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## FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2010 AND 2011

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SEPTEMBER 23, 2010.—Ordered to be printed

Mr. KERRY, from the Committee on Foreign Relations,  
submitted the following

### REPORT

together with

### MINORITY VIEWS

[To accompany S. 2971]

The Committee on Foreign Relations, having had under consideration the bill S. 2971, to authorize certain authorities by the Department of State, and for other purposes, reports favorably thereon, with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

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#### I. PURPOSE

The Foreign Relations Authorization Act, Fiscal Years 2010 and 2011, authorizes funding for the Department of State, United States international broadcasting activities, and the Peace Corps. The bill also addresses several important regional and functional foreign policy issues.

#### II. COMMITTEE ACTION

The Senate Foreign Relations Committee held several public hearings this year focusing on the issues addressed in this legislation. On February 24, 2010, Secretary of State Hillary Clinton testified regarding the President's budget request for international

affairs. On March 10, the committee held a hearing on the future of U.S. public diplomacy programs. In other hearings on issues such as rebuilding Haiti, new directions in global health, the Middle East peace process, and the administration's global food security initiative, the committee explored policy choices and purposes that underlie the funding and the authorities contained in this legislation.

The committee considered S. 2971 on April 27, 2010. During the mark-up of this legislation, several amendments were considered:

- An amendment offered by Senator Menendez to promote minority participation in the foreign service was agreed to by voice vote;
- An amendment offered by Senator Kaufman providing a Sense of Congress that the United States Government should expand international broadcasting in Iran was agreed to by voice vote;
- An amendment offered by Senator Casey to an amendment offered by Senator Wicker regarding policy with respect to abortion was agreed to by a roll call vote of 12 to 4;
- An amendment offered by Senator Wicker as amended by an amendment offered by Senator Casey (above) passed by voice vote;
- An amendment offered by Senators Feingold and Gillibrand regarding discrimination related to sexual orientation was agreed to by a roll call vote of 12 to 7;
- An amendment offered by Senator Webb regarding funding for the Bureau of East Asian and Pacific Affairs was not agreed to by a roll call vote of 5 to 14;
- An amendment offered by Senator Kerry regarding amounts for authorization was agreed to by voice vote;
- Four technical amendments offered by Senators Kerry and Lugar were agreed to by voice vote.

The committee ordered S. 2971 reported, with an amendment in the nature of a substitute, and with the amendments noted above, by voice vote. The amendment in the nature of a substitute added the following provisions to the base bill: Annual report on international religious freedom; Assistant Secretary for International Information Programs; Reimbursement for use of Government vehicles overseas; Transfer of the Vietnam Education Foundation to the Department of State; Broadcasting Board of Governors; Statement of policy regarding citizen diplomacy; Performance-based measurement reporting requirements for international exchange programs; Videoconference interviews; Mass atrocities; Crisis response; Office for Global Women's Issues; Home leave; Training support services; Recruitment and retention of United States citizens in international organizations; United States membership in the International Renewable Energy Agency; Sense of Congress relating to transparency for extractive industries; Sense of Congress regarding Central Asia; Sense of Congress on global Internet freedom; Global Health Initiative; and Peace Corps Improvement and Expansion. In addition, the amendment in the nature of a substitute changed the following provisions: United States Advisory Commission on Public Diplomacy; Grants for international documentary exchange programs; and Reforming refugee processing. Finally, the amendment in the nature of a substitute struck the following provisions from

the base bill: Passport execution fee; and Fraud prevention and detection fees.

### III. DISCUSSION

S. 2971, the Foreign Relations Authorization Act, Fiscal Years 2010 and 2011, represents the first time since 2005 that the committee has reported out a full authorization bill for the State Department. This legislation addresses challenges that underlie the major foreign policy issues facing the United States and emphasizes the necessity of strengthening U.S. civilian institutions and providing diplomats and development experts the training, capabilities and management needed to advance critical foreign policy priorities globally.

The legislation authorizes funds to allow the U.S. to deploy more Foreign Service Officers and provide those already in the field with more resources. The strains of insufficient personnel have resulted in lost opportunities for our diplomatic corps and limited the time available for necessary language and skills training for increasingly dangerous and difficult work. The committee recognizes that while work in the capitals of our traditional allies remains critical, much of our important diplomatic work is now also done in places such as in Beijing, Baghdad, Kabul and Islamabad, which demand different skill sets and support resources.

Additionally, the committee affirms that U.S. diplomats should work out of high-performance, high quality embassies that reflect American values of openness, transparency and innovation. U.S. diplomats should also have access to the right type of training to prepare them for service to outlying and difficult posts.

Finally, the committee believes that it is necessary to establish more flexible structures within the Department to enable it to move personnel and material to respond quickly to emerging crises. The Foreign Relations Authorization Act advances each of these aims and begins the process of establishing a blueprint for a stronger Department of State.

The legislation promotes several important objectives. First, it modernizes the State Department and builds the capacity of U.S. diplomacy. The bill:

- Authorizes vital programs and increases for the State Department and United States Agency for International Development (USAID) Foreign Service corps to support key priorities around the world.
- Addresses critical deficiencies in conflict prevention, mitigation and resolution training for diplomats deployed to conflict areas such as Afghanistan, Pakistan, Iraq and Sudan.
- Establishes an Office for Global Women's Issues, headed by an Ambassador-at-Large, to strengthen efforts to promote gender integration and women's and girls' economic, social and legal development, and to prevent and respond to violence against women and girls.

Second, S. 2971 increases accountability for our diplomatic and development programs. The bill:

- Strengthens the Office of the Inspector General for the State Department and USAID by providing critical hiring flexibility that greatly improves their ability to compete for, recruit and

retain qualified personnel, especially for difficult to fill critical priority posts in Iraq, Afghanistan, Pakistan, and Haiti.

Third, the Act strengthens U.S. public diplomacy programs and activities. The bill:

- Promotes a reexamination of the public diplomacy strategy for the United States to include greater public access to American Centers.
- Clarifies authorities relating to the Broadcasting Board of Governors (BBG).
- Promotes enhanced contributions of scientific and technical knowledge to the pursuit of U.S. foreign policy objectives.

Finally, S. 2971 represents a renewed commitment to international organizations and U.S. foreign aid agencies. The bill:

- Authorizes funds and contributions to the United Nations (UN), including support to peacekeeping operations in countries ranging from Haiti to Sudan.
- Authorizes U.S. reengagement with the Inter-Parliamentary Union (IPU), the oldest parliamentary association in the world.
- Provides important revisions to the authorities of the Millennium Challenge Corporation (MCC), including clarifying the eligibility criteria for qualifying countries, so it can better fulfill its mission of fighting poverty and fostering sustainable economic growth in the poorest countries around the world.
- Provides authorities to ensure USAID can support community policing efforts, combat trafficking in persons, reduce corruption, prevent conflict, and respond to disasters in countries around the world.

The committee also notes that the authorization of appropriations for State Department management and operations and related agencies for fiscal year 2011 mirrors the President's submitted budget request.

(A) SUMMARY OF FUNDS—(\$000)

Summary of Funds Authorized by S. 2971

(in dollars)

	FY 2010 Appropriations Estimate	FY 2011 Request	FY 2011 SFRC Bill as Reported
Diplomatic and Consular Programs .....	8,366,000	9,545,221	9,545,221
[Includes: Worldwide Security Upgrades] .....	1,586,214	1,560,700	1,560,700
Capital Investment Fund .....	139,000	144,100	144,100
Embassy Security Construction & Maintenance .....	1,724,150	1,681,500	1,681,500
<b>Other State Department Accounts</b>			
Civilian Stabilization Initiative .....	120,000	184,000	184,000
Educational and Cultural Exchange Programs .....	635,000	633,200	633,200
Representation Allowance .....	8,175	8,175	8,175
Protection of Foreign Missions and Officials .....	28,000	27,200	27,200
Emergencies in Diplomatic and Consular Service .....	10,000	10,000	11,000
Repatriation Loans .....	1,450	1,450	1,450
Payment to the American Institute in Taiwan .....	21,174	21,420	21,420
Office of the Inspector General .....	102,000	120,152	120,152

Summary of Funds Authorized by S. 2971—Continued  
(in dollars)

	FY 2010 Appropriations Estimate	FY 2011 Request	FY 2011 SFRC Bill as Reported
<b>International Organizations</b>			
Contributions for International Organizations .....	1,682,500	1,595,430	1,595,430
Contributions for International Peacekeeping .....	2,125,000	2,182,300	2,182,300
<b>International Commissions</b>			
International Boundary and Water Commission, United States and Mexico .....	33,000	47,431	47,431
International Boundary Commission, United States and Canada .....	2,359	2,422	2,422
International Joint Commission .....	8,000	7,631	7,631
International Fisheries Commissions .....	53,976	43,600	43,600
<b>Centers and Foundations</b>			
National Endowment for Democracy .....	118,000	105,000	105,000
East-West Center .....	23,000	11,400	11,400
The Asia Foundation .....	19,000	15,690	15,690
<b>Migration and Refugee Assistance</b>			
Total .....	1,693,000	1,605,400	1,605,400
<b>International Broadcasting Activities</b>			
Total International Broadcasting .....	746,410	768,778	768,778
<b>Peace Corps</b>			
Total Peace Corps .....	400,000	446,150	446,150

## (B) SECTION-BY-SECTION ANALYSIS

*Sec. 101. International litigation fund.*

In 2002, Congress authorized the Department to replenish partly the International Litigation Fund (ILF) by retaining a small percentage of amounts received for international claims prosecuted by the Department. See section 203 of the Foreign Relations Authorization Act, Fiscal Year 2003 (P.L. 107–228, 22 U.S.C. 2710). That authorization does not apply, however, to cases where the Department defends the United States against international claims—because in such cases an award favorable to the United States will not call for any payment on the claim. Nevertheless, the rules under which those latter cases are conducted permit costs, attorneys’ fees and expenses to be awarded to the prevailing party. Under this provision, such awards paid to the United States by foreign governments and other foreign entities and persons would be credited to the ILF. These additional resources would be available to fund Department expenses related to proceedings before international tribunals and claims by or against foreign governments or other foreign entities or persons. The Department defends the United States in a number of such cases, notably North American Free Trade Agreement (NAFTA) investor-State arbitrations.

This provision has been included numerous times in similar legislation in years past, including in H.R. 2410 (the companion to S. 2971), which was passed by the House in June 2009).

*Sec. 102. Actuarial valuations.*

Under existing law, the Secretary of the Treasury is required to perform certain statutory duties involving the Department of State's two retirement systems, the Foreign Service Retirement and Disability System (FSRDS) and the Foreign Service Pension System (FSPS), both of which are financed from the Foreign Service Retirement and Disability Fund (the Fund). The Secretary of the Treasury is required to prepare estimates of the annual appropriations required to be made to the Fund, and to make actuarial valuations of the two systems at intervals of not more than five years that will provide (1) the normal cost of the systems, (2) the supplemental liability of the systems, and (3) the amounts necessary to finance the costs of the systems. This section transfers the statutory responsibility for performing these actuarial duties from the Secretary of the Treasury to the Secretary of State. The committee understands that the Department of the Treasury supports this official change in responsibility, as it does not believe the Department of State's actuarial work is within the scope of Treasury's core mission.

The section would also authorize the Secretary of State, subject to amounts provided in advance in appropriations acts, to use monies in the Fund to cover the costs of administering the two retirement systems. This would enable the Department of State to cover the costs of ongoing operations, and to make needed improvements in order to maintain and improve the Department of State's financial management capabilities. This authority would be consistent with the authority given to the Office of Personnel Management with respect to its administration of the Civil Service Retirement and Disability Systems. The same provision was included in H.R. 2410, which was passed by the House in the 111th Congress.

*Sec. 103. Special agents.*

This provision would explicitly authorize Department of State and Foreign Service special agents to investigate identity theft and document fraud, and federal offenses committed in the special maritime and territorial jurisdiction of the United States.

This provision was included in H.R. 2410, which was passed by the House in the 111th Congress. A similar provision was included as section 215 in S. 2611, the Comprehensive Immigration Reform Act of 2006, which was passed by the Senate during the 109th Congress.

*Sec. 104. Accountability review boards.*

This provision would extend by three years, to September 30, 2012, a provision allowing the Secretary of State to conduct a less formal investigation for incidents involving "serious injury, loss of life, or significant destruction of property at, or related to, a United States Government mission in Afghanistan or Iraq" instead of convening an Accountability Review Board (ARB) otherwise required under 22 U.S.C. 4831. The exemption currently applies only to incidents in Iraq and Afghanistan that occur between October 1, 2005 and September 30, 2009. The committee believes the ongoing violence in Afghanistan and Iraq creates an impractical environment for such Boards.

In many cases, a full ARB for such incidents in Iraq and Afghanistan is inconsistent with the security environment. Indeed, it could require the Department to send ARB members unnecessarily into harm's way to investigate an incident. Moreover, given the difficulty and security risks involved in pursuing investigations in Iraq and Afghanistan, a requirement to conduct a full ARB for all incidents covered by 22 U.S.C. 4831 could place a strain on resources in the Department and at post. As a result, the committee believes that a three-year extension of the exemption for Iraq and Afghanistan, through fiscal year 2012, is warranted.

The committee expects the Department to work to develop a strategy for conducting less formal investigations of security incidents and to keep the committee fully and regularly informed of its plans in this regard.

The committee also believes that the current patchwork approach to ARBs, where the administration requests on an ad hoc basis temporary ARB exemptions for particularly dangerous or insecure posts, does not represent a sustainable solution to this issue. The administration should undertake a more comprehensive examination of the costs and benefits of accountability review boards and address more fundamental questions about the utility, efficiency, and fairness of ARBs. The committee directs the administration to undertake such a review and report back to Congress no later than September 30, 2011 recommendations for a more systematic overhaul of ARBs.

*Sec. 105. Security enhancements for soft targets.*

This provision expands the Department's current authority under section 29 of the State Department Basic Authorities Act of 1956 (P.L. 84-885, 22 U.S.C. 2701) to assist overseas schools with physical security enhancements as part of the Department's Soft Target program. Under the current provision, the Department's authority is limited to providing assistance related to buildings and real property used by the schools. Some facilities used by overseas schools, such as school buses, do not fit within this authority but frequently require security enhancements that the schools do not have the funding or expertise to provide. Indeed, overseas school buses carry dependents of U.S. employees and/or other U.S. citizens and operate on fixed routes and schedules, which increases the risk of attack. Expanded authority to provide assistance to overseas schools for such security enhancements would both benefit the Department and safeguard U.S. children overseas. Activities undertaken pursuant to this proposed authority would be funded from the Diplomatic and Consular Programs appropriation.

*Sec. 106. Enhanced Department of State authority for uniformed security officers.*

This provision would expand the circumstances under which uniformed security officers of the Department of State may carry firearms and enforce relevant laws and regulations. It also provides such officers limited arrest authority—to make arrests without warrant for any offense against the United States committed in their presence, and for felonies that relate to their protective functions. Virtually all other U.S. Government agencies that have statutory responsibility for the protection of persons or properties have

these authorities. This section also authorizes the Secretary of State to issue regulations, comparable to General Services Administration (GSA) regulations, for properties belonging to foreign missions and international organizations in the United States and for other purposes consistent with the orderly administration of the Department's uniformed officers, in relation to their providing protective services under the Secretary's long established statutory responsibilities. The relevant authorities would be exercised only pursuant to guidelines approved by the Attorney General.

*Sec. 107. Local guard contracts abroad under diplomatic security program.*

This section would change the rules governing the cost analyses used by the Department of State in awarding local guard contracts under the Department's diplomatic security program. Under 22 U.S.C. 4864(c)(3), the Department of State is currently required to award local guard contracts to firms offering the lowest price technically acceptable (LPTA) for all such contracts that exceed \$250,000. The committee believes that this provision limits the Department's ability to award local guard contracts in the most efficient manner at U.S. diplomatic missions abroad and may result in sub-standard performance as contractors are, in the end, unable to provide necessary services at the contract price—resulting in either unacceptable levels of security service or additional costs that far and above exceed other bids. As recent incidents in Afghanistan and other locations have demonstrated, selecting a contractor strictly on a lowest cost basis has resulted in significant unintended consequences. Federal acquisition regulations normally allow contracting agencies to determine the selection criteria for making an award of a service contract. Where local guard contracts are awarded on the basis of LPTA, however, contractors sometime offer their employees minimal training, wages, and benefits in order to ensure their competitiveness for award. The Department has found that this type of bidding arrangement often results in poorly trained guard forces with poor morale and high personnel turnover, which significantly undermines the operational effectiveness of the guard force. By allowing the Department to award local guard contracts on the basis of either LPTA or best value cost-technical tradeoff, the provision would allow the Department to select award criteria best suited to the local conditions. The committee recognizes that a best value approach may result in paying more for some non-cost factors (e.g., proven mission capability, lower proposal risk, and solid past performance in similar areas) as well as cost factors such as wages and benefits that exceed local minimums. However, the committee believes that the enhanced security posture from a best value approach will often outweigh the expected price increase—particularly in countries with dangerous or hostile environments.

*Sec. 108. Overseas procurement flexibility.*

This section provides the Department of State the authority to waive certain laws and regulations applicable to domestic contracting when the Department contracts overseas for local goods, services and utilities and determines that it could not reasonably



meet the needs of a post or facility for such goods and services by use of other available authorities.

The Department's Bureau of Overseas Buildings Operations (OBO), currently has statutory authority to waive acquisition laws. OBO uses this authority sparingly, only after a determination signed by its Director that it is in the government's best interests to waive an otherwise applicable acquisition law or regulation. This section would provide the Department of State with similar flexibility to assist overseas posts when faced with circumstances where application of U.S. law and regulation prevents them from reasonably meeting their needs, such as when:

- Contracting for hotel rooms, where the contractor refuses to accept a Federal Acquisition Regulation (FAR)-based contract (e.g., contractor requires advance payments).
- Contracting for telecommunications service, provided by the host government or government-owned corporation, where there is only one source available and that source will not accept a contract containing FAR clauses.
- Contracting for health or life insurance for Foreign Service Nationals, which involves highly regulated foreign industries that do not recognize or accept FAR procedures.
- Leasing vehicles where contractor requires purchase of insurance providing standard commercial indemnification customary in the marketplace.

Under this section, the Secretary is required to issue guidance addressing use of the authority that would require waivers to be approved in writing by the Department's Procurement Executive. Any actions over \$2 million would also be approved in writing by the Department's Chief Acquisition Officer. Neither approval could be delegated. Competition would continue to be used wherever practicable. In addition, this waiver authority would not apply to procurements from U.S. domestic sources for shipment and use overseas. Those transactions would continue to be subject to current laws and the FAR.

*Sec. 109. Renaming of Bureau of Oceans and International Environmental and Scientific Affairs.*

This technical amendment is intended to simplify the name of the bureau within the State Department that is currently named the "Bureau of Oceans and International Environmental and Scientific Affairs."

*Sec. 110. Extension of period for reimbursement for seized commercial fishermen.*

This provision amends the Fishermen's Protective Act of 1967 (FPA) (P.L. 90-482) to extend by five years the Secretary of State's authority to reimburse fishermen for the fines and direct costs incurred from the illegal seizure and detention of a U.S.-flag fishing vessel by a foreign government as a result of a claim of jurisdiction not recognized by the United States. The authority for this program expired on October 1, 2008. Maintaining this authority is necessary to safeguard the interests of U.S. fishermen operating legally in areas under U.S. jurisdiction where that jurisdiction may be in dispute with another country. This provision also protects the

legal position of the United States with respect to any such disputed claims.

*Sec. 111. Authority to issue administrative subpoenas.*

This section provides subpoena authorities for the Bureau of Diplomatic Security's performance of protective duties and investigation of passport and visa fraud cases. A proposed authority with respect to protective duties was included in S. 600, which was reported by the committee to the Senate during the 109th Congress.

*Sec. 112. Home-to-work transportation.*

This provision amends 31 U.S.C. 1344 to allow the Department to provide home-to-work transportation for the Deputy Secretary of State for Management and Resources. Under the current provision, the Department may provide transportation to the Deputy Secretary of State as the Secretary's "principal deputy" under subsection (b)(3)(B). The current provision does not, however, account for the establishment of the position of Deputy Secretary of State for Management and Resources (as a Level II Executive under 5 U.S.C. 5313) in section 404 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, Fiscal Year 2001 (P.L. 106-553, App. B, 22 U.S.C. 2651a(a)(2)). The Department has stated to the committee that it believes that home-to-work transportation is equally important for the Deputy Secretary of State for Management and Resources, for both operational and security reasons.

*Sec. 113. Technical amendment to Federal Workforce Flexibility Act.*

This provision clarifies the effect of an amendment made by the Federal Workforce Flexibility Act of 2004 (P.L. 108-411) to the recruitment, relocation, and retention benefit authorities in Title 5, United States Code. Section 101 of the Federal Workforce Flexibility Act, which amended sections 5753 and 5754 of Title 5, prohibited payment of recruitment, relocation, and retention benefits to a person who holds "a position to which an individual is appointed by the President, by and with the advice and consent of the Senate." Although this language was intended to prohibit agencies from providing such benefits to traditional political appointees, it could be interpreted to have the unintended effect of excluding all Foreign Service Officers, as defined by Section 103(4) of the Foreign Service Act of 1980 (P.L. 96-465, 22 U.S.C. 3903(4)), because Foreign Service Officers are appointed by the President under section 302(a)(1) of the Foreign Service Act. The provision also makes clear that ambassador-level appointees will remain subject to the existing restrictions of sections 5753 and 5754. Clarifying the Department's authority to provide these benefits to Foreign Service Officers would strengthen the Department's ongoing efforts to attract and retain talented and motivated professionals from around the country, which is imperative at a time when the U.S. diplomatic corps is being asked to take on increasingly difficult assignments in exceptionally dangerous places.

*Sec. 114. Emergency Refugee and Migration Assistance Account.*

This provision increases funding authorization levels for the Emergency Refugee and Migration Assistance (ERMA) Account

from \$100,000,000 to \$200,000,000. The committee believes the increase is warranted given the proliferation of humanitarian crises involving refugee and migration issues which require an immediate and flexible response.

*Sec. 115. Annual Report on International Religious Freedom*

This provision amends the International Religious Freedom Act of 1998 (P.L. 105–292) to change the reporting date for the Annual Report on International Religious Freedom to April 1, in order to synchronize it with the due date for other State Department Human Rights Reports.

*Sec. 116. Assistant Secretary for International Information Programs.*

This provision elevates the “Coordinator” for International Information Programs to an Assistant Secretary of State. This will create parity with the other two public diplomacy Bureaus—Educational and Cultural Affairs and Public Affairs—each of which are headed by Assistant Secretaries of State.

*Sec. 117. Reimbursement for use of government vehicles overseas.*

This provision amends section 28 of the State Department Basic Authorities Act of 1956 (P.L. 84–885, 22 U.S.C. 2700) to enable the Department of State to retain reimbursements for certain uses of motor vehicles overseas. Section 28 allows the Secretary of State to authorize the principal officers of overseas posts to provide for the use of government-owned and leased vehicles to transport employees and their families when local transportation is unsafe or unavailable or when such use is advantageous to the government. Pursuant to Department guidelines, employees who use these vehicles for certain authorized purposes, such as home-to-office transportation for employees at post on temporary duty assignment, pay charges set by the post that reflect the cost of maintaining and operating the vehicles.

*Sec. 121. Public diplomacy resource centers.*

This provision states that it is the Sense of the Congress that the Secretary of State should: (1) initiate a reexamination of the public diplomacy platform strategy of the United States with a goal of reestablishing publicly accessible American Centers; and (2) taking into account security considerations, consider placing U.S. public diplomacy facilities at locations conducive to maximizing their use.

The Secure Embassy Construction and Counterterrorism Act of 1999 (P.L. 106–113, 22 U.S.C. 4865(a)(2)(B)) provided the Secretary of State with the authority to waive certain requirements of the Act, including the requirement that all official American personnel be co-located on an Embassy compound. The committee believes that, to the extent security requirements permit, greater consideration should be given towards placing U.S. public diplomacy facilities in locations where they can be more easily accessed by the audiences we are trying to reach through our public diplomacy. In many countries, American Centers are housed within the Embassy compound and security requirements for entry into the compound are such that fewer and fewer foreigners are willing to make use of the American Centers. This language is similar to S. Res. 49 in-

roduced by Senator Lugar and passed in the Senate on May 19, 2009, and mirrors the co-location exemption afforded the Peace Corps.

