and civic society in the Republic of Serbia, help strengthen the independent news media, and press for the Government of the Republic of Serbia to respect the rule of law; and
- (2) the normalization of relations between the “Federal Republic of Yugoslavia” (Serbia and Montenegro) and the United States requires, among other things, that President Milosevic and the leadership of Serbia—
  - (A) promote the building of democratic institutions, including strengthening the independent news media and respecting the rule of law;
  - (B) promote the respect for human rights throughout the “Federal Republic of Yugoslavia” (Serbia and Montenegro); and
  - (C) promote and encourage free, fair, and equal conditions for the democratic opposition in Serbia.

**TITLE VI—MISCELLANEOUS PROVISIONS**

**SEC. 601. REPEAL.**

**【Omitted-Amendment】**



**SEC. 602. [22 U.S.C. 6771] PROHIBITION.**

(a) IN GENERAL.—Neither the Secretary of Defense nor any other officer or employee of the United States may, directly or by contract—

(1) conduct any test or experiment involving the use of any chemical or biological agent on a civilian population; or

(2) use human subjects for the testing of chemical or biological agents.

(b) CONSTRUCTION.—Nothing in subsection (a) may be construed to prohibit actions carried out for purposes not prohibited by this Act (as defined in section 3(8)).

(c) BIOLOGICAL AGENT DEFINED.—In this section, the term “biological agent” means any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

(1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(2) deterioration of food, water, equipment, supplies, or materials of any kind; or

(3) deleterious alteration of the environment.

**SEC. 603. BANKRUPTCY ACTIONS.**

**[Omitted-Amendments]**

**DIVISION I—CHEMICAL WEAPONS CONVENTION****SECTION 1. [22 U.S.C. 6701 note] SHORT TITLE.**

This Division may be cited as the “Chemical Weapons Convention Implementation Act of 1998”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

**TITLE I—GENERAL PROVISIONS**

Sec. 101. Designation of United States National Authority.

Sec. 102. No abridgement of constitutional rights.

Sec. 103. Civil liability of the United States.

**TITLE II—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES****Subtitle A—Criminal and Civil Penalties**

Sec. 201. Criminal and civil provisions.

**Subtitle B—Revocations of Export Privileges**

Sec. 211. Revocations of export privileges.

**TITLE III—INSPECTIONS**

Sec. 301. Definitions in the title.

Sec. 302. Facility agreements.

Sec. 303. Authority to conduct inspections.

Sec. 304. Procedures for inspections.

Sec. 305. Warrants.

Sec. 306. Prohibited acts relating to inspections.

- Sec. 307. National security exception.  
Sec. 308. Protection of constitutional rights of contractors.  
Sec. 309. Annual report on inspections.  
Sec. 310. United States assistance in inspections at private facilities.

**TITLE IV—REPORTS**

- Sec. 401. Reports required by the United States National Authority.  
Sec. 402. Prohibition relating to low concentrations of schedule 2 and 3 chemicals.  
Sec. 403. Prohibition relating to unscheduled discrete organic chemicals and coincidental byproducts in waste streams.  
Sec. 404. Confidentiality of information.  
Sec. 405. Recordkeeping violations.

**TITLE V—ENFORCEMENT**

- Sec. 501. Penalties.  
Sec. 502. Specific enforcement.  
Sec. 503. Expedited judicial review.

**TITLE VI—MISCELLANEOUS PROVISIONS**

- Sec. 601. Repeal.  
Sec. 602. Prohibition.  
Sec. 603. Bankruptcy actions.

**SEC. 3. [22 U.S.C. 6701] DEFINITIONS.**

In this Act:

(1) **CHEMICAL WEAPON.**—The term “chemical weapon” means the following, together or separately:

(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this Act as long as the type and quantity is consistent with such a purpose.

(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

(2) **CHEMICAL WEAPONS CONVENTION; CONVENTION.**—The terms “Chemical Weapons Convention” and “Convention” mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(3) **KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.**—The term “key component of a binary or multicomponent chemical system” means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

(4) **NATIONAL OF THE UNITED STATES.**—The term “national of the United States” has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(5) **ORGANIZATION.**—The term “Organization” means the Organization for the Prohibition of Chemical Weapons.

(6) **PERSON.**—The term “person”, except as otherwise provided, means any individual, corporation, partnership, firm, as-

sociation, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

(7) PRECURSOR.—

(A) IN GENERAL.—The term “precursor” means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multi-component chemical system.

(B) LIST OF PRECURSORS.—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(8) PURPOSES NOT PROHIBITED BY THIS ACT.—The term “purposes not prohibited by this Act” means the following:

(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon and that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

(9) TECHNICAL SECRETARIAT.—The term “Technical Secretariat” means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

(10) SCHEDULE 1 CHEMICAL AGENT.—The term “Schedule 1 chemical agent” means any of the following, together or separately:

(A) O-Alkyl ( $\leq C_{10}$ , incl. cycloalkyl) alkyl  
(Me, Et, n-Pr or i-Pr)-phosphonofluoridates  
(e.g. Sarin: O-Isopropyl  
methylphosphonofluoridate Soman: O-Pinacolyl  
methylphosphonofluoridate).

(B) O-Alkyl ( $\leq C_{10}$ , incl. cycloalkyl) N,N-dialkyl  
(Me, Et, n-Pr or i-Pr)-phosphoramidocyanidates  
(e.g. Tabun: O-Ethyl N,N-dimethyl  
phosphoramidocyanidate).

(C) O-Alkyl (H or  $\leq C_{10}$ , incl. cycloalkyl) S-2-dialkyl  
(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl  
(Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts  
(e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate).

