

107TH CONGRESS
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H. R. 3162

IN THE SENATE OF THE UNITED STATES

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Received

AN ACT

To deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

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

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Uniting and Strengthening America by Providing Appro-
 4 priate Tools Required to Intercept and Obstruct Ter-
 5 rorism (USA PATRIOT ACT) Act of 2001”.

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

Sec. 1. Short title and table of contents.
 Sec. 2. Construction; severability.

TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

Sec. 101. Counterterrorism fund.
 Sec. 102. Sense of Congress condemning discrimination against Arab and Mus-
 lim Americans.
 Sec. 103. Increased funding for the technical support center at the Federal Bu-
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 Sec. 104. Requests for military assistance to enforce prohibition in certain
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 Sec. 105. Expansion of National Electronic Crime Task Force Initiative.
 Sec. 106. Presidential authority.

TITLE II—ENHANCED SURVEILLANCE PROCEDURES

Sec. 201. Authority to intercept wire, oral, and electronic communications relat-
 ing to terrorism.
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 ing to computer fraud and abuse offenses.
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 Sec. 204. Clarification of intelligence exceptions from limitations on intercep-
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 tions.
 Sec. 205. Employment of translators by the Federal Bureau of Investigation.
 Sec. 206. Roving surveillance authority under the Foreign Intelligence Surveil-
 lance Act of 1978.
 Sec. 207. Duration of FISA surveillance of non-United States persons who are
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 Sec. 208. Designation of judges.
 Sec. 209. Seizure of voice-mail messages pursuant to warrants.
 Sec. 210. Scope of subpoenas for records of electronic communications.
 Sec. 211. Clarification of scope.
 Sec. 212. Emergency disclosure of electronic communications to protect life and
 limb.
 Sec. 213. Authority for delaying notice of the execution of a warrant.
 Sec. 214. Pen register and trap and trace authority under FISA.
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- Sec. 216. Modification of authorities relating to use of pen registers and trap and trace devices.
- Sec. 217. Interception of computer trespasser communications.
- Sec. 218. Foreign intelligence information.
- Sec. 219. Single-jurisdiction search warrants for terrorism.
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- Sec. 221. Trade sanctions.
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- Sec. 223. Civil liability for certain unauthorized disclosures.
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TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT
AND ANTI-TERRORIST FINANCING ACT OF 2001

- Sec. 301. Short title.
- Sec. 302. Findings and purposes.
- Sec. 303. 4-year congressional review; expedited consideration.

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- Sec. 311. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.
- Sec. 312. Special due diligence for correspondent accounts and private banking accounts.
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- Sec. 314. Cooperative efforts to deter money laundering.
- Sec. 315. Inclusion of foreign corruption offenses as money laundering crimes.
- Sec. 316. Anti-terrorist forfeiture protection.
- Sec. 317. Long-arm jurisdiction over foreign money launderers.
- Sec. 318. Laundering money through a foreign bank.
- Sec. 319. Forfeiture of funds in United States interbank accounts.
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- Sec. 321. Financial institutions specified in subchapter II of chapter 53 of title 31, United States code.
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- Sec. 414. Visa integrity and security.
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- Sec. 501. Attorney General’s authority to pay rewards to combat terrorism.
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- Sec. 611. Expedited payment for public safety officers involved in the prevention, investigation, rescue, or recovery efforts related to a terrorist attack.
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- Sec. 621. Crime victims fund.
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- Sec. 711. Expansion of regional information sharing system to facilitate Federal-State-local law enforcement response related to terrorist attacks.

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- Sec. 805. Material support for terrorism.
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- Sec. 814. Deterrence and prevention of cyberterrorism.
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- Sec. 901. Responsibilities of Director of Central Intelligence regarding foreign intelligence collected under Foreign Intelligence Surveillance Act of 1978.
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- Sec. 903. Sense of Congress on the establishment and maintenance of intelligence relationships to acquire information on terrorists and terrorist organizations.
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- Sec. 906. Foreign terrorist asset tracking center.
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- Sec. 1011. Crimes against charitable americans.
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- Sec. 1013. Expressing the sense of the senate concerning the provision of funding for bioterrorism preparedness and response.
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- Sec. 1015. Expansion and reauthorization of the crime identification technology act for antiterrorism grants to States and localities.
- Sec. 1016. Critical infrastructures protection.

1 **SEC. 2. CONSTRUCTION; SEVERABILITY.**

2 Any provision of this Act held to be invalid or unen-
3 forceable by its terms, or as applied to any person or cir-
4 cumstance, shall be construed so as to give it the max-
5 imum effect permitted by law, unless such holding shall
6 be one of utter invalidity or unenforceability, in which
7 event such provision shall be deemed severable from this
8 Act and shall not affect the remainder thereof or the appli-
9 cation of such provision to other persons not similarly situ-
10 ated or to other, dissimilar circumstances.

11 **TITLE I—ENHANCING DOMESTIC**
12 **SECURITY AGAINST TERRORISM**

13 **SEC. 101. COUNTERTERRORISM FUND.**

14 (a) ESTABLISHMENT; AVAILABILITY.—There is here-
15 by established in the Treasury of the United States a sepa-
16 rate fund to be known as the “Counterterrorism Fund”,
17 amounts in which shall remain available without fiscal
18 year limitation—

19 (1) to reimburse any Department of Justice
20 component for any costs incurred in connection
21 with—

22 (A) reestablishing the operational capa-
23 bility of an office or facility that has been dam-
24 aged or destroyed as the result of any domestic
25 or international terrorism incident;

1 (B) providing support to counter, inves-
2 tigate, or prosecute domestic or international
3 terrorism, including, without limitation, paying
4 rewards in connection with these activities; and

5 (C) conducting terrorism threat assess-
6 ments of Federal agencies and their facilities;
7 and

8 (2) to reimburse any department or agency of
9 the Federal Government for any costs incurred in
10 connection with detaining in foreign countries indi-
11 viduals accused of acts of terrorism that violate the
12 laws of the United States.

13 (b) NO EFFECT ON PRIOR APPROPRIATIONS.—Sub-
14 section (a) shall not be construed to affect the amount
15 or availability of any appropriation to the
16 Counterterrorism Fund made before the date of the enact-
17 ment of this Act.

18 **SEC. 102. SENSE OF CONGRESS CONDEMNING DISCRIMINA-**
19 **TION AGAINST ARAB AND MUSLIM AMERI-**
20 **CANS.**

21 (a) FINDINGS.—Congress makes the following find-
22 ings:

23 (1) Arab Americans, Muslim Americans, and
24 Americans from South Asia play a vital role in our

1 Nation and are entitled to nothing less than the full
2 rights of every American.

3 (2) The acts of violence that have been taken
4 against Arab and Muslim Americans since the Sep-
5 tember 11, 2001, attacks against the United States
6 should be and are condemned by all Americans who
7 value freedom.

8 (3) The concept of individual responsibility for
9 wrongdoing is sacrosanct in American society, and
10 applies equally to all religious, racial, and ethnic
11 groups.

12 (4) When American citizens commit acts of vio-
13 lence against those who are, or are perceived to be,
14 of Arab or Muslim descent, they should be punished
15 to the full extent of the law.

16 (5) Muslim Americans have become so fearful
17 of harassment that many Muslim women are chang-
18 ing the way they dress to avoid becoming targets.

19 (6) Many Arab Americans and Muslim Ameri-
20 cans have acted heroically during the attacks on the
21 United States, including Mohammed Salman
22 Hamdani, a 23-year-old New Yorker of Pakistani
23 descent, who is believed to have gone to the World
24 Trade Center to offer rescue assistance and is now
25 missing.

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

3 (1) the civil rights and civil liberties of all
4 Americans, including Arab Americans, Muslim
5 Americans, and Americans from South Asia, must
6 be protected, and that every effort must be taken to
7 preserve their safety;

8 (2) any acts of violence or discrimination
9 against any Americans be condemned; and

10 (3) the Nation is called upon to recognize the
11 patriotism of fellow citizens from all ethnic, racial,
12 and religious backgrounds.

13 **SEC. 103. INCREASED FUNDING FOR THE TECHNICAL SUP-**
14 **PORT CENTER AT THE FEDERAL BUREAU OF**
15 **INVESTIGATION.**

16 There are authorized to be appropriated for the Tech-
17 nical Support Center established in section 811 of the
18 Antiterrorism and Effective Death Penalty Act of 1996
19 (Public Law 104–132) to help meet the demands for ac-
20 tivities to combat terrorism and support and enhance the
21 technical support and tactical operations of the FBI,
22 \$200,000,000 for each of the fiscal years 2002, 2003, and
23 2004.

1 **SEC. 104. REQUESTS FOR MILITARY ASSISTANCE TO EN-**
2 **FORCE PROHIBITION IN CERTAIN EMER-**
3 **GENCIES.**

4 Section 2332e of title 18, United States Code, is
5 amended—

6 (1) by striking “2332e” and inserting “2332a”;

7 and

8 (2) by striking “chemical”.