*Sec. 122. Employment of noncitizens for international broadcasting.*

This provision clarifies the BBG's authority to hire the best qualified candidate for a position, even if that candidate is not an American citizen.

At various times during the agency's history, first under the United States Information Agency (USIA) and subsequently under the BBG, uncertainty has arisen as to whether applicable law requires the agency to give employment preference to U.S. citizens, even if a better qualified applicant, who is a non-citizen, is available. While the agency for more than 20 years has interpreted its authorities to provide flexibility to hire the best qualified applicant, the committee believes it would be useful to confirm this understanding by statute.

*Sec. 123. Radio Free Europe and Radio Liberty pay parity.*

This provision allows parity of compensation between Radio Free Europe (RFE)/Radio Liberty (RL) employees and those of other Federal employees, and would bring RFE/RL's compensation policies in line with the overall policy of the BBG. Doing so would provide equitable treatment for RFE/RL employees, and assist RFE/RL to recruit and retain employees. Currently, RFE/RL is the only broadcasting entity of the BBG with salaries not fully compatible with the Senior Executive Service pay system.

*Sec. 124. Radio Free Asia.*

This provision amends the United States International Broadcasting Act of 1994 (P.L. 103-236) to authorize Radio Free Asia (RFA) through September 30, 2011. RFA is a private, nonprofit corporation that broadcasts news, cultural programming, and other information in several languages to countries in Asia. Under current law, the authorization for RFA expires at the end of fiscal year 2010.

RFA's mission is to provide in-country news and information to countries that do not permit free media. All but one of RFA's target countries—China, North Korea, Burma, Laos, Vietnam, and Cambodia—are Communist, military, or authoritarian regimes that give no indication of allowing a free indigenous press any time in the near future. This provision makes the authorization of RFA consistent with that of other "surrogate" entities overseen by the BBG, including RFE/RL, the Office of Cuba Broadcasting, and the Middle East Broadcast Network.

*Sec. 125. Personal services contracting program for the Broadcasting Board of Governors.*

This section permits the BBG to employ up to 60 personal services contractors at any time. This program is extended until December 31, 2011. The BBG has used this authority to respond to needs for surge broadcasts in priority areas, with the most recent examples in the Urdu, Dari and Pashto services, and for Zimbabwe and Somalia.

*Sec. 126. United States Advisory Commission on Public Diplomacy.*

Subsection (a) amends the Foreign Affairs Reform and Restructuring Act of 1998 (P.L. 105–277) to reauthorize the United States Advisory Commission on Public Diplomacy through October 1, 2011. Subsection (b) mandates regular studies by the Commission for submission to Congress and authorizes the Commission to use funds in its allotted budget to award grants to assist in carrying out its duties. Subsection (c) requires that at least four of the Commission’s seven members, all of whom are political appointees, have substantial experience in public diplomacy or comparable activities in the private sector, and that no member may be an officer or employee of the United States.

*Sec. 127. Dissemination of public diplomacy information within the United States.*

This provision amends the United States Information and Educational Exchange Act of 1948 (P.L. 80–402), commonly known as the “Smith-Mundt Act,” to allow the BBG to make available to the Archivist of the United States, for domestic distribution, motion pictures, films, videotape, and other material prepared by the BBG for dissemination abroad 2 years after the initial dissemination of the material abroad, or in the case of such material not disseminated abroad, 2 years after the preparation of the material. The the Secretary of State and the BBG may be reimbursed for any attendant expenses. This changes the current statute which prohibits domestic dissemination for 12 years. There is widespread dissatisfaction with the current statute and waivers are frequently requested for domestic dissemination. This would make the cumbersome and time-consuming waiver process less frequent while still preventing the immediate dissemination of BBG materials for perceived “domestic propaganda” purposes.

*Sec. 128. Science and technology fellowships.*

This section authorizes the Secretary of State, under the authority, direction, and control of the President and in accordance with the Mutual Educational and Cultural Exchange Act of 1961 (P.L. 87–256), to increase the number of educational and cultural exchange activities involving persons from scientific, medicine, research, and academic sectors by: (1) establishing new Mutual Educational and Cultural Exchange Programs; and (2) expanding the coverage of existing Programs. This section would also give the Department grant authority to assume the support function, institutionalize the Jefferson Science Fellows program, and provide similar support as appropriate for other science fellowship programs. The provision makes clear that stipends paid to fellows under grants made by the Department are not to be considered “compensation” by the federal government, and that the payment by outside sources of the salary and benefits of science and technology fellows to science fellows who serve as unpaid consultants therefore does not violate 18 U.S.C. 209.

This section includes elements of the bill S. 838 introduced by Senator Lugar on April 21, 2009, which directs the Secretary to appoint United States Science Envoys to represent the U.S. commitment to collaborate with other countries to promote the advance-

ment of science and technology throughout the world based on issues of common interest and expertise.

*Sec. 129. Grants for international documentary exchange programs.*

This provision authorizes the Secretary to make grants to U.S. nongovernmental organizations that use independently-produced documentary films to promote better understanding of the United States among individuals in other countries. Subsection (a) authorizes the making of grants to support such films, subsection (b) outlines certain activities that should be supported, subsection (c) outlines a preference for organizations that are cost-effective and experienced, subsection (d) provides for a report on the implementation of this section, and subsection (e) authorizes such sums as necessary for fiscal years 2010 and 2011 to carry out this section.

It is the intent of this provision to create an exchange of non-commercial, independently produced documentary films between the United States and other countries that will convey a diversity of views about life in the United States. This reflects the critical need in public diplomacy for high-quality, authentic, credible, independent voices to be created and distributed on television and digital platforms.

*Sec. 130. Transfer of the Vietnam Education Foundation to the Department of State.*

This section makes various amendments to the Vietnam Education Foundation Act of 2000 (P.L. 106–554) in order to transfer to the Bureau of Educational and Cultural Affairs (ECA) of the Department of State the authority to operate the currently independent, congressionally-established Vietnam Education Foundation.

Subsection (a) amends the purposes of the act to offer further support of academic institutions in Vietnam. Subsection (b) establishes the Foundation within ECA. Subsection (c) eliminates the Foundation's current board of directors and creates an advisory committee—with members appointed by the Secretary of State and the majority and minority leaders of the House and the Senate—to advise ECA on the Foundation's activities, and ensures that the Foundation's executive director answers to this board. Subsection (d) reforms the Foundation's fellowship program to focus on academic computer science, public policy, and academic and public management. Subsection (e) vests appointment of the Executive Director of the Foundation with the Secretary. Subsection (f) makes certain conforming amendments. Subsection (g) makes certain amendments to the Mutual Educational and Cultural Exchange Act of 1961. Subsection (h) provides for transfer of functions of the Foundation to the Department. Subsection (i) provides for graduate level academic and public policy management leadership programs through ECA or through the Foundation. Subsection (j) provides that the amendments in this section of the act shall take place 90 days after enactment of the section.

*Sec. 131. Broadcasting Board of Governors.*

This provision (a) eliminates editorials as a broadcasting requirement of the United States Government (USG) and (b) extends civil liability immunity to members of the Middle East Broadcasting

Networks to bring it in line with immunities afforded other BBG entities.

*Sec. 132. Statement of policy regarding citizen diplomacy.*

This provision states that it is the policy of the United States to recognize the work of citizen diplomacy organizations and individual citizen diplomat volunteers, to encourage more Americans to engage in global citizenship activities, including studying abroad, hosting foreign students, and participating in international volunteer programs. It also supports existing and new programs at the Department of State that foster citizen diplomacy and development missions.

*Sec. 133. Performance-based measurement reporting requirements for international exchange programs.*

This provision seeks to strengthen the public-private partnership and U.S. government run international exchange programs by introducing performance-based measurements to accurately assess the overall well-being of international secondary education exchange programs. In order to perform effectively and to understand where and how to make adjustments, the State Department's Bureau of Educational and Cultural Affairs shall implement a performance-based measurement system that allows them to track the performance of students while on exchanges, the performance of host parents, and the performance of sponsoring organizations. The committee intends to review the annual report submitted by the Bureau of Educational and Cultural Affairs with a view to ensuring that deficiencies in program performance are remedied.

*Sec. 141. Reforming refugee processing.*

This provision amends section 209 of the Immigration and Nationality Act (P.L. 82-414, 8 U.S.C. 1159), which mandates that the Department of Homeland Security detain in custody refugees who do not file for adjustment of status by the one year anniversary of the date they obtained refugee status.

Current law mandates that refugees who do not file for adjustment of status by the one year anniversary of achieving refugee status must be detained in custody by DHS. This represents a disparity in treatment of refugees from asylum-seekers, who are not subject to mandatory detention for failing to file by their one year anniversary.

This provision remedies what has long been seen as an unnecessary hardship in U.S. refugee law. Mandating detention for those who may not know of the precise status-adjustment deadline, and who may need time to procure assistance with the process is unnecessary.

*Sec. 142. Definition of "use" in passport and visa offenses.*

This section clarifies that for purposes of crimes described in Chapter 75 of Title 18 of the U.S. Code, which cover a variety of passport and visa fraud offenses, the terms "use" and "uses" shall be given their plain meaning, to include use of such documents for identification purposes. Prosecution of passport-related offenses has previously been limited in some cases by ambiguity concerning the scope of the terms "use" and "uses."

*Sec. 143. Visa ineligibility for international child abduction.*

Under section 212(a)(10)(C) of the Immigration and Nationality Act (P.L. 82–414, 8 U.S.C. 1182(a)(10)(C)), an individual who detains or withholds custody of a U.S. citizen child outside the United States from the individual granted custody of the child by a U.S. court, or a person who provides material support to such an individual, is ineligible for a visa to enter the United States. However, this visa ineligibility provision does not apply where the child is located in a country that is a party to the Hague Convention on the Civil Aspects of International Child Abduction. This exception was intended to allow the procedures under the Hague Convention to provide the sole set of remedies for the return of the child, and to insulate procedures under the Convention in a given case (which can be very delicate) from being derailed by a declaration that an abductor or his/her supporter is ineligible for a visa.

This provision amends section 212 to permit the visa ineligibility to be applied regardless of whether the child is located in a country that is a party to the Hague Convention. The Department’s Office of Children’s Issues, the U.S. Central Authority under the Convention, has reported a number of cases where a child has been abducted to a party to the Convention and the Convention’s remedies have thus far proven inadequate to reach a resolution. The committee believes that it is important for the U.S. to support the Hague Convention and that permitting travel by aliens who have violated international obligations under the Hague Convention is inconsistent with that support.

*Sec. 144. Vaccination waiver for adopted children.*

Under section 212(a)(1)(A)(ii) of the Immigration and Nationality Act (P.L. 82–414, 8 U.S.C. 1182(a)(1)(A)(ii)), aliens may not be admitted to the United States unless they present documentation of certain required vaccinations. Section 212(a)(1)(C) provides an exemption from this requirement for children under ten years old who are adopted from countries with which the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption is not in force for the United States, so long as the adoptive parent executes an affidavit stating that the child will receive the required vaccinations within 30 days of the child’s admission (or at the earliest medically appropriate time). At the time of the original provision, the United States had not ratified the Convention. This provision amends section 212(a)(1)(C) to provide the same exemption for children who are adopted from countries with which the Hague Convention is in force for the United States. This resolves an inequity in the treatment of adoptive children based solely on their country of origin.

*Sec. 145. Signed photograph requirement for visa applications.*

This provision eliminates the requirement that visa applicants submit signed photographs with their visa applications under section 221(b) of the Immigration and Nationality Act (P.L. 82–414, 8 U.S.C. 1201(b)). As the Visa Office moves to an electronic visa application system, in accordance with the Government Paperwork Elimination Act (P.L. 105–277), requiring applicants to sign the photographs submitted with their applications is no longer sensible. Applicants who submit electronic visa applications will sub-



mit digital photographs, and it is not feasible to require applicants to sign the photographs (either physically or electronically). Eliminating the signature requirements will not undermine the integrity of the application process because there are a variety of other security measures, including fingerprinting, in place to ensure that applicants are who they purport to be.

*Sec. 146. Electronic transmission of domestic violence information to visa applicants.*

This provision permits the Department of State to provide certain required information to K visa applicants by e-mail where the Department has an e-mail address for the applicant and if the applicant consents to the electronic service. Under the current provision, the Department is required to mail K visa applicants a pamphlet with information regarding the visa application process, domestic violence laws and resources, rights of immigrant victims, and information concerning the petitioner for the visa. Where an applicant has provided an e-mail address and consents to receiving information via email, the committee believes that e-mail is less expensive than standard mail and more likely to reach applicants because they are likely to have access to e-mail even when they are away from their primary residence.

*Sec. 147. Sibling adoptions.*

This section amends the Immigration and Nationality Act to facilitate the inter-country adoption of siblings. Under section 101(b)(1)(F) of the Immigration and Nationality Act (INA) (8 U.S.C. 1101(b)(1)(F)), an adopted child under the age of 18 is classified as an immediate relative when a natural (birth) sibling has also been adopted by the same U.S. citizen from a country with which the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption is not in force for the United States. In contrast, under section 101(b)(1)(G) of the INA, this classification is not available for children between the ages of 16 and 18 who are natural siblings of children adopted from countries with which the Hague Convention is in force for the United States. As a result of this apparently inadvertent omission, those latter siblings may not enter the United States in this classification as an immediate relative of a U.S. citizen. The only available alternative for immediate relative status for a child between the ages of 16 and 18 from a Hague Convention country who has been adopted by the same U.S. citizen as a sibling under the age of 16 would be for both children to qualify under section 101(b)(1)(E) of the INA. However, this would require that the adoptive parent does not intend to take up residence in the United States immediately after the adoptions, and (unless an exception for battery or extreme cruelty within the adoptive household applies) both children must have been in the legal custody of, and resided with, the adoptive parent outside the United States for at least two years prior to entry. This creates an unnecessary disparity between “Hague” and “non-Hague” adoptions. In order to correct this disparity, this provision amends section 101(b)(1)(G) to provide that an adopted child under the age of 18 will be classified as an immediate relative when a natural sibling has also been adopted by a U.S. citizen from a country with which the Hague Convention is in force for the United States.

*Sec. 148. Technical amendments relating to the Intelligence Reform and Terrorism Prevention Act of 2004.*

This section makes technical corrections relating to provisions of the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108–458). It provides that systems deployed under that Act to detect fraudulent documents must be compatible with those of both the Department of Homeland Security and the Department of State. It also transfers from the Secretary of State to the Secretary of Homeland Security responsibility under the Act for securing transit passage areas at ports of entry within the United States. (8 U.S.C. 1185 note)

*Sec. 149. Videoconference interviews.*

This section authorizes a 2-year pilot program that uses secure remote videoconferencing technology to conduct visa interviews for tourist visas. It would require reports a year into the pilot and after the completion of the pilot, identifying efficacies of videoconference interviews and including recommendations on whether such technology should be continued. In many large countries, such as China, India and Brazil, the number of tourist and business visitors to the United States has increased, and the potential for further visitors is greater still. However, a limited number of consulates in these countries means that many visitors must travel great distances in their own country to obtain a visa to the United States. The costs and logistics of these efforts to obtain a visa can be prohibitive or discouraging and may be limiting foreign tourism in the United States. While concerns remain about the security implications of using remote videoconferencing, for years there has been interest in testing videoconferencing technology for consular officers to use in conducting visa interviews, and this provision would permit the first step in the exploration of that possibility. The committee encourages the State Department to test the use of this technology in the visa issuance process to identify its potential future use, while maintaining the utmost concern for the security of the process.

*Sec. 201. Creation of a modern and expeditionary Foreign Service.*

This provision amends the Foreign Service Act of 1980 to: (1) expand Foreign Service functions; (2) require that all Foreign Service officers be available for worldwide assignment; (3) provide for training in conflict resolution, and in the ability to function in unstable areas or areas without civil authority; (4) provide for recruitment of candidates with experience in unstable situations; and (5) provide for advanced academic training.

Since the end of the Cold War and in a post-9/11 environment, the complexity of responding to international security challenges has increased. They are transnational in nature, require civilian capacity to address them, and capacity to operate locally to prevent problems or find solutions. This requires more civilian personnel and resources and a change in the way they function. The committee believes that resources for civilian agencies have been allowed to atrophy to the point that U.S. engagement is weakened in confronting emerging challenges and transnational threats. USAID's foreign assistance expertise started to decline before the 1990s. While the Department of State's personnel levels have

remained essentially flat, its responsibilities have increased in response to new embassies in Eastern Europe, security needs, and operations in Afghanistan and Iraq.

Foreign aid levels during the 1990s declined to their lowest levels since U.S. foreign aid programs began in earnest in 1946. Aid levels rebounded since 2002 to levels comparable to the 1960s and early 1970s, a period when USAID personnel levels were at their zenith. As a result of the decline in resources, civilian agencies find themselves unable to be full partners in promoting U.S. national security interests. While many of the challenges facing U.S. diplomacy and development call for a reorganization of the U.S. foreign policy apparatus, the first priority must be to strengthen the civilian capacity of our diplomatic and development institutions. This entails a significant investment in hiring more personnel, increasing subject-matter expertise, providing the training and inter-agency experience necessary for a whole of government approach, and embracing technology as means to implement these changes.

Personnel reforms should reward innovation, performance, breadth of experience across different issue areas, and effective management of risks (as opposed to the prevailing culture of risk avoidance). The point of these reforms is to change the jobs that diplomats do. The new challenges will not be met by the diplomatic practices and institutions of the past.

The American Academy of Diplomacy and the Henry L. Stimson Center Study—“A Foreign Affairs Budget for the Future: Fixing the Crisis in Diplomatic Readiness”—noted:

Currently the Secretary of State lacks the tools—people, competencies, authorities, programs and funding—to execute the President’s foreign policies. The status quo cannot continue without serious damage to our vital interests. We must invest on an urgent basis in our capabilities in the State Department, USAID, and related organizations to ensure we can meet our foreign policy and national security objectives. There must be enough diplomatic, public diplomacy, and foreign assistance professionals overseas and they cannot remain behind the walls of fortress embassies. They must be equipped and trained to be out, engaged with the populace and, where needed, working closely with the nation’s military forces to advance America’s interests and goals.

The study recommends that U.S. direct-hire staffing in the four categories above be increased over FY 2008 levels by 4,735 over the timeframe of 2010–2014, a growth of 46 percent above current levels in these categories (20 percent of total State/USAID staffing), to be accompanied by significant increases in training and in the number of locally employed staff overseas; the additional staff and related costs will rise to \$2 billion annually by FY 2014.

The committee strongly concurs with the recommendations of that study and the recommendations of similar analyses that call for a significant increase in civilian resources and personnel dedicated to strengthening our diplomacy and development missions.

*Sec. 202. Conflict prevention, mitigation, and resolution training.*

This section directs the Secretary of State to ensure that Foreign Service Officers who are being deployed to areas undergoing signifi-

cant conflict or considered to be at risk of significant conflict receive appropriate training in conflict prevention, mitigation, resolution, and related civilian-military coordination. Such training is especially important for personnel deployed to areas such as Afghanistan, Pakistan, Iraq and Sudan. The Secretary is directed to submit a report to the appropriate congressional committees not later than one year after the date of the enactment of this Act, detailing efforts made by the Department to further expand and facilitate this training.

*203. Mass atrocities.*

This provision reaffirms the United States commitment to supporting efforts to prevent genocide and mass atrocities, and the conviction that such preventive action is in the humanitarian and strategic interest of the United States.

The United States is a party to the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide, which provides that genocide, whether committed in time of peace or in time of war, is a crime under international law that contracting parties will undertake to prevent and to punish.

Recognizing patterns of escalating tensions that may evolve into acts of mass atrocities or genocide is critical; this provision directs the Secretary to submit an assessment of current methods to monitor indicators of potential mass atrocities. Additionally, the Secretary of State is directed to submit an assessment of existing capabilities to provide early warnings to relevant agencies and congressional committees to reduce the risk of mass atrocities against civilians.

Mass atrocities are carried out systematically and often come with recognizable early indicators. The committee believes it is necessary to have a policy framework in place that institutionalizes the analysis of these indicators and, when necessary, spurs the consideration of further action. Not only can proactive efforts stem the loss of life, but preventive measures can also help avert the development of long-lasting international crises that ultimately bear even higher economic and human costs.

*Sec. 204. Crisis response.*

This section provides the Department of State additional hiring flexibility for positions related to crisis response activities carried out under the Reconstruction and Stabilization Civilian Management Act of 2008 (P.L. 110-417, Title XVI). Specifically, it allows for the inclusion of individuals employed by personal services contract, including locally employed staff who are employed by participating agencies.

*Sec. 212. Overseas comparability pay adjustment.*

This provision amends the Foreign Service Act of 1980 to eliminate the disparity in pay between Washington, D.C.-based Foreign Service officers at the FS-01 level and below and their colleagues assigned overseas. When assigned overseas, these Foreign Service Officers currently take a cut in basic pay of just under 24 percent even though we are asking more of them to serve in difficult, dangerous and volatile environments. This disparity is the result of the exclusion of positions outside the continental United States from

the locality pay provision in the Federal Employees Pay Comparability Act of 1990 (P.L. 101–509, 5 U.S.C. 5304). This exclusion was intended to prevent employees in non-foreign areas from receiving both locality pay and the non-foreign-area allowances; Foreign Service Officers serving overseas were not contemplated. The disparity in basic pay between overseas and domestic assignments continues to grow, as it has each year since the implementation of locality pay in 1994, and is increasingly undermining existing incentives to serve overseas. By restoring the basic pay equity between Washington, D.C. and overseas that existed prior to the implementation of locality pay, this provision would eliminate the disparity for entry and mid-level Foreign Service employees of all foreign affairs agencies. The pay gap for the Senior Foreign Service was effectively eliminated when pay-for-performance was introduced in 2004. Under the provision, a new section would be added to Chapter 4 of the Foreign Service Act of 1980 providing that Foreign Service officers at class 1 or below who are stationed outside the continental United States (and not in a non-foreign area) would receive locality-based comparability payments equal to the payments that would be provided under 5 U.S.C. 5304 if his or her official duty station were in Washington, D.C. The phase-in period would be completed by the first pay period of fiscal year 2011. The provision also makes conforming amendments to Chapter 8 of the Foreign Service Act of 1980 to sunset application of overseas “virtual locality pay,” which adjusts the computation of basic salary for purposes of determining retirement benefits to include locality pay for Foreign Service Officers overseas. Virtual locality pay will no longer be required after full implementation of locality-based comparability payments overseas. A similar provision is included in H.R. 2410, which was passed by the House in the 111th Congress. During the 110th Congress, similar provisions appeared in H.R. 3202, which was reported in the House, and S. 3426, which was reported in the Senate.

*Sec. 221. Death gratuity.*

This provision amends the Foreign Service Act of 1980 to provide for a more consistent and higher amount of a death gratuity to the surviving dependents of Foreign Service employees who die as a result of injuries sustained in performance of duty abroad. The current death gratuity amount is one year’s salary. The provision for Foreign Service Officers would link the amount to the salary at the EX–II level. The EX–II level is the highest base salary level for Senior Foreign Service members. It is currently \$177,000 and is adjusted yearly. For Foreign Service Nationals and other Locally Employed (LE) staff who are compensated under local compensation plans, the amount would be equal to the greater of either one year’s salary at the time of death or one year’s basic salary at the highest step of the highest grade on the Local Compensation Plan from which the employee was being paid (excluding Exception Rate Ranges or Exception Grades). The increased costs to the Department would be the difference between the member’s annual base salary and the EX–II salary level or the highest relevant LE salary level. A similar provision is included in H.R. 2410, which was passed by the House in the 111th Congress.

*Sec. 222. Expansion and extension of annuitant waiver for response readiness corps.*

This provision, requested by the Department of State, is the result of limitations included in the definition of “personnel” in the Reconstruction and Stabilization Civilian Management Act of 2008, which authorizes the Civilian Response Corps (CRC). In the Act, all CRC personnel have to be Title 5 USG Civil Service or Foreign Service employees. This is not a problem for the Active component as they are all hired as USG employees. However, it is a problem for the Standby component. USAID, in particular (although it also applies to some of the other departments/agencies participating in the CRC), has many Foreign Service national and personal services contractors on staff with skills and abilities that should be tapped as part of the Standby component. USAID also has a plurality of Standby component members—728 of the 2000 total—and simply does not have enough Title 5 USG employees to meet that goal. By expanding the definition to include FSNs and PSCs, the CRC will be able to take advantage of this rich and talented resource pool at USAID and elsewhere, which will make for a better CRC overall.