- (D) Sulfur mustards:  
 2-Chloroethylchloromethylsulfide  
 Mustard gas: (Bis(2-chloroethyl)sulfide  
 Bis(2-chloroethylthio)methane  
 Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane  
 1,3-Bis(2-chloroethylthio)-n-propane  
 1,4-Bis(2-chloroethylthio)-n-butane  
 1,5-Bis(2-chloroethylthio)-n-pentane  
 Bis(2-chloroethylthiomethyl)ether  
 O-Mustard: Bis(2-chloroethylthioethyl)ether.
- (E) Lewisites:  
 Lewisite 1: 2-Chlorovinylchloroarsine  
 Lewisite 2: Bis(2-chlorovinyl)chloroarsine  
 Lewisite 3: Tris (2-chlorovinyl)arsine.
- (F) Nitrogen mustards:  
 HN1: Bis(2-chloroethyl)ethylamine  
 HN2: Bis(2-chloroethyl)methylamine  
 HN3: Tris(2-chloroethyl)amine.
- (G) Saxitoxin.
- (H) Ricin.
- (I) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides  
 e.g. DF: Methylphosphonyldifluoride.
- (J) O-Alkyl (H or  $\leq C_{10}$ , incl. cycloalkyl)O-2-dialkyl  
 (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl  
 (Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts  
 e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite.
- (K) Chlorosarin: O-Isopropyl methylphosphonochloridate.
- (L) Chlorosoman: O-Pinacolyl methylphosphonochloridate.
- (11) SCHEDULE 2 CHEMICAL AGENT.—The term “Schedule 2 chemical agent” means the following, together or separately:
- (A) Amiton: O,O-Diethyl S-  
**【2-(diethylamino)ethyl】**  
 phosphorothiolate and corresponding alkylated or protonated salts.
- (B) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene.
- (C) BZ: 3-Quinuclidinyl benzilate
- (D) Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms,  
 e.g. Methylphosphonyl dichloride Dimethyl methylphosphonate  
 Exemption: Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate.
- (E) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides.
- (F) Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates.
- (G) arsenic trichloride.
- (H) 2,2-Diphenyl-2-hydroxyacetic acid.
- (I) Quinuclidine-3-ol.
- (J) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts.

(K) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts

Exemptions: N,N-Dimethylaminoethanol and corresponding protonated salts N,N-Diethylaminoethanol and corresponding protonated salts.

(L) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts.

(M) Thiodiglycol: Bis(2-hydroxyethyl)sulfide.

(N) Pinacolyl alcohol: 3,3-Dimethylbutane-2-ol.

(12) SCHEDULE 3 CHEMICAL AGENT.—The term “Schedule 3 chemical agent” means any of the following, together or separately:

(A) Phosgene: carbonyl dichloride.

(B) Cyanogen chloride.

(C) Hydrogen cyanide.

(D) Chloropicrin: trichloronitromethane.

(E) Phosphorous oxychloride.

(F) Phosphorous trichloride.

(G) Phosphorous pentachloride.

(H) Trimethyl phosphite.

(I) Triethyl phosphite.

(J) Dimethyl phosphite.

(K) Diethyl phosphite.

(L) Sulfur monochloride.

(M) Sulfur dichloride.

(N) Thionyl chloride.

(O) Ethyldiethanolamine.

(P) Methyldiethanolamine.

(Q) Triethanolamine.

(13)<sup>16</sup> TOXIC CHEMICAL.—

(A)<sup>16</sup> IN GENERAL.—The term “toxic chemical” means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(14) UNITED STATES.—The term “United States” means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) any of the places within the provisions of paragraph (41) of section 40102 of title 49, United States Code;

(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (37), respectively, of section 40102 of title 49, United States Code; and

<sup>16</sup>Margin so in law.

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).

(15) UNSCHEDULED DISCRETE ORGANIC CHEMICAL.—The term “unscheduled discrete organic chemical” means any chemical not listed on any schedule contained in the Annex on Chemicals of the Convention that belongs to the class of chemical compounds consisting of all compounds of carbon, except for its oxides, sulfides, and metal carbonates.

### TITLE I—GENERAL PROVISIONS

#### SEC. 101. [22 U.S.C. 6711] DESIGNATION OF UNITED STATES NATIONAL AUTHORITY.

(a) DESIGNATION.—Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President shall designate the Department of State to be the United States National Authority.

(b) PURPOSES.—The United States National Authority shall—

(1) serve as the national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention; and

(2) implement the provisions of this Act in coordination with an interagency group designated by the President consisting of the Secretary of Commerce, Secretary of Defense, Secretary of Energy, the Attorney General, and the heads of agencies considered necessary or advisable by the President.

(c) DIRECTOR.—The Secretary of State shall serve as the Director of the United States National Authority.

(d) POWERS.—The Director may utilize the administrative authorities otherwise available to the Secretary of State in carrying out the responsibilities of the Director set forth in this Act.

(e) IMPLEMENTATION.—The President is authorized to implement and carry out the provisions of this Act and the Convention and shall designate through Executive order which agencies of the United States shall issue, amend, or revise the regulations in order to implement this Act and the provisions of the Convention. The Director of the United States National Authority shall report to the Congress on the regulations that have been issued, implemented, or revised pursuant to this section.

#### SEC. 102. [22 U.S.C. 6712] NO ABRIDGEMENT OF CONSTITUTIONAL RIGHTS.

No person may be required, as a condition for entering into a contract with the United States or as a condition for receiving any benefit from the United States, to waive any right under the Constitution for any purpose related to this Act or the Convention.

#### SEC. 103. [22 U.S.C. 6713] CIVIL LIABILITY OF THE UNITED STATES.

(a) CLAIMS FOR TAKING OF PROPERTY.—

(1) JURISDICTION OF COURTS OF THE UNITED STATES.—

(A) UNITED STATES COURT OF FEDERAL CLAIMS.—The United States Court of Federal Claims shall, subject to subparagraph (B), have jurisdiction of any civil action or claim against the United States for any taking of property without just compensation that occurs by reason of the ac-

tion of any officer or employee of the Organization for the Prohibition of Chemical Weapons, including any member of an inspection team of the Technical Secretariat, or by reason of the action of any officer or employee of the United States pursuant to this Act or the Convention. For purposes of this subsection, action taken pursuant to or under the color of this Act or the Convention shall be deemed to be action taken by the United States for a public purpose.

(B) DISTRICT COURTS.—The district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action or claim described in subparagraph (A) that does not exceed \$10,000.

(2) NOTIFICATION.—Any person intending to bring a civil action pursuant to paragraph (1) shall notify the United States National Authority of that intent at least one year before filing the claim in the United States Court of Federal Claims. Action on any claim filed during that one-year period shall be stayed. The one-year period following the notification shall not be counted for purposes of any law limiting the period within which the civil action may be commenced.

(3) INITIAL STEPS BY UNITED STATES GOVERNMENT TO SEEK REMEDIES.—During the period between a notification pursuant to paragraph (2) and the filing of a claim covered by the notification in the United States Court of Federal Claims, the United States National Authority shall pursue all diplomatic and other remedies that the United States National Authority considers necessary and appropriate to seek redress for the claim including, but not limited to, the remedies provided for in the Convention and under this Act.

(4) BURDEN OF PROOF.—In any civil action under paragraph (1), the plaintiff shall have the burden to establish a prima facie case that, due to acts or omissions of any official of the Organization or any member of an inspection team of the Technical Secretariat taken under the color of the Convention, proprietary information of the plaintiff has been divulged or taken without authorization. If the United States Court of Federal Claims finds that the plaintiff has demonstrated such a prima facie case, the burden shall shift to the United States to disprove the plaintiff's claim. In deciding whether the plaintiff has carried its burden, the United States Court of Federal Claims shall consider, among other things—

(A) the value of proprietary information;

(B) the availability of the proprietary information;

(C) the extent to which the proprietary information is based on patents, trade secrets, or other protected intellectual property;

(D) the significance of proprietary information; and

(E) the emergence of technology elsewhere a reasonable time after the inspection.