9 **SEC. 105. EXPANSION OF NATIONAL ELECTRONIC CRIME**
10 **TASK FORCE INITIATIVE.**

11 The Director of the United States Secret Service
12 shall take appropriate actions to develop a national net-
13 work of electronic crime task forces, based on the New
14 York Electronic Crimes Task Force model, throughout the
15 United States, for the purpose of preventing, detecting,
16 and investigating various forms of electronic crimes, in-
17 cluding potential terrorist attacks against critical infra-
18 structure and financial payment systems.

19 **SEC. 106. PRESIDENTIAL AUTHORITY.**

20 Section 203 of the International Emergency Powers
21 Act (50 U.S.C. 1702) is amended—

22 (1) in subsection (a)(1)—

23 (A) at the end of subparagraph (A) (flush
24 to that subparagraph), by striking “; and” and
25 inserting a comma and the following:

1 “by any person, or with respect to any property,
2 subject to the jurisdiction of the United States;”;

3 (B) in subparagraph (B)—

4 (i) by inserting “, block during the
5 pendency of an investigation” after “inves-
6 tigate”; and

7 (ii) by striking “interest;” and insert-
8 ing “interest by any person, or with re-
9 spect to any property, subject to the juris-
10 diction of the United States; and”;

11 (C) by striking “by any person, or with re-
12 spect to any property, subject to the jurisdiction
13 of the United States;” and

14 (D) by inserting at the end the following:

15 “(C) when the United States is engaged in
16 armed hostilities or has been attacked by a for-
17 eign country or foreign nationals, confiscate any
18 property, subject to the jurisdiction of the
19 United States, of any foreign person, foreign
20 organization, or foreign country that he deter-
21 mines has planned, authorized, aided, or en-
22 gaged in such hostilities or attacks against the
23 United States; and all right, title, and interest
24 in any property so confiscated shall vest, when,
25 as, and upon the terms directed by the Presi-

1 dent, in such agency or person as the President
2 may designate from time to time, and upon
3 such terms and conditions as the President may
4 prescribe, such interest or property shall be
5 held, used, administered, liquidated, sold, or
6 otherwise dealt with in the interest of and for
7 the benefit of the United States, and such des-
8 ignated agency or person may perform any and
9 all acts incident to the accomplishment or fur-
10 therance of these purposes.”; and

11 (2) by inserting at the end the following:

12 “(c) CLASSIFIED INFORMATION.—In any judicial re-
13 view of a determination made under this section, if the
14 determination was based on classified information (as de-
15 fined in section 1(a) of the Classified Information Proce-
16 dures Act) such information may be submitted to the re-
17 viewing court ex parte and in camera. This subsection does
18 not confer or imply any right to judicial review.”.

19 **TITLE II—ENHANCED**
20 **SURVEILLANCE PROCEDURES**

21 **SEC. 201. AUTHORITY TO INTERCEPT WIRE, ORAL, AND**
22 **ELECTRONIC COMMUNICATIONS RELATING**
23 **TO TERRORISM.**

24 Section 2516(1) of title 18, United States Code, is
25 amended—

1 **SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE**
2 **INFORMATION.**

3 (a) **AUTHORITY TO SHARE GRAND JURY INFORMA-**
4 **TION.—**

5 (1) **IN GENERAL.—**Rule 6(e)(3)(C) of the Fed-
6 eral Rules of Criminal Procedure is amended to read
7 as follows:

8 “(C)(i) Disclosure otherwise prohibited by
9 this rule of matters occurring before the grand
10 jury may also be made—

11 “(I) when so directed by a court pre-
12 liminarily to or in connection with a judi-
13 cial proceeding;

14 “(II) when permitted by a court at
15 the request of the defendant, upon a show-
16 ing that grounds may exist for a motion to
17 dismiss the indictment because of matters
18 occurring before the grand jury;

19 “(III) when the disclosure is made by
20 an attorney for the government to another
21 Federal grand jury;

22 “(IV) when permitted by a court at
23 the request of an attorney for the govern-
24 ment, upon a showing that such matters
25 may disclose a violation of state criminal
26 law, to an appropriate official of a state or

1 subdivision of a state for the purpose of
2 enforcing such law; or

3 “(V) when the matters involve foreign
4 intelligence or counterintelligence (as de-
5 fined in section 3 of the National Security
6 Act of 1947 (50 U.S.C. 401a)), or foreign
7 intelligence information (as defined in
8 clause (iv) of this subparagraph), to any
9 Federal law enforcement, intelligence, pro-
10 tective, immigration, national defense, or
11 national security official in order to assist
12 the official receiving that information in
13 the performance of his official duties.

14 “(ii) If the court orders disclosure of mat-
15 ters occurring before the grand jury, the dislo-
16 sure shall be made in such manner, at such
17 time, and under such conditions as the court
18 may direct.

19 “(iii) Any Federal official to whom infor-
20 mation is disclosed pursuant to clause (i)(V) of
21 this subparagraph may use that information
22 only as necessary in the conduct of that per-
23 son’s official duties subject to any limitations
24 on the unauthorized disclosure of such informa-
25 tion. Within a reasonable time after such dislo-

1 sure, an attorney for the government shall file
2 under seal a notice with the court stating the
3 fact that such information was disclosed and
4 the departments, agencies, or entities to which
5 the disclosure was made.

6 “(iv) In clause (i)(V) of this subparagraph,
7 the term ‘foreign intelligence information’
8 means—

9 “(I) information, whether or not con-
10 cerning a United States person, that re-
11 lates to the ability of the United States to
12 protect against—

13 “(aa) actual or potential attack
14 or other grave hostile acts of a foreign
15 power or an agent of a foreign power;

16 “(bb) sabotage or international
17 terrorism by a foreign power or an
18 agent of a foreign power; or

19 “(cc) clandestine intelligence ac-
20 tivities by an intelligence service or
21 network of a foreign power or by an
22 agent of foreign power; or

23 “(II) information, whether or not con-
24 cerning a United States person, with re-

1 spect to a foreign power or foreign terri-
2 tory that relates to—

3 “(aa) the national defense or the
4 security of the United States; or

5 “(bb) the conduct of the foreign
6 affairs of the United States.”.

7 (2) CONFORMING AMENDMENT.—Rule
8 6(e)(3)(D) of the Federal Rules of Criminal Proce-
9 dure is amended by striking “(e)(3)(C)(i)” and in-
10 serting “(e)(3)(C)(i)(I)”.

11 (b) AUTHORITY TO SHARE ELECTRONIC, WIRE, AND
12 ORAL INTERCEPTION INFORMATION.—

13 (1) LAW ENFORCEMENT.—Section 2517 of title
14 18, United States Code, is amended by inserting at
15 the end the following:

16 “(6) Any investigative or law enforcement officer, or
17 attorney for the Government, who by any means author-
18 ized by this chapter, has obtained knowledge of the con-
19 tents of any wire, oral, or electronic communication, or
20 evidence derived therefrom, may disclose such contents to
21 any other Federal law enforcement, intelligence, protec-
22 tive, immigration, national defense, or national security of-
23 ficial to the extent that such contents include foreign intel-
24 ligence or counterintelligence (as defined in section 3 of
25 the National Security Act of 1947 (50 U.S.C. 401a)), or

1 foreign intelligence information (as defined in subsection
2 (19) of section 2510 of this title), to assist the official
3 who is to receive that information in the performance of
4 his official duties. Any Federal official who receives infor-
5 mation pursuant to this provision may use that informa-
6 tion only as necessary in the conduct of that person’s offi-
7 cial duties subject to any limitations on the unauthorized
8 disclosure of such information.”.

9 (2) DEFINITION.—Section 2510 of title 18,
10 United States Code, is amended by—

11 (A) in paragraph (17), by striking “and”
12 after the semicolon;

13 (B) in paragraph (18), by striking the pe-
14 riod and inserting “; and”; and

15 (C) by inserting at the end the following:

16 “(19) ‘foreign intelligence information’ means—

17 “(A) information, whether or not con-
18 cerning a United States person, that relates to
19 the ability of the United States to protect
20 against—

21 “(i) actual or potential attack or other
22 grave hostile acts of a foreign power or an
23 agent of a foreign power;

1 “(ii) sabotage or international ter-
2 rorism by a foreign power or an agent of
3 a foreign power; or

4 “(iii) clandestine intelligence activities
5 by an intelligence service or network of a
6 foreign power or by an agent of a foreign
7 power; or

8 “(B) information, whether or not con-
9 cerning a United States person, with respect to
10 a foreign power or foreign territory that relates
11 to—

12 “(i) the national defense or the secu-
13 rity of the United States; or

14 “(ii) the conduct of the foreign affairs
15 of the United States.”.

16 (c) PROCEDURES.—The Attorney General shall es-
17 tablish procedures for the disclosure of information pursu-
18 ant to section 2517(6) and Rule 6(e)(3)(C)(i)(V) of the
19 Federal Rules of Criminal Procedure that identifies a
20 United States person, as defined in section 101 of the For-
21 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
22 1801)).