*Sec. 223. Reemployment of annuitants.*

This provision allows the Department of State greater flexibility to reemploy Foreign Service annuitants as needed when there is difficulty in recruiting or retaining a qualified employee. Certain authorities in section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)) are linked to Afghanistan and Iraq, and are scheduled to sunset in 2009. This provision expands those authorities to allow the Department to address hiring needs in the dynamic foreign affairs environment and make them permanent. The same provision was included in H.R. 2410, which was passed by the House of Representatives in the 111th Congress.

*Sec. 224. Locally employed staff.*

This section directs the Secretary to undertake a review to assess the adequacy of locally employed staff compensation. It also directs the Secretary to establish a database for salary and compensation information for locally employed staff, as recommended by the Department of State’s Inspector General. The Secretary shall report to Congress on the status of efforts to implement these recommendations and address critical LE recruitment, retention and compensation issues in furtherance of U.S. foreign policy goals and objectives.

U.S. embassies and consulates worldwide retain over 51,000 locally employed (LE) staff under local compensation plans (LCPs) in about 170 overseas missions. A report by the Office of Inspector General of the Department of State and the BBG, entitled “Review of Locally Employed Staff Compensation Issues” (Report Number ISP-I-09-44), stated that: “The U.S. is falling behind in providing a competitive compensation package for LE staff that is commensurate with their experience, technical skills, and responsibilities.”

The committee believes that the ability of United States overseas missions to retain LE staff and to recruit new, qualified staff is vital to the success of those missions.

*Sec. 225. Repeal of recertification requirement for senior foreign service.*

This section repeals the provision in the Foreign Service Act of 1980 that requires the Secretary to establish a recertification requirement for members of the Senior Foreign Service (SFS) that is equivalent to the recertification process for the Senior Executive Service (SES). In section 1321 of the Homeland Security Act of 2002 (P.L. 107–296), Congress repealed the recertification requirements for SES employees contained in Title 5 of the United States Code. The rationale was that these periodic recertification requirements for the SES did not serve a useful purpose. The same rationale applies to the SFS.

A similar provision is included in H.R. 2410, which was passed by the House in the 111th Congress. This provision was included as section 311 in S. 600 and as section 312 in H.R. 2601 during the 109th Congress.

*Sec. 226. Foreign relations exchange programs.*

This provision amends the Department of State Basic Authorities Act of 1956 to authorize the establishment of exchange programs allowing Department employees, including civil service general schedule, Senior Executive Service members, and members of the Foreign Service to be assigned to foreign governments or international entities, which would in turn assign their employees to the Department. This authority could be used for the Transatlantic Diplomatic Fellowship program with the European Union, NATO, and their member states to promote collaboration among young leaders and for the Security Officer Exchange program between the Bureau of Diplomatic Security and the foreign affairs agencies of Australia and the United Kingdom. It would also permit the Department to develop new programs that help to strengthen U.S. relations with foreign governments and international entities. In addition, the provision would permit the Department to authorize non-reciprocal assignments of personnel on a reimbursable or non-reimbursable basis. This provision also renders moot a potential legal concern under the Emoluments Clause of the Constitution (Article 1, section 9, clause 8).

*Sec. 227. Enhanced personnel authorities for the inspector general of the Department of State.*

This provision is a long-time request of the Department of State Office of the Inspector General. The committee finds that the OIG requires new hiring flexibilities to address historic mission difficulties resulting from an array of reduction-in-pay restrictions that have reduced the OIG's ability to compete for, recruit, retain and compensate available and qualified personnel. With an increased workload related to expenditures and operations in Afghanistan and Pakistan, adequately staffing the OIG has become an even higher priority. The committee recognizes that an important personnel balance must be struck between recruiting long-term direct hire personnel who form the backbone of the OIG, with short-term annuitants and PSCs. The committee urges the OIG to focus on increasing the number and quality of direct hire personnel over the long-term, but the committee also wants to ensure continuity and

coverage over immediate priorities, which the authorized exemptions would address. This includes:

- The OIG's increased requirements to provide oversight on a global basis, with field operations in place to pre-position experienced inspectors, auditors and investigators concentrated in crisis, conflict, and post-conflict regions.
- The OIG's unique challenges stemming from its position as a relatively small IG organization that must meet statutory requirements for significant global presence. To help meet the challenge of recruiting and retaining superior talent for numerous overseas assignments, these exemptions will provide managers with critical hiring flexibility for recruitment and an important tool for retention.
- A continued need to hire personal services contractors not only for post audits and inspections and in crisis, conflict and post-conflict regions, but to offset domestic hiring difficulties of specialized talent, such as information technology, civil engineers for major audits and inspections and to respond to increasing quick-reaction department and congressional oversight requests not found in the current year plan.
- Historically high turnover of personnel assigned to post-conflict regions and the inability to hire recent college graduates without using the 6- to 8-month long federal hiring process. With these exemptions, OIG would be better able to compete in a market that features significantly higher salaries available in the private sector and temporary federal organizations.
- Retirement-driven talent drain, as the current government-wide generation of 600,000 civil servants and Foreign Service Officers leave active service over the next four years, along with 64 percent of executives and supervisors, according to the Partnership for Public Service and the Government Accountability Office.
- Without these exemptions, annuitants are generally only available, as a practical matter, for 25–40 percent of the work year, due to reduction-in-pay or offset provisions. These exemptions would enable them to continue work up to 100 percent of the federal work year.
- Because there is not an incentive for them to work even a half-year, the OIG must maintain an unnecessarily large inventory of annuitants for post, bureau and thematic inspections due to the annuitants' reductions-in-pay provisions. These exemptions would permit OIG to maintain a smaller, but longer-working annuitant workforce inventory, saving administrative costs.

*Sec. 228. Personal services contractors.*

This section provides for a pilot personal service contractor program, similar to the one provided for the BBG in section 504 of the Foreign Relations Authorization Act, Fiscal Year 2003 (P.L. 107–228). Such a program would enable the Department to obtain the services of personal contractors in the United States to respond to surge requirements and personnel shortfalls and to protect scarce financial resources by avoiding overhead payments to commercial contractors. The program would terminate at the end of fiscal year 2014, allowing Congress an evaluation period to determine whether such domestic authority should be extended or made permanent. A



similar provision appears in H.R. 2410, which was passed by the House of Representatives in the 111th Congress.

*Sec. 229. Amendment of the Foreign Service Act of 1980.*

This section strikes provisions of the Foreign Service Act of 1980 related to procedures regarding the conduct of Inspector General investigations.

*Sec. 230. Office for Global Women's Issues.*

This section authorizes the creation of the Ambassador-at-Large for Global Women's Issues in the Department of State, as well as the Office of Global Women's Issues within the Office of the Secretary. Both entities currently exist, but have never been established in law. Each administration has chosen to manage "women's issues" differently with different levels of priority and centrality to the issue.

This provision authorizes the Ambassador to coordinate and advise on U.S. programs, policies, and funding regarding: (1) gender integration, (2) women's and girls' economic, social and legal development, protection, and improvement in role and status in societies; and (3) prevention and response to violence against women and girls, including child and forced marriage. The Ambassador is also authorized to coordinate within the inter-agency, and to collect and make publicly available data on U.S. policies and programs regarding (1), (2) and (3) above.

This provision states that nothing in this Act shall be construed as affecting in any way existing statutory prohibitions related to abortion or existing statutory prohibitions on the use of funds to lobby for or against abortion. The application of this clause is not limited to the Office for Global Women's Issues; it applies to the bill as a whole.

*Sec. 231. Home leave.*

This section authorizes the Department to pay travel expenses for families to join Foreign Service members on home leave when an employee returns from service at an unaccompanied post. Under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081), the Department may pay expenses related to the travel of a member of the Foreign Service and his or her family from a post of assignment to the member's designated home leave location. The Department lacks clear authority, however, to pay for home leave travel by the member's family when the family is required to reside at another location while the member is assigned to an unaccompanied post.

*Sec. 232. Training support services.*

This provision amends the Foreign Service Act of 1980 to expand flexible personnel authorities that are currently available for certain training specialists to cover other individuals who provide services in direct support of the Department's training program. Under current law, the Department may hire (or contract for the services of) linguists, language instructors, and other academic and training specialists outside the competitive service hiring system. The standing provision is limited, however, to traditional categories of training specialists with academic qualifications, such as instruc-

tors and language teachers. In contrast, the standing provision does not cover the range of specialists who support the vocational training program conducted by the Foreign Service Institute (FSI), including individuals with knowledge and skills that support academic programs or that are specific to the foreign affairs community.

*Sec. 233. Employment of minorities and women.*

This section requires the Secretary of State to report to Congress on issues related to the Department's employment of minorities and women. The section also includes a Sense of Congress language that the U.S. Government should promote the participation of minorities and women in the Foreign Service, and it mandates the State Department to write two reports (covering FY2010, FY2011) on employment of women and minorities in the Foreign Service, including supporting data.

*Sec. 301. Promoting assignments to international organizations.*

This provision includes a Sense of Congress to encourage the Department to staff United States missions to the United Nations with appropriately qualified personnel and to develop a cadre of officers with specialized expertise in multilateral diplomacy.

*Sec. 302. Synchronization of United States contributions to international organizations.*

This provision directs the President to transmit to the appropriate congressional committees a plan by the United States to resume the payment of its full contributions to certain international organizations at the beginning of each calendar year.

*Sec. 303. Peacekeeping contributions.*

This provision would permanently raise the statutory cap, originally established in 1994, on the U.S. share of assessed contributions for each UN peacekeeping operation from 25 percent to 27.5 percent beginning with assessments in calendar year 2010.

Absent an increase in this cap, the United States cannot pay its UN peacekeeping assessments in full starting in calendar year 2010, resulting in the accrual of unpaid dues. While the cap has been temporarily raised at various times and at different rates in years past, these have only been temporary. The committee believes it is appropriate to permanently raise, but not eliminate the cap in order to ensure better budgeting.

*Sec. 304. Buying power maintenance, international organizations.*

This provision amends the State Department Basic Authorities Act of 1956 to provide for a new account and related authorities to help the Department offset the impact of adverse exchange rate fluctuations on the Contributions to International Organizations (CIO) account. Specifically, the provision would authorize the establishment of a new, no-year "Buying Power Maintenance, International Organizations" account. It would also authorize the Department to:

- Transfer funds to the new account from the CIO account in the event that the funds in the account exceed the needs of the ac-

tivities funded from the account because of favorable exchange rate changes;

- Transfer funds from the new account to the CIO account when adverse exchange rate changes cause the funds in the CIO account to fall below anticipated needs; and
- Transfer expired, unobligated balances into the new account, subject to compliance with congressional notification requirements and a \$100 million cap. This authority would apply to funds appropriated or otherwise made available after fiscal year 2009.

The CIO account is highly vulnerable to foreign exchange rate fluctuations by virtue of the fact that 34 of the 45 organizations funded through the account assess member states in currencies other than the U.S. dollar. Each year, these foreign currency assessments comprise approximately one third of the total funding requirement for the account. The decline of the dollar resulted in exchange rate losses on these assessments of approximately \$70 million in FY2008. Without a source of funding to cover these losses, the Department was unable to meet its requirements in full and went into arrears on CY 2007 assessments at several organizations. This provision would operate similar to section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696) and 10 U.S.C. 2779, which provide the State Department and the Department of Defense, respectively, with authority to transfer funds to a foreign currency fluctuations account, subject to certain limitations.

*Sec. 305. United States participation in the Inter-Parliamentary Union.*

This section would authorize the Secretary of State to request funds for the United States to rejoin the Inter-Parliamentary Union (IPU). U.S. dues to the IPU would be assessed at 15 percent, approximately \$1.9 million for 2010. Similar authorization language was drafted and referred to both the House and Senate appropriations committee and is being considered for potential inclusion in the FY 2010 budget.

This provision is not an authorization of funds and any funds for IPU contributions would need to go through the regular authorization/appropriation process.

It is the committee's intent that funds for any future contributions to the IPU should not come at the expense of funding levels for contributions to other international organizations currently funded through the CIO account.

In April 2009, a House delegation of five members led by Rep. Russ Carnahan attended the 120th Assembly of the IPU in order to weigh the benefits of rejoining. This delegation came away with a strong recommendation for the United States to rejoin. They mentioned the policy of engagement espoused by the Obama administration, and that American presence at the IPU would be a visible manifestation of mutually respectful foreign policy.

Members of the committee's majority staff, together with members of the staff of the House Foreign Affairs Committee, traveled to the IPU Assembly in Geneva in October 2009. Their visit confirmed these findings and reported that the US would benefit by engaging with parliamentarians in the IPU and exercising political

leadership in the organization as part of its efforts to promote peace, development and democratic practice around the world.

*Sec. 306. Provision of living quarters and allowances to the United States representatives to the United Nations.*

This provision increases the number and availability of living quarters in New York leased or rented by United States for Foreign Service personnel, along with related provisions.

*Sec. 307. Recruitment and retention of United States citizens in international organizations.*

The committee urges the Department to improve its efforts to recruit and place U.S. citizens in international organizations and international financial institutions. This not only entails greater placement of U.S. citizens in professional and senior-level positions, but it also means establishing a more consistent recruiting and placement pipeline for entry-level professionals as well, in order to develop a cadre of U.S. citizens who can form the future professional corps of these institutions.

This section directs the Secretary of State to develop and maintain a roster of suitable U.S. professionals for vacant posts at the United Nations and related international organizations, and it directs the Secretary of Treasury, in coordination with the Secretary of State, to develop and maintain a roster of suitable U.S. professionals for vacant posts at the World Bank and related international financial institutions. The provision also encourages the Secretary to consider establishing a Junior Professional Officers and Associate Expert program, similar to the support provided to such positions by Austria, Canada, Switzerland, and the United Kingdom.

*Sec. 308. United States membership in the International Renewable Energy Agency.*

This provision authorizes U.S. membership in the International Renewable Energy Agency.

*Sec. 401. Limitation on assistance to governments of countries in default.*

This section harmonizes language in an existing restriction in the Foreign Assistance Act of 1961 (P.L. 87-195) on assistance to countries in default on loans to the United States with language contained in a similar provision that has been included in the general provisions section of past foreign operations appropriations bills for many years.

*Sec. 402. Increased authority to provide assistance for law enforcement forces.*

This section amends Section 660 of the Foreign Assistance Act of 1961 (P.L. 87-195, 22 U.S.C. 2420) to provide greater flexibility for U.S. foreign assistance programs relating to foreign law enforcement forces.

It adds new exemptions to Section 660 of the Foreign Assistance Act, which otherwise prohibits providing assistance under the Foreign Assistance Act to provide training or advice, or provide any fi-

nancial support for police, prisons, or other law enforcement forces for any foreign government.

A well-trained, legitimate and accountable police force is an essential precondition for a stable, well-governed country. U.S. civilian agencies can provide important human rights, governance and humanitarian training and assistance to foreign police forces.

In the 1960s and 1970s, U.S. assistance and training of foreign police came under criticism that U.S.-provided equipment and trainees were implicated in human rights abuses. In response, the Congress passed Section 660 of the FAA, prohibiting police training conducted abroad.

Over the years, Section 660 has been modified repeatedly, and a patchwork of agencies and programs now provide some training abroad for specific purposes. The unfortunate result has been inconsistent and convoluted interpretation and application of this provision by relevant civilian agencies, especially USAID.

This section adds exemptions to Section 660 to allow assistance to law enforcement forces for the following purposes:

- To foster civilian police roles that support democratic governance and improved police-community relations;
- To combat trafficking in persons, address sexual and gender-based violence, reduce corruption, prevent conflict, and respond to disasters;
- To address inhumane conditions in prisons and other detention facilities administered by foreign governments that are making efforts to address the health, sanitation, nutrition, and other basic needs of prisoners;
- To assist prisoners for humanitarian or development purposes; and
- To support humanitarian operations and activities.

The bill also expands an existing exemption for assistance to governmental entities emerging from stability to include regional, district, municipal, and other subnational entities.

*Sec. 403. Building public awareness and dialogue.*

The section amends the Foreign Assistance Act of 1961 to authorize limited use of foreign assistance funds for programs to explain to the U.S. public the purpose, goals and objectives of development and assistance, and reflects the recommendations enumerated in the Helping to Enhance the Livelihood of People Around the Globe Commission (HELP Commission) report, issued in December 2007, which encourages Executive agencies to more fully explain United States development activities to the American public in order to raise the public's understanding about and support for foreign assistance.

*Sec. 404. Exception to certain multiple award contract requirements.*

This section amends the Foreign Assistance Act of 1961 to encourage the Administrator of USAID to make an exception to the fair opportunity process for placing task orders when such order is placed with any category of small or small disadvantaged business. A similar provision has been carried over foreign operations appropriations legislation for many years.

*Sec. 405. Millennium challenge assistance.*

The committee supports the MCC model and its mandate to fight global poverty through economic growth. The core principles upon which the MCC was founded—competitive selection of countries based on policy performance across independent and transparent indicators, country ownership of compact design and development, and country-led implementation of compacts—have allowed the MCC to become a development innovator.

The MCC has been given appropriate institutional space to develop its own systems, concepts and policies, separate from other U.S. development agencies. U.S. foreign assistance would benefit from improved coordination between the MCC, USAID, State and other agencies undertaking development activities, but the committee is not in favor of merger or consolidation.

The committee understands an initial review of the role, purpose and scope of the threshold program is nearing completion. The committee believes that the threshold program, as it stands, requires significant overhaul and substantial rethinking. The committee is not convinced that the program is achieving the goals and objectives it was originally created to accomplish. A comprehensive review of the goal, purpose and utility of the threshold program is in order, and the committee is open to fairly wide changes that would modify the threshold program's mandate and implementation.

The committee believes the threshold program can play an important role as an innovative laboratory for new development ideas and concepts that may eventually make their way into larger compact programs (but still require further research and development prior to scaling up). In general, the committee believes that the MCC should consider and incorporate new and innovative models for the compact program and how it delivers assistance but should not completely delink from the opportunity to help a country improve its indicators to become eligible in the future for MCC funding. Many compacts feature similar projects and identical models of delivery that rely excessively on government institutions to solicit project ideas, develop programs and implement compacts. A greater emphasis on civil society and the private sector to generate project ideas and undertake implementation, as well as a greater receptivity to considering bold and creative project ideas, would be in keeping with the MCC's mandate. At the same time, the committee recognizes that the MCC enjoys a comparative advantage when it comes to implementing economic growth programs and large-scale infrastructure related projects. MCC should build from this strength, not move away from it.

The committee believes the legislative text included in S. 2971 is necessary to address key changes affecting the MCC's operations and to maximize its mission of reducing poverty through sustained economic growth in poor countries that are committed to sound governance requirements, as set forth in the Millennium Challenge Act of 2003 (P.L. 108–199). This provision will enable the MCC to enter into separate concurrent compacts with partner countries, which will allow the agency to move forward with projects as they become ready and to leverage additional resources from partnerships with the private sector and nongovernmental organizations. Further, having the authority to enter into concurrent compacts

will improve MCC's ability to manage its compact pipeline with greater predictability, provide opportunity for innovation, and serve as an added incentive for policy reforms. It will also allow for smaller, staggered agreements and more certainty in the budget process.

The provision will also give the MCC the authority, after approval by the MCC's Board of Directors, to partner with countries and extend the duration of a five-year compact term for two additional years. Having a definite compact term is generally considered a best practice for effective foreign assistance; however, in certain exceptional cases, large-scale projects cannot be completed within the mandated five-years, particularly given the MCC's emphasis on country-led implementation, high due diligence standards, and the desire to partner with private sector and nongovernmental organizations.

Finally, the provision will reform the agency's methodology for choosing candidate countries by addressing abrupt changes in country income categories. They also will enable the MCC to maintain a highly selective approach for identifying eligible partner countries from a competitive candidate pool. The MCC is an important U.S. Government foreign assistance agency designed to work with poor, but also well-governed countries. The committee believes these reforms will ensure that the MCC will continue to partner with poor, well-governed countries in the future, and that partnerships will remain based on a commitment to sound policy—not abruptly halted by fluctuations in economic statistics.

The committee believes these changes in the MCC's authorities are necessary to address key changes affecting its operations and to maximize its mission of reducing poverty through sustained economic growth in poor countries that are committed to sound governance requirements, as set forth in the Millennium Challenge Act of 2003.

*Sec. 406. Enhancing the capacity of the Office of the Inspector General for the United States Agency for International Development.*

This provision was requested by the Office of Inspector General for USAID. It contains three legislative changes, providing greater flexibility to hire reemployed annuitants for critical priority posts in Iraq, Afghanistan and Pakistan, greater flexibility to hire personal services contractors, and pay parity between civil service and foreign service criminal investigators.

The committee believes that the demands for oversight of USAID's operations in Iraq, Pakistan, and Afghanistan have strained the OIG's personnel resources. The OIG has been unable to meet needs for experienced and well-qualified auditors and investigators in those countries by relying exclusively on Civil Service and Foreign Service personnel. The provision provides the Inspector General with limited discretion to hire reemployed annuitants and personal services contractors under the following conditions:

- The Inspector General determines that it is impractical to recruit a sufficient number of Civil Service or Foreign Service employees to perform necessary overseas work.

- The contract length for a personal services contractor, including options, may not exceed 2 years, unless the Inspector General determines that exceptional circumstances justify an extension of up to 1 additional year.
- The number of personal services contractors may not exceed five percent of the OIG total combined Civil Service and Foreign Service authorized workforce FTEs.

This section also corrects a pay disparity between Civil Service and Foreign Service criminal investigators at USAID OIG.

Civil Service criminal investigators in the 1811 job series, which is the General Service category for law enforcement jobs, are eligible for and receive a 25 percent pay supplemental in the form of Law Enforcement Availability Pay (LEAP) under 5 U.S.C. 5545. Commissioned Foreign Service criminal investigators in the 1811 job series are prohibited from earning LEAP, however, because “a Foreign Service officer” is excluded from the definition of “employee” in 5 U.S.C. 5541 for purposes of 5 U.S.C. 5545(a).

*Sec. 407. Prohibitions on foreign assistance for the production of certain agricultural commodities.*

The committee believes it is of the highest priority to ensure that U.S. farmers and agricultural producers do not face substantial injury or competition from foreign competitors that receive assistance from U.S. development programs. But the committee also believes that the best way to protect U.S. producers while assisting the poorest countries in the world is to provide more specificity to what otherwise is a blanket prohibition that requires a laborious, time-consuming and difficult certification process. The committee consulted with numerous stakeholders, including domestic commodity groups, NGOs, U.S. Government officials, and policy experts in order to craft a reasonable compromise. The provision included in this Act intends to exempt certain low income countries from having to undergo a difficult certification process that they are not competing with U.S. farmers and would allow them to qualify for agricultural assistance from the United States on the following conditions:

- Must be eligible for assistance from the International Development Association
- Must not be eligible for assistance from the International Bank for Reconstruction and Development; and
- Must not export on a consistent basis the agricultural commodity with respect to which assistance is furnished.

The committee believes this language allows for an appropriate balance between protecting U.S. agricultural interests while providing greater food security for the poorest countries in the world.

*Sec. 408. Sense of Congress relating to transparency for extractive industries.*

This section expresses the Sense of the Congress that the President should work with foreign governments to establish domestic requirements that companies under the jurisdiction of each government publicly disclose any payments made to a government relating to the commercial development of oil, natural gas, and min-



erals, and that the United States Government should commit to global leadership of transparency in extractive industries.

*Sec. 409. Sense of Congress Regarding Central Asia.*

This section expresses the Sense of the Congress that it is critical for the United States to continue to engage with the countries of Central Asia to further democracy, human rights, and economic prosperity, including engaging in regional economic integration efforts with Afghanistan and South Asia.

*Sec. 410. Sense of Congress on global Internet freedom.*

This section expresses the Sense of the Congress that global Internet access and freedom are foreign policy priorities of the United States. It further states that the United States should help expand Internet access and support the free flow of information over the Internet and other forms of connective technology worldwide, especially in countries where this is limited.

*Sec. 411. Global Health Initiative*

The committee supports the principles of the Global Health Initiative (GHI) and regards the undertaking as an opportunity to build upon and expand proven advances in combating HIV/AIDS and malaria, and to promote further advances in global health, in accordance with the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (P.L. 110–293). This proposed six year, \$63 billion initiative places particular emphasis on women and girls and seeks to create a more holistic approach to fighting disease and helping countries build health systems. The committee also emphasizes the particular importance of maintaining and expanding the progress made today in the fight against HIV/AIDS in terms of both access to treatment and support for effective prevention programs.