(b) TORT LIABILITY.—The district courts of the United States shall have exclusive jurisdiction of civil actions for money damages for any tort under the Constitution or any Federal or State law

arising from the acts or omissions of any officer or employee of the United States or the Organization, including any member of an inspection team of the Technical Secretariat, taken pursuant to or under color of the Convention or this Act.

(c) WAIVER OF SOVEREIGN IMMUNITY OF THE UNITED STATES.—In any action under subsection (a) or (b), the United States may not raise sovereign immunity as a defense.

(d) AUTHORITY FOR CAUSE OF ACTION.—

(1) UNITED STATES ACTIONS IN UNITED STATES DISTRICT COURT.—Notwithstanding any other law, the Attorney General of the United States is authorized to bring an action in the United States District Court for the District of Columbia against any foreign nation for money damages resulting from that nation's refusal to provide indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat who is a national of that foreign nation acting at the direction or the behest of that foreign nation.

(2) UNITED STATES ACTIONS IN COURTS OUTSIDE THE UNITED STATES.—The Attorney General is authorized to seek any and all available redress in any international tribunal for indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat, and to seek such redress in the courts of the foreign nation from which the inspector is a national.

(3) ACTIONS BROUGHT BY INDIVIDUALS AND BUSINESSES.—Notwithstanding any other law, any national of the United States, or any business entity organized and operating under the laws of the United States, may bring a civil action in a United States District Court for money damages against any foreign national or any business entity organized and operating under the laws of a foreign nation for an unauthorized or unlawful acquisition, receipt, transmission, or use of property by or on behalf of such foreign national or business entity as a result of any tort under the Constitution or any Federal or State law arising from acts or omissions by any officer or employee of the United States or any member of an inspection team of the Technical Secretariat taken pursuant to or under the color of the Convention or this Act.

(e) RECOURPMENT.—

(1) POLICY.—It is the policy of the United States to recoup all funds withdrawn from the Treasury of the United States in payment for any tort under Federal or State law or taking under the Constitution arising from the acts or omissions of any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, taken under color of the Chemical Weapons Convention or this Act.

(2) SANCTIONS ON FOREIGN COMPANIES.—

(A) IMPOSITION OF SANCTIONS.—The sanctions provided in subparagraph (B) shall be imposed for a period of not less than ten years upon—



(i) any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, for whose actions or omissions the United States has been held liable for a tort or taking pursuant to this Act; and

(ii) any foreign person or business entity organized and operating under the laws of a foreign nation which knowingly assisted, encouraged or induced, in any way, a foreign person described in clause (i) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information.

(B) SANCTIONS.—

(i) ARMS EXPORT TRANSACTIONS.—The United States Government shall not sell to a person described in subparagraph (A) any item on the United States Munitions List and shall terminate sales of any defense articles, defense services, or design and construction services to a person described in subparagraph (A) under the Arms Export Control Act.

(ii) SANCTIONS UNDER EXPORT ADMINISTRATION ACT OF 1979.—The authorities under section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act to a person described in subparagraph (A).

(iii) INTERNATIONAL FINANCIAL ASSISTANCE.—The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 701 of the International Financial Institutions Act to a person described in subparagraph (A).

(iv) EXPORT-IMPORT BANK TRANSACTIONS.—The United States shall not give approval to guarantee, insure, or extend credit, or to participate in the extension of credit to a person described in subparagraph (A) through the Export-Import Bank of the United States.

(v) PRIVATE BANK TRANSACTIONS.—Regulations shall be issued to prohibit any United States bank from making any loan or providing any credit to a person described in subparagraph (A).

(vi) BLOCKING OF ASSETS.—The President shall take all steps necessary to block any transactions in any property subject to the jurisdiction of the United States in which a person described in subparagraph (A) has any interest whatsoever, for the purpose of recouping funds in accordance with the policy in paragraph (1).

(vii) DENIAL OF LANDING RIGHTS.—Landing rights in the United States shall be denied to any private aircraft or air carrier owned by a person described in subparagraph (A) except as necessary to provide for

emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(3) SANCTIONS ON FOREIGN GOVERNMENTS.—

(A) IMPOSITION OF SANCTIONS.—Whenever the President determines that persuasive information is available indicating that a foreign country has knowingly assisted, encouraged or induced, in any way, a person described in paragraph (2)(A) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information, the President shall, within 30 days after the receipt of such information by the executive branch of Government, notify the Congress in writing of such determination and, subject to the requirements of paragraphs (4) and (5), impose the sanctions provided under subparagraph (B) for a period of not less than five years.

(B) SANCTIONS.—

(i) ARMS EXPORT TRANSACTIONS.—The United States Government shall not sell a country described in subparagraph (A) any item on the United States Munitions List, shall terminate sales of any defense articles, defense services, or design and construction services to that country under the Arms Export Control Act, and shall terminate all foreign military financing for that country under the Arms Export Control Act.

(ii) DENIAL OF CERTAIN LICENSES.—Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List or commercial satellites.

(iii) DENIAL OF ASSISTANCE.—No appropriated funds may be used for the purpose of providing economic assistance, providing military assistance or grant military education and training, or extending military credits or making guarantees to a country described in subparagraph (A).

(iv) SANCTIONS UNDER EXPORT ADMINISTRATION ACT OF 1979.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act to a country described in subparagraph (A).

(v) INTERNATIONAL FINANCIAL ASSISTANCE.—The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 701 of the International Financial Institutions Act to a country described in subparagraph (A).

(vi) TERMINATION OF ASSISTANCE UNDER FOREIGN ASSISTANCE ACT OF 1961.—The United States shall terminate all assistance to a country described in subparagraph (A) under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance.

(vii) PRIVATE BANK TRANSACTIONS.—The United States shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit through the Export-Import Bank of the United States to a country described in subparagraph (A).

(viii) PRIVATE BANK TRANSACTIONS.—Regulations shall be issued to prohibit any United States bank from making any loan or providing any credit to a country described in subparagraph (A).

(ix) DENIAL OF LANDING RIGHTS.—Landing rights in the United States shall be denied to any air carrier owned by a country described in subparagraph (A), except as necessary to provide for emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(4) SUSPENSION OF SANCTIONS UPON RECOUPMENT BY PAYMENT.—Sanctions imposed under paragraph (2) or (3) may be suspended if the sanctioned person, business entity, or country, within the period specified in that paragraph, provides full and complete compensation to the United States Government, in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, in satisfaction of a tort or taking for which the United States has been held liable pursuant to this Act.