23 (d) FOREIGN INTELLIGENCE INFORMATION.—

24 (1) IN GENERAL.—Notwithstanding any other
25 provision of law, it shall be lawful for foreign intel-

1 ligence or counterintelligence (as defined in section
2 3 of the National Security Act of 1947 (50 U.S.C.
3 401a)) or foreign intelligence information obtained
4 as part of a criminal investigation to be disclosed to
5 any Federal law enforcement, intelligence, protective,
6 immigration, national defense, or national security
7 official in order to assist the official receiving that
8 information in the performance of his official duties.
9 Any Federal official who receives information pursu-
10 ant to this provision may use that information only
11 as necessary in the conduct of that person’s official
12 duties subject to any limitations on the unauthorized
13 disclosure of such information.

14 (2) DEFINITION.—In this subsection, the term
15 “foreign intelligence information” means—

16 (A) information, whether or not concerning
17 a United States person, that relates to the abil-
18 ity of the United States to protect against—

19 (i) actual or potential attack or other
20 grave hostile acts of a foreign power or an
21 agent of a foreign power;

22 (ii) sabotage or international ter-
23 rorism by a foreign power or an agent of
24 a foreign power; or

1 (iii) clandestine intelligence activities
2 by an intelligence service or network of a
3 foreign power or by an agent of a foreign
4 power; or

5 (B) information, whether or not concerning
6 a United States person, with respect to a for-
7 eign power or foreign territory that relates to—

8 (i) the national defense or the security
9 of the United States; or

10 (ii) the conduct of the foreign affairs
11 of the United States.

12 **SEC. 204. CLARIFICATION OF INTELLIGENCE EXCEPTIONS**
13 **FROM LIMITATIONS ON INTERCEPTION AND**
14 **DISCLOSURE OF WIRE, ORAL, AND ELEC-**
15 **TRONIC COMMUNICATIONS.**

16 Section 2511(2)(f) of title 18, United States Code,
17 is amended—

18 (1) by striking “this chapter or chapter 121”
19 and inserting “this chapter or chapter 121 or 206
20 of this title”; and

21 (2) by striking “wire and oral” and inserting
22 “wire, oral, and electronic”.

1 **SEC. 205. EMPLOYMENT OF TRANSLATORS BY THE FED-**
2 **ERAL BUREAU OF INVESTIGATION.**

3 (a) **AUTHORITY.**—The Director of the Federal Bu-
4 reau of Investigation is authorized to expedite the employ-
5 ment of personnel as translators to support
6 counterterrorism investigations and operations without re-
7 gard to applicable Federal personnel requirements and
8 limitations.

9 (b) **SECURITY REQUIREMENTS.**—The Director of the
10 Federal Bureau of Investigation shall establish such secu-
11 rity requirements as are necessary for the personnel em-
12 ployed as translators under subsection (a).

13 (c) **REPORT.**—The Attorney General shall report to
14 the Committees on the Judiciary of the House of Rep-
15 resentatives and the Senate on—

16 (1) the number of translators employed by the
17 FBI and other components of the Department of
18 Justice;

19 (2) any legal or practical impediments to using
20 translators employed by other Federal, State, or
21 local agencies, on a full, part-time, or shared basis;
22 and

23 (3) the needs of the FBI for specific translation
24 services in certain languages, and recommendations
25 for meeting those needs.

1 **SEC. 206. ROVING SURVEILLANCE AUTHORITY UNDER THE**
2 **FOREIGN INTELLIGENCE SURVEILLANCE ACT**
3 **OF 1978.**

4 Section 105(c)(2)(B) of the Foreign Intelligence Sur-
5 veillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amend-
6 ed by inserting “, or in circumstances where the Court
7 finds that the actions of the target of the application may
8 have the effect of thwarting the identification of a speci-
9 fied person, such other persons,” after “specified person”.

10 **SEC. 207. DURATION OF FISA SURVEILLANCE OF NON-**
11 **UNITED STATES PERSONS WHO ARE AGENTS**
12 **OF A FOREIGN POWER.**

13 (a) DURATION.—

14 (1) SURVEILLANCE.—Section 105(e)(1) of the
15 Foreign Intelligence Surveillance Act of 1978 (50
16 U.S.C. 1805(e)(1)) is amended by—

17 (A) inserting “(A)” after “except that”;

18 and

19 (B) inserting before the period the fol-
20 lowing: “, and (B) an order under this Act for
21 a surveillance targeted against an agent of a
22 foreign power, as defined in section
23 101(b)(1)(A) may be for the period specified in
24 the application or for 120 days, whichever is
25 less”.

1 (2) PHYSICAL SEARCH.—Section 304(d)(1) of the
2 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
3 1824(d)(1)) is amended by—

4 (A) striking “forty-five” and inserting “90”;

5 (B) inserting “(A)” after “except that”; and

6 (C) inserting before the period the following: “,
7 and (B) an order under this section for a physical
8 search targeted against an agent of a foreign power
9 as defined in section 101(b)(1)(A) may be for the
10 period specified in the application or for 120 days,
11 whichever is less”.

12 (b) EXTENSION.—

13 (1) IN GENERAL.—Section 105(d)(2) of the
14 Foreign Intelligence Surveillance Act of 1978 (50
15 U.S.C. 1805(d)(2)) is amended by—

16 (A) inserting “(A)” after “except that”;

17 and

18 (B) inserting before the period the fol-
19 lowing: “, and (B) an extension of an order
20 under this Act for a surveillance targeted
21 against an agent of a foreign power as defined
22 in section 101(b)(1)(A) may be for a period not
23 to exceed 1 year”.

24 (2) DEFINED TERM.—Section 304(d)(2) of the
25 Foreign Intelligence Surveillance Act of 1978 (50

1 U.S.C. 1824(d)(2) is amended by inserting after
2 “not a United States person,” the following: “or
3 against an agent of a foreign power as defined in
4 section 101(b)(1)(A),”.

5 **SEC. 208. DESIGNATION OF JUDGES.**

6 Section 103(a) of the Foreign Intelligence Surveil-
7 lance Act of 1978 (50 U.S.C. 1803(a)) is amended by—
8 (1) striking “seven district court judges” and
9 inserting “11 district court judges”; and
10 (2) inserting “of whom no fewer than 3 shall
11 reside within 20 miles of the District of Columbia”
12 after “circuits”.

13 **SEC. 209. SEIZURE OF VOICE-MAIL MESSAGES PURSUANT**
14 **TO WARRANTS.**

15 Title 18, United States Code, is amended—
16 (1) in section 2510—
17 (A) in paragraph (1), by striking beginning
18 with “and such” and all that follows through
19 “communication”; and
20 (B) in paragraph (14), by inserting “wire
21 or” after “transmission of”; and
22 (2) in subsections (a) and (b) of section 2703—
23 (A) by striking “CONTENTS OF ELEC-
24 TRONIC” and inserting “CONTENTS OF WIRE OR
25 ELECTRONIC” each place it appears;

1 (B) by striking “contents of an electronic”
2 and inserting “contents of a wire or electronic”
3 each place it appears; and

4 (C) by striking “any electronic” and in-
5 serting “any wire or electronic” each place it
6 appears.

7 **SEC. 210. SCOPE OF SUBPOENAS FOR RECORDS OF ELEC-**
8 **TRONIC COMMUNICATIONS.**

9 Section 2703(c)(2) of title 18, United States Code,
10 as redesignated by section 212, is amended—

11 (1) by striking “entity the name, address, local
12 and long distance telephone toll billing records, tele-
13 phone number or other subscriber number or iden-
14 tity, and length of service of a subscriber” and in-
15 serting the following: “entity the—

16 “(A) name;

17 “(B) address;

18 “(C) local and long distance telephone connec-
19 tion records, or records of session times and dura-
20 tions;

21 “(D) length of service (including start date)
22 and types of service utilized;

23 “(E) telephone or instrument number or other
24 subscriber number or identity, including any tempo-
25 rarily assigned network address; and

1 “(F) means and source of payment for such
2 service (including any credit card or bank account
3 number),
4 of a subscriber”]; and

5 (2) by striking “and the types of services the
6 subscriber or customer utilized,”.

7 **SEC. 211. CLARIFICATION OF SCOPE.**

8 Section 631 of the Communications Act of 1934 (47
9 U.S.C. 551) is amended—

10 (1) in subsection (c)(2)—

11 (A) in subparagraph (B), by striking “or”;

12 (B) in subparagraph (C), by striking the
13 period at the end and inserting “; or”; and

14 (C) by inserting at the end the following:

15 “(D) to a government entity as authorized
16 under chapters 119, 121, or 206 of title 18, United
17 States Code, except that such disclosure shall not in-
18 clude records revealing cable subscriber selection of
19 video programming from a cable operator.”; and

20 (2) in subsection (h), by striking “A govern-
21 mental entity” and inserting “Except as provided in
22 subsection (c)(2)(D), a governmental entity”.