While the GHI will apply in every nation that receives U.S. global health funding, there will also be an intensified effort in a limited number of “GHI Plus” countries that will provide additional opportunities for impact, evaluation, and partnership with governments. These countries will receive additional technical and managerial support, as well as limited financial resources, to allow for accelerated implementation and assessment of the GHI business model.

The experience of the President’s Emergency Plan for AIDS Relief (PEPFAR) has demonstrated the importance of effective in-country coordination and management of the interagency process. Drawing on these lessons, this provision states that a full-time country level coordinator with management experience should head the interagency country team for U.S. missions in each GHI Plus country.

The provision also directs the President to submit a report describing the implementation of the GHI to the appropriate congressional committees. The report must assess the progress made toward implementing the GHI’s core goals in implementing a women and girl centered approach; increasing the impact of health programs; leveraging and strengthening multilateral and private sector partnerships; encouraging country ownership; supporting sus-

tainable health systems; improving metrics, monitoring, and evaluation; and promoting research and innovation. Second, the report should contain a detailed description of the GHI programs and practices in each of the GHI Plus countries. Third, there should be an aggregated assessment of progress made toward the declared targets of the Global Health Initiative. Fourth, the report needs to include a discussion of metrics to be used to measure progress toward those declared targets. The report is due two years after enactment of this Act, in order to allow for more reflective evaluation.

*Sec. 412. Discrimination related to sexual orientation.*

This provision directs the Department to track international violence or criminalization related to sexual orientation, it directs the Department to appropriately encourage the governments of other countries to reform or repeal laws of such countries criminalizing homosexuality, it amends the annual country reports on human rights practices to include violence or discrimination related to sexual orientation, and it authorizes training for Foreign Service Officers on identifying violence or discrimination that affects the fundamental freedoms, consistent with United States law, of an individual that is based on actual or perceived sexual orientation and gender identity.

TITLE V—PEACE CORPS IMPROVEMENT AND EXPANSION

This title is intended to promote an improved and expanded Peace Corps for the 21st Century. It requires the Director of the Peace Corps to assess, develop a strategic plan for, and report to the appropriate congressional committees how best to: (1) strengthen Peace Corps management capabilities and program effectiveness; (2) expand volunteer opportunities; and (3) increase the size of the Peace Corps. It also states the Sense of Congress that the President should not make more than 15 concurrent appointments under the Peace Corps Act.

IV. MINORITY VIEWS

MINORITY VIEWS OF SENATORS DEMINT, RISCH, AND INHOFE

*Foreign Service pay raise.*

We have significant reservations about the pay increase for Foreign Service Officers (FSOs) in this bill. Section 212 would increase the base pay for Foreign Service Officers serving overseas, totaling an average of a 36 percent raise (not including other taxpayer funded benefits). The State Department has not demonstrated a need for this large increase. FSO positions remain highly competitive, and thousands of applicants are turned away each year. Officers serving abroad also may be eligible for additional benefits, including danger pay, hardship and service need differentials. In addition, this benefit does not account for the substantial subsidy FSOs receive in free housing. While we appreciate the important work done by our Foreign Service, this proposed base pay raise seems excessive given the country's increasing national debt and high unemployment rate.

*U.N. peacekeeping budget.*

In 1994, Congress enacted a law prohibiting the United States from paying more than 25 percent of annual United Nations peacekeeping costs. Section 303 of S. 2971 would increase the cap on United States contributions to the United Nations peacekeeping budget, from 25 percent to 27.5 percent, per year. The United Nations has yet to make meaningful steps to address peacekeeping problems highlighted in the Helms-Biden Act of 1999. Waste, fraud, corruption, allegations of serious crimes, and general ineffectiveness have plagued U.N. peacekeeping missions. Despite these problems, the United States continues to increase funding levels without realizing needed reforms. At a time when American taxpayers face staggering unemployment and record debts, Congress should not be asking them to increase funding for another international program in need of immediate reform.

## V. COST ESTIMATE

In accordance with Rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the committee provides this estimate of the costs of this legislation prepared by the Congressional Budget Office.

UNITED STATES CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 25, 2010.*

Hon. JOHN F. KERRY,  
*Chairman, Committee on Foreign Relations,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2971, the Foreign Relations Authorization Act, Fiscal Years 2010 and 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte.

Sincerely,

DOUGLAS W. ELMENDORF,  
*Director.*

Enclosure

cc: HONORABLE RICHARD G. LUGAR.  
*Ranking Minority Member.*

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

August 25, 2010.

**S. 2971****Foreign Relations Authorization Act,  
Fiscal Years 2010 and 2011**AS ORDERED REPORTED BY THE SENATE COMMITTEE ON FOREIGN  
RELATIONS ON APRIL 27, 2010*Summary*

S. 2971 would authorize appropriations for the Department of State, international broadcasting activities, international assistance programs, and related agencies. CBO estimates that implementing the bill would cost \$24.3 billion over the 2011–2015 period, assuming appropriation of the specified and estimated amounts. In addition, CBO estimates that enacting the bill would increase direct spending by \$53 million over the 2011–2020 period.<sup>1</sup> Enacting the bill would not affect revenues.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending.

S. 2971 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), by eliminating an existing right of action and establishing additional circumstances under which entities could be compelled to provide testimony or documents. It also would impose an additional intergovernmental mandate by preempting state liability laws. CBO estimates that the total costs to public and private entities would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$70 million and \$141 million in 2010, respectively, adjusted annually for inflation).

*Estimated Cost to the Federal Government*

The estimated budgetary impact of S. 2971 is shown in Table 1. The costs of this legislation fall within budget functions 150 (international affairs), 300 (natural resources and environment), 550 (health), 600 (income security), and 750 (administration of justice).

Table 1. Budgetary Impact of S. 2971, the Foreign Relations Authorization Act,  
Fiscal Years 2010 and 2011  
By Fiscal Year, in Millions of Dollars

	2011	2012	2013	2014	2015	2011– 2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
<b>Department of State and Related Agencies</b>						
Authorization Level .....	19,235	0	0	0	0	19,235
Estimated Outlays .....	12,260	3,952	1,700	607	274	18,793
<b>Personnel Programs</b>						
Estimated Authorization Level .....	226	828	901	969	1,017	3,942
Estimated Outlays .....	159	623	839	937	994	3,552

<sup>1</sup> Different time periods apply in the Senate for its pay-as-you-go rule. CBO estimates that enacting S. 2971 would increase direct spending by \$22 million over the 2011–2014 period and \$48 million over the 2011–2019 period.

Table 1. Budgetary Impact of S. 2971, the Foreign Relations Authorization Act,  
Fiscal Years 2010 and 2011—Continued  
By Fiscal Year, in Millions of Dollars

	2011	2012	2013	2014	2015	2011– 2015
<b>Contributions to International Organizations</b>						
Estimated Authorization Level .....	1,298	7	7	7	7	1,326
Estimated Outlays .....	1,298	7	7	7	7	1,326
<b>Emergency Refugee and Migration Assistance</b>						
Estimated Authorization Level .....	100	100	100	100	100	500
Estimated Outlays .....	10	100	100	100	100	410
<b>Radio Free Asia</b>						
Estimated Authorization Level .....	0	38	39	40	41	158
Estimated Outlays .....	0	32	38	40	41	151
<b>Science and Technology Fellowships</b>						
Estimated Authorization Level .....	0	6	6	6	6	24
Estimated Outlays .....	0	3	5	6	6	20
<b>Office for Global Women's Issues</b>						
Estimated Authorization Level .....	0	3	3	3	3	12
Estimated Outlays .....	0	2	3	3	3	11
<b>Foreign Assistance Awareness and Dialogue</b>						
Authorization Level .....	1	1	1	1	1	5
Estimated Outlays .....	*	*	1	1	1	3
<b>Other Provisions</b>						
Estimated Authorization Level .....	1	1	1	1	1	5
Estimated Outlays .....	1	1	1	1	1	5
<b>Total Changes in Spending Subject to Appropriation</b>						
Estimated Authorization Level .....	20,861	984	1,058	1,127	1,176	25,207
Estimated Outlays .....	13,728	4,720	2,694	1,702	1,427	24,271
<b>CHANGES IN DIRECT SPENDING<sup>1</sup></b>						
<b>Millennium Challenge Corporation</b>						
Estimated Budget Authority .....	0	0	0	0	0	0
Estimated Outlays .....	5	5	5	5	5	25
<b>Reimbursements for Use of Government Vehicles</b>						
Estimated Budget Authority .....	*	*	*	*	*	2
Estimated Outlays .....	*	*	*	*	*	2
<b>Visa Ineligibility</b>						
Estimated Budget Authority .....	*	*	*	*	*	*
Estimated Outlays .....	*	*	*	*	*	*
<b>Total Changes in Direct Spending</b>						
Estimated Budget Authority .....	*	*	*	*	*	2
Estimated Outlays .....	5	5	5	5	5	27

Notes: \* = less than \$500,000.

Components may not add to totals because of rounding.

<sup>1</sup> In addition to the changes in direct spending shown above, S. 2971 would have effects beyond 2015. CBO estimates that over the 2011–2020 period, the bill would increase direct spending by \$53 million.

### *Basis of Estimate*

Most of the bill's budgetary impact would stem from authorizations for the Department of State, international broadcasting activities, international assistance programs, and related 4 agencies. For most programs, the bill would authorize specific amounts for 2011 that are identical to the President's request for 2011. The bill also contains provisions that would affect direct spending, primarily from increasing spending from existing appropriations.

For this estimate, CBO assumes the legislation will be enacted near the beginning of fiscal year 2011, that the specified and estimated authorizations will be appropriated each fiscal year, and

that outlays will follow historical spending patterns for similar and existing programs. (CBO also assumes that no further appropriations will be provided for those purposes in the current fiscal year, which ends on September 30, 2010.)

*Spending Subject to Appropriation*

The bill contains provisions that would affect spending for Department of State personnel, contributions to international organizations and commissions, international assistance programs, and related agencies. In total, CBO estimates that implementing the bill would cost \$24.3 billion over the 2011–2015 period, assuming appropriation of the specified and estimated amounts.

*Department of State and Related Agencies.* Most of the authorizations of appropriations in Title VI of the bill would cover the operating expenses and other ongoing programs and activities of the Department of State, the Broadcasting Board of Governors (BBG), the Peace Corps, and related agencies—a total of \$19.3 billion in 2011. CBO estimates that, in total, implementing those provisions would cost almost \$19 billion over the 2011–2015 period, assuming appropriation of the specified amounts. In 2010, \$19.6 billion was provided for those purposes.

*Administration of Foreign Affairs.* Section 601 would authorize the appropriation of \$12.4 billion in 2011 for the department’s operating expenses and programs. We estimate that implementing those provisions would cost almost \$12 billion over the 2011–2015 period.

*Contributions to International Organizations and Commissions.* Sections 602 and 603 would authorize the appropriation of almost \$4 billion in 2011 for contributions to international organizations, international peacekeeping activities, and various international commissions. In total, CBO estimates that making those contributions would cost almost \$4 billion over the 2011–2015 period.

The bill also would authorize such additional amounts as may be necessary in 2011 to offset adverse fluctuations in foreign exchange rates that might affect contributions to international organizations. Currency fluctuations are difficult to project. Therefore, CBO estimates no additional amounts to offset adverse currency fluctuations.

*Migration and Refugee Assistance.* Section 604 would authorize the appropriation of more than \$1.6 billion in 2011 for migration and refugee assistance programs. CBO estimates that implementing those programs would cost more than \$1.6 billion over the 2011–2015 period.

*International Broadcasting Programs.* Section 611 would authorize the appropriation of a total of \$769 million in 2011 for international broadcasting operations and capital improvements. In total, CBO estimates that implementing those programs would cost \$765 million over the 2011–2015 period.

*Peace Corps.* Section 621 would authorize the appropriation of \$446 million in 2011 to carry out the purposes of the Peace Corps, to assess how best to reform and expand the size of the Peace Corps, and to develop and report on a strategic plan towards those ends. CBO estimates that implementing the Peace Corps program would cost \$444 million over the 2011–2015 period.

*Centers and Foundations.* Section 605 would authorize the appropriation for 2011 of \$105 million for the National Endowment for Democracy, \$16 million for the Asia Foundation, and \$11 million for the East-West Center. In total, CBO estimates that providing funding for those centers and foundations would cost \$132 million over the 2011–2013 period.

*Personnel Programs.* Several provisions of the bill would affect personnel costs at the Department of State, the U.S. Agency for International Development (USAID), and other agencies. As shown in table 2, CBO estimates that implementing those provisions would cost almost \$3.6 billion over the 2011–2015 period, assuming appropriation of the estimated amounts.

*Pay for Overseas Postings.* Section 212 would increase compensation for Foreign Service officers (FSOs) who are not members of the Senior Foreign Service and are posted overseas. Under current law, FSOs based in the United States receive comparability pay in addition to their base pay, to reduce the disparity between federal and nonfederal workers. FSOs who are posted overseas only receive a portion of those amounts in addition to their base pay. (Members of the Senior Foreign Service are compensated under a pay-for-performance system that does not differentiate pay by posting).

Under the bill, starting in fiscal year 2011, FSOs who are posted overseas would be paid the same comparability pay received by FSOs posted in Washington, D.C. Such pay represented about 19 percent of total basic pay in 2010. (Section 212 would not increase retirement benefits, because FSOs who retire from overseas postings have their annuities calculated as though their official duty station had been Washington, D.C.)

Over 85 percent of FSOs—roughly 15,000—work for the Department of State. The President’s request for 2011, which is identical to the amounts authorized in section 601 for that year, already includes funding for comparability pay for the Department of State’s FSOs for 2011. Thus, for the Department of State, we only address additional pay for the 2012–2015 period.

Table 2. Components of Discretionary Spending for Personnel Programs Under S. 2971  
By Fiscal Year, in Millions of Dollars

	2011	2012	2013	2014	2015	2011– 2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
<b>Pay for Overseas Postings</b>						
Estimated Authorization Level .....	61	435	485	543	610	2,134
Estimated Outlays .....	43	323	470	526	590	1,952
<b>Foreign Service Expansion</b>						
Estimated Authorization Level .....	164	362	369	377	389	1,661
Estimated Outlays .....	115	279	332	366	377	1,469
<b>Personnel Service Contractors</b>						
Estimated Authorization Level .....	0	15	31	32	0	78
Estimated Outlays .....	0	10	23	29	10	72
<b>Reemployment of Annuitants</b>						
Estimated Authorization Level .....	0	15	15	16	17	63
Estimated Outlays .....	0	10	13	15	16	54
<b>Enhanced Personnel Authorities for Inspector General of USAID</b>						
Estimated Authorization Level .....	1	1	1	1	1	6

Table 2. Components of Discretionary Spending for Personnel Programs Under S. 2971—Continued  
By Fiscal Year, in Millions of Dollars

	2011	2012	2013	2014	2015	2011– 2015
Estimated Outlays .....	1	1	1	1	1	5
<b>Total Changes in Personnel Programs</b>						
Estimated Authorization Level .....	226	828	901	969	1,017	3,942
Estimated Outlays .....	159	623	839	937	994	3,552

Note: Components may not add to totals because of rounding.

Based on information from the department, CBO estimates that roughly 9,300 FSOs are posted overseas in 2010 and have an average basic pay of about \$77,000. In comparison, FSOs posted in Washington, D.C., have an average basic pay of about \$94,800—a difference of almost \$18,000 a year. After adjusting for expected growth in comparability pay (on average, about 8 percent a year over the past five years), inflation, and anticipated growth in the Foreign Service (as specified in section 201 below), CBO estimates that fully eliminating the difference between pay for overseas and D.C. postings for those FSOs would cost \$150 million in 2012. That increase in basic pay also would lead to an increase in other benefits paid to FSOs, such as life insurance, health insurance, hardship pay, and danger pay. According to the Department of State, those types of compensation have historically averaged about 71 percent of basic pay. Therefore, CBO estimates that under the bill, in 2012, the department would pay an additional \$107 million in other compensation, for a total cost of \$257 million that year and \$1.6 billion over the 2012–2015 period.

Slightly more than 2,000 FSOs are employed by USAID and other agencies; CBO estimates roughly 1,500 are currently posted overseas. After adjusting for expected growth in comparability pay, inflation, and anticipated growth in USAID's Foreign Service (as specified in section 201 below), CBO estimates that fully eliminating the difference between pay for overseas and D.C. postings for those FSOs would cost \$25 million in basic pay and an additional \$18 million in other compensation, for a total cost in 2011 of \$43 million and \$356 million over the 2011–2015 period.

In total, CBO estimates the costs for implementing this section would total almost \$2 billion over the 2011–2015 period, in addition to the amounts authorized under section 601.

*Foreign Service Expansion.* Section 201 would authorize the Department of State and USAID to hire additional FSOs. The increase proposed for 2010 (750 additional FSOs for the Department of State and 350 additional FSOs for USAID) is consistent with amounts provided by the Consolidated Appropriations Act, 2010 (Public Law 111–17). CBO estimates no additional funding would be provided this year for Foreign Service expansion.

The bill would authorize the Department of State to hire 750 additional FSOs for fiscal year 2011. The President's request for 2011 for the department's operating expenses includes funding for 410 additional FSOs and section 601 of the bill authorizes the appropriation of the necessary amounts. CBO expects that the department would hire the remaining 340 FSOs in 2012. Adjusting for in-



flation beyond 2011, CBO estimates that implementing that provision would cost \$810 million over the 2012–2015 period.

The proposed increase of 350 additional FSOs for USAID for fiscal year 2011 is greater than the President's request for 200 additional FSOs for 2011. To cover the salaries and other personnel expenses of 350 junior and mid-level FSOs, CBO estimates this provision would require appropriations of \$131 million in 2011. Because USAID also would need to increase its overseas office space to accommodate this increase in the workforce, CBO estimates an additional authorization of appropriations of \$33 million would be necessary for overseas capital space expansion. Adjusting for inflation, CBO estimates that implementing that provision would increase personnel costs for USAID by \$660 million over the 2011–2015 period.

After adjusting for inflation, CBO estimates the costs for implementing this section would total almost \$1.5 billion over the 2011–2015 period, in addition to the amounts authorized under section 601.

*Personal Service Contractors.* Section 228 would establish a four-year pilot program allowing the department to hire up to 200 contractors (at any one time) to meet new or urgent needs. The amounts required to implement the programs in 2011 are included in the authorization of appropriations in section 601; CBO estimates additional amounts would be required beginning in 2012 for this program. Based on information from the department, CBO estimates that the department would hire 50 contractors in 2011 at an average annual cost of \$150,000. We expect those costs per contractor would increase with inflation in subsequent years and that, under the pilot program, the department would employ a total of 100 contractors in 2012 and 200 contractors each year in 2013 and 2014. On that basis, CBO estimates that implementing this provision would cost \$72 million over the 2011–2015 period, in addition to the amounts authorized under section 601.

*Reemployment of Annuitants.* Section 223 would grant the department greater flexibility in rehiring Foreign Service annuitants on a temporary basis for positions that are hard to fill. Under current law, when reemployed annuitants serve in Iraq, Pakistan, or Afghanistan, the department may waive requirements prohibiting those individuals from receiving their annuity. That authority expires in 2010. The bill would permanently extend the authority and broaden it by deleting the restriction that employees must be serving in Iraq, Pakistan, or Afghanistan. The amounts required to implement this provision in 2011 are included in the authorization of appropriations in section 601, and CBO estimates additional amounts would be required beginning in 2012.

Based on information from the department, CBO estimates that 30 additional annuitants would be employed under the bill and posted overseas, at an annual cost of \$500,000 each (that amount includes costs for basic pay, travel, family support, benefits, special pay such as hardship pay, and housing). After adjusting for inflation, CBO estimates that implementing this section would cost \$54 million over the 2011–2015 period, in addition to the amounts authorized under section 601.

*Enhanced Personnel Authorities for the Inspector General of USAID.* Three provisions in section 406 would enhance personnel authorities for USAID's Office of Inspector General (OIG). In total, after adjusting for inflation, CBO estimates that implementing this section would cost \$5 million over the 2011–2015 period.

First, it would provide the OIG with the flexibility to temporarily reemploy annuitants for positions in Iraq, Pakistan, and Afghanistan that are hard to fill. This authority would expire at the beginning of fiscal year 2012, although annuitants reemployed before that date would be allowed to continue their employment through 2013. Based on information from the OIG, CBO estimates that the office would reemploy five annuitants at an annual average cost of about \$110,000 per annuitant.

Second, section 406 would authorize the OIG to hire personal service contractors so long as such persons do not exceed five percent of total office personnel. Based on information from the OIG, CBO estimates that the office would hire five contractors at an annual average cost of about \$110,000 per contractor.

Finally, section 406 would require pay parity for FSOs serving as criminal investigators in the OIG with like personnel at other agencies. Based on information from the OIG, CBO estimates that additional personnel payments to provide such parity would total less than \$500,000 a year and total about \$1 million over the 2011–2015 period.

*Contributions to International Organizations.* In addition to the amounts authorized in section 602 for contributions to international organizations in 2011, section 302 would authorize the appropriation of such sums as may be necessary to synchronize assessed contributions to international organizations to the budget year used by those organizations. Under current law, such contributions are often a year late. Based on information from the Department of State, CBO estimates that implementing this provision would cost \$1.3 billion in 2011, assuming appropriation of the estimated amounts. There would be no subsequent costs once the payments were synchronized.

Section 308 would authorize the President to make assessed contributions to the International Renewable Energy Agency (IRENA). Section 305 would authorize the Secretary of State to facilitate the readmission and participation of the U.S. in the Inter-Parliamentary Union (IPU) and to make contributions to meet the obligations of membership. The authorization of appropriations in section 602 includes \$5 million in 2011 for contributions to IRENA, but does not include funding for the IPU. The department expects that assessed contributions to the IPU would be \$2 million a year over the 2011–2015 period. After adjusting for inflation and assuming appropriation of the estimated amounts, CBO estimates implementing those two provisions would cost \$30 million over the 2011–2015 period, in addition to amounts authorized in section 602.

*Emergency Refugee and Migration Assistance.* Section 114 would raise the limit on appropriations for the Emergency Refugee and Migration Assistance (ERMA) Fund from \$100 million to \$200 million (when added to amounts previously appropriated to the Fund but not yet obligated). The effect of section 114 would be to authorize the appropriation of an additional \$100 million to the ERMA Fund in any fiscal year. CBO estimates that providing those addi-

tional amounts to the ERMA Fund would cost \$410 million over the 2011–2015 period, assuming appropriation of the authorized amounts.

*Radio Free Asia.* Section 124 would permanently extend the authorization for Radio Free Asia (RFA). Under current law, the authorization for RFA expires at the end of fiscal year 2010. The authorization of appropriations for international broadcasting operations in section 611 includes amounts for RFA in 2011. Based on the President’s request for 2011 and after adjusting for inflation, CBO estimates that implementing this section would cost \$151 million over the 2012–2015 period, assuming appropriation of the estimated amounts.

*Science and Technology Fellowships.* Section 128 would authorize the Secretary of State to establish new educational or cultural exchange programs or expand existing programs for individuals in the fields of science, medicine, research, and academia. Based on information from the State Department, CBO estimates that the department would expand participation in existing exchange programs by about 100 people at an annual cost of \$40,000 per participant. Additionally, section 128 would authorize the Secretary of State to award up to \$2 million a year for grants and cooperative agreements related to science and technology fellowship programs. The amounts required to implement both programs in 2011 are included in the authorization of appropriations in section 601, and CBO estimates additional amounts would be required beginning in 2012. In total, and adjusting for inflation, CBO estimates that implementing those programs would cost \$20 million over the 2011–2015 period, assuming appropriation of the estimated amounts.

*Office for Global Women’s Issues.* Section 230 would establish a new office focused on global women’s issues, led by an Ambassador-at-Large who would be appointed by the President. Such an office already exists and the President has requested \$3 million in funding for the office in 2011. That amount is included in the authorization of appropriations for the department’s operating expenses in section 601. Because no amounts are authorized for future years, CBO estimates additional amounts would be required beginning in 2012. Thus, CBO estimates implementing this section would cost \$11 million over the 2012–2015 period, assuming appropriation of the estimated amounts.

*Foreign Assistance Awareness and Dialogue.* Section 403 would authorize the Administrator of USAID to spend an additional \$1 million a year for public relations efforts on behalf of foreign assistance. CBO estimates that implementing this section would cost \$3 million over the 2011–2015 period, assuming appropriation of the authorized amounts.

*Other Provisions.* The bill contains several provisions, primarily affecting personnel and reporting requirements, that CBO estimates, if taken individually, would have an insignificant effect on spending, but in total would increase spending by \$1 million a year, assuming the availability of appropriated funds.