(5) WAIVER OF SANCTIONS ON FOREIGN COUNTRIES.—The President may waive some or all of the sanctions provided under paragraph (3) in a particular case if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that such waiver is necessary to protect the national security interests of the United States. The certification shall set forth the reasons supporting the determination and shall take effect on the date on which the certification is received by the Congress.

(6) NOTIFICATION TO CONGRESS.—Not later than five days after sanctions become effective against a foreign person pursuant to this Act, the President shall transmit written notification of the imposition of sanctions against that foreign person to the chairmen and ranking members of the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(f) SANCTIONS FOR UNAUTHORIZED DISCLOSURE OF UNITED STATES CONFIDENTIAL BUSINESS INFORMATION.—The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States any alien who, after the date of enactment of this Act—

(1) is, or previously served as, an officer or employee of the Organization and who has willfully published, divulged, disclosed, or made known in any manner or to any extent not authorized by the Convention any United States confidential business information coming to him in the course of his employment or official duties, or by reason of any examination or investigation of any return, report, or record made to or filed with the Organization, or any officer or employee thereof, such

practice or disclosure having resulted in financial losses or damages to a United States person and for which actions or omissions the United States has been found liable of a tort or taking pursuant to this Act;

(2) traffics in United States confidential business information, a proven claim to which is owned by a United States national;

(3) is a corporate officer, principal, shareholder with a controlling interest of an entity which has been involved in the unauthorized disclosure of United States confidential business information, a proven claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(g) UNITED STATES CONFIDENTIAL BUSINESS INFORMATION DEFINED.—In this section, the term “United States confidential business information” means any trade secrets or commercial or financial information that is privileged and confidential—

(1) including—

(A) data described in section 304(e)(2) of this Act,

(B) any chemical structure,

(C) any plant design process, technology, or operating method,

(D) any operating requirement, input, or result that identifies any type or quantity of chemicals used, processed, or produced, or

(E) any commercial sale, shipment, or use of a chemical, or

(2) as described in section 552(b)(4) of title 5, United States Code, and that is obtained—

(i) from a United States person; or

(ii) through the United States Government or the conduct of an inspection on United States territory under the Convention.

#### OPERATION OF TRAILERS

SEC. 109. [49 U.S.C. 31701 note] (a) REGISTRATION OF TRAILERS.—A State that requires annual registration of container chassis and the apportionment of fees for such registrations in accordance with the International Registration Plan (as defined under section 31701 of title 49, United States Code) shall not limit the operation, or require the registration, in the State of a container chassis (or impose fines or penalties on the operation of a container chassis for being operated in the State without a registration issued by the State) if such chassis—

(1) is registered under the laws of another State; and

(2) is operating under a trip permit issued by the State.

(b) LIMITATION ON REGISTRATION OF TRAILERS.—A State described in subsection (a) may not deny the use of trip permits for the operation in the State of a container chassis that is registered under the laws of another State.

(c) SAFETY REGULATION.—This section shall apply to registration requirements only and shall not affect the ability of the State to regulate for safety.

(d) PENALTIES.—No State described in subsection (a), political subdivision of such a State, or person may impose or collect any fee, penalty, fine, or other form of damages which is based in whole or in part upon the nonpayment of a State registration fee (including related weight and licensing fees assessed as part of registration) attributable to a container chassis operated in the State (and registered in another State) before the date of enactment of this Act, unless it is shown by the State, political subdivision, or person that such container chassis was not operated in the State under a trip permit issued by the State.

(e) CONTAINER CHASSIS DEFINED.—In this section, the term “container chassis” means a trailer, semi-trailer, or auxiliary axle used exclusively for the transportation of ocean shipping containers.

## **TITLE II—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES**

### **TITLE III—INSPECTIONS**

#### **SEC. 301. [22 U.S.C. 6721] DEFINITIONS IN THE TITLE.**

(a) IN GENERAL.—In this title, the terms “challenge inspection”, “plant site”, “plant”, “facility agreement”, “inspection team”, and “requesting state party” have the meanings given those terms in Part I of the Annex on Implementation and Verification of the Chemical Weapons Convention. The term “routine inspection” means an inspection, other than an “initial inspection”, undertaken pursuant to Article VI of the Convention.

(b) DEFINITION OF JUDGE OF THE UNITED STATES.—In this title, the term “judge of the United States” means a judge or magistrate judge of a district court of the United States.

#### **SEC. 302. [22 U.S.C. 6722] FACILITY AGREEMENTS.**

(a) AUTHORIZATION OF INSPECTIONS.—Inspections by the Technical Secretariat of plants, plant sites, or other facilities or locations for which the United States has a facility agreement with the Organization shall be conducted in accordance with the facility agreement. Any such facility agreement may not in any way limit the right of the owner or operator of the facility to withhold consent to an inspection request.

##### **(b) TYPES OF FACILITY AGREEMENTS.—**

(1) SCHEDULE TWO FACILITIES.—The United States National Authority shall ensure that facility agreements for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 4 of Article VI of the Convention are concluded unless the owner, operator, occupant, or agent in charge of the facility and the Technical Secretariat agree that such an agreement is not necessary.

(2) SCHEDULE THREE FACILITIES.—The United States National Authority shall ensure that facility agreements are concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 5 or 6 of

Article VI of the Convention if so requested by the owner, operator, occupant, or agent in charge of the facility.

(c) NOTIFICATION REQUIREMENTS.—The United States National Authority shall ensure that the owner, operator, occupant, or agent in charge of a facility prior to the development of the agreement relating to that facility is notified and, if the person notified so requests, the person may participate in the preparations for the negotiation of such an agreement. To the maximum extent practicable consistent with the Convention, the owner and the operator, occupant or agent in charge of a facility may observe negotiations of the agreement between the United States and the Organization concerning that facility.

(d) CONTENT OF FACILITY AGREEMENTS.—Facility agreements shall—

- (1) identify the areas, equipment, computers, records, data, and samples subject to inspection;
- (2) describe the procedures for providing notice of an inspection to the owner, occupant, operator, or agent in charge of a facility;
- (3) describe the timeframes for inspections; and
- (4) detail the areas, equipment, computers, records, data, and samples that are not subject to inspection.

**SEC. 303. [22 U.S.C. 6723] AUTHORITY TO CONDUCT INSPECTIONS.**

(a) PROHIBITION.—No inspection of a plant, plant site, or other facility or location in the United States shall take place under the Convention without the authorization of the United States National Authority in accordance with the requirements of this title.