23 **SEC. 212. EMERGENCY DISCLOSURE OF ELECTRONIC COM-**
24 **MUNICATIONS TO PROTECT LIFE AND LIMB.**

25 (a) DISCLOSURE OF CONTENTS.—

1 (1) IN GENERAL.—Section 2702 of title 18,
2 United States Code, is amended—

3 (A) by striking the section heading and in-
4 serting the following:

5 **“§ 2702. Voluntary disclosure of customer commu-
6 nications or records”;**

7 (B) in subsection (a)—

8 (i) in paragraph (2)(A), by striking
9 “and” at the end;

10 (ii) in paragraph (2)(B), by striking
11 the period and inserting “; and”; and

12 (iii) by inserting after paragraph (2)
13 the following:

14 “(3) a provider of remote computing service or
15 electronic communication service to the public shall
16 not knowingly divulge a record or other information
17 pertaining to a subscriber to or customer of such
18 service (not including the contents of communica-
19 tions covered by paragraph (1) or (2)) to any gov-
20 ernmental entity.”;

21 (C) in subsection (b), by striking “EXCEP-
22 TIONS.—A person or entity” and inserting “EX-
23 CEPTIONS FOR DISCLOSURE OF COMMUNICA-
24 TIONS.— A provider described in subsection
25 (a)”;

1 (D) in subsection (b)(6)—

2 (i) in subparagraph (A)(ii), by strik-
3 ing “or”;

4 (ii) in subparagraph (B), by striking
5 the period and inserting “; or”; and

6 (iii) by adding after subparagraph (B)
7 the following:

8 “(C) if the provider reasonably believes
9 that an emergency involving immediate danger
10 of death or serious physical injury to any per-
11 son requires disclosure of the information with-
12 out delay.”; and

13 (E) by inserting after subsection (b) the
14 following:

15 “(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER
16 RECORDS.—A provider described in subsection (a) may di-
17 vulge a record or other information pertaining to a sub-
18 scriber to or customer of such service (not including the
19 contents of communications covered by subsection (a)(1)
20 or (a)(2))—

21 “(1) as otherwise authorized in section 2703;

22 “(2) with the lawful consent of the customer or
23 subscriber;

1 “(3) as may be necessarily incident to the ren-
2 dition of the service or to the protection of the rights
3 or property of the provider of that service;

4 “(4) to a governmental entity, if the provider
5 reasonably believes that an emergency involving im-
6 mediate danger of death or serious physical injury to
7 any person justifies disclosure of the information; or

8 “(5) to any person other than a governmental
9 entity.”.

10 (2) TECHNICAL AND CONFORMING AMEND-
11 MENT.—The table of sections for chapter 121 of
12 title 18, United States Code, is amended by striking
13 the item relating to section 2702 and inserting the
14 following:

“2702. Voluntary disclosure of customer communications or records.”.

15 (b) REQUIREMENTS FOR GOVERNMENT ACCESS.—

16 (1) IN GENERAL.—Section 2703 of title 18,
17 United States Code, is amended—

18 (A) by striking the section heading and in-
19 serting the following:

20 **“§ 2703. Required disclosure of customer communica-**
21 **tions or records”;**

22 (B) in subsection (c) by redesignating
23 paragraph (2) as paragraph (3);

24 (C) in subsection (c)(1)—

1 (i) by striking “(A) Except as pro-
2 vided in subparagraph (B), a provider of
3 electronic communication service or remote
4 computing service may” and inserting “A
5 governmental entity may require a provider
6 of electronic communication service or re-
7 mote computing service to”;

8 (ii) by striking “covered by subsection
9 (a) or (b) of this section) to any person
10 other than a governmental entity.

11 “(B) A provider of electronic communica-
12 tion service or remote computing service shall
13 disclose a record or other information per-
14 taining to a subscriber to or customer of such
15 service (not including the contents of commu-
16 nications covered by subsection (a) or (b) of
17 this section) to a governmental entity” and in-
18 serting “);”;

19 (iii) by redesignating subparagraph
20 (C) as paragraph (2);

21 (iv) by redesignating clauses (i), (ii),
22 (iii), and (iv) as subparagraphs (A), (B),
23 (C), and (D), respectively;

1 (v) in subparagraph (D) (as redesignig-
 2 nated) by striking the period and inserting
 3 “; or”; and

4 (vi) by inserting after subparagraph
 5 (D) (as redesignated) the following:

6 “(E) seeks information under paragraph
 7 (2).”; and

8 (D) in paragraph (2) (as redesignated) by
 9 striking “subparagraph (B)” and insert “para-
 10 graph (1)”.

11 (2) TECHNICAL AND CONFORMING AMEND-
 12 MENT.—The table of sections for chapter 121 of
 13 title 18, United States Code, is amended by striking
 14 the item relating to section 2703 and inserting the
 15 following:

“2703. Required disclosure of customer communications or records.”.

16 **SEC. 213. AUTHORITY FOR DELAYING NOTICE OF THE EXE-**
 17 **CUTION OF A WARRANT.**

18 Section 3103a of title 18, United States Code, is
 19 amended—

20 (1) by inserting “(a) IN GENERAL.—” before
 21 “In addition”; and

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

23 “(b) DELAY.—With respect to the issuance of any
 24 warrant or court order under this section, or any other
 25 rule of law, to search for and seize any property or mate-

1 rial that constitutes evidence of a criminal offense in viola-
2 tion of the laws of the United States, any notice required,
3 or that may be required, to be given may be delayed if—

4 “(1) the court finds reasonable cause to believe
5 that providing immediate notification of the execu-
6 tion of the warrant may have an adverse result (as
7 defined in section 2705);

8 “(2) the warrant prohibits the seizure of any
9 tangible property, any wire or electronic communica-
10 tion (as defined in section 2510), or, except as ex-
11 pressly provided in chapter 121, any stored wire or
12 electronic information, except where the court finds
13 reasonable necessity for the seizure; and

14 “(3) the warrant provides for the giving of such
15 notice within a reasonable period of its execution,
16 which period may thereafter be extended by the
17 court for good cause shown.”.

18 **SEC. 214. PEN REGISTER AND TRAP AND TRACE AUTHOR-**
19 **ITY UNDER FISA.**

20 (a) APPLICATIONS AND ORDERS.—Section 402 of the
21 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
22 1842) is amended—

23 (1) in subsection (a)(1), by striking “for any in-
24 vestigation to gather foreign intelligence information
25 or information concerning international terrorism”

1 and inserting “for any investigation to obtain for-
2 eign intelligence information not concerning a
3 United States person or to protect against inter-
4 national terrorism or clandestine intelligence activi-
5 ties, provided that such investigation of a United
6 States person is not conducted solely upon the basis
7 of activities protected by the first amendment to the
8 Constitution”;

9 (2) by amending subsection (c)(2) to read as
10 follows:

11 “(2) a certification by the applicant that the in-
12 formation likely to be obtained is foreign intelligence
13 information not concerning a United States person
14 or is relevant to an ongoing investigation to protect
15 against international terrorism or clandestine intel-
16 ligence activities, provided that such investigation of
17 a United States person is not conducted solely upon
18 the basis of activities protected by the first amend-
19 ment to the Constitution.”;

20 (3) by striking subsection (c)(3); and

21 (4) by amending subsection (d)(2)(A) to read
22 as follows:

23 “(A) shall specify—

24 “(i) the identity, if known, of the per-
25 son who is the subject of the investigation;

1 “(ii) the identity, if known, of the per-
2 son to whom is leased or in whose name is
3 listed the telephone line or other facility to
4 which the pen register or trap and trace
5 device is to be attached or applied;

6 “(iii) the attributes of the communica-
7 tions to which the order applies, such as
8 the number or other identifier, and, if
9 known, the location of the telephone line or
10 other facility to which the pen register or
11 trap and trace device is to be attached or
12 applied and, in the case of a trap and trace
13 device, the geographic limits of the trap
14 and trace order.”.

15 (b) AUTHORIZATION DURING EMERGENCIES.—Sec-
16 tion 403 of the Foreign Intelligence Surveillance Act of
17 1978 (50 U.S.C. 1843) is amended—

18 (1) in subsection (a), by striking “foreign intel-
19 ligence information or information concerning inter-
20 national terrorism” and inserting “foreign intel-
21 ligence information not concerning a United States
22 person or information to protect against inter-
23 national terrorism or clandestine intelligence activi-
24 ties, provided that such investigation of a United
25 States person is not conducted solely upon the basis

1 of activities protected by the first amendment to the
2 Constitution”; and

3 (2) in subsection (b)(1), by striking “foreign in-
4 telligence information or information concerning
5 international terrorism” and inserting “foreign intel-
6 ligence information not concerning a United States
7 person or information to protect against inter-
8 national terrorism or clandestine intelligence activi-
9 ties, provided that such investigation of a United
10 States person is not conducted solely upon the basis
11 of activities protected by the first amendment to the
12 Constitution”.