#### *Direct Spending*

In addition to the discretionary authorizations discussed above, the bill contains provisions that would both increase and decrease

direct spending, primarily from changes to assistance authorized for the Millennium Challenge Corporation. In total, CBO estimates that enacting the bill would increase direct spending by \$27 million over the 2011–2015 period and \$53 million over the 2011–2020 period.

*Millennium Challenge Corporation (MCC).* Section 405 would increase the pool of low-income countries eligible for assistance from MCC. It also would extend the time period (from five to seven years) for which aid could be provided under agreements between the United States and recipient countries. In addition, it would allow for multiple agreements with one recipient country to be in place concurrently whereas under current law the MCC can only have one signed agreement in effect with a country at any given time. CBO estimates that those provisions would likely increase spending from funds previously appropriated for the MCC. Over the 2004–2010 period, the Congress has appropriated more than \$9.4 billion for the MCC, though only about \$2.5 billion has been spent through June of 2010. Based on information from the MCC, CBO estimates that enacting those provisions would increase direct spending by \$25 million over the 2011–2015 period and \$50 million over the 2011–2020 period.

*Reimbursements for Use of Government Vehicles.* Section 117 would allow the Department of State to retain reimbursements received for the use of vehicles owned or leased by the federal government, and to use those reimbursements to maintain, purchase, lease, or operate such vehicles. Under current law, those reimbursements are deposited in the general fund as offsetting receipts. Extrapolating from a department survey of those reimbursements, CBO estimates that enacting this provision would increase direct spending by about \$350,000 each year, for a total of about \$4 million over the 2011–2020 period.

*Visa Ineligibility.* Section 143 would reduce the number of people eligible for visas to enter the United States. Under current law, foreign nationals involved in child abduction cases are generally ineligible for visas, but there are a few exceptions. S. 2971 would delete one such exception. CBO estimates that enacting this provision would affect few people and decrease direct spending on federal assistance programs (such as Medicaid) by less than \$500,000 each year and by about \$1 million over the 2011–2020 period.

*Other Provisions.* Several provisions in the bill would have insignificant effects on direct spending, primarily because they would affect few individuals or because they authorize both the collection and spending of funds so that the net budgetary impact would be small.

- Section 101 would allow the State Department’s International Litigation Fund to collect and spend awards of costs and attorney’s fees that result from decisions by international tribunals.
- Section 127 would allow the Broadcasting Board of Governors to collect and spend reimbursements received from the Archivist of the U.S. for costs related to providing master copies of BBG products.
- Section 130 would revoke the status of the Vietnam Education Foundation as an independent federal entity and incorporate it into the State Department. The foundation is funded by repay-

ments of federal loans made to Vietnam (which are considered offsetting receipts). It receives \$5 million a year and spends the entire amount each year. There would be no significant change in either the receipts or spending for this activity.

- Section 144 would exempt certain children being adopted from overseas from vaccination requirements, and could affect the spending of immigration fees and use of federal assistance programs.
- Section 147 would allow certain siblings of children being adopted from overseas to enter the United States, and could affect the spending of immigration fees and use of federal assistance programs.

*Pay-As-You-Go Considerations*

The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. S. 2971 would increase outlays from existing appropriations and would allow the Department of State to retain and spend a small amount of collections. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for S. 2971, as ordered reported by the Senate Committee on Foreign Relations on April 27, 2010  
By Fiscal Year, in Millions of Dollars

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010-2015	2010-2020
NET INCREASE OR DECREASE (-) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact .....	0	5	5	5	5	5	5	5	5	5	5	27	53

*Intergovernmental and Private Sector Impact*

The bill would impose intergovernmental and private-sector mandates, as defined in UMRA, but CBO estimates that the total costs to public and private entities would fall below the annual thresholds established in UMRA intergovernmental and private-sector mandates (\$70 million and \$141 million in 2010 respectively, adjusted annually for inflation).

*Mandates that Apply to Public and Private Sector Entities*

*Immunity from Civil Liability.* The bill would add a new circumstance under which members of the BBG would be exempt from civil liability. Granting such protections would impose a mandate on public and private entities by eliminating the right to file a claim against BBG members for activities related to the Middle East Broadcasting Networks. Because civil suits by public or private entities are rarely filed against BBG members, CBO estimates that the cost of the mandate from any forgone compensation for damages would be small.

*Administrative Subpoenas.* The bill would expand the circumstances for which an administrative subpoena could be issued by the Secretary of State, and consequently increase the number of public and private entities that could have to provide information or testimony. CBO expects that the increase in the number of subpoenas issued would not be significant and estimates that the costs

to public and private entities to comply with such subpoenas would be small.

*Mandates that Apply to Public Entities Only*

The bill would preempt state laws governing liability by extending the circumstances under which the BBG would be granted civil immunity. CBO estimates that the associated costs to state, local, and tribal governments would be small.

*Other Impacts*

The bill would establish a grant program for institutions of higher education in the United States to help implement graduate-level academic and public policy management leadership programs in Vietnam. Public colleges and universities would be eligible to receive grants under the program.

*Previous CBO Estimates*

On June 2, 2010, CBO transmitted a cost estimate for S. 3104, a bill to permanently authorize Radio Free Asia, and for other purposes, as reported by the Senate Committee on Foreign Relations on May 25, 2010. S. 3104 is similar to section 124 of S. 2971 and their estimated costs are the same.

On May 14, 2010, CBO transmitted a cost estimate for S. 1376, the International Adoption Simplification Act as reported by the Senate Committee on the Judiciary on March 22, 2010. Section 2 of S. 1376 is similar to section 144 of S. 2971 and their estimated costs are the same.

On April 28, 2010, CBO transmitted a cost estimate for S. 1382, the Peace Corps Improvement and Expansion Act of 2010 as ordered reported by the Senate Committee on Foreign Relations on April 13, 2010. S. 1382 would indefinitely authorize the appropriation of such sums as may be necessary whereas section 621 of S. 2971 would authorize appropriations for only 2011; thus, the estimated costs for S. 2971 are lower.

On June 4, 2009, CBO transmitted a cost estimate for H.R. 2410, the Foreign Relations Authorization Act, Fiscal Years 2010 and 2011, as ordered reported by the House Committee on Foreign Affairs on May 20, 2009. S. 2971 and H.R. 2410 contain several provisions that are similar and both would authorize appropriations for the Department of State, international broadcasting activities, international assistance programs, and related agencies. Title I of H.R. 2410 would primarily authorize appropriations for both 2010 and 2011 whereas Title VI of S. 2971 would primarily authorize appropriations for only 2011; thus, the estimated costs for S. 2971 are lower.

On May 18, 2009, CBO transmitted a cost estimate for S. 838, a bill to provide for the appointment of United States Science Envoys as ordered reported by the Senate Committee on Foreign Relations on May 5, 2009. Section 128 of S. 2971 is similar to section 2 of S. 838; however, section 128 of S. 2971 also would authorize spending an additional \$2 million a year for science and technology fellowships and its estimated costs are correspondingly higher.

*Estimate Prepared By:*

*Federal Costs:* John Chin and Sunita D'Monte

*Impact on State, Local, and Tribal Governments: Leo Lex*  
*Impact on the Private Sector: Marin Randall*

*Estimate Approved By:*

*Theresa Gullo, Deputy Assistant Director for Budget Analysis*

VI. EVALUATION OF REGULATORY IMPACT

Pursuant to Rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the committee has determined that there is no regulatory impact as a result of this legislation.

VII. CHANGES IN EXISTING LAW

In compliance with Rule XXVI, paragraph 12 of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

**State Department Basic Authorities Act of 1956**

TITLE I—BASIC AUTHORITIES GENERALLY

ORGANIZATION OF THE DEPARTMENT OF STATE

SECTION 1. (a) SECRETARY OF STATE.—

\* \* \* \* \*

(c) ASSISTANT SECRETARIES.—

(1) IN GENERAL.—There shall be in the Department of State not more than **[24]** 25 Assistant Secretaries of State, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5.

\* \* \* \* \*

(2) ASSISTANT SECRETARY OF STATE FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR.—(A) \* \* \*

\* \* \* \* \*

(3) ASSISTANT SECRETARY FOR INTERNATIONAL INFORMATION PROGRAMS.—*There shall be in the Department of State an Assistant Secretary for International Information Programs, who—*

*(A) shall oversee the Bureau of International Information Programs; and*

*(B) shall be responsible to the Secretary of State for matters pertaining to the engagement of international audiences on issues of United States policy, society, and values to help create an environment that is receptive to the interests of the United States.*

**[(3)]** (4) 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.

\* \* \* \* \*

SEC. 3. The Secretary of State is authorized to—

(a) obtain insurance on official motor vehicles operated by the Department of State in foreign countries, and pay the expenses incident thereto;

\* \* \* \* \*

(l) make payments in advance, of the United States share of necessary expenses for international fisheries commissions, from appropriations available for such purpose; **[and]**

(m) establish, maintain, and operate passport and dispatch agencies~~].~~; and

(n) *make and carry out contracts for procurement outside the United States of goods or services needed for the operation of United States diplomatic and consular posts and related facilities outside the United States, provided that—*

*(1) laws of the United States relating to the negotiation, making, contents, or performance of government contracts for goods or services, and advance payments and indemnification in relation to such contracts shall apply with respect to such contracts except to the extent that the Secretary determines (other than for section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423)) that the Secretary could not reasonably meet the need of a post or facility for such goods and services by use of authority available to the Secretary under a law other than this subsection;*

*(2) the Secretary shall—*

*(A) issue guidance addressing use of this authority; and*

*(B) require written approval to waive specific laws or procurement regulations under this authority by the Procurement Executive (without further delegation); and*

*(3) no individual contract action entered into under this authority shall exceed \$2,000,000 unless approved in writing by the Chief Acquisition Officer of the Department of State (without further delegation).*

\* \* \* \* \*

SEC. 28. (a) The Secretary of State may authorize the principal officer of a Foreign Service post to provide for the use of Government owned or leased vehicles located at that post for transportation of United States Government employees and their families when public transportation is unsafe or not available or when such use is advantageous to the Government.

(b) *Funds received by the Department of State in connection with the use of vehicles owned or leased by the Government under subsection (a)—*

*(1) may be credited to the appropriate account of the Department of State; and*

*(2) if so credited, shall be available only for expenses related to the purchase, lease, maintenance, or operation of such vehicles.*

SEC. 29. Whenever the Secretary of State determines that educational facilities are not available, or that existing educational fa-



cilities are inadequate, to meet the needs of children of United States citizens stationed outside the United States who are engaged in carrying out Government activities, the Secretary may, in such manner as he deems appropriate and under such regulations as he may prescribe, establish, operate, and maintain primary schools, and school dormitories and related educational facilities for primary and secondary schools, outside the United States, make grants of funds for such purposes, or otherwise provide for such educational facilities. The authorities of the Foreign Service Buildings Act, 1926, and of paragraphs (h) and (i) of section 3 of this Act, may be utilized by the Secretary in providing assistance for educational facilities. Such assistance may include *physical security enhancements and* hiring, transporting, and payment of teachers and other necessary personnel. 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. 37. (a) GENERAL AUTHORITY.—Under such regulations as the Secretary of State may prescribe, special agents of the Department of State and the Foreign Service may—

【(1) conduct investigations concerning illegal passport or visa issuance or use;】

(1) *conduct investigations concerning—*

(A) *illegal passport or visa issuance or use;*

(B) *identity theft or document fraud affecting, or relating to, the programs, functions, or authorities of the Department of State; and*

(C) *Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as such term is defined in section 7(9) of title 18, United States Code), except as that jurisdiction relates to the premises of United States military installations and related residences;*

(2) obtain and execute search and arrest warrants, as well as obtain and serve subpoenas and summonses issued under the authority of the United States;

(3) protect and perform protective functions directly related to maintaining the security and safety of—

(b) AGREEMENTS WITH ATTORNEY GENERAL AND SECRETARY OF THE TREASURY AND FIREARMS REGULATIONS.— \* \* \*

\* \* \* \* \*

(c) SECRET SERVICE NOT AFFECTED.— \* \* \*

(d) *RULE OF CONSTRUCTION.—Nothing in subsection (a)(1) may be construed to limit the investigative authority of any other Federal department or agency.*

\* \* \* \* \*

**SEC. 37A. PROTECTION OF BUILDINGS AND AREAS IN THE UNITED STATES BY UNIFORMED GUARDS.**

(a) *ENFORCEMENT AUTHORITIES FOR UNIFORMED GUARDS.*—The Secretary of State may authorize Department of State uniformed guards to protect buildings and areas within the United States for which the Department of State provides protective services, including duty in areas outside the property to the extent necessary to protect the property and persons in that area.

(b) *POWERS OF GUARDS.*—While engaged in the performance of official duties as a uniformed guard under subsection (a), a guard may—

- (1) enforce Federal laws and regulations for the protection of persons and property;
- (2) carry firearms; and
- (3) make arrests without warrant for—
  - (A) any offense against the United States committed in the guard's presence; or
  - (B) any felony cognizable under the laws of the United States if the guard has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony in connection with the buildings, areas, or persons, for which the Department of State is providing protective services.

(c) *REGULATIONS.*—

(1) *IN GENERAL.*—The Secretary of State, in consultation with the Secretary of Homeland Security, may prescribe such regulations as may be necessary for the administration of buildings and areas within the United States for which the Department of State provides protective services, including reasonable penalties for violations of such regulations, within the limits prescribed in subsection (d).

(2) *POSTING.*—The regulations prescribed under paragraph (1) shall be posted in a conspicuous place on the property.

(d) *PENALTIES.*—A person violating a regulation prescribed under subsection (c) shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

(e) *ATTORNEY GENERAL APPROVAL.*—The powers granted to guards designated under this section shall be exercised in accordance with guidelines approved by the Attorney General.

(f) *RELATIONSHIP TO OTHER AUTHORITY.*—Nothing in this section may be construed to affect the authority of the Secretary of Homeland Security, the Administrator of General Services, or any Federal law enforcement agency.

**SEC. 38. (a) INTERNATIONAL AGREEMENTS.— \* \* \***

\* \* \* \* \*

**(d) INTERNATIONAL LITIGATION FUND.—**

(1) **ESTABLISHMENT.— \* \* \***

\* \* \* \* \*

(3) *TRANSFERS OF FUNDS.*—Funds received by the Department of State [from another agency of the United States Government] as a result of a decision of an international tribunal, from another agency of the United States Government, or pursuant to the Department of State Appropriations Act of 1937 (49 Stat. 1321, 22 U.S.C. 2661) to meet costs of preparing or

prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, shall be credited to the ILF.

\* \* \* \* \*

**SEC. 61. REEMPLOYMENT OF ANNUITANTS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM AND FEDERAL EMPLOYEES' RETIREMENT SYSTEM.**

(a) **AUTHORITY.**—(1) **IN GENERAL.**—To facilitate the assignment of persons to Iraq and Afghanistan or **[to posts vacated]**, *to positions in the Response Readiness Corps, or to posts vacated* by members of the Service assigned to Iraq and Afghanistan, the Secretary of State may waive the application of the provisions of section 8344 or 8468 of title 5 on a case-by-case basis for employment of an annuitant in a position in the Department of State for which there is exceptional difficulty in recruiting or retaining a qualified employee, or when a temporary emergency hiring need exists.

(2) **TERMINATION OF AUTHORITY.**—The authority of the Secretary under paragraph (1) shall terminate on October 1, **[2010]** *2012*. An annuitant reemployed pursuant to such authority prior to such termination date may be employed for a period ending not later than one year after such date.

\* \* \* \* \*

**SEC. 62. RECONSTRUCTION AND STABILIZATION.**—(a) \* \* \*

\* \* \* \* \*

**SEC. 62a. AUTHORITIES RELATED TO PERSONNEL.**—(a) \* \* \*

**SEC. 63. FOREIGN RELATIONS EXCHANGE PROGRAMS.**

(a) **IN GENERAL.**—*The Secretary may establish exchange programs under which officers or employees of the Department of State, including individuals appointed under title 5, United States Code, and members of the Foreign Service may be assigned, for a period not to exceed 1 year, to a position with any foreign government or international entity that permits an employee to be assigned to a position with the Department of State.*

(b) **SALARY AND BENEFITS.**—

(1) **FOREIGN SERVICE MEMBERS.**—*During a period in which a member of the Foreign Service is participating in an exchange program authorized under subsection (a), such member shall be entitled to the salary and benefits to which such member would be entitled if such member were assigned to an agency, international organization, or other body under section 503 of the Foreign Service Act of 1980 (22 U.S.C. 3983).*

(2) **DETAILEES.**—*An employee of the Department of State (other than a member of the Foreign Service participating in an exchange program authorized under subsection (a)) shall be treated in all respects as if detailed to an international organization under section 3343(b) of title 5, United States Code. The salary of such employee shall be the higher of the salary that the employee would receive but for the assignment under this section or the salary of the position to which the employee is assigned.*

(3) **PAYMENT.**—*The salary and benefits of an employee of a foreign government or international entity participating in a program established under this section shall be paid by such*

government or entity during the period in which such employee is participating in the program, and shall not be reimbursed by the Department of State.

(c) **NONRECIPROCAL ASSIGNMENTS.**—The Secretary may authorize a nonreciprocal assignment of personnel pursuant to this section, with or without reimbursement from the foreign government or international entity for all or part of the salary and other expenses payable during the assignment, if such assignment is in the interests of the United States.

(d) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed to authorize the appointment as an officer or employee of the United States of—

(1) an individual whose allegiance is to any country, government, or foreign or international entity other than to the United States; or

(2) an individual who has not met the requirements of sections 3331, 3332, 3333, and 7311 of title 5, United States Code, and any other provision of law concerning eligibility for appointment, and continuation of employment, as an officer or employee of the United States.

**SEC. 64. BUYING POWER MAINTENANCE, INTERNATIONAL ORGANIZATIONS.**

(a) **ESTABLISHMENT OF ACCOUNT.**—There is established in the Treasury of the United States the ‘Buying Power Maintenance, International Organizations account’ (referred to in this section as the ‘account’) to offset fluctuations in foreign currency exchange rates that adversely affect United States contributions to international organizations.

(b) **AUTHORITY TO TRANSFER AMOUNTS TO ACCOUNT.**—The Secretary of State may transfer to, and merge with, the account such amounts appropriated or otherwise made available for the Contributions to International Organizations account as the Secretary determines are beyond the needs of activities funded from that account because of fluctuations in foreign currency exchange rates.

(c) **AUTHORITY TO TRANSFER AMOUNTS FROM ACCOUNT.**—In order to offset adverse fluctuations in foreign currency exchange rates, the Secretary of State may transfer to, and merge with, the Contributions to International Organizations account such amounts from the account as the Secretary determines are necessary to provide for the activities funded under that account.

(d) **TRANSFER OF UNOBLIGATED AMOUNTS.**—

(1) **IN GENERAL.**—Subject to the limitations under this subsection, not later than the last day of the fifth fiscal year after the fiscal year for which amounts are appropriated or otherwise made available for the Contributions to International Organizations account, the Secretary of State may transfer any unobligated balance of such amounts to the account.

(2) **LIMITATION.**—The balance of the account may not exceed \$100,000,000 as a result of any amounts transferred under this subsection.

(3) **REPROGRAMMING.**—Any transfer under this subsection—

(A) shall be treated as a reprogramming of funds under section 34; and

(B) shall only be available for obligation or expenditure in accordance with the procedures established under such section.

(4) SCOPE.—The authority under this section may only be exercised with respect to amounts appropriated or otherwise made available after September 30, 2009.

(e) AVAILABILITY OF AMOUNTS.—Amounts transferred to the account under this section shall remain available until expended.

(f) OTHER AUTHORITIES NOT AFFECTED.—The authority to transfer amounts under this section is in addition to transfer authority otherwise available to the Secretary of State under any other provision of law.

\* \* \* \* \*

ARMS CONTROL EXPORT ACT

SEC. 47. LIMITATION ON ASSISTANCE TO GOVERNMENTS OF COUNTRIES IN DEFAULT.

No assistance may be furnished under section 23 of this Act to the government of any country which is in default, during a period exceeding 1 year, in payment to the United States of principal or interest on any loan made to the government of such country under this Act, unless—

- (1) such government meets its obligations under the loan; or
(2) the President—

(A) determines that assistance to such country is in the national interest of the United States; and

(B) notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination.

\* \* \* \* \*

SEC. [47] 48. DEFINITIONS.—For purposes of this Act, the term—

\* \* \* \* \*

United States Information and Educational Exchange Act of 1948

\* \* \* \* \*

TITLE V—DISSEMINATING INFORMATION ABOUT THE UNITED STATES ABROAD

SEC. 501. (a) \* \* \*

(b)(1) The [Director of the United States Information Agency] Secretary of State shall make available to the Archivist of the United States, for domestic distribution, motion pictures, films, videotapes, and other material prepared for dissemination abroad 12 years after the initial dissemination of the material abroad or, in the case of such material not disseminated abroad, 12 years after the preparation of the material.

[(2) The Director of the United States Information Agency shall be reimbursed for any attendant expenses. Any reimbursement to the Director pursuant to this subsection shall be credited to the applicable appropriation of the United States Information Agency.]

(2) The Broadcasting Board of Governors may make available to the Archivist of the United States, for domestic distribution, motion

*pictures, films, videotape, and other material prepared by the Broadcasting Board of Governors for dissemination abroad 2 years after the initial dissemination of the material abroad, or in the case of such material not disseminated abroad, 2 years after the preparation of the material.*

*(3) The Secretary of State and the Broadcasting Board of Governors shall be reimbursed for any attendant expenses. Any reimbursement to the Secretary or the Broadcasting Board of Governors under this paragraph shall be credited to the applicable appropriation of the Department of State or the Broadcasting Board of Governors.*

[(3)] (4) The Archivist shall be the official custodian of the material and shall issue necessary regulations to ensure that persons seeking its release in the United States have secured and paid for necessary United States rights and licenses and that all costs associated with the provision of the material by the Archivist shall be paid by the persons seeking its release. The Archivist may charge fees to recover such costs, in accordance with section 2116(c) of title 44, United States Code. Such fees shall be paid into, administered, and expended as part of the National Archives Trust Fund.

SEC. 604. (a) ESTABLISHMENT.—(1) There is established an advisory commission to be known as the United States Advisory Commission on Public Diplomacy.

[(2)] (2) The Commission shall consist of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party.]

*(2) The Commission shall consist of seven members appointed by the President, by and with the advice and consent of the Senate.*

*(3) The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party. At least 4 members shall have substantial experience in the conduct or evaluation of public diplomacy or comparable activities in the private or public sector. No member may be an officer or employee of the United States.*

[(3)] (4) The term of each member shall be 3 years, except that of the original seven appointments, two shall be for a term of 1 year and two shall be for a term of 2 years.

[(4)] (5) Any member appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and qualified.

[(5)] (6) The President shall designate a member to chair the Commission.

\* \* \* \* \*

(c) DUTIES AND RESPONSIBILITIES.—(1) The Commission shall formulate and recommend to the Director of the United States Information Agency, the Secretary of State, and the President policies and programs to carry out the functions vested in the Director or

the Agency, and shall appraise the effectiveness of policies and programs of the Agency.

[(2) The commission shall submit to the Congress, the President, the Secretary of State, and the Director of the United States Information Agency annual reports on programs and activities carried out by the Agency, including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry out such recommendations.]