(b) AUTHORITY.—

(1) TECHNICAL SECRETARIAT INSPECTION TEAMS.—Any duly designated member of an inspection team of the Technical Secretariat may inspect any plant, plant site, or other facility or location in the United States subject to inspection pursuant to the Convention.

(2) UNITED STATES GOVERNMENT REPRESENTATIVES.—The United States National Authority shall coordinate the designation of employees of the Federal Government (and, in the case of an inspection of a United States Government facility, the designation of contractor personnel who shall be led by an employee of the Federal Government) to accompany members of an inspection team of the Technical Secretariat and, in doing so, shall ensure that—

(A) a special agent of the Federal Bureau of Investigation, as designated by the Federal Bureau of Investigation, accompanies each inspection team visit pursuant to paragraph (1);

(B) no employee of the Environmental Protection Agency or the Occupational Safety and Health Administration accompanies any inspection team visit conducted pursuant to paragraph (1); and

(C) the number of duly designated representatives shall be kept to the minimum necessary.

(3) OBJECTIONS TO INDIVIDUALS SERVING AS INSPECTORS.—

(A) IN GENERAL.—In deciding whether to exercise the right of the United States under the Convention to object to an individual serving as an inspector, the President shall give great weight to his reasonable belief that—

(i) such individual is or has been a member of, or a participant in, any group or organization that has engaged in, or attempted or conspired to engage in, or aided or abetted in the commission of, any terrorist act or activity;

(ii) such individual has committed any act or activity which would be a felony under the laws of the United States; or

(iii) the participation of such individual as a member of an inspection team would pose a risk to the national security or economic well-being of the United States.

(B) NOT SUBJECT TO JUDICIAL REVIEW.—Any objection by the President to an individual serving as an inspector, whether made pursuant to this section or otherwise, shall not be reviewable in any court.

**SEC. 304. [22 U.S.C. 6724] PROCEDURES FOR INSPECTIONS.**

(a) TYPES OF INSPECTIONS.—Each inspection of a plant, plant site, or other facility or location in the United States under the Convention shall be conducted in accordance with this section and section 305, except where other procedures are provided in a facility agreement entered into under section 302.

(b) NOTICE.—

(1) IN GENERAL.—An inspection referred to in subsection (a) may be made only upon issuance of an actual written notice by the United States National Authority to the owner and to the operator, occupant, or agent in charge of the premises to be inspected.

(2) TIME OF NOTIFICATION.—The notice for a routine inspection shall be submitted to the owner and to the operator, occupant, or agent in charge within six hours of receiving the notification of the inspection from the Technical Secretariat or as soon as possible thereafter. Notice for a challenge inspection shall be provided at any appropriate time determined by the United States National Authority. Notices may be posted prominently at the plant, plant site, or other facility or location if the United States is unable to provide actual written notice to the owner, operator, or agent in charge of the premises.

(3) CONTENT OF NOTICE.—

(A) IN GENERAL.—The notice under paragraph (1) shall include all appropriate information supplied by the Technical Secretariat to the United States National Authority concerning—

(i) the type of inspection;

(ii) the basis for the selection of the plant, plant site, or other facility or location for the type of inspection sought;

- (iii) the time and date that the inspection will begin and the period covered by the inspection; and
- (iv) the names and titles of the inspectors.

(B) SPECIAL RULE FOR CHALLENGE INSPECTIONS.—In the case of a challenge inspection pursuant to Article IX of the Convention, the notice shall also include all appropriate evidence or reasons provided by the requesting state party to the Convention for seeking the inspection.

(4) SEPARATE NOTICES REQUIRED.—A separate notice shall be provided for each inspection, except that a notice shall not be required for each entry made during the period covered by the inspection.

(c) CREDENTIALS.—The head of the inspection team of the Technical Secretariat and the accompanying employees of the Federal Government (and, in the case of an inspection of a United States Government facility, any accompanying contractor personnel) shall display appropriate identifying credentials to the owner, operator, occupant, or agent in charge of the premises before the inspection is commenced.

(d) TIMEFRAME FOR INSPECTIONS.—Consistent with the provisions of the Convention, each inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.

(e) SCOPE.—

(1) IN GENERAL.—Except as provided in a warrant issued under section 305 or a facility agreement entered into under section 302, an inspection conducted under this title may extend to all things within the premises inspected (including records, files, papers, processes, controls, structures and vehicles) related to whether the requirements of the Convention applicable to such premises have been complied with.

(2) EXCEPTION.—Unless required by the Convention, no inspection under this title shall extend to—

- (A) financial data;
- (B) sales and marketing data (other than shipment data);
- (C) pricing data;
- (D) personnel data;
- (E) research data;
- (F) patent data;
- (G) data maintained for compliance with environmental or occupational health and safety regulations; or
- (H) personnel and vehicles entering and personnel and personal passenger vehicles exiting the facility.

(f) SAMPLING AND SAFETY.—

(1) IN GENERAL.—The Director of the United States National Authority is authorized to require the provision of samples to a member of the inspection team of the Technical Secretariat in accordance with the provisions of the Convention. The owner or the operator, occupant or agent in charge of the premises to be inspected shall determine whether the sample shall be taken by representatives of the premises or the inspection team or other individuals present. No sample collected in



the United States pursuant to an inspection permitted by this Act may be transferred for analysis to any laboratory outside the territory of the United States.

(2) COMPLIANCE WITH REGULATIONS.—In carrying out their activities, members of the inspection team of the Technical Secretariat and representatives of agencies or departments accompanying the inspection team shall observe safety regulations established at the premises to be inspected, including those for protection of controlled environments within a facility and for personal safety.

(g) COORDINATION.—The appropriate representatives of the United States, as designated, if present, shall assist the owner and the operator, occupant or agent in charge of the premises to be inspected in interacting with the members of the inspection team of the Technical Secretariat.

**SEC. 305. [22 U.S.C. 6725] WARRANTS.**

(a) IN GENERAL.—The United States Government shall seek the consent of the owner or the operator, occupant, or agent in charge of the premises to be inspected prior to any inspection referred to in section 304(a). If consent is obtained, a warrant is not required for the inspection. The owner or the operator, occupant, or agent in charge of the premises to be inspected may withhold consent for any reason or no reason. After providing notification pursuant to subsection (b), the United States Government may seek a search warrant from a United States magistrate judge. Proceedings regarding the issuance of a search warrant shall be conducted ex parte, unless otherwise requested by the United States Government.

(b) ROUTINE INSPECTIONS.—

(1) OBTAINING ADMINISTRATIVE SEARCH WARRANTS.—For any routine inspection conducted on the territory of the United States pursuant to Article VI of the Convention, where consent has been withheld, the United States Government shall first obtain an administrative search warrant from a judge of the United States. The United States Government shall provide to the judge of the United States all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought. The United States Government shall also provide any other appropriate information available to it relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection.