13 **SEC. 215. ACCESS TO RECORDS AND OTHER ITEMS UNDER**
14 **THE FOREIGN INTELLIGENCE SURVEIL-**
15 **LANCE ACT.**

16 Title V of the Foreign Intelligence Surveillance Act
17 of 1978 (50 U.S.C. 1861 et seq.) is amended by striking
18 sections 501 through 503 and inserting the following:

19 **“SEC. 501. ACCESS TO CERTAIN BUSINESS RECORDS FOR**
20 **FOREIGN INTELLIGENCE AND INTER-**
21 **NATIONAL TERRORISM INVESTIGATIONS.**

22 “(a)(1) The Director of the Federal Bureau of Inves-
23 tigation or a designee of the Director (whose rank shall
24 be no lower than Assistant Special Agent in Charge) may
25 make an application for an order requiring the production

1 of any tangible things (including books, records, papers,
2 documents, and other items) for an investigation to pro-
3 tect against international terrorism or clandestine intel-
4 ligence activities, provided that such investigation of a
5 United States person is not conducted solely upon the
6 basis of activities protected by the first amendment to the
7 Constitution.

8 “(2) An investigation conducted under this section
9 shall—

10 “(A) be conducted under guidelines approved by
11 the Attorney General under Executive Order 12333
12 (or a successor order); and

13 “(B) not be conducted of a United States per-
14 son solely upon the basis of activities protected by
15 the first amendment to the Constitution of the
16 United States.

17 “(b) Each application under this section—

18 “(1) shall be made to—

19 “(A) a judge of the court established by
20 section 103(a); or

21 “(B) a United States Magistrate Judge
22 under chapter 43 of title 28, United States
23 Code, who is publicly designated by the Chief
24 Justice of the United States to have the power
25 to hear applications and grant orders for the

1 production of tangible things under this section
2 on behalf of a judge of that court; and

3 “(2) shall specify that the records concerned
4 are sought for an authorized investigation conducted
5 in accordance with subsection (a)(2) to protect
6 against international terrorism or clandestine intel-
7 ligence activities.

8 “(c)(1) Upon an application made pursuant to this
9 section, the judge shall enter an ex parte order as re-
10 quested, or as modified, approving the release of records
11 if the judge finds that the application meets the require-
12 ments of this section.

13 “(2) An order under this subsection shall not disclose
14 that it is issued for purposes of an investigation described
15 in subsection (a).

16 “(d) No person shall disclose to any other person
17 (other than those persons necessary to produce the tan-
18 gible things under this section) that the Federal Bureau
19 of Investigation has sought or obtained tangible things
20 under this section.

21 “(e) A person who, in good faith, produces tangible
22 things under an order pursuant to this section shall not
23 be liable to any other person for such production. Such
24 production shall not be deemed to constitute a waiver of
25 any privilege in any other proceeding or context.

1 **“SEC. 502. CONGRESSIONAL OVERSIGHT.**

2 “(a) On a semiannual basis, the Attorney General
3 shall fully inform the Permanent Select Committee on In-
4 telligence of the House of Representatives and the Select
5 Committee on Intelligence of the Senate concerning all re-
6 quests for the production of tangible things under section
7 402.

8 “(b) On a semiannual basis, the Attorney General
9 shall provide to the Committees on the Judiciary of the
10 House of Representatives and the Senate a report setting
11 forth with respect to the preceding 6-month period—

12 “(1) the total number of applications made for
13 orders approving requests for the production of tan-
14 gible things under section 402; and

15 “(2) the total number of such orders either
16 granted, modified, or denied.”.

17 **SEC. 216. MODIFICATION OF AUTHORITIES RELATING TO**
18 **USE OF PEN REGISTERS AND TRAP AND**
19 **TRACE DEVICES.**

20 (a) GENERAL LIMITATIONS.—Section 3121(c) of title
21 18, United States Code, is amended—

22 (1) by inserting “or trap and trace device”
23 after “pen register”;

24 (2) by inserting “, routing, addressing,” after
25 “dialing”; and

1 (3) by striking “call processing” and inserting
2 “the processing and transmitting of wire or elec-
3 tronic communications so as not to include the con-
4 tents of any wire or electronic communications”.

5 (b) ISSUANCE OF ORDERS.—

6 (1) IN GENERAL.—Section 3123(a) of title 18,
7 United States Code, is amended to read as follows:

8 “(a) IN GENERAL.—

9 “(1) ATTORNEY FOR THE GOVERNMENT.—

10 Upon an application made under section 3122(a)(1),
11 the court shall enter an ex parte order authorizing
12 the installation and use of a pen register or trap and
13 trace device anywhere within the United States, if
14 the court finds that the attorney for the Government
15 has certified to the court that the information likely
16 to be obtained by such installation and use is rel-
17 evant to an ongoing criminal investigation. The
18 order, upon service of that order, shall apply to any
19 person or entity providing wire or electronic commu-
20 nication service in the United States whose assist-
21 ance may facilitate the execution of the order.
22 Whenever such an order is served on any person or
23 entity not specifically named in the order, upon re-
24 quest of such person or entity, the attorney for the
25 Government or law enforcement or investigative offi-

1 cer that is serving the order shall provide written or
2 electronic certification that the order applies to the
3 person or entity being served.

4 “(2) STATE INVESTIGATIVE OR LAW ENFORCE-
5 MENT OFFICER.—Upon an application made under
6 section 3122(a)(2), the court shall enter an ex parte
7 order authorizing the installation and use of a pen
8 register or trap and trace device within the jurisdic-
9 tion of the court, if the court finds that the State
10 law enforcement or investigative officer has certified
11 to the court that the information likely to be ob-
12 tained by such installation and use is relevant to an
13 ongoing criminal investigation.

14 “(3)(A) Where the law enforcement agency im-
15 plementing an ex parte order under this subsection
16 seeks to do so by installing and using its own pen
17 register or trap and trace device on a packet-
18 switched data network of a provider of electronic
19 communication service to the public, the agency shall
20 ensure that a record will be maintained which will
21 identify—

22 “(i) any officer or officers who installed
23 the device and any officer or officers who
24 accessed the device to obtain information from
25 the network;

1 “(ii) the date and time the device was in-
2 stalled, the date and time the device was
3 uninstalled, and the date, time, and duration of
4 each time the device is accessed to obtain infor-
5 mation;

6 “(iii) the configuration of the device at the
7 time of its installation and any subsequent
8 modification thereof; and

9 “(iv) any information which has been col-
10 lected by the device.

11 To the extent that the pen register or trap and trace
12 device can be set automatically to record this infor-
13 mation electronically, the record shall be maintained
14 electronically throughout the installation and use of
15 such device.

16 “(B) The record maintained under subpara-
17 graph (A) shall be provided ex parte and under seal
18 to the court which entered the ex parte order au-
19 thorizing the installation and use of the device with-
20 in 30 days after termination of the order (including
21 any extensions thereof).”.

22 (2) CONTENTS OF ORDER.—Section 3123(b)(1)
23 of title 18, United States Code, is amended—

24 (A) in subparagraph (A)—

1 (i) by inserting “or other facility”
2 after “telephone line”; and

3 (ii) by inserting before the semicolon
4 at the end “or applied”; and

5 (B) by striking subparagraph (C) and in-
6 serting the following:

7 “(C) the attributes of the communications
8 to which the order applies, including the num-
9 ber or other identifier and, if known, the loca-
10 tion of the telephone line or other facility to
11 which the pen register or trap and trace device
12 is to be attached or applied, and, in the case of
13 an order authorizing installation and use of a
14 trap and trace device under subsection (a)(2),
15 the geographic limits of the order; and”.

16 (3) NONDISCLOSURE REQUIREMENTS.—Section
17 3123(d)(2) of title 18, United States Code, is
18 amended—

19 (A) by inserting “or other facility” after
20 “the line”; and

21 (B) by striking “, or who has been ordered
22 by the court” and inserting “or applied, or who
23 is obligated by the order”.

24 (c) DEFINITIONS.—

1 (1) COURT OF COMPETENT JURISDICTION.—
2 Section 3127(2) of title 18, United States Code, is
3 amended by striking subparagraph (A) and inserting
4 the following:

5 “(A) any district court of the United
6 States (including a magistrate judge of such a
7 court) or any United States court of appeals
8 having jurisdiction over the offense being inves-
9 tigated; or”.

10 (2) PEN REGISTER.—Section 3127(3) of title
11 18, United States Code, is amended—

12 (A) by striking “electronic or other im-
13 pulses” and all that follows through “is at-
14 tached” and inserting “dialing, routing, ad-
15 dressing, or signaling information transmitted
16 by an instrument or facility from which a wire
17 or electronic communication is transmitted, pro-
18 vided, however, that such information shall not
19 include the contents of any communication”;
20 and

21 (B) by inserting “or process” after “de-
22 vice” each place it appears.