*(2)(A) Not less frequently than once every 2 years, the Commission shall—*

*(i) conduct an in-depth study of United States public diplomacy programs, policies, and activities;*

*(ii) assess the effectiveness of the various mechanisms of public diplomacy conducted by the United States Government in light of public and media attitudes around the world toward the United States, its people, and United States foreign policy; and*

*(iii) develop appropriate recommendations.*

*(B) The Commission is authorized to use amounts in its allotted budget to award grants to assist in carrying out its duties under this paragraph.*

*(C) The Commission shall submit a comprehensive report of each study required under subparagraph (A) to the Secretary, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives.*

*(D) Upon the request of the Commission, the Secretary, the Chair of the Broadcasting Board of Governors, and the head of any other Federal agency that conducts public diplomacy or strategic communications activities shall provide information to the Commission, as appropriate, to assist the Commission in carrying out its duties under this paragraph.*

\* \* \* \* \*

SEC. 804. In carrying out the provisions of this Act, the Secretary, 54 or any Government agency authorized to administer such provisions, may—

(1) employ, without regard to the civil service and classification laws, aliens within the United States and abroad for service in the United States relating to the translation or narration of colloquial speech in foreign languages or the preparation and production of foreign language programs when [suitably qualified United States citizens] *United States citizens applicants who are equally or better qualified than non-United States citizen applicants* are not available when job vacancies occur, and aliens so employed abroad may be admitted to the United States, if otherwise qualified, as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) for such time and under such conditions and procedures as may be established by the Director of the United States Information Agency and the Attorney General;

**Foreign Assistance Act of 1961**

\* \* \* \* \*

SEC. 116. HUMAN RIGHTS.—(a) \* \* \*

\* \* \* \* \*

(d) The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by February 25 of each year, a full and complete report regarding—

(1) \* \* \*

\* \* \* \* \*

(10) for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country; **[and]**

(11)(A) \* \* \*

\* \* \* \* \*

(C) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary~~].~~ **and**

(12) *wherever applicable, violence or discrimination that affects the fundamental freedoms, consistent with United States law, of an individual in foreign countries that is based on actual or perceived sexual orientation and gender identity.*

SEC. 122. GENERAL AUTHORITIES.—(a) \* \* \*

\* \* \* \* \*

(e) The President shall establish an interagency Development Loan Committee, consisting of such officers from such agencies of the United States Government as he may determine, which shall, under the direction of the President, establish standards and criteria for lending operations under this chapter in accordance with the foreign and financial policies of the United States. Except in the case of officers serving in positions to which they were appointed by the President by and with the advice and consent of the Senate, officers assigned to the Committee shall be so assigned by the President by and with the advice and consent of the Senate.

*(f)(1) The Administrator of the United States Agency for International Development is authorized—*

*(A) to encourage the people of the United States to further dialogue and understanding of development, humanitarian assistance, and foreign assistance programs; and*

*(B) to facilitate widespread public discussion, analysis, and review of the issues addressed in the final report of the Helping to Enhance the Livelihood of People Around the Globe Commission (HELP Commission), issued in December 2007, with special regard to the HELP Commission's call to encourage Executive agencies to more fully explain United States development activities to the American people in order to raise the American people's understanding about and support for foreign assistance.*

*(2) Not to exceed \$1,000,000 of the amounts made available each fiscal year for the purposes of this chapter may be used to ensure*



*effective engagement with the American people in understanding and promoting public understanding of development, humanitarian assistance, and foreign assistance programs, in addition to funds otherwise available for such purposes.*

\* \* \* \* \*

Sec. 502B. HUMAN RIGHTS.—(a) \* \* \*

\* \* \* \* \*

(b) The Secretary of State shall transmit to the Congress, as part of the presentation materials for security assistance programs proposed for each fiscal year, a full and complete report, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights, and Labor and with the assistance of the Ambassador at Large for International Religious Freedom, with respect to practices regarding the observance of and respect for internationally recognized human rights in each country proposed as a recipient of security assistance. Wherever applicable, such report shall include consolidated information regarding the commission of war crimes, crimes against humanity, and evidence of acts that may constitute genocide (as defined in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide and modified by the United States instrument of ratification to that convention and section 2(a) of the Genocide Convention Implementation Act of 1987). Wherever applicable, such report shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization. Such report shall also include, wherever applicable, information on violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998). Wherever applicable, a description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur, including the descriptions of such acts required under section 116(d)(8). Such report shall also include, for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country.

Each report under this section shall describe the extent to which each country has extended protection to refugees, including the provision of first asylum and resettlement. Each report under this section shall also include (i) wherever applicable, a description of the nature and extent of the compulsory recruitment and conscription of individuals under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, the participation of such individuals in such groups, and the nature and extent that such individuals take a direct part in hostilities, (ii) what steps, if any, taken by the government of the country to eliminate such practices, and (iii) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary of State. *Wherever applicable, violence or discrimination that affects the fundamental freedoms, consistent with United States law, of an individual in foreign countries that is based on actual or perceived sexual orientation and gender identity.* Each re-

port under this section shall list the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year. In determining whether a government falls within the provisions of subsection (a)(3) and in the preparation of any report or statement required under this section, consideration shall be given to—

SEC. 534. ADMINISTRATION OF JUSTICE.—(a) The President may furnish assistance under this chapter to countries and organizations, including national and regional institutions, in order to strengthen the administration of justice [in countries in Latin America and the Caribbean].

(b) Assistance under this section may only include—

(1) support for specialized professional training, scholarships, and exchanges for continuing legal education;

(2) programs to enhance prosecutorial and judicial capabilities and protection for participants in judicial cases;

(3) notwithstanding section 660 of this Act—

(A) programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control;

(B) programs to assist in the development of academic instruction and curricula for training law enforcement personnel;

(C) programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures; [and]

(D) programs, conducted through multilateral or regional institutions, to improve penal institutions and the rehabilitation of offenders; and

(E) *programs to enhance the protection of participants in judicial cases;*

(4) strengthening professional organizations in order to promote services to members and the role of the bar in judicial selection, enforcement of ethical standards, and legal reform;

(5) increasing the availability of legal materials and publications;

(6) seminars, conferences, and training and educational programs to improve the administration of justice and to strengthen respect for the rule of law and internationally recognized human rights; and

(7) revision and modernization of legal codes and procedures.

[(c) Not more than \$20,000,000 of the funds made available to carry out this chapter for any fiscal year shall be available to carry out this section, in addition to amounts otherwise available for such purposes.]

[(d)] (c) Funds may not be obligated for assistance under this section unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified of the amount and nature of the proposed assistance at least 15 days in advance in accordance with the procedures applicable to reprogrammings pursuant to section 634A of this Act.

[(e)] (d) Personnel of the Department of Defense and members of the United States Armed Forces may not participate in the provision of training under this section. Of the funds made available to carry out this section, not more than \$10,000,000 may be made available in fiscal year 1991 to carry out the provisions of subsection (b)(3) of this section. The authority of this section shall expire on September 30, 1991.

\* \* \* \* \*  
 SEC. 607. FURNISHING OF SERVICES AND COMMODITIES.—(a) \* \*

\* \* \* \* \*  
 (d) The Secretary of State, acting through the Assistant Secretary of State for [Oceans and International Environmental and Scientific Affairs] *Oceans, Environment, and Science*, is authorized to transfer to any friendly country, international organization, the American Red Cross, or other voluntary nonprofit relief agency described in subsection (a), Government-owned excess property made available under this section or section 608 in order to support activities carried out under part I of this Act which are designed to enhance environmental protection in foreign countries if the Secretary of State makes a written determination—

\* \* \* \* \*  
 SEC. 620. PROHIBITIONS AGAINST FURNISHING ASSISTANCE.—(a) \*

\* \* \* \* \*  
 “(m) *PROHIBITIONS ON ASSISTANCE FOR THE PRODUCTION OF AGRICULTURAL COMMODITIES AVAILABLE IN SURPLUS QUANTITIES.—(1) No assistance shall be furnished under chapter I of part I of this Act to a country to build or expand the capacity of producers in the country to produce an agricultural commodity if the President determines that—*

“*(A) the agricultural commodity is likely to be available in surplus quantities on the world market when the building or expansion of such capacity is complete; and*

“*(B) the production or expanded production of the agricultural commodity by producers in that country would cause substantial injury to producers in the United States that produce that agricultural commodity or a similar or competing agricultural commodity.*

“(2) *Paragraph (1) shall not apply with respect to assistance to a country that—*

“*(A)(i) is eligible for assistance from the International Development Association;*

“*(ii) is not eligible for assistance from the International Bank for Reconstruction and Development; and*

“*(iii) does not export on a consistent basis the agricultural commodity with respect to which assistance is furnished; or*

“*(B) the President determines is recovering from widespread conflict, a humanitarian crisis, or a complex emergency.*

“(n) *RESTRICTION ON ASSISTANCE FOR THE PRODUCTION AND EXPORTATION OF CERTAIN AGRICULTURAL COMMODITIES.—(1) No assistance shall be furnished under chapter I of part I of this Act to a country to carry out any testing, breeding feasibility studies, variety improvement efforts, introduction efforts, consulting, publica-*

tions, conferences, or training with respect to the production of an agricultural commodity in that country if the President determines that—

“(A) the agricultural commodity is or will be produced to be exported from that country; and

“(B) the exportation of the agricultural commodity from that country will result in increased competition for that agricultural commodity, or a similar or competing agricultural commodity, produced in the United States.

“(2) Paragraph (1) shall not apply with respect to assistance furnished—

“(A) to a developing country to carry out an activity involving the production of an agricultural commodity that is designed to increase food security in that country if the President determines that the activity will not have a significant impact on the exportation of that agricultural commodity from the United States; or

“(B) to a country that—

“(i)(I) is eligible for assistance from the International Development Association;

“(II) is not eligible for assistance from the International Bank for Reconstruction and Development; and

“(III) does not export on a consistent basis the agricultural commodity with respect to which assistance is furnished; or

“(ii) the President determines is recovering from widespread conflict, a humanitarian crisis, or a complex emergency.

\* \* \* \* \*

(q) No assistance shall be furnished under this Act to [any country] the government of any country which is in default, during a period in excess of [six calendar months] 1 year, in payment to the United States of principal or interest on any loan made to [such country] such government under this Act, unless such country meets its obligations under the loan or unless the President determines that assistance to such country is in the national interest and notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination.

\* \* \* \* \*

**SEC. 620P. USAID EXCEPTION TO CERTAIN MULTIPLE AWARD CONTRACT REQUIREMENTS.**

*In entering into any multiple award task order or indefinite delivery or indefinite quantity contract, the Administrator of the United States Agency for International Development may provide an exception to the fair opportunity process for placing task orders under such contracts when the order is placed with any category of small or small disadvantaged business.*

\* \* \* \* \*

**SEC. 625. EMPLOYMENT OF PERSONNEL.—(a) \* \* \***

\* \* \* \* \*

(j) REEMPLOYMENT OF ANNUITANTS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM AND THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1)(A) To facilitate the assignment of persons to Iraq and Afghanistan [or to posts vacated] , to positions in the Response Readiness Corps, or to posts vacated by members of the Service assigned to Iraq and Afghanistan, the Administrator of the United States Agency for International Development may waive the application of the provisions of section 8344 or 8468 of title 5 on a case-by-case basis for employment of an annuitant in a position in the United States Agency for International Development for which there is exceptional difficulty in recruiting or retaining a qualified employee, or when a temporary emergency hiring need exists.

(B) The authority of the Administrator under subparagraph (A) shall terminate on October 1, [2010] 2012. An annuitant reemployed pursuant to such authority prior to such termination date may be employed for a period ending not later than one year after such date.

\* \* \* \* \*

SEC. 660. PROHIBITING POLICE TRAINING.—(a) \* \* \*

(b) Subsection (a) of this section shall not apply—

\* \* \* \* \*

(1) \* \* \*

(4) with respect to assistance provided to police forces in connection with their participation in the regional security system of the Eastern Caribbean states; [or]

(5) with respect to assistance, including training, relating to sanctions monitoring and enforcement;

(6) 1202 with respect to assistance provided to reconstitute civilian police authority and capability in the post-conflict restoration of host nation infrastructure for the purposes of supporting a nation emerging from instability [ , and the provision of professional public safety training, to include training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy;] , including any regional, district, municipal, or other subnational entity emerging from instability;

(7) with respect to assistance provided to customs authorities and personnel, including training, technical assistance and equipment, for customs law enforcement and the improvement of customs laws, systems and procedures. Notwithstanding clause (2), subsection (a) shall apply to any renewal or extension of any contract referred to in such paragraph entered into on or after such date of enactment[.] ;

(8) with respect to the provision of professional training, including training in internationally recognized standards of human rights and the rule of law;

(9) with respect to assistance to foster civilian police roles that support democratic governance and foster improved police-community relations;

(10) with respect to assistance to combat trafficking in persons, address sexual and gender-based violence, reduce corruption, prevent conflict, and respond to disasters;

(11) with respect to assistance to address inhumane conditions in prisons and other detention facilities administered by foreign governments that are making efforts to address the health, sanitation, nutrition, and other basic needs of prisoners;

(12) with respect to assistance provided for prisoners for humanitarian or development purposes; or

(13) with respect to assistance to support humanitarian operations and activities.

\* \* \* \* \*

[(d) Notwithstanding the prohibition contained in subsection (a), assistance may be provided to Honduras or El Salvador for fiscal years 1986 and 1987 if, at least 30 days before providing assistance, the President notifies the Committee on Foreign Affairs 1207 of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act, that he has determined that the government of the recipient country has made significant progress, during the preceding six months, in eliminating any human rights violations including torture, incommunicado detention, detention of persons solely for the non-violent expression of their political views, or prolonged detention without trial. Any such notification shall include a full description of the assistance which is proposed to be provided and of the purposes to which it is to be directed.]

(d) Assistance under chapter 4 of part II that is otherwise prohibited under subsection (a) may be provided to a country if the Secretary determines and certifies to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that such assistance is in the national interest of the United States.

\* \* \* \* \*

**Clean Air Act**

\* \* \* \* \*

**SEC. 7671P. INTERNATIONAL COOPERATION.**

(a) IN GENERAL. The President shall undertake to enter into international agreements to foster cooperative research which complements studies and research authorized by this subchapter, and to develop standards and regulations which protect the stratosphere consistent with regulations applicable within the United States. For these purposes the President through the Secretary of State and the Assistant Secretary of State for [Oceans and International Environmental and Scientific Affairs] *Oceans, Environment, and Science*, shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums and shall report to the Congress periodically on efforts to arrive at such agreements.

\* \* \* \* \*

**Department of State Appropriations  
Authorization Act of 1973**

\* \* \* \* \*

SEC. 9. (a) There is established within the Department of State a Bureau of **[Oceans and International Environmental and Scientific Affairs]** *Oceans, Environment, and Science*. There shall be an Assistant Secretary of State for **[Oceans and International Environmental and Scientific Affairs]** *Oceans, Environment, and Science*, appointed by the President, by and with the advice and consent of the Senate, who shall be the head of the Bureau and who shall have responsibility for matters relating to oceans, environmental, scientific, fisheries, wildlife, and conservation affairs and for such other related duties as the Secretary may from time to time designate.

\* \* \* \* \*

**Foreign Service Act of 1980**

\* \* \* \* \*

**CHAPTER 2—MANAGEMENT OF THE SERVICE**

\* \* \* \* \*

**SEC. 209. INSPECTOR GENERAL.—(a)(1) \* \* \***

\* \* \* \* \*

(c)(1) The Inspector General shall develop and implement policies and procedures for the inspection and audit activities carried out under this section. These policies and procedures shall be consistent with the general policies and guidelines of the Government for inspection and audit activities and shall comply with the standards established by the Comptroller General of the United States for audits of Government agencies, organizations, programs, activities, and functions.

\* \* \* \* \*

**[(5) INVESTIGATIONS.—**

**[(A) CONDUCT OF INVESTIGATIONS.—**In conducting investigations of potential violations of Federal criminal law or Federal regulations, the Inspector General shall—

**[(i)** abide by professional standards applicable to Federal law enforcement agencies; and

**[(ii)** make every reasonable effort to permit each subject of an investigation an opportunity to provide exculpatory information.

**[(B) FINAL REPORTS OF INVESTIGATIONS.—**In order to ensure that final reports of investigations are thorough and accurate, the Inspector General shall—

**[(i)** make every reasonable effort to ensure that any person named in a final report of investigation has been afforded an opportunity to refute any allegation of wrongdoing or assertion with respect to a material fact made regarding that person's actions;

**[(ii)** include in every final report of investigation any exculpatory information, as well as any inculpatory informa-

tion, that has been discovered in the course of the investigation.】

(d)(1) The Inspector General shall keep the Secretary of State fully and currently informed, by means of the reports required by paragraphs (2) and (3) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of activities and operations administered or financed by the Department of State.

\* \* \* \* \*

(D) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted; *and*

(E) a listing of each audit report completed by the Inspector General during the reporting period【; and】.

【(F) a notification, which may be included, if necessary, in the classified portion of the report, of any instance in a case that was closed during the period covered by the report when the Inspector General decided not to afford an individual the opportunity described in subsection (c)(5)(B)(i) to refute any allegation and the rationale for denying such individual that opportunity.

【The Secretary of State shall transmit a copy of such annual report within 30 days after receiving it to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees, together with a report of the Secretary of State containing any comments which the Secretary of State deems appropriate. Within 60 days after transmitting such reports to those committees, the Secretary of State shall make copies of them available to the public upon request and at a reasonable cost.】

\* \* \* \* \*

CHAPTER 3—APPOINTMENTS

SEC. 305. SENIOR FOREIGN SERVICE.—(a) SALARY CLASS.— \* \* \*

\* \* \* \* \*

【(d) RECERTIFICATION PROCESS.—The Secretary shall by regulation establish a recertification process for members of the Senior Foreign Service that is equivalent to the recertification process for the Senior Executive Service under section 3393a of title 5.】

\* \* \* \* \*

CHAPTER 4—COMPENSATION

\* \* \* \* \*

SEC. 413. DEATH GRATUITY.—(a) The Secretary may provide for payment of a gratuity to the surviving dependents of any Foreign Service employee who dies as a result of injuries sustained in the performance of duty abroad, in an amount equal to one year's salary 【at the time of death.】 *at level II of the Executive Schedule under section 5313 of title 5, United States Code, at the time of death except that for employees compensated under a local compensation plan established under section 408, the amount of such gratuity shall be equal to the greater of 1 year's salary at the time*



of death or 1 year's basic salary at the highest step of the highest grade on the local compensation plan from which the employee was being paid at the time of death. Any death gratuity payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

\* \* \* \* \*

**SEC. 414. BORDER EQUALIZATION PAY ADJUSTMENT.**

\* \* \* \* \*

**SEC. 415. OVERSEAS COMPARABILITY PAY ADJUSTMENT.**

(a) *IN GENERAL.*—A member of the Service who is designated class 1 or below for purposes of section 403 and whose official duty station is neither in the continental United States nor in a nonforeign area shall receive, in accordance with the phase-in schedule set forth in subsection (c), a locality-based comparability payment (stated as a percentage) equal to the locality-based comparability payment (stated as a percentage) that would be provided under section 5304 of title 5, United States Code, if such member's official duty station were in the District of Columbia.

(b) *TREATMENT AS BASIC PAY.*—The amount of any locality-based comparability payment, which is payable to a member of the Service under this section—

(1) shall be considered a part of the basic pay of such member for the purposes described in—

(A) section 5304(c)(2)(A) of title 5, United States Code; and

(B) chapter 8 of this Act; and

(2) shall be subject to any limitations on pay applicable to locality-based comparability payments under section 5304 of title 5, United States Code.

(c) *PHASE-IN.*—The locality-based comparability payment payable to a member of the Service under this section—

(1) during the period beginning on the first day of the first full pay period that is 90 days after the date of the enactment of this subsection, and ending on the last day of the last pay period in fiscal year 2009, shall be up to 33.33 percent of the payment which would otherwise apply under subsection (a);

(2) during the period beginning on the first day of the first pay period in fiscal year 2010 and ending on the last day of the last pay period in fiscal year 2010, shall be up to 66.67 percent of the payment which would otherwise apply under subsection (a); and

(3) beginning on the first day of the first pay period in fiscal year 2011, shall be equal to the payment determined under subsection (a).

(d) *NONFOREIGN AREA DEFINED.*—In this section, the term "nonforeign area" means 1 of the areas listed in section 591.205 of title 5, Code of Federal Regulations.

\* \* \* \* \*

**CHAPTER 7—CAREER DEVELOPMENT, TRAINING, AND ORIENTATION**

\* \* \* \* \*

SEC. 704. TRAINING AUTHORITIES.—(a) In the exercise of functions under this chapter, the Secretary of State may—

\* \* \* \* \*

(4)(A) employ in accordance with the civil service laws such personnel as may be necessary to carry out the provisions of this chapter, and

(B) if and to the extent determined to be necessary by the Secretary of State, obtain without regard to the provisions of law governing appointments in the competitive service, by appointment or contract (subject to the availability of appropriations), the services of individuals to serve as *education and training specialists, including* language instructors, linguists, and **[other academic and training specialists]** *other specialists who perform work directly relating to the design, delivery, oversight, or coordination of training delivered by the institution* (including, in the absence of suitably qualified United States citizens, qualified individuals who are not citizens of the United States); and

\* \* \* \* \*

**SEC. 708. TRAINING FOR FOREIGN SERVICE OFFICERS.**

(a) The Secretary of State, with the assistance of other relevant officials, such as *the Secretary for Democracy, Human Rights, and Labor*, the Ambassador at Large for International Religious Freedom appointed under section 101(b) of the International Religious Freedom Act of 1998, the Director of the Office to Monitor and Combat Trafficking, and the director of the George P. Shultz National Foreign Affairs Training Center, shall establish as part of the standard training provided after January 1, 1999, for officers of the Service, including chiefs of mission, instruction in the field of internationally recognized human rights. Such training shall include—

(1) instruction on international documents and United States policy in human rights, which shall be mandatory for all members of the Service having reporting responsibilities relating to human rights and for chiefs of mission;

(2) instruction on the internationally recognized right to freedom of religion, the nature, activities, and beliefs of different religions, and the various aspects and manifestations of violations of religious freedom; **[and ]**

(3) instruction on international documents and United States policy on trafficking in persons, including provisions of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106-386; 22 U.S.C. 7101 et seq.) which may affect the United States bilateral relationships**[.]**; and

(4) *instruction, in courses covering human rights reporting and advocacy work, on identifying violence or discrimination that affects the fundamental freedoms, consistent with United States law, of an individual that is based on actual or perceived sexual orientation and gender identity.*

\* \* \* \* \*

(d) *The Secretary of State shall ensure that members of the Service, before receiving assignments that require new and improved skills—*

(1) receive language, security, area, civilian-military roles, and other training that is necessary to successfully execute their responsibilities in their new assignments; and

(2) have opportunities during their careers to obtain advanced education and training in academic and other relevant institutions in the United States and in other countries to increase the capacity of the Service to fulfill its mission.

(e) The Secretary of State shall ensure that relevant officers of the Foreign Service deploying to areas undergoing significant conflict or considered to be at risk of significant conflict receive appropriate advanced training in conflict prevention, mitigation, and resolution, including an understanding of—

- (1) peace processes, negotiations, and decision-making;
- (2) patterns of escalation;
- (3) country and region-specific issues, including resource allocation, as contributing factors to peace or conflict;
- (4) related civilian-military coordination and planning; and
- (5) how to function successfully when—
  - (A) public order has been undermined by instability; or
  - (B) there is no civil authority that can effectively provide public safety.

\* \* \* \* \*

CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY

SUBCHAPTER I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

\* \* \* \* \*

SEC. 805. CONTRIBUTIONS TO THE FUND.—(a)(1) Except as otherwise provided in this section, **[7.25 percent]** 7 percent of the basic salary received by each participant shall be deducted from the salary and contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. **[The contribution by the employing agency shall be a percentage of basic salary equal to the percentage in effect under 7001(d)(1) of the Balanced Budget Act of 1997 (Public Law 105-33; 22 U.S.C. 4045 note), and section 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-346; 114 Stat. 1356A-54), plus .25 percent of basic salary, and shall be made]** *An equal amount shall be contributed by the employing agency from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amounts deducted and withheld from basic salary and the amounts contributed by the employing agency.*

(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

(A) the employing agency shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8334(a)(1) of title 5 **[, plus an amount equal to .25 percent of basic pay]**. The amounts so deducted shall be contributed to

the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the employing agency from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amount deducted and withheld from basic salary and amounts contributed by the employing agency.

(B) The employing agency 183 shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B) of title 5 [ , plus an amount equal to .25 percent of basic pay]. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the employing agency from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the employing agency.

(3) For service as a special agent, paragraph (1) shall be applied by substituting for “7 percent” the percentage that applies to law enforcement officers under section 8334(a)(1) of title 5, United States Code [ , plus .25 percent].

\* \* \* \* \*

SEC. 806. COMPUTATION OF ANNUITIES.—(a)(1) \* \* \*

\* \* \* \* \*

(9) For purposes of any annuity computation under this subsection, the basic salary or basic pay of any member of the Service whose official duty station [is outside the continental United States shall] *was outside the continental United States during the period beginning on December 29, 2002, and ending on the day before the first day of the first pay period beginning on or after October 1, 2010, shall, to the extent that such computation is based on the basic salary or basic pay of such member while the member was outside the United States,* be considered to be the salary or pay that would have been paid to the member had the member’s official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member if the member’s official duty station had been Washington, D.C.