(2) CONTENT OF AFFIDAVITS FOR ADMINISTRATIVE SEARCH WARRANTS.—The judge of the United States shall promptly issue a warrant authorizing the requested inspection upon an affidavit submitted by the United States Government showing that—

(A) the Chemical Weapons Convention is in force for the United States;

(B) the plant site, plant, or other facility or location sought to be inspected is required to report data under

title IV of this Act and is subject to routine inspection under the Convention;

(C) the purpose of the inspection is—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, to verify that the facility is not used to produce any Schedule 1 chemical agent except for declared chemicals; quantities of Schedule 1 chemicals produced, processed, or consumed are correctly declared and consistent with needs for the declared purpose; and Schedule 1 chemicals are not diverted or used for other purposes;

(ii) in the case of any facility related to Schedule 2 chemical agents, to verify that activities are in accordance with obligations under the Convention and consistent with the information provided in data declarations; and

(iii) in the case of any facility related to Schedule 3 chemical agents and any other chemical production facility, to verify that the activities of the facility are consistent with the information provided in data declarations;

(D) the items, documents, and areas to be searched and seized;

(E) in the case of a facility related to Schedule 2 or Schedule 3 chemical agents or unscheduled discrete organic chemicals, the plant site has not been subject to more than 1 routine inspection in the current calendar year, and, in the case of facilities related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the inspection will not cause the number of routine inspections in the United States to exceed 20 in a calendar year;

(F) the selection of the site was made in accordance with procedures established under the Convention and, in particular—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, the intensity, duration, timing, and mode of the requested inspection is based on the risk to the object and purpose of the Convention by the quantities of chemical produced, the characteristics of the facility and the nature of activities carried out at the facility, and the requested inspection, when considered with previous such inspections of the facility undertaken in the current calendar year, shall not exceed the number reasonably required based on the risk to the object and purpose of the Convention as described above;

(ii) in the case of any facility related to Schedule 2 chemical agents, the Technical Secretariat gave due consideration to the risk to the object and purpose of the Convention posed by the relevant chemical, the characteristics of the plant site and the nature of activities carried out there, taking into account the re-

spective facility agreement as well as the results of the initial inspections and subsequent inspections; and

(iii) in the case of any facility related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the facility was selected randomly by the Technical Secretariat using appropriate mechanisms, such as specifically designed computer software, on the basis of two weighting factors: (I) equitable geographical distribution of inspections; and (II) the information on the declared sites available to the Technical Secretariat, related to the relevant chemical, the characteristics of the plant site, and the nature of activities carried out there;

(G) the earliest commencement and latest closing dates and times of the inspection; and

(H) the duration of inspection will not exceed time limits specified in the Convention unless agreed by the owner, operator, or agent in charge of the plant.

(3) CONTENT OF WARRANTS.—A warrant issued under paragraph (2) shall specify the same matters required of an affidavit under that paragraph. In addition to the requirements for a warrant issued under this paragraph, each warrant shall contain, if known, the identities of the representatives of the Technical Secretariat conducting the inspection and the observers of the inspection and, if applicable, the identities of the representatives of agencies or departments of the United States accompanying those representatives.

(4) CHALLENGE INSPECTIONS.—

(A) CRIMINAL SEARCH WARRANT.—For any challenge inspection conducted on the territory of the United States pursuant to Article IX of the Chemical Weapons Convention, where consent has been withheld, the United States Government shall first obtain from a judge of the United States a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the person or things to be seized.

(B) INFORMATION PROVIDED.—The United States Government shall provide to the judge of the United States—

(i) all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought;

(ii) any other appropriate information relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection;

(iii) information concerning—

(I) the duration and scope of the inspection;

(II) areas to be inspected;

(III) records and data to be reviewed; and

(IV) samples to be taken;

(iv) appropriate evidence or reasons provided by the requesting state party for the inspection;

(v) any other evidence showing probable cause to believe that a violation of this Act has occurred or is occurring; and

(vi) the identities of the representatives of the Technical Secretariat on the inspection team and the Federal Government employees accompanying the inspection team.

(C) CONTENT OF WARRANT.—The warrant shall specify—

- (i) the type of inspection authorized;
- (ii) the purpose of the inspection;
- (iii) the type of plant site, plant, or other facility or location to be inspected;
- (iv) the areas of the plant site, plant, or other facility or location to be inspected;
- (v) the items, documents, data, equipment, and computers that may be inspected or seized;
- (vi) samples that may be taken;
- (vii) the earliest commencement and latest concluding dates and times of the inspection; and
- (viii) the identities of the representatives of the Technical Secretariat on the inspection teams and the Federal Government employees accompanying the inspection team.

**SEC. 306. [22 U.S.C. 6726] PROHIBITED ACTS RELATING TO INSPECTIONS.**

It shall be unlawful for any person willfully to fail or refuse to permit entry or inspection, or to disrupt, delay, or otherwise impede an inspection, authorized by this Act.

**SEC. 307. [22 U.S.C. 6727] NATIONAL SECURITY EXCEPTION.**

Consistent with the objective of eliminating chemical weapons, the President may deny a request to inspect any facility in the United States in cases where the President determines that the inspection may pose a threat to the national security interests of the United States.

**SEC. 308. PROTECTION OF CONSTITUTIONAL RIGHTS OF CONTRACTORS.**

**[Omitted-Amendments]**

**SEC. 309. [22 U.S.C. 6728] ANNUAL REPORT ON INSPECTIONS.**

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, and annually thereafter, the President shall submit a report in classified and unclassified form to the appropriate congressional committees on inspections made under the Convention during the preceding year.

(b) CONTENT OF REPORTS.—Each report shall contain the following information for the reporting period:

(1) The name of each company or entity subject to the jurisdiction of the United States reporting data pursuant to title IV of this Act.

(2) The number of inspections under the Convention conducted on the territory of the United States.

(3) The number and identity of inspectors conducting any inspection described in paragraph (2) and the number of inspectors barred from inspection by the United States.

(4) The cost to the United States for each inspection described in paragraph (2).

(5) The total costs borne by United States business firms in the course of inspections described in paragraph (2).

(6) A description of the circumstances surrounding inspections described in paragraph (2), including instances of possible industrial espionage and misconduct of inspectors.

(7) The identity of parties claiming loss of trade secrets, the circumstances surrounding those losses, and the efforts taken by the United States Government to redress those losses.

(8) A description of instances where inspections under the Convention outside the United States have been disrupted or delayed.