23 (3) TRAP AND TRACE DEVICE.—Section
24 3127(4) of title 18, United States Code, is
25 amended—

1 (A) by striking “of an instrument” and all
2 that follows through the semicolon and insert-
3 ing “or other dialing, routing, addressing, and
4 signaling information reasonably likely to iden-
5 tify the source of a wire or electronic commu-
6 nication, provided, however, that such informa-
7 tion shall not include the contents of any com-
8 munication;”; and

9 (B) by inserting “or process” after “a de-
10 vice”.

11 (4) CONFORMING AMENDMENT.—Section
12 3127(1) of title 18, United States Code, is
13 amended—

14 (A) by striking “and”; and

15 (B) by inserting “, and ‘contents’” after
16 “electronic communication service”.

17 (5) TECHNICAL AMENDMENT.—Section 3124(d)
18 of title 18, United States Code, is amended by strik-
19 ing “the terms of”.

20 (6) CONFORMING AMENDMENT.—Section
21 3124(b) of title 18, United States Code, is amended
22 by inserting “or other facility” after “the appro-
23 priate line”.

1 **SEC. 217. INTERCEPTION OF COMPUTER TRESPASSER COM-**
2 **MUNICATIONS.**

3 Chapter 119 of title 18, United States Code, is
4 amended—

5 (1) in section 2510—

6 (A) in paragraph (18), by striking “and”
7 at the end;

8 (B) in paragraph (19), by striking the pe-
9 riod and inserting a semicolon; and

10 (C) by inserting after paragraph (19) the
11 following:

12 “(20) ‘protected computer’ has the meaning set
13 forth in section 1030; and

14 “(21) ‘computer trespasser’—

15 “(A) means a person who accesses a pro-
16 tected computer without authorization and thus
17 has no reasonable expectation of privacy in any
18 communication transmitted to, through, or from
19 the protected computer; and

20 “(B) does not include a person known by
21 the owner or operator of the protected computer
22 to have an existing contractual relationship with
23 the owner or operator of the protected computer
24 for access to all or part of the protected com-
25 puter.”; and

1 (2) in section 2511(2), by inserting at the end
2 the following:

3 “(i) It shall not be unlawful under this chapter for
4 a person acting under color of law to intercept the wire
5 or electronic communications of a computer trespasser
6 transmitted to, through, or from the protected computer,
7 if—

8 “(I) the owner or operator of the protected
9 computer authorizes the interception of the com-
10 puter trespasser’s communications on the protected
11 computer;

12 “(II) the person acting under color of law is
13 lawfully engaged in an investigation;

14 “(III) the person acting under color of law has
15 reasonable grounds to believe that the contents of
16 the computer trespasser’s communications will be
17 relevant to the investigation; and

18 “(IV) such interception does not acquire com-
19 munications other than those transmitted to or from
20 the computer trespasser.”.

21 **SEC. 218. FOREIGN INTELLIGENCE INFORMATION.**

22 Sections 104(a)(7)(B) and section 303(a)(7)(B) (50
23 U.S.C. 1804(a)(7)(B) and 1823(a)(7)(B)) of the Foreign
24 Intelligence Surveillance Act of 1978 are each amended

1 by striking “the purpose” and inserting “a significant pur-
2 pose”.

3 **SEC. 219. SINGLE-JURISDICTION SEARCH WARRANTS FOR**
4 **TERRORISM.**

5 Rule 41(a) of the Federal Rules of Criminal Proce-
6 dure is amended by inserting after “executed” the fol-
7 lowing: “and (3) in an investigation of domestic terrorism
8 or international terrorism (as defined in section 2331 of
9 title 18, United States Code), by a Federal magistrate
10 judge in any district in which activities related to the ter-
11 rorism may have occurred, for a search of property or for
12 a person within or outside the district”.

13 **SEC. 220. NATIONWIDE SERVICE OF SEARCH WARRANTS**
14 **FOR ELECTRONIC EVIDENCE.**

15 (a) IN GENERAL.—Chapter 121 of title 18, United
16 States Code, is amended—

17 (1) in section 2703, by striking “under the
18 Federal Rules of Criminal Procedure” every place it
19 appears and inserting “using the procedures de-
20 scribed in the Federal Rules of Criminal Procedure
21 by a court with jurisdiction over the offense under
22 investigation”; and

23 (2) in section 2711—

24 (A) in paragraph (1), by striking “and”;

1 (B) in paragraph (2), by striking the pe-
2 riod and inserting “; and”; and

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

4 “(3) the term ‘court of competent jurisdiction’
5 has the meaning assigned by section 3127, and in-
6 cludes any Federal court within that definition,
7 without geographic limitation.”.

8 (b) CONFORMING AMENDMENT.—Section 2703(d) of
9 title 18, United States Code, is amended by striking “de-
10 scribed in section 3127(2)(A)”.

11 **SEC. 221. TRADE SANCTIONS.**

12 (a) IN GENERAL.—The Trade Sanctions Reform and
13 Export Enhancement Act of 2000 (Public Law 106–387;
14 114 Stat. 1549A–67) is amended—

15 (1) by amending section 904(2)(C) to read as
16 follows:

17 “(C) used to facilitate the design, develop-
18 ment, or production of chemical or biological
19 weapons, missiles, or weapons of mass destruc-
20 tion.”;

21 (2) in section 906(a)(1)—

22 (A) by inserting “, the Taliban or the ter-
23 ritory of Afghanistan controlled by the
24 Taliban,” after “Cuba”; and

1 (B) by inserting “, or in the territory of
2 Afghanistan controlled by the Taliban,” after
3 “within such country”; and

4 (3) in section 906(a)(2), by inserting “, or to
5 any other entity in Syria or North Korea” after
6 “Korea”.

7 (b) APPLICATION OF THE TRADE SANCTIONS RE-
8 FORM AND EXPORT ENHANCEMENT ACT.—Nothing in the
9 Trade Sanctions Reform and Export Enhancement Act of
10 2000 shall limit the application or scope of any law estab-
11 lishing criminal or civil penalties, including any executive
12 order or regulation promulgated pursuant to such laws (or
13 similar or successor laws), for the unlawful export of any
14 agricultural commodity, medicine, or medical device to—

15 (1) a foreign organization, group, or person
16 designated pursuant to Executive Order 12947 of
17 January 23, 1995, as amended;

18 (2) a Foreign Terrorist Organization pursuant
19 to the Antiterrorism and Effective Death Penalty
20 Act of 1996 (Public Law 104–132);

21 (3) a foreign organization, group, or person
22 designated pursuant to Executive Order 13224 (Sep-
23 tember 23, 2001);

24 (4) any narcotics trafficking entity designated
25 pursuant to Executive Order 12978 (October 21,

1 1995) or the Foreign Narcotics Kingpin Designation
2 Act (Public Law 106–120); or

3 (5) any foreign organization, group, or persons
4 subject to any restriction for its involvement in
5 weapons of mass destruction or missile proliferation.

6 **SEC. 222. ASSISTANCE TO LAW ENFORCEMENT AGENCIES.**

7 Nothing in this Act shall impose any additional tech-
8 nical obligation or requirement on a provider of a wire or
9 electronic communication service or other person to fur-
10 nish facilities or technical assistance. A provider of a wire
11 or electronic communication service, landlord, custodian,
12 or other person who furnishes facilities or technical assist-
13 ance pursuant to section 216 shall be reasonably com-
14 pensated for such reasonable expenditures incurred in pro-
15 viding such facilities or assistance.

16 **SEC. 223. CIVIL LIABILITY FOR CERTAIN UNAUTHORIZED**
17 **DISCLOSURES.**

18 (a) Section 2520 of title 18, United States Code, is
19 amended—

20 (1) in subsection (a), after “entity”, by insert-
21 ing “, other than the United States,”;

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

23 “(f) ADMINISTRATIVE DISCIPLINE.—If a court or ap-
24 propriate department or agency determines that the
25 United States or any of its departments or agencies has

1 violated any provision of this chapter, and the court or
2 appropriate department or agency finds that the cir-
3 cumstances surrounding the violation raise serious ques-
4 tions about whether or not an officer or employee of the
5 United States acted willfully or intentionally with respect
6 to the violation, the department or agency shall, upon re-
7 ceipt of a true and correct copy of the decision and find-
8 ings of the court or appropriate department or agency
9 promptly initiate a proceeding to determine whether dis-
10 ciplinary action against the officer or employee is war-
11 ranted. If the head of the department or agency involved
12 determines that disciplinary action is not warranted, he
13 or she shall notify the Inspector General with jurisdiction
14 over the department or agency concerned and shall provide
15 the Inspector General with the reasons for such deter-
16 mination.”; and

17 (3) by adding a new subsection (g), as follows:

18 “(g) IMPROPER DISCLOSURE IS VIOLATION.—Any
19 willful disclosure or use by an investigative or law enforce-
20 ment officer or governmental entity of information beyond
21 the extent permitted by section 2517 is a violation of this
22 chapter for purposes of section 2520(a).