\* \* \* \* \*

SEC. 818. ESTIMATE OF APPROPRIATIONS NEEDED.—The [Secretary of the Treasury] *Secretary of State* shall prepare the estimates of the annual appropriations required to be made to the Fund, and shall make actuarial valuations of the System at intervals of not more than five years. [The Secretary of State may expend from money to the credit of the Fund an amount not exceeding \$5,000 per year for the incidental expenses necessary in administering the provisions of this subchapter, including actuarial advice.] *The Secretary of State may expend such sums as may be nec-*

*essary to administer the provisions of this chapter, including actuarial advice, but only to the extent and in such amounts as are provided in advance in appropriations acts.*

SEC. 819. INVESTMENT OF THE FUND.—The **Secretary of the Treasury** *Secretary of State* shall invest from time to time in interest-bearing securities of the United States such portions of the Fund as in the judgment of the Secretary of the Treasury may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances. The income derived from such investments shall constitute a part of the Fund.

\* \* \* \* \*

SEC. 824. REEMPLOYMENT.— \* \* \*

\* \* \* \* \*

(g) **WAIVER OF ANNUITY LIMITATIONS.**—(1) The Secretary of State may waive the application of subsections (a) through (d) on a case-by-case basis for an annuitant reemployed on a temporary basis, or grant authority to the head of an Executive agency to waive the application of subsections (a) through (d) on a case-by-case basis for an annuitant reemployed on a temporary basis—

(A) if, and for so long as, such waiver is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances;

(B) **to facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan,** if the annuitant is employed in a position for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

(C)(i) to provide assistance to consular posts with a substantial backlog of visa applications; or

(ii) to provide assistance to meet the demand resulting from the passport and travel document requirements set forth in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note), including assistance related to the investigation of fraud in connection with an application for a passport.

**[(2)(A) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (B) of paragraph (1), or to grant authority to the head of an Executive agency to waive the application of such subsections to an annuitant under such subparagraph, shall terminate on October 1, 2009. An annuitant reemployed pursuant to such authority prior to such termination date may be employed for a period ending not later than one year after such date.**

**[(B) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (C)(i) of paragraph (1) shall terminate on September 30, 2009.**

**[(C) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (C)(ii) of paragraph (1) shall terminate on September 30, 2009.]**

**[(3) (2) The Secretary should prescribe procedures for the exercise of any authority under paragraph (1)(B), including cri-**

*teria for any exercise of authority and procedures for a delegation of authority.*

\* \* \* \* \*  
 SEC. 825. VOLUNTARY CONTRIBUTIONS.—(a) \* \* \*

\* \* \* \* \*  
 (b) The benefits provided by [subsection (a) (2), (3), or (4)] *paragraph (2), (3), or (4) of subsection (a)* shall be actuarially equivalent in value to the payment provided for by subsection (a)(1) and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the [Secretary of the Treasury] *Secretary of State*.

\* \* \* \* \*  
 SEC. 855. ENTITLEMENT TO ANNUITY.—(a)(1) \* \* \*

\* \* \* \* \*  
 (3) For purposes of any annuity computation under this subsection, the average pay (as used in [section 8414] *section 8415* of title 5, United States Code) of any member of the Service whose official duty station [is outside the continental United States shall] *was outside the continental United States during the period beginning on December 29, 2002, and ending on the day before the first day of the first pay period beginning on or after October 1, 2011 (or during any portion of such pay period), shall, to the extent that such computation is based on the basic salary or basic pay of such member while the member was outside the United States,* be considered to be the salary that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member if the member's official duty station had been Washington, D.C.

\* \* \* \* \*  
 SEC. 856. DEDUCTIONS AND WITHHOLDINGS FROM PAY.—(a) The employing agency shall deduct and withhold from the basic pay of each participant the applicable percentage of basic pay specified in paragraph (2) of this subsection minus the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3101(a)) (relating to the rate of tax for old age, survivors, and disability insurance).

\* \* \* \* \*  
 [(2) The applicable percentage under this subsection shall be as follows:

[Percentage	[Time Period
[7.5 .....	[Before January 1, 1999.
[7.75 .....	[January 1, 1999, to December 31, 1999.
[7.9 .....	[January 1, 2000, to December 31, 2000.
[7.55 .....	[After January 11, 2003.]

(2) *The applicable percentage specified in this paragraph shall be as follows:*

<i>Percentage</i>	<i>Time Period</i>
7.5 .....	<i>Before January 1, 1999.</i>
7.75 .....	<i>January 1, 1999, to December 31, 1999.</i>
7.9 .....	<i>January 1, 2000, to December 31, 2000.</i>
7.55 .....	<i>January 11, 2003, to the day before the first day of the first pay period beginning on or after October 1, 2011.</i>
7.5 .....	<i>Beginning on the first day of the first pay period beginning on or after October 1, 2011.</i>

\* \* \* \* \*

SEC. 859. GENERAL AND ADMINISTRATIVE PROVISIONS.—(a) \* \* \*

\* \* \* \* \*

(c) At least every 5 years, the **Secretary of the Treasury** *Secretary of State* shall prepare periodic valuations of the Foreign Service Pension System **and shall advise the Secretary of State of (1) the normal cost of the System, (2) the supplemental liability of the System, and (3) the amounts necessary to finance the costs of the System.** *that will provide—*

- (1) the normal cost of the System;*
- (2) the supplemental liability of the System; and*
- (3) the amounts necessary to finance the costs of the System.*

\* \* \* \* \*

CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

\* \* \* \* \*

SEC. 901. TRAVEL AND RELATED EXPENSES.—The Secretary may pay the travel and related expenses of members of the Service and their families, including costs or expenses incurred for—

- (1) proceeding to and returning from assigned posts of duty;
- [(2) authorized or required home leave;]**

*“(2) authorized or required home leave, including optional home leave travel, in an amount that does not exceed the cost, per person, of the member of the Service, by—*

*“(A) family members residing at the employee’s post of assignment; and*

*“(B) family members residing at other authorized locations because they are prevented by official order from residing at post;*

\* \* \* \* \*

SEC. 903. REQUIRED LEAVE IN THE UNITED STATES.—(a) The Secretary may order a member of the Service (other than a member employed under section 311) 337 who is a citizen of the United

States to take a leave of absence under section 6305 of title 5, United States Code (without regard to the introductory clause of subsection (a) of that section), upon completion by that member of **18 months of continuous service abroad** *12 months of continuous service abroad (or after a shorter period of such service if the member's assignment is terminated for the convenience of the Service).* The Secretary shall order on such a leave of absence a member of the Service (other than a member employed under section 311) who is a citizen of the United States as soon as possible after completion by that member of 3 years of continuous service abroad.

\* \* \* \* \*

**Foreign Relations Authorization Act, Fiscal Year 1979**

\* \* \* \* \*

**SEC. 504. (a)(1) \* \* \***

\* \* \* \* \*

*(e)(1) The Secretary may award grants and enter into cooperative agreements related to science and technology fellowship programs of the Department of State, including for assistance in recruiting fellows and the payment of stipends, travel, and other appropriate expenses to fellows.*

*(2) Grants awarded under this subsection may be—*

*(A) part of the United States Science Envoy program; and*

*(B) used to select our Nation's preeminent scientists, Nobel laureates, and leaders in technology who will travel overseas to represent the commitment of the United States to collaborate with other countries to promote the advancement of science and technology throughout the world based on issues of common interest and expertise.*

*(3) Stipends awarded under this subsection shall not be considered compensation for purposes of section 209 of title 18, United States Code.*

*(4) The total amount of grants awarded under this subsection shall not exceed \$2,000,000 in any fiscal year.*

**Foreign Relations Authorization Act,  
Fiscal Years 1990 and 1991**

**SEC. 136. INCREASED PARTICIPATION OF UNITED STATES CONTRACTORS IN LOCAL GUARD CONTRACTS ABROAD UNDER THE DIPLOMATIC SECURITY PROGRAM.**

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

\* \* \* \* \*

(c) PARTICIPATION OF UNITED STATES CONTRACTORS IN LOCAL GUARD CONTRACTS ABROAD.—With respect to local guard contracts for a Foreign Service building which exceed \$250,000 and are entered into after the date of enactment of this Act, the Secretary of State shall—

(1) establish procedures to ensure that all solicitations for such contracts are adequately advertised in the Commerce and Business Daily;

(2) absent compelling reasons, award such contracts through the competitive process;



[(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;]

(3) in evaluating proposals for such contracts, award contracts to technically acceptable firms offering the lowest evaluated price, except that—

(A) the Secretary may award contracts on the basis of best value (as determined by a cost-technical tradeoff analysis); and

(B) proposals received from United States persons and qualified United States joint venture persons shall be evaluated by reducing the bid price by 10 percent;

\* \* \* \* \*

**Omnibus Diplomatic Security and Antiterrorism Act of 1986**

\* \* \* \* \*

TITLE III—PERFORMANCE AND ACCOUNTABILITY

**SEC. 301. ACCOUNTABILITY REVIEW BOARDS.**

(a) IN GENERAL.—

(1) CONVENING A BOARD.— \* \* \*

\* \* \* \* \*

(3) FACILITIES IN [AFGHANISTAN AND] AFGHANISTAN, PAKISTAN, AND IRAQ.—

(A) LIMITED EXEMPTIONS FROM REQUIREMENT TO CONVENE BOARD.—The Secretary of State is not required to convene a Board in the case of an incident that—

(i) involves serious injury, loss of life, or significant destruction of property at, or related to, a United States Government mission in [Afghanistan or] Afghanistan, Pakistan, or Iraq; and

(ii) occurs during the period beginning on October 1, 2005, and ending on September 30, [2009] 2010.

\* \* \* \* \*

**Migration and Refugee Assistance Act of 1962**

SEC. 2. (a)(1) The President is authorized to continue membership for the United States in the International Organization for Migration in accordance with the constitution of such organization approved in Venice, Italy, on October 19, 1953, as amended in Geneva, Switzerland, on November 24, 1998, upon entry into force of such amendments.

\* \* \* \* \*

(c)(1) Whenever the President determines it to be important to the national interest he is authorized to furnish on such terms and conditions as he may determine assistance under this Act for the purpose of meeting unexpected urgent refugee and migration needs.

(2) There is established a United States Emergency Refugee and Migration Assistance Fund to carry out the purposes of this section. There is authorized to be appropriated to the President from time to time such amounts as may be necessary for the fund to carry out the purposes of this section, except that no amount of funds may be appropriated which, when added to amounts previously appropriated but not yet obligated, would cause such amounts to exceed ~~【\$100,000,000】~~ \$200,000,000. Amounts appropriated hereunder shall remain available until expended.

\* \* \* \* \*

**Immigration and Nationality Act**

\* \* \* \* \*

**SEC. 101. GENERAL PROVISIONS.**

(a) As used in this chapter—

\* \* \* \* \*

(b) As used in subchapters I and II of this chapter—

(1) The term “child” means an unmarried person under twenty-one years of age who is—

(A) a child born in wedlock;

\* \* \* \* \*

(G) ~~【a child, under the age of sixteen】~~ *a child who*

*(i) is younger than 16 years of age at the time a petition is filed on the child’s behalf to accord a classification as an immediate relative under section 1151(b) of this title, who has been adopted in a foreign state that is a party to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption done at The Hague on May 29, 1993, or who is emigrating from such a foreign state to be adopted in the United States, by a United States citizen and spouse jointly, or by an unmarried United States citizen at least ~~【25 years of age—】~~ 25 years of age if—*

~~【(i) if—】~~

*(I) the Attorney General is satisfied that proper care will be furnished the child if admitted to the United States;*

*(II) the child’s natural parents (or parent, in the case of a child who has one sole or surviving parent because of the death or disappearance of, abandonment or desertion by, the other parent), or other persons or institutions that retain legal custody of the child, have freely given their written irrevocable consent to the termination of their legal relationship with the child, and to the child’s emigration and adoption;*

*(III) in the case of a child having two living natural parents, the natural parents are incapable of providing proper care for the child;*

*(IV) the Attorney General is satisfied that the purpose of the adoption is to form a bona fide parent-child relationship, and the parent-child relationship of the child and the natural parents has*

*been terminated (and in carrying out both obligations under this subclause the Attorney General may consider whether there is a petition pending to confer immigrant status on one or both of such natural parents); and*

*(V) in the case of a child who has not been adopted—*

*(aa) the competent authority of the foreign state has approved the child's emigration to the United States for the purpose of adoption by the prospective adoptive parent or parents; and*

*(bb) the prospective adoptive parent or parents has or have complied with any pre-adoption requirements of the child's proposed residence; and*

**[(ii)]** *(VI) except that no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter [.] ; or*

*(i) subject to the same conditions as in clause (i), except with respect to the age of the child—*

*(I) is a natural sibling of a child described in clause (i), subparagraph (E)(i), or subparagraph (F)(i);*

*(II) has been adopted abroad, or is coming to the United States for adoption, by the adoptive parent (or prospective adoptive parent) or parents of the sibling described in clause (i), subparagraph (E)(i), or subparagraph (F)(i); and*

*(III) is younger than 18 years of at the time a petition is filed in his or her behalf to accord a classification as an immediate relative under section 201(b).*

\* \* \* \* \*

**SEC. 209. ADJUSTMENTS OF STATUS OF REFUGEES.**

(a) INSPECTION AND EXAMINATION BY DEPARTMENT OF HOMELAND SECURITY.—

(1) Any alien who has been admitted to the United States under section 1157 of this title—

(A) whose admission has not been terminated by the Secretary of Homeland Security or the Attorney General pursuant to such regulations as the Secretary of Homeland Security or the Attorney General may prescribe,

(B) who has been physically present in the United States for at least one year, and

(C) who has not acquired permanent resident status, shall, at the end of such year period, return or be returned to the custody of the Department of Homeland Security for inspection and examination for admission to the United States as an immigrant in accordance with the provisions of sections 1225, 1229a, and 1231 of this title.

shall, at the end of such year period, return [or be returned to the custody of] to the Department of Homeland Security [for inspection and examination] to be inspected and examined for admission to the United States as an immigrant in accordance with the provisions of sections 1225, 1229a, and 1231 of this title.

\* \* \* \* \*

**SEC. 212. INADMISSIBLE ALIENS.**

(a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.— Except as otherwise provided in this chapter, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) HEALTH-RELATED GROUNDS—

(A) IN GENERAL.—Any alien—

\* \* \* \* \*

(C) EXCEPTION FROM IMMUNIZATION REQUIREMENT FOR ADOPTED CHILDREN 10 YEARS OF AGE OR YOUNGER.—Clause

(ii) of subparagraph (A) shall not apply to a child who—

(i) is 10 years of age or younger,

(ii) is described in [section 1101(b)(1)(F),] subparagraph (F) or (G) of section 101(b)(1); of this title, and

\* \* \* \* \*

(10) Miscellaneous

\* \* \* \* \*

(C) INTERNATIONAL CHILD ABDUCTION.—

\* \* \* \* \*

(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; or

(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.]

\* \* \* \* \*

**SEC. 221. (a) IMMIGRANTS; NONIMMIGRANTS.—**

(1) \* \* \*

\* \* \* \* \*

(b) REGISTRATION; PHOTOGRAPHS; WAIVER OF REQUIREMENT.— Each alien who applies for a visa shall be registered in connection with his application, and shall furnish copies of his photograph [signed by him] for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrants enumerated in sections 101(a)(15)(A),

and 101(a)(15)(G), or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof.

\* \* \* \* \*

*(iv) Subject to such regulations as the Secretary of State may prescribe, mailings required under this subsection may be transmitted by electronic means if an applicant consents to electronic service.*

\* \* \* \* \*

**Fisherman’s Protective Act of 1967**

**SEC. 1977. REIMBURSEMENT FOR SEIZED COMMERCIAL FISHERMEN.**

(a) AGREEMENT TO REIMBURSE FOR ACTUAL COSTS, CONFISCATION OR SPOILAGE OF FISH, AND LOSS OF INCOME,— \* \* \*

\* \* \* \* \*

(e) EFFECTIVE DATE.—The provisions of this section shall be effective until October 1, [2008] 2013; except that payments may be made under this section only to such extent and in such amounts as are provided in advance in appropriation Acts.

\* \* \* \* \*

**International Religious Freedom Act of 1998**

\* \* \* \* \*

**SEC. 102. REPORTS.**

(a) PORTIONS OF ANNUAL HUMAN RIGHTS REPORTS.—The Ambassador at Large shall assist the Secretary of State in preparing those portions of the Human Rights Reports that relate to freedom of religion and freedom from discrimination based on religion and those portions of other information provided Congress under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151m, 2304) that relate to the right to freedom of religion.

(b) ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM.—

(1) DEADLINE FOR SUBMISSION.—On [September 1] April 1 of each year or the first day thereafter on which the appropriate House of Congress is in session, the Secretary of State, with the assistance of the Ambassador at Large, and taking into consideration the recommendations of the Commission, shall prepare and transmit to Congress an Annual Report on International Religious Freedom supplementing the most recent Human Rights Reports by providing additional detailed information with respect to matters involving international religious freedom. Each Annual Report shall contain the following:

\* \* \* \* \*

**Foreign Relations Authorization Act,  
Fiscal Years 1994 and 1995**

UNITED STATES INTERNATIONAL BROADCASTING ACT OF 1994

**SEC. 404. ASSESSED CONTRIBUTIONS FOR UNITED NATIONS PEACE-KEEPING OPERATIONS.**

(a) REASSESSMENT OF CONTRIBUTION PERCENTAGES.— \* \* \*  
 \* \* \* \* \*

(b) LIMITATION ON UNITED STATES CONTRIBUTIONS.—  
 \* \* \* \* \*

(2) SUBSEQUENT FISCAL YEARS.—(A) IN GENERAL.—Except as provided in subparagraph (B), funds authorized to be appropriated for “Contributions for International Peacekeeping Activities” for any fiscal year after fiscal year 1995 shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 25 percent of the total of all assessed contributions for that operation.

(B) REDUCTION IN UNITED STATES SHARE OF ASSESSED CONTRIBUTIONS.—Notwithstanding the percentage limitation contained in subparagraph (A), the United States share of assessed contributions for each United Nations peacekeeping operation during the following periods is authorized to be as follows:

(i) For assessments made during calendar year 2001, 28.15 percent.

\* \* \* \* \*

(vi) For assessments made during calendar year 2010 and thereafter, 27.5 percent.

\* \* \* \* \*

**Foreign Affairs Reform and Restructuring Act of 1998**

\* \* \* \* \*

**SEC. 1334. SUNSET 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 until [October 1, 2010] *October 1, 2011*.

\* \* \* \* \*

**United States International Broadcasting Act of 1994**

\* \* \* \* \*

**SEC. 303. STANDARDS AND PRINCIPLES.**

(a) BROADCASTING STANDARDS.— \* \* \*

\* \* \* \* \*

(b) BROADCASTING PRINCIPLES.—United States international broadcasting shall include—

(1) news which is consistently reliable and authoritative, accurate, objective, and comprehensive;

(2) a balanced and comprehensive projection of United States thought and institutions, reflecting the diversity of United States culture and society;

(3) clear and effective presentation of the policies[, including editorials,] broadcast by the Voice of America, which present

the views of the United States Government of the United States Government and responsible discussion and opinion on those policies;

\* \* \* \* \*

**SEC. 304. ESTABLISHMENT OF BROADCASTING BOARD OF GOVERNORS.**

(a) CONTINUED EXISTENCE WITHIN EXECUTIVE BRANCH.—

\* \* \* \* \*

(g) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any other provision of law, any and all limitations on liability that apply to the members of the Broadcasting Board of Governors also shall apply to such members when acting in their capacities as members of the boards of directors of **[RFE/RL, Incorporated and] RFE/RL Incorporated, Middle East Broadcasting Networks, Inc., and Radio Free Asia**

\* \* \* \* \*

**SEC. 309. RADIO FREE ASIA.**

(a) AUTHORITY.—

\* \* \* \* \*

(c) GRANT AGREEMENT.—Any grant agreement or grants under this section shall be subject to the following limitations and restrictions:

(1) The Board may not make any grant to Radio Free Asia unless the headquarters of Radio Free Asia and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(2) Any grant agreement under this section shall require that any contract entered into by Radio Free Asia shall specify that all obligations are assumed by Radio Free Asia and not by the United States Government **[**, and shall further specify that funds to carry out the activities of Radio Free Asia may not be available after September 30, 2010**]**.

\* \* \* \* \*

**[(f) SUNSET PROVISION.—The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 2009.]**

**[(g) (f) NOTIFICATION AND CONSULTATION REGARDING DISPLACEMENT OF VOICE OF AMERICA BROADCASTING.—[THE BOARD] (1) NOTIFICATION.— The Board shall notify the appropriate congressional committees [before entering] before—**

*(A) entering into any agreements for the utilization of Voice of America transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of the Voice of America in Asia or any other region in order to accommodate the broadcasting activities of [Radio Free Asia.] Radio Free Asia; or*

*(B) entering into any agreements in regard to the utilization of Radio Free Asia transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of Radio Free Asia.*

(2) *CONSULTATION.*—*The Chairman of the Board shall consult with such committees on the impact of any such reduction in Voice of America broadcasting activities or Radio Free Asia broadcasting activities.*

[(h)] (g) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—Nothing in this title may be construed to make Radio Free Asia a Federal agency or instrumentality.

\* \* \* \* \*

**Millennium Challenge Act of 2003**

\* \* \* \* \*

**SEC. 606. CANDIDATE COUNTRIES.**

(a) **LOW INCOME COUNTRIES.**—

[(1) FISCAL YEAR 2004.—A country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2004 if—

[(A) the country is eligible for assistance from the International Development Association, and the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for that year, as defined by the International Bank for Reconstruction and Development; and]

(1) *IN GENERAL.*—*A country shall be a candidate country for purposes of eligibility for assistance for any fiscal year if—*

(A) *the country—*

(i) *has a per capita income that is not greater than the World Bank's lower middle income country threshold for such fiscal year; and*

(ii) *is among the 75 lowest per capita income countries, as identified by the World Bank; and*

(B) [(subject to paragraph (3)] *subject to paragraph (2), the country is not ineligible to receive United States economic assistance under part I of the Foreign Assistance Act of 1961 by reason of the application of any provision of the Foreign Assistance Act of 1961 or any other provision of law.*

[(2) FISCAL YEAR 2005 AND SUBSEQUENT FISCAL YEARS.—A country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2005 or a subsequent fiscal year if—

[(A) the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the fiscal year involved, as defined by the International Bank for Reconstruction and Development; and

[(B) the country meets the requirements of paragraph (1)(B).]

[(3)] (2) *RULE OF CONSTRUCTION.*—*For the purposes of determining whether a country is eligible for receiving assistance under section 605 pursuant to paragraph (1)(B), the exercise by the President, the Secretary of State, or any other officer or employee of the United States of any waiver or suspension of any provision of law referred to in such paragraph, and notification to the appropriate congressional committees in accord-*



ance with such provision of law, shall be construed as satisfying the requirement of such paragraph.

(b) LOWER MIDDLE INCOME COUNTRIES.—

(1) IN GENERAL.—In addition to countries described in subsection (a), a country shall be a candidate country for purposes of eligibility for assistance [for fiscal year 2006 or a subsequent fiscal year] *for any fiscal year* if the country—

[(A) is classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and has an income greater than the historical ceiling for International Development Association eligibility for the fiscal year involved; and

[(B) meets the requirements of subsection (a)(1)(B).

*(A) has a per capita income that is not greater than the World Bank's lower middle income country threshold for such fiscal year;*

*(B) is not among the 75 lowest per capita income countries as identified by the World Bank; and*

*(C) meets the requirements under subsection (a)(1)(B).*

(2) LIMITATION.—The total amount of assistance provided to countries described in paragraph (1) for fiscal year 2006 or any subsequent fiscal year may not exceed 25 percent of the total amount of assistance provided to all countries under section 605 [for fiscal year 2006 or the subsequent fiscal year,] *for such fiscal year* as the case may be.

[(c)] IDENTIFICATION BY THE BOARD.—The Board shall identify whether a country is a candidate country for purposes of this section.

(c) MAINTAINING CANDIDATE STATUS.—*A candidate country transitioning between the income categories identified in subsections (a) and (b) may retain its candidacy at the former income category for the year of such transition and for the 2 subsequent fiscal years.*

**SEC. 609. MILLENNIUM CHALLENGE COMPACT.**

(a) COMPACT.—

\* \* \* \* \*

[(j)] DURATION OF COMPACT.—The duration of a Compact shall not exceed 5 years.]