(c) DEFINITION.—The term “appropriate congressional committees” means the Committee on the Judiciary, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

**SEC. 310. [22 U.S.C. 6729] UNITED STATES ASSISTANCE IN INSPECTIONS AT PRIVATE FACILITIES.**

(a) ASSISTANCE IN PREPARATION FOR INSPECTIONS.—At the request of an owner of a facility not owned or operated by the United States Government, or contracted for use by or for the United States Government, the Secretary of Defense may assist the facility to prepare the facility for possible inspections pursuant to the Convention.

(b) REIMBURSEMENT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the owner of a facility provided assistance under subsection (a) shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(2) EXCEPTION.—In the case of assistance provided under subsection (a) to a facility owned by a person described in subsection (c), the United States National Authority shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(c) OWNERS COVERED BY UNITED STATES NATIONAL AUTHORITY REIMBURSEMENTS.—Subsection (b)(2) applies in the case of assistance provided to the following:

(1) SMALL BUSINESS CONCERNS.—A small business concern as defined in section 3 of the Small Business Act.

(2) DOMESTIC PRODUCERS OF SCHEDULE 3 OR UNSCHEDULED DISCRETE ORGANIC CHEMICALS.—Any person located in the United States that—

(A) does not possess, produce, process, consume, import, or export any Schedule 1 or Schedule 2 chemical; and

(B) in the calendar year preceding the year in which the assistance is to be provided, produced—

- (i) more than 30 metric tons of Schedule 3 or unscheduled discrete organic chemicals that contain phosphorous, sulfur, or fluorine; or
- (ii) more than 200 metric tons of unscheduled discrete organic chemicals.

#### TITLE IV—REPORTS

##### SEC. 401. [22 U.S.C. 6741] REPORTS REQUIRED BY THE UNITED STATES NATIONAL AUTHORITY.

###### (a) REGULATIONS ON RECORDKEEPING.—

(1) REQUIREMENTS.—The United States National Authority shall ensure that regulations are prescribed that require each person located in the United States who produces, processes, consumes, exports, or imports, or proposes to produce, process, consume, export, or import, a chemical substance that is subject to the Convention to—

(A) maintain and permit access to records related to that production, processing, consumption, export, or import of such substance; and

(B) submit to the Director of the United States National Authority such reports as the United States National Authority may reasonably require to provide to the Organization, pursuant to subparagraph 1(a) of the Annex on Confidentiality of the Convention, the minimum amount of information and data necessary for the timely and efficient conduct by the Organization of its responsibilities under the Convention.

(2) RULEMAKING.—The Director of the United States National Authority shall ensure that regulations pursuant to this section are prescribed expeditiously.

###### (b) COORDINATION.—

(1) AVOIDANCE OF DUPLICATION.—To the extent feasible, the United States Government shall not require the submission of any report that is unnecessary or duplicative of any report required by or under any other law. The head of each Federal agency shall coordinate the actions of that agency with the heads of the other Federal agencies in order to avoid the imposition of duplicative reporting requirements under this Act or any other law.

(2) DEFINITION.—As used in paragraph (1), the term “Federal agency” has the meaning given the term “agency” in section 551(1) of title 5, United States Code.

##### SEC. 402. [22 U.S.C. 6742] PROHIBITION RELATING TO LOW CONCENTRATIONS OF SCHEDULE 2 AND 3 CHEMICALS.

(a) PROHIBITION.—Notwithstanding any other provision of this Act, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that contains less than—

- (1) 10 percent concentration of a Schedule 2 chemical; or
- (2) 80 percent concentration of a Schedule 3 chemical.

(b) STANDARD FOR MEASUREMENT OF CONCENTRATION.—The percent concentration of a chemical in a substance shall be measured on the basis of volume or total weight, which measurement yields the lesser percent.

**SEC. 403. [22 U.S.C. 6743] PROHIBITION RELATING TO UNSCHEDULED DISCRETE ORGANIC CHEMICALS AND COINCIDENTAL BY-PRODUCTS IN WASTE STREAMS.**

(a) PROHIBITION.—Notwithstanding any other provision of this Act, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that is—

- (1) an unscheduled discrete organic chemical; and
- (2) a coincidental byproduct of a manufacturing or production process that is not isolated or captured for use or sale during the process and is routed to, or escapes, from the waste stream of a stack, incinerator, or wastewater treatment system or any other waste stream.

**SEC. 404. [22 U.S.C. 6744] CONFIDENTIALITY OF INFORMATION.**

(a) FREEDOM OF INFORMATION ACT EXEMPTION FOR CERTAIN CONVENTION INFORMATION.—Except as provided in subsection (b) or (c), any confidential business information, as defined in section 103(g), reported to, or otherwise acquired by, the United States Government under this Act or under the Convention shall not be disclosed under section 552(a) of title 5, United States Code.

(b) EXCEPTIONS.—

(1) INFORMATION FOR THE TECHNICAL SECRETARIAT.—Information shall be disclosed or otherwise provided to the Technical Secretariat or other states parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information.

(2) INFORMATION FOR CONGRESS.—Information shall be made available to any committee or subcommittee of Congress with appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, and no member and no staff member of such committee or subcommittee, shall disclose such information or material except as otherwise required or authorized by law.

(3) INFORMATION FOR ENFORCEMENT ACTIONS.—Information shall be disclosed to other Federal agencies for enforcement of this Act or any other law, and shall be disclosed or otherwise provided when relevant in any proceeding under this Act or any other law, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

(c) INFORMATION DISCLOSED IN THE NATIONAL INTEREST.—

(1) AUTHORITY.—The United States Government shall disclose any information reported to, or otherwise required by the United States Government under this Act or the Convention,

including categories of such information, that it determines is in the national interest to disclose and may specify the form in which such information is to be disclosed.

(2) NOTICE OF DISCLOSURE.—

(A) REQUIREMENT.—If any Department or agency of the United States Government proposes pursuant to paragraph (1) to publish or disclose or otherwise provide information exempt from disclosure under subsection (a), the United States National Authority shall, unless contrary to national security or law enforcement needs, provide notice of intent to disclose the information—

- (i) to the person that submitted such information; and
- (ii) in the case of information about a person received from another source, to the person to whom that information pertains.

The information may not be disclosed until the expiration of 30 days after notice under this paragraph has been provided.

(B) PROCEEDINGS ON OBJECTIONS.—In the event that the person to which the information pertains objects to the disclosure, the agency shall promptly review the grounds for each objection of the person and shall afford the objecting person a hearing for the purpose of presenting the objections to the disclosure. Not later than 10 days before the scheduled or rescheduled date for the disclosure, the United States National Authority shall notify such person regarding whether such disclosure will occur notwithstanding the objections.