23 (b) Section 2707 of title 18, United States Code, is
24 amended—

1 (1) in subsection (a), after “entity”, by insert-
2 ing “, other than the United States,”;

3 (2) by striking subsection (d) and inserting the
4 following:

5 “(d) ADMINISTRATIVE DISCIPLINE.—If a court or
6 appropriate department or agency determines that the
7 United States or any of its departments or agencies has
8 violated any provision of this chapter, and the court or
9 appropriate department or agency finds that the cir-
10 cumstances surrounding the violation raise serious ques-
11 tions about whether or not an officer or employee of the
12 United States acted willfully or intentionally with respect
13 to the violation, the department or agency shall, upon re-
14 ceipt of a true and correct copy of the decision and find-
15 ings of the court or appropriate department or agency
16 promptly initiate a proceeding to determine whether dis-
17 ciplinary action against the officer or employee is war-
18 ranted. If the head of the department or agency involved
19 determines that disciplinary action is not warranted, he
20 or she shall notify the Inspector General with jurisdiction
21 over the department or agency concerned and shall provide
22 the Inspector General with the reasons for such deter-
23 mination.”; and

24 (3) by adding a new subsection (g), as follows:

1 “(g) IMPROPER DISCLOSURE.—Any willful disclosure
2 of a ‘record’, as that term is defined in section 552a(a)
3 of title 5, United States Code, obtained by an investigative
4 or law enforcement officer, or a governmental entity, pur-
5 suant to section 2703 of this title, or from a device in-
6 stalled pursuant to section 3123 or 3125 of this title, that
7 is not a disclosure made in the proper performance of the
8 official functions of the officer or governmental entity
9 making the disclosure, is a violation of this chapter. This
10 provision shall not apply to information previously lawfully
11 disclosed (prior to the commencement of any civil or ad-
12 ministrative proceeding under this chapter) to the public
13 by a Federal, State, or local governmental entity or by
14 the plaintiff in a civil action under this chapter.”.

15 (c)(1) Chapter 121 of title 18, United States Code,
16 is amended by adding at the end the following:

17 **“§ 2712. Civil actions against the United States**

18 “(a) IN GENERAL.—Any person who is aggrieved by
19 any willful violation of this chapter or of chapter 119 of
20 this title or of sections 106(a), 305(a), or 405(a) of the
21 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
22 1801 et seq.) may commence an action in United States
23 District Court against the United States to recover money
24 damages. In any such action, if a person who is aggrieved
25 successfully establishes such a violation of this chapter or

1 of chapter 119 of this title or of the above specific provi-
2 sions of title 50, the Court may assess as damages—

3 “(1) actual damages, but not less than
4 \$10,000, whichever amount is greater; and

5 “(2) litigation costs, reasonably incurred.

6 “(b) PROCEDURES.—(1) Any action against the
7 United States under this section may be commenced only
8 after a claim is presented to the appropriate department
9 or agency under the procedures of the Federal Tort
10 Claims Act, as set forth in title 28, United States Code.

11 “(2) Any action against the United States
12 under this section shall be forever barred unless it
13 is presented in writing to the appropriate Federal
14 agency within 2 years after such claim accrues or
15 unless action is begun within 6 months after the
16 date of mailing, by certified or registered mail, of
17 notice of final denial of the claim by the agency to
18 which it was presented. The claim shall accrue on
19 the date upon which the claimant first has a reason-
20 able opportunity to discover the violation.”.

21 “(3) Any action under this section shall be tried to
22 the court without a jury.

23 “(4) Notwithstanding any other provision of law, the
24 procedures set forth in section 106(f), 305(g), or 405(f)
25 of the Foreign Intelligence Surveillance Act of 1978 (50

1 U.S.C. 1801 et seq.) shall be the exclusive means by which
2 materials governed by those sections may be reviewed.

3 “(5) An amount equal to any award against the
4 United States under this section shall be reimbursed by
5 the department or agency concerned to the fund described
6 in section 1304 of title 31, United States Code, out of
7 any appropriation, fund, or other account (excluding any
8 part of such appropriation, fund, or account that is avail-
9 able for the enforcement of any Federal law) that is avail-
10 able for the operating expenses of the department or agen-
11 cy concerned.

12 “(c) ADMINISTRATIVE DISCIPLINE.—If a court or ap-
13 propriate department or agency determines that the
14 United States or any of its departments or agencies has
15 violated any provision of this chapter, and the court or
16 appropriate department or agency finds that the cir-
17 cumstances surrounding the violation raise serious ques-
18 tions about whether or not an officer or employee of the
19 United States acted willfully or intentionally with respect
20 to the possible violation, the department or agency shall,
21 upon receipt of a true and correct copy of the decision
22 and findings of the court or appropriate department or
23 agency promptly initiate a proceeding to determine wheth-
24 er disciplinary action against the officer or employee is
25 warranted. If the head of the department or agency in-

1 volved determines that disciplinary action is not war-
2 ranted, he or she shall notify the Inspector General with
3 jurisdiction over the department or agency concerned and
4 shall provide the Inspector General with the reasons for
5 such determination.

6 “(d) EXCLUSIVE REMEDY.—Any action against the
7 United States under this subsection shall be the exclusive
8 remedy against the United States for any claims within
9 the purview of this section.

10 “(e) STAY OF PROCEEDINGS.—(1) Upon the motion
11 of the United States, the court shall stay any action com-
12 menced under this section if the court determines that civil
13 discovery will adversely affect the ability of the Govern-
14 ment to conduct a related investigation or the prosecution
15 of a related criminal case. Such a stay shall toll the limita-
16 tions periods of paragraph (2) of subsection (b).

17 “(2) In this subsection, the terms ‘related criminal
18 case’ and ‘related investigation’ mean an actual prosecu-
19 tion or investigation in progress at the time at which the
20 request for the stay or any subsequent motion to lift the
21 stay is made. In determining whether an investigation or
22 a criminal case is related to an action commenced under
23 this section, the court shall consider the degree of simi-
24 larity between the parties, witnesses, facts, and cir-

1 cumstances involved in the 2 proceedings, without requir-
2 ing that any one or more factors be identical.

3 “(3) In requesting a stay under paragraph (1), the
4 Government may, in appropriate cases, submit evidence ex
5 parte in order to avoid disclosing any matter that may
6 adversely affect a related investigation or a related crimi-
7 nal case. If the Government makes such an ex parte sub-
8 mission, the plaintiff shall be given an opportunity to
9 make a submission to the court, not ex parte, and the
10 court may, in its discretion, request further information
11 from either party.”.

12 (2) The table of sections at the beginning of chapter
13 121 is amended to read as follows:

“2712. Civil action against the United States.”.

14 **SEC. 224. SUNSET.**

15 (a) IN GENERAL.—Except as provided in subsection
16 (b), this title and the amendments made by this title
17 (other than sections 203(a), 203(c), 205, 208, 210, 211,
18 213, 216, 219, 221, and 222, and the amendments made
19 by those sections) shall cease to have effect on December
20 31, 2005.

21 (b) EXCEPTION.—With respect to any particular for-
22 eign intelligence investigation that began before the date
23 on which the provisions referred to in subsection (a) cease
24 to have effect, or with respect to any particular offense
25 or potential offense that began or occurred before the date

1 on which such provisions cease to have effect, such provi-
2 sions shall continue in effect.

3 **SEC. 225. IMMUNITY FOR COMPLIANCE WITH FISA WIRE-**
4 **TAP.**

5 Section 105 of the Foreign Intelligence Surveillance
6 Act of 1978 (50 U.S.C. 1805) is amended by inserting
7 after subsection (g) the following:

8 “(h) No cause of action shall lie in any court against
9 any provider of a wire or electronic communication service,
10 landlord, custodian, or other person (including any officer,
11 employee, agent, or other specified person thereof) that
12 furnishes any information, facilities, or technical assist-
13 ance in accordance with a court order or request for emer-
14 gency assistance under this Act.”.

15 **TITLE III—INTERNATIONAL**
16 **MONEY LAUNDERING ABATE-**
17 **MENT AND ANTI-TERRORIST**
18 **FINANCING ACT OF 2001**

19 **SEC. 301. SHORT TITLE.**

20 This title may be cited as the “International Money
21 Laundering Abatement and Financial Anti-Terrorism Act
22 of 2001”.