(j) EXTENSION OF COMPACT.—

(1) IN GENERAL.—*Except as provided under paragraph (2), the duration of a Compact shall not exceed 5 years.*

(2) EXCEPTION.—*The duration of a Compact may be extended beyond 5 years if the Board—*

*(A) determines that a project included in the Compact cannot be completed in 5 years or less; and*

*(B) approves an extension of the Compact that does not extend the total duration of the Compact beyond 7 years.*

(3) CONGRESSIONAL NOTIFICATION.—*Not later than 15 days before the date on which the Board is scheduled to vote on the extension of a Compact beyond 5 years pursuant to paragraph (2), the Board, acting through the Chief Executive Officer, shall—*

(A) *notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of its intent to approve such extension; and*  
 (B) *provide the committees referred to in subparagraph (A) with a detailed explanation for the determination and approval described in paragraph (2).*

[(k) **SUBSEQUENT COMPACTS.**—An eligible country and the United States may enter into and have in effect only one Compact at any given time under this section. An eligible country and the United States may enter into one or more subsequent Compacts in accordance with the requirements of this title after the expiration of the existing Compact.]

(k) **CONCURRENT AND SUBSEQUENT COMPACTS.**—

(1) **IN GENERAL.**—*Subject to paragraph (2), and in accordance with the requirements of this title, an eligible country and the United States—*

(A) *may enter into and have in effect more than 1 Compact at any given time; and*

(B) *may enter into subsequent Compacts after the expiration of existing Compacts.*

(2) **REQUIREMENTS.**—

(A) **CONCURRENT COMPACTS.**—*An eligible country and the United States may not enter into a concurrent Compact unless the Board determines that such country is making considerable and demonstrable progress in implementing the terms of its existing Compact and supplementary agreements to such Compact.*

(B) **SUBSEQUENT COMPACTS.**—*An eligible country and the United States may not enter into a subsequent Compact unless the Board determines that—*

(i) *such country has substantially met the objectives of prior Compacts between the country and the United States and supplementary agreements to such Compacts; or*

(ii) *the country has demonstrated sufficient capacity to perform successfully on the subsequent Compact.*

\* \* \* \* \*

**Department of State Authorization, Fiscal Year 2003**

TITLE V—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES

\* \* \* \* \*

**SEC. 504. PERSONAL SERVICES CONTRACTING [PILOT] PROGRAM.**

(a) **IN GENERAL.**—The Director of the International Broadcasting Bureau (in this section referred to as the “Director”) may establish a [pilot] program (in this section referred to as the “program”) for the purpose of hiring United States citizens or aliens as personal services contractors, [without regard to Civil Service and classification laws,] for service in the United States as broadcasters, producers, and writers in the International Broadcasting Bureau to respond to new or emerging broadcast needs or to augment broadcast services *A personal services contractor hired pursuant to this section shall not be considered a Federal employee (as defined under section 2105 of title 5, United States Code) for any purpose.*

(b) CONDITIONS.—The Director is authorized to use the authority of subsection (a) subject to the following conditions:

(1) The Director determines that existing personnel resources are insufficient and the need is not of permanent duration.

(2) The Director approves each employment of a personal services contractor.

(3) The contract length, including options, may not exceed 2 years, unless the Director makes a finding that exceptional circumstances justify an extension of up to one additional year.

(4) Not more than a total of 60 United States citizens or aliens are employed at any one time as personal services contractors under the program.

(5) *The annual salary rate for personal services contractors may not exceed the rate for level IV of the Executive Schedule under section 5315 of title 5, United States Code.*

(c) TERMINATION OF AUTHORITY.—The authority to award personal services contracts under [the pilot program authorized by this section] *the program* shall terminate on December 31, 2006. A contract entered into prior to the termination date under this subsection may remain in effect for a period not to exceed 6 months after such termination date.

\* \* \* \* \*

**Intelligence Reform and Terrorism Prevention Act of 2004**

\* \* \* \* \*

SUBTITLE B—TERRORIST TRAVEL AND EFFECTIVE SCREENING

**SEC. 7201. COUNTERTERRORIST TRAVEL INTELLIGENCE.**

(a) FINDINGS.— \* \* \*

\* \* \* \* \*

(c) FRONTLINE COUNTERTERRORIST TRAVEL TECHNOLOGY AND TRAINING.—

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

\* \* \* \* \*

**SEC. 7209. TRAVEL DOCUMENTS.**

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

\* \* \* \* \*

(d) TRANSIT WITHOUT VISA PROGRAM.—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act until [the Secretary, in conjunction with the Secretary of Homeland Security] *the Secretary of Homeland Security, in consultation with the Secretary of State*, completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.

\* \* \* \* \*

**Violence Against Women and Department of Justice  
Reauthorization Act of 2005**

\* \* \* \* \*

**SUBTITLE D--INTERNATIONAL MARRIAGE BROKER REGULATION**

\* \* \* \* \*

**SEC. 833. DOMESTIC VIOLENCE INFORMATION AND RESOURCES FOR IMMIGRANTS AND REGULATION OF INTERNATIONAL MARRIAGE BROKERS.**

(a) INFORMATION FOR K NONIMMIGRANTS ON LEGAL RIGHTS AND RESOURCES FOR IMMIGRANT VICTIMS OF DOMESTIC VIOLENCE—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(5) AVAILABILITY AND DISTRIBUTION.—The information pamphlet developed under paragraph (1) shall be made available and distributed as follows:

(A) MAILINGS TO K NONIMMIGRANT VISA APPLICANTS

(i) The pamphlet shall be mailed by the Secretary of State to each applicant for a K nonimmigrant visa at the same time that the instruction packet regarding the visa application process is mailed to such applicant.

\* \* \* \* \*

*(iv) Subject to such regulations as the Secretary of State may prescribe, mailings required under this subsection may be transmitted by electronic means if an applicant consents to electronic service.*

\* \* \* \* \*

**United Nations Participation Act of 1945**

\* \* \* \* \*

[SEC. 9. The Secretary of State may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 529) and section 5536 of title 5, United States Code:

[(1) Make available to the Representative of the United States to the United Nations and the Deputy Permanent Rep-

representative of the United States to the United Nations living quarters leased or rented by the United States (for periods not exceeding ten years) and allowances for unusual expenses incident to the operation and maintenance of such living quarters similar to those and to be considered for all purposes as authorized by section 22 of the Administrative Expenses Act of 1946, as amended by section 311 of the Overseas Differentials and Allowances Act.

【(2) Make available in New York to no more than foreign service employees of the staff of the United States Mission to the United Nations, other representatives, and no more than two employees who serve at the pleasure of the Representative, living quarters leased or rented by the United States (for periods not exceeding ten years). The number of employees to which such quarters will be made available shall be determined by the Secretary and shall reflect a significant reduction over the number of persons eligible for housing benefits as of the date of enactment of this provision. No employee may occupy a unit under this provision if the unit is owned by the employee. The Secretary shall require that each employee occupying housing under this subsection contribute to the Department of State a percentage of his or her base salary, in an amount to be determined by the Secretary of State toward the cost of such housing. The Secretary may reduce such payments to the extent of income taxes paid on the value of the leased or rented quarters any payments made by employees to the Department of State for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease or rental or to the appropriation, fund, or account currently available for such purpose.

【(3) provide such allowance as the Secretary considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses incurred by him with respect to attending any such session.

【(4) The Inspector General shall review the program established by this section no later than December 1989 and periodically thereafter with a view to increasing cost savings and making other appropriate recommendations.】

*SEC. 9. (a) The Secretary of State, under such regulations as the Secretary shall prescribe, and notwithstanding subsections (a) and (b) of section 3324 of title 31, United States Code, and section 5536 of title 5, United States Code, may—*

*(1) make available, to the Permanent Representative of the United States to the United Nations and the Deputy Permanent Representative of the United States to the United Nations—*

*(A) living quarters leased or rented by the United States for a period not longer than 10 years; and*

*(B) allowances for unusual expenses incident to the operation and maintenance of such living quarters that are*

*similar to expenses authorized under section 5913 of title 5, United States Code; and*  
 (2) *make available living quarters in New York leased or rented by the United States for—*

*(A) a period not longer than 10 years to other United States representatives to the United Nations and to not more than 2 employees who serve at the pleasure of the Permanent Representative of the United States to the United Nations; and*

*(B) a period not longer than 5 years to not more than 35 members of the Foreign Service assigned to the United States Mission to the United Nations; and*

*(3) provide an allowance, as the Secretary considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses with respect to attending any such session.*

*(b) The Secretary of State may not make available living quarters or allowances under subsection (a) to an employee who is occupying living quarters that are owned by such employee.*

*(c) Living quarters and allowances provided under subsection (a) shall be considered for all purposes as authorized under—*

*(1) chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.); and*

*(2) section 5913 of title 5, United States Code.*

*(d) The Inspector General of the Department of State shall—*

*(1) periodically review the administration of this section to achieve cost savings; and*

*“(2) develop appropriate recommendations for the Secretary of State regarding the administration of this section.*

\* \* \* \* \*

**Reconstruction and Stabilization Civilian  
 Management Act of 2008**

\* \* \* \* \*

**SEC. 1603. DEFINITIONS.**

In this title:

(1) **ADMINISTRATOR.** The term “Administrator” means the Administrator of the United States Agency for International Development.

(2) **AGENCY.**—The term “agency” means any entity included in chapter 1 of title 5, United States Code.

(3) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(4) **DEPARTMENT.**—Except as otherwise provided in this title, the term “Department” means the Department of State.

[(5) **PERSONNEL.**—The term “personnel” means individuals serving in any service described in section 2101 of title 5,

United States Code, other than in the legislative or judicial branch.】

(5) PERSONNEL.—The term “personnel” means—

(A) individuals serving in any service described in section 2101 of title 5, United States Code, other than in the legislative or judicial branch;

(B) individuals employed by personal services contract, including individuals employed pursuant to—

(i) section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)); or

ii) section 636(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(3));

(C) individuals appointed under section 303 of the Foreign Service Act of 1980 (22 U.S.C. 3943); and

(D) Locally employed staff who are employed by participating agencies.

(6) SECRETARY.—The term “Secretary” means the Secretary of State.

\* \* \* \* \*

**The Peace Corps Act**

\* \* \* \* \*

SEC. 3. (a) The President is authorized to carry out programs in furtherance of the purposes of this Act, on such terms and conditions as he may determine.

(b)【(1) There are authorized to be appropriated to carry out the purposes of this Act \$270,000,000 for fiscal year 2000, \$298,000,000 for fiscal year 2001, \$327,000,000 for fiscal year 2002, and \$365,000,000 for fiscal year 2003.】

(1) *There is authorized to be appropriated \$446,150,000 for fiscal year 2011 to carry out the purposes of this chapter.*

\* \* \* \* \*

**Miscellaneous Appropriations Act, 2001**

TITLE II—VIETNAM EDUCATION FOUNDATION ACT OF 2000

\* \* \* \* \*

**SEC. 202. PURPOSES.**

The purposes of this title are the following:

(1) To establish an international fellowship program under which—

(A) Vietnamese nationals can undertake graduate and post-graduate level studies in the sciences (natural, physical, and environmental), mathematics, medicine, and technology (including information technology) in the United States; and

(B) United States citizens can teach in the fields specified in subparagraph (A) in academic institutions in Vietnam.

(2) To further the process of reconciliation between the United States and Vietnam and the building of a bilateral relationship serving the interests of both countries.

(3) *To support the development of 1 or more academic institutions in Vietnam by financing the participation of United States institutions of higher education in the governance, management, and academic activities of such academic institutions in Vietnam.*

**SEC. 203. DEFINITIONS.**

In this title:

[(1) BOARD.—The term “Board” means the Board of Directors of the Foundation.]

[(2)] (1) FOUNDATION.—The term “Foundation” means the Vietnam Education Foundation established in section 204.

[(3)] (2) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) SECRETARY.—*The term “Secretary” means the Secretary of State.*

**SEC. 204. ESTABLISHMENT.**

[(There is established the Vietnam Education Foundation as an independent establishment of the executive branch under section 104 of title 5, United States Code.)]

*There is established, within the Bureau of Educational and Cultural Affairs of the Department of State, the Vietnam Education Foundation (referred to in this title as the “Foundation”).*

**[SEC. 205. BOARD OF DIRECTORS.**

[(a) IN GENERAL.—The Foundation shall be subject to the supervision and direction of the Board of Directors, which shall consist of 13 members, as follows:

[(1) Two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be appointed upon the recommendation of the Majority Leader and one of whom shall be appointed upon the recommendation of the Minority Leader, and who shall serve as ex officio, nonvoting members.

[(2) Two members of the Senate, appointed by the President pro tempore, one of whom shall be appointed upon the recommendation of the Majority Leader and one of whom shall be appointed upon the recommendation of the Minority Leader, and who shall serve as ex officio, nonvoting members.

[(3) Secretary of State.

[(4) Secretary of Education.

[(5) Secretary of Treasury.

[(6) Six members to be appointed by the President from among individuals in the nongovernmental sector who have academic excellence or experience in the fields of concentration specified in section 202(1)(A) or a general knowledge of Vietnam, not less than three of whom shall be drawn from academic life.

[(b) ROTATION OF MEMBERSHIP.—(1) The term of office of each member appointed under subsection (a)(6) shall be 3 years, except that of the members initially appointed under that subsection, two shall serve for terms of 1 year, two shall serve for terms of 2 years, and two shall serve for terms of 3 years.



[(2) A member of Congress appointed under subsection (a)(1) or (2) shall not serve as a member of the Board for more than a total of 6 years.

[(3) (A) Any member appointed to fill a vacancy prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

[(B) Upon the expiration of his or her term of office, any member may continue to serve until a successor is appointed.

[(c) CHAIR.—The voting members of the Board shall elect one of the members appointed under subsection (a)(6) to serve as Chair.

[(d) MEETINGS.—The Board shall meet upon the call of the Chair but not less frequently than twice each year. A majority of the voting members of the Board shall constitute a quorum.

[(e) DUTIES.—The Board shall—

[(1) provide overall supervision and direction of the Foundation;

[(2) establish criteria for the eligibility of applicants, including criteria established by section 206(b), and for the selection of fellowship recipients; and

[(3) select the fellowship recipients.

[(f) COMPENSATION.—

[(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each member of the Board shall serve without compensation.

[(2) TRAVEL EXPENSES.—The members of the Board 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 service for the Board.

[(3) COMPENSATION OF PRESIDENTIAL APPOINTEES.—The members of the Board appointed under subsection (a)(6) shall be paid at the daily equivalent of the rate of basic pay payable for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a Board member.

[(g) TREATMENT OF PRESIDENTIAL APPOINTEES AS SPECIAL GOVERNMENT EMPLOYEES.—The members of the Board appointed under subsection (a)(6) shall be special Government employees, as defined in section 202(a) of title 18, United States Code.

[(h) TRAVEL REGULATIONS.—Members of the Board shall be subject to the same travel regulations as apply to officers and employees of the Department of State.]

**SEC. 205. VIETNAM EDUCATION FOUNDATION ADVISORY COMMITTEE.**

(a) *ESTABLISHMENT.*—

(1) *IN GENERAL.*—*There shall be established a Vietnam Education Foundation Advisory Committee (referred to in this section as the “Advisory Committee”), which shall provide advice to the Secretary and the Assistant Secretary for Educational and Cultural Affairs regarding the Foundation’s activities.*

(2) *MEMBERSHIP.*—*The Advisory Committee shall be composed of 7 members, of whom—*

(A) *shall be appointed by the Secretary;*

(B) shall be appointed by the majority leader of the Senate;

(C) shall be appointed by the minority leader of the Senate;

(D) shall be appointed by the Speaker of the House of Representatives; and

(E) shall be appointed by the minority leader of the House of Representatives.

(3) APPOINTMENT OF INCUMBENT MEMBERS OF BOARD OF DIRECTORS.—Members appointed to the Advisory Committee may include individuals who were members of the Board of Directors of the Foundation on the date immediately preceding the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 2010 and 2011.

(b) SUPERVISION.—The Foundation shall be subject to the supervision and direction of the Secretary, working through the Assistant Secretary for Educational and Cultural Affairs, and in consultation with the Advisory Committee.

#### SEC. 206. FELLOWSHIP PROGRAM.

(a) AWARD OF FELLOWSHIPS.—

(1) IN GENERAL.—To carry out the purposes of this title, the Foundation shall award fellowships to—

(A) Vietnamese nationals to study at institutions of higher education in the United States at graduate and post-graduate levels in the following fields: physical sciences, natural sciences, mathematics, environmental sciences, medicine, [technology, and computer sciences] *academic computer science, public policy, and academic and public management*; and

\* \* \* \* \*

#### SEC. 208. FOUNDATION PERSONNEL MATTERS.

(a) APPOINTMENT BY [BOARD] SECRETARY.—There shall be an Executive Director 18 of the Foundation who [shall be appointed] *may be appointed* by the Board without regard to the provisions of title 5, United States Code, or any regulation thereunder, governing appointment in the competitive service. The Executive Director shall be the Chief Executive Officer of the Foundation, *serve the Advisory Committee*, and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this title as the Board shall prescribe. [The decision to employ or terminate an Executive Director shall be made by an affirmative vote of at least six of the nine voting members of the Board.]

(b) PROFESSIONAL STAFF.—The Executive Director shall hire Foundation staff on the basis of professional and nonpartisan qualifications.

(c) EXPERTS AND CONSULTANTS.—The Executive Director may procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code to carry out the purposes of the Foundation.

(d) COMPENSATION.—The [Board] Secretary may fix the compensation of the Executive Director and other personnel without re-

gard 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, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of such title.

\* \* \* \* \*

**Mutual Educational and Cultural Exchange Act of 1961**

\* \* \* \* \*

SEC. 112. (a) In order to carry out the purposes of this Act, there is established in the United States Information Agency, or in such appropriate agency of the United States as the President shall determine, a Bureau of Educational and Cultural Affairs (hereinafter in this section referred to as the "Bureau"). The Bureau shall be responsible for managing, coordinating, and overseeing programs established pursuant to this Act, including but not limited to—

(1) the J. William Fulbright Educational Exchange Program which, by promoting the exchange of scholars, researchers, students, trainees, teachers, instructors, and professors, between the United States and foreign countries, accomplishes the purposes of section 102(a)(1) of this Act;

\* \* \* \* \*

(8) the Samantha Smith Memorial Exchange Program which advances understanding between the United States and the independent states of the former Soviet Union and between the United States and Eastern European countries through the exchange of persons under the age of 21 years and of students at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 who have not received their initial baccalaureate degree or through other programs designed to promote contact between the young peoples of the United States, the independent states of the former Soviet Union, and Eastern European countries; [and]

(9) the Arts America program which promotes a greater appreciation and understanding of American art abroad by supporting exhibitions and tours by American artists in other countries[.]; and

(10) programs administered by the Vietnam Education Foundation.

\* \* \* \* \*

(g) WORKING GROUP ON UNITED STATES GOVERNMENT SPONSORED INTERNATIONAL EXCHANGES AND TRAINING.— \* \* \*

\* \* \* \* \*

(h) REPORT ON SECONDARY SCHOOL ACADEMIC YEAR EXCHANGE PROGRAMS.—Not later than 90 days after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 2010 and 2011, and annually thereafter, the President shall submit a report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate that describes the performance of the secondary school programs for international students of the Bureau, including—

- (1) information for each exchange program supported by the United States on the objectives of such exchange;
- (2) the number of exchange participants supported;
- (3) the types of exchange activities conducted;
- (4) the total amount of Federal expenditures for such exchanges;
- (5) the extent to which such exchanges are duplicative;
- (6) the number of sponsor organizations that are designated by the Department of State to run international secondary school exchange programs;
- (7) the types and number of incidents reported to the Bureau's Office of Private Sector Exchange involving an international student;
- (8) the average number of incidents per sponsoring organization that the Office of Private Sector Exchange has been made aware of, including serious problems or controversies such as the death of a student, an accident, an arrest, or reports of sexual abuse;
- (9) the average number of complaints reported to the Office of Private Sector Exchange by a student, host family, natural parent, or an interested citizen regarding the performance by a sponsor of its responsibilities in the conduct of its designated exchange visitor program as set forth in the Exchange Visitor Program Regulations;
- (10) the number of visa designation compliance auditing site visits made by United States Government officials to sponsoring organizations running or participating in international exchange programs, excluding routine contacts between staff and officials of the Bureau and sponsoring organizations as part of program management activities;
- (11) an analysis of the satisfaction of international secondary school academic year participants with their program experience;
- (12) the average cost per international secondary school academic year participant;
- (13) the numbers of hours program staff members and volunteers of the exchange program designated organizations are trained in secondary school academic year youth exchange oversight and monitoring and J-visa compliance, and by what type of resource; and
- (14) an analysis of best practices in the areas of recruitment and selection of host parents, program management of sponsor organizations, and other related issues used to run these international exchange programs.

\* \* \* \* \*

**5 U.S.C. 5753**

**TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES**

**SEC. 5753. RECRUITMENT AND RELOCATION BONUSES**

(a)(1) This section may be applied to—

\* \* \* \* \*

(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate, *excluding members of the Foreign Service other than chiefs of mission, ambassadors at large, and other members of the Foreign Service subject to examinations under section 302(b) of the Foreign Service Act of 1980 (22 U.S.C. 3941(b))*;

\* \* \* \* \*

**SEC. 5754. RETENTION BONUSES.**

(a)(1) This section may be applied to—

(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.

(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate, *excluding members of the Foreign Service other than chiefs of mission, ambassadors at large, and other members of the Foreign Service subject to examinations under section 302(b) of the Foreign Service Act of 1980 (22 U.S.C. 3941(b))*;

\* \* \* \* \*

**18 U.S.C. 3486**

**TITLE 18—CRIMES AND CRIMINAL PROCEDURE**

\* \* \* \* \*

**CHAPTER 75—PASSPORTS AND VISAS**

\* \* \* \* \*

**SEC. 1540. MEANING OF “USE” AND “USES”**

*For purposes of this chapter, the terms “use” and “uses” shall be given their plain meaning, including use for identification purposes.*

**SEC. 1541. ISSUANCE WITHOUT AUTHORITY**

\* \* \* \* \*

**CHAPTER 223—WITNESSES AND EVIDENCE**

**SEC. 3486. ADMINISTRATIVE SUBPOENAS.**

(a) AUTHORIZATION.—(1)(A) In any investigation [of] to—

(i)(I) a Federal health care offense; or

(II) a Federal offense involving the sexual exploitation or abuse of children, the Attorney General; [or]

(ii) an offense under section 871 or 879, or a threat against a person protected by the United States Secret Service under paragraph (5) or (6) of section 3056, if the Director of the Secret Service determines that the threat constituting the offense or the threat against the person protected is imminent, the Secretary of the Treasury, may issue in writing and cause to be served a subpoena requiring the production and testimony described in subparagraph (B)[.];

(iii) an offense under section 878, or a threat against a person, foreign mission or organization authorized to receive protection by special agents of the Department of State and the Foreign Service under section 37(a)(3) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(a)(3)) if the Assistant Secretary for Diplomatic Security or the Director of the Diplomatic Security Service determines that the threat constituting the offense or threat against the person or place protected is imminent, the Secretary of State; or

(iv) an offense under chapter 75, the Secretary of State,

\* \* \* \* \*

[(9) A subpoena issued under paragraph (1)(A)(i)(II) or (1)(A)(ii) may require production as soon as possible, but in no event less than 24 hours after service of the subpoena. (10) As soon as practicable following the issuance of a subpoena under paragraph (1)(A)(ii), the Secretary of the Treasury shall notify the Attorney General of its issuance.]

(9) A subpoena issued under clause (i)(II), (ii), (iii), or (iv) of paragraph (1)(A) may require production as soon as possible, but in no event less than 24 hours after service of the subpoena.

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(10) As soon as practicable following the issuance of a subpoena under paragraph (1)(A)(ii), the Secretary of the Treasury shall notify the Attorney General of its issuance.

\* \* \* \* \*

(11) As soon as practicable following the issuance of a subpoena under paragraph (1)(A)(iii), the Secretary of State shall notify the Attorney General of such issuance.

\* \* \* \* \*

(e) LIMITATION ON USE.—(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor. This subsection shall only apply to administrative subpoenas issued under subsection (a)(1)(A)(i).

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\* \* \* \* \*

**SEC. 1344. PASSENGER CARRIER USE**

\* \* \* \* \*

(b) A passenger carrier may be used to transport between residence and place of employment the following officers and employees of Federal agencies:

(1)(A) the President and the Vice President;

\* \* \* \* \*

(4) *the Deputy Secretary of State, the Deputy Secretary of State for Management and Resources*, principal diplomatic and consular officials abroad, and the United States Ambassador to the United Nations;

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