(d) CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.—Any officer or employee of the United States, and any former officer or employee of the United States, who by reason of such employment or official position has obtained possession of, or has access to, information the disclosure or other provision of which is prohibited by subsection (a), and who, knowing that disclosure or provision of such information is prohibited by such subsection, willfully discloses or otherwise provides the information in any manner to any person (including any person located outside the territory of the United States) not authorized to receive it, shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

(e) CRIMINAL FORFEITURE.—The property of any person who violates subsection (d) shall be subject to forfeiture to the United States in the same manner and to the same extent as is provided in section 229C of title 18, United States Code, as added by this Act.

(f) INTERNATIONAL INSPECTORS.—The provisions of this section shall also apply to employees of the Technical Secretariat.

**SEC. 405. [22 U.S.C. 6745] RECORDKEEPING VIOLATIONS.**

It shall be unlawful for any person willfully to fail or refuse—

- (1) to establish or maintain any record required by this Act or any regulation prescribed under this Act;



(2) to submit any report, notice, or other information to the United States Government in accordance with this Act or any regulation prescribed under this Act; or

(3) to permit access to or copying of any record that is exempt from disclosure under this Act or any regulation prescribed under this Act.

## TITLE V—ENFORCEMENT

### SEC. 501. [22 U.S.C. 6761] PENALTIES.

#### (a) CIVIL.—

##### (1) PENALTY AMOUNTS.—

(A) PROHIBITED ACTS RELATING TO INSPECTIONS.—Any person that is determined, in accordance with paragraph (2), to have violated section 306 of this Act shall be required by order to pay a civil penalty in an amount not to exceed \$25,000 for each such violation. For purposes of this paragraph, each day such a violation of section 306 continues shall constitute a separate violation of that section.

(B) RECORDKEEPING VIOLATIONS.—Any person that is determined, in accordance with paragraph (2), to have violated section 405 of this Act shall be required by order to pay a civil penalty in an amount not to exceed \$5,000 for each such violation.

##### (2) HEARING.—

(A) IN GENERAL.—Before imposing an order described in paragraph (1) against a person under this subsection for a violation of section 306 or 405, the Secretary of State shall provide the person or entity with notice and, upon request made within 15 days of the date of the notice, a hearing respecting the violation.

(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. If no hearing is so requested, the Secretary of State's imposition of the order shall constitute a final and unappealable order.

(C) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated section 306 or 405, the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (1).

(D) FACTORS FOR DETERMINATION OF PENALTY AMOUNTS.—In determining the amount of any civil penalty, the administrative law judge shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability,

the existence of an internal compliance program, and such other matters as justice may require.

(3) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the head of the United States National Authority unless, within 30 days, the head of the United States National Authority modifies or vacates the decision and order, with or without conditions, in which case the decision and order of the head of the United States National Authority shall become a final order under this subsection.

(4) OFFSETS.—The amount of the civil penalty under a final order of the United States National Authority may be deducted from any sums owed by the United States to the person.

(5) JUDICIAL REVIEW.—A person adversely affected by a final order respecting an assessment may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business.

(6) ENFORCEMENT OF ORDERS.—If a person fails to comply with a final order issued under this subsection against the person or entity—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (5), or

(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the United States National Authority,

the Secretary of State shall file a suit to seek compliance with the order in any appropriate district court of the United States, plus interest at currently prevailing rates calculated from the date of expiration of the 30-day period referred to in paragraph (5) or the date of such final judgment, as the case may be. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly violates any provision of section 306 or 405 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than one year, or both.

**SEC. 502. [22 U.S.C. 6762] SPECIFIC ENFORCEMENT.**

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over civil actions to—

(1) restrain any violation of section 306 or 405 of this Act; and

(2) compel the taking of any action required by or under this Act or the Convention.

(b) CIVIL ACTIONS.—

(1) IN GENERAL.—A civil action described in subsection (a) may be brought—

(A) in the case of a civil action described in subsection (a)(1), in the United States district court for the judicial

district in which any act, omission, or transaction constituting a violation of section 306 or 405 occurred or in which the defendant is found or transacts business; or

(B) in the case of a civil action described in subsection (a)(2), in the United States district court for the judicial district in which the defendant is found or transacts business.

(2) SERVICE OF PROCESS.—In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

**SEC. 503. [22 U.S.C. 6763] EXPEDITED JUDICIAL REVIEW.**

(a) CIVIL ACTION.—Any person or entity subject to a search under this Act may file a civil action challenging the constitutionality of any provision of this Act. Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following, the enactment of this Act, the district court shall accord such a case a priority in its disposition ahead of all other civil actions except for actions challenging the legality and conditions of confinement.

(b) EN BANC REVIEW.—Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following, the enactment of this Act, any appeal from a final order entered by a district court in an action brought under subsection (a) shall be heard promptly by the full Court of Appeals sitting en banc.

**TITLE IX—HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998**

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**ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS**

**SEC. 902. (a) ADJUSTMENT OF STATUS.—**

(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) INAPPLICABILITY OF CERTAIN PROVISIONS.—In the case of an alien described in subsection (b) or (d) who is applying for adjustment of status under this section—

(A) the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply; and

(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act.

In granting waivers under subparagraph (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti who—

(1) was present in the United States on December 31, 1995, who—

(A) filed for asylum before December 31, 1995,

(B) was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, or

(C) was a child (as defined in the text above subparagraph (A) of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) at the time of arrival in the United States and on December 31, 1995, and who—

(i) arrived in the United States without parents in the United States and has remained without parents in the United States since such arrival,

(ii) became orphaned subsequent to arrival in the United States, or

(iii) was abandoned by parents or guardians prior to April 1, 1998 and has remained abandoned since such abandonment; and

(2) has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed, except that an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the

United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has made a final determination to deny the application.

(3) **WORK AUTHORIZATION.**—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an “employment authorized” endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) **ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.**—

(1) **IN GENERAL.**—The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Haiti;

(B)(i) the alien is the spouse, child, or unmarried son or daughter of an alien who is or was eligible for classification under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for such adjustment is filed;

(ii) at the time of filing of the application for adjustment under subsection (a), the alien is the spouse or child of an alien who is or was eligible for classification under subsection (a) and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the individual described in subsection (a); and

(iii) in acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(J).

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) **PROOF OF CONTINUOUS PRESENCE.**—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(i) ADJUSTMENT OF STATUS HAS NO EFFECT ON ELIGIBILITY FOR WELFARE AND PUBLIC BENEFITS.—No alien whose status has been adjusted in accordance with this section and who was not a qualified alien on the date of enactment of this Act may, solely on the basis of such adjusted status, be considered to be a qualified alien under section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)), as amended by section 5302 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 598), for purposes of determining the alien’s eligibility for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.).

(j) PERIOD OF APPLICABILITY.—Subsection (i) shall not apply after October 1, 2003.

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