23 **SEC. 302. FINDINGS AND PURPOSES.**

24 (a) **FINDINGS.**—The Congress finds that—

1 (1) money laundering, estimated by the Inter-
2 national Monetary Fund to amount to between 2
3 and 5 percent of global gross domestic product,
4 which is at least \$600,000,000,000 annually, pro-
5 vides the financial fuel that permits transnational
6 criminal enterprises to conduct and expand their op-
7 erations to the detriment of the safety and security
8 of American citizens;

9 (2) money laundering, and the defects in finan-
10 cial transparency on which money launderers rely,
11 are critical to the financing of global terrorism and
12 the provision of funds for terrorist attacks;

13 (3) money launderers subvert legitimate finan-
14 cial mechanisms and banking relationships by using
15 them as protective covering for the movement of
16 criminal proceeds and the financing of crime and
17 terrorism, and, by so doing, can threaten the safety
18 of United States citizens and undermine the integ-
19 rity of United States financial institutions and of the
20 global financial and trading systems upon which
21 prosperity and growth depend;

22 (4) certain jurisdictions outside of the United
23 States that offer “offshore” banking and related fa-
24 cilities designed to provide anonymity, coupled with
25 weak financial supervisory and enforcement regimes,

1 provide essential tools to disguise ownership and
2 movement of criminal funds, derived from, or used
3 to commit, offenses ranging from narcotics traf-
4 ficking, terrorism, arms smuggling, and trafficking
5 in human beings, to financial frauds that prey on
6 law-abiding citizens;

7 (5) transactions involving such offshore jurisdic-
8 tions make it difficult for law enforcement offi-
9 cials and regulators to follow the trail of money
10 earned by criminals, organized international criminal
11 enterprises, and global terrorist organizations;

12 (6) correspondent banking facilities are one of
13 the banking mechanisms susceptible in some cir-
14 cumstances to manipulation by foreign banks to per-
15 mit the laundering of funds by hiding the identity of
16 real parties in interest to financial transactions;

17 (7) private banking services can be susceptible
18 to manipulation by money launderers, for example
19 corrupt foreign government officials, particularly if
20 those services include the creation of offshore ac-
21 counts and facilities for large personal funds trans-
22 fers to channel funds into accounts around the
23 globe;

24 (8) United States anti-money laundering efforts
25 are impeded by outmoded and inadequate statutory

1 provisions that make investigations, prosecutions,
2 and forfeitures more difficult, particularly in cases
3 in which money laundering involves foreign persons,
4 foreign banks, or foreign countries;

5 (9) the ability to mount effective counter-meas-
6 ures to international money launderers requires na-
7 tional, as well as bilateral and multilateral action,
8 using tools specially designed for that effort; and

9 (10) the Basle Committee on Banking Regula-
10 tion and Supervisory Practices and the Financial
11 Action Task Force on Money Laundering, of both of
12 which the United States is a member, have each
13 adopted international anti-money laundering prin-
14 ciples and recommendations.

15 (b) PURPOSES.—The purposes of this title are—

16 (1) to increase the strength of United States
17 measures to prevent, detect, and prosecute inter-
18 national money laundering and the financing of ter-
19 rorism;

20 (2) to ensure that—

21 (A) banking transactions and financial re-
22 lationships and the conduct of such transactions
23 and relationships, do not contravene the pur-
24 poses of subchapter II of chapter 53 of title 31,
25 United States Code, section 21 of the Federal

1 Deposit Insurance Act, or chapter 2 of title I
2 of Public Law 91–508 (84 Stat. 1116), or fa-
3 cilitate the evasion of any such provision; and

4 (B) the purposes of such provisions of law
5 continue to be fulfilled, and such provisions of
6 law are effectively and efficiently administered;

7 (3) to strengthen the provisions put into place
8 by the Money Laundering Control Act of 1986 (18
9 U.S.C. 981 note), especially with respect to crimes
10 by non-United States nationals and foreign financial
11 institutions;

12 (4) to provide a clear national mandate for sub-
13 jecting to special scrutiny those foreign jurisdictions,
14 financial institutions operating outside of the United
15 States, and classes of international transactions or
16 types of accounts that pose particular, identifiable
17 opportunities for criminal abuse;

18 (5) to provide the Secretary of the Treasury (in
19 this title referred to as the “Secretary”) with broad
20 discretion, subject to the safeguards provided by the
21 Administrative Procedure Act under title 5, United
22 States Code, to take measures tailored to the par-
23 ticular money laundering problems presented by spe-
24 cific foreign jurisdictions, financial institutions oper-

1 ating outside of the United States, and classes of
2 international transactions or types of accounts;

3 (6) to ensure that the employment of such
4 measures by the Secretary permits appropriate op-
5 portunity for comment by affected financial institu-
6 tions;

7 (7) to provide guidance to domestic financial in-
8 stitutions on particular foreign jurisdictions, finan-
9 cial institutions operating outside of the United
10 States, and classes of international transactions that
11 are of primary money laundering concern to the
12 United States Government;

13 (8) to ensure that the forfeiture of any assets
14 in connection with the anti-terrorist efforts of the
15 United States permits for adequate challenge con-
16 sistent with providing due process rights;

17 (9) to clarify the terms of the safe harbor from
18 civil liability for filing suspicious activity reports;

19 (10) to strengthen the authority of the Sec-
20 retary to issue and administer geographic targeting
21 orders, and to clarify that violations of such orders
22 or any other requirement imposed under the author-
23 ity contained in chapter 2 of title I of Public Law
24 91-508 and subchapters II and III of chapter 53 of

1 title 31, United States Code, may result in criminal
2 and civil penalties;

3 (11) to ensure that all appropriate elements of
4 the financial services industry are subject to appro-
5 priate requirements to report potential money laun-
6 dering transactions to proper authorities, and that
7 jurisdictional disputes do not hinder examination of
8 compliance by financial institutions with relevant re-
9 porting requirements;

10 (12) to strengthen the ability of financial insti-
11 tutions to maintain the integrity of their employee
12 population; and

13 (13) to strengthen measures to prevent the use
14 of the United States financial system for personal
15 gain by corrupt foreign officials and to facilitate the
16 repatriation of any stolen assets to the citizens of
17 countries to whom such assets belong.

18 **SEC. 303. 4-YEAR CONGRESSIONAL REVIEW; EXPEDITED**

19 **CONSIDERATION.**

20 (a) **IN GENERAL.**—Effective on and after the first
21 day of fiscal year 2005, the provisions of this title and
22 the amendments made by this title shall terminate if the
23 Congress enacts a joint resolution, the text after the re-
24 solving clause of which is as follows: “That provisions of
25 the International Money Laundering Abatement and Anti-

1 Terrorist Financing Act of 2001, and the amendments
2 made thereby, shall no longer have the force of law.”.

3 (b) EXPEDITED CONSIDERATION.—Any joint resolu-
4 tion submitted pursuant to this section should be consid-
5 ered by the Congress expeditiously. In particular, it shall
6 be considered in the Senate in accordance with the provi-
7 sions of section 601(b) of the International Security As-
8 sistance and Arms Control Act of 1976.

9 **Subtitle A—International Counter**
10 **Money Laundering and Related**
11 **Measures**

12 **SEC. 311. SPECIAL MEASURES FOR JURISDICTIONS, FINAN-**
13 **CIAL INSTITUTIONS, OR INTERNATIONAL**
14 **TRANSACTIONS OF PRIMARY MONEY LAUN-**
15 **DERING CONCERN.**

16 (a) IN GENERAL.—Subchapter II of chapter 53 of
17 title 31, United States Code, is amended by inserting after
18 section 5318 the following new section:

19 **“§ 5318A. Special measures for jurisdictions, financial**
20 **institutions, or international transactions**
21 **of primary money laundering concern**

22 “(a) INTERNATIONAL COUNTER-MONEY LAUN-
23 DERING REQUIREMENTS.—

24 “(1) IN GENERAL.—The Secretary of the
25 Treasury may require domestic financial institutions

1 and domestic financial agencies to take 1 or more of
2 the special measures described in subsection (b) if
3 the Secretary finds that reasonable grounds exist for
4 concluding that a jurisdiction outside of the United
5 States, 1 or more financial institutions operating
6 outside of the United States, 1 or more classes of
7 transactions within, or involving, a jurisdiction out-
8 side of the United States, or 1 or more types of ac-
9 counts is of primary money laundering concern, in
10 accordance with subsection (c).

11 “(2) FORM OF REQUIREMENT.—The special
12 measures described in—

13 “(A) subsection (b) may be imposed in
14 such sequence or combination as the Secretary
15 shall determine;

16 “(B) paragraphs (1) through (4) of sub-
17 section (b) may be imposed by regulation,
18 order, or otherwise as permitted by law; and

19 “(C) subsection (b)(5) may be imposed
20 only by regulation.

21 “(3) DURATION OF ORDERS; RULEMAKING.—
22 Any order by which a special measure described in
23 paragraphs (1) through (4) of subsection (b) is im-
24 posed (other than an order described in section
25 5326)—

1 “(A) shall be issued together with a notice
2 of proposed rulemaking relating to the imposi-
3 tion of such special measure; and

4 “(B) may not remain in effect for more
5 than 120 days, except pursuant to a rule pro-
6 mulgated on or before the end of the 120-day
7 period beginning on the date of issuance of
8 such order.

9 “(4) PROCESS FOR SELECTING SPECIAL MEAS-
10 URES.—In selecting which special measure or meas-
11 ures to take under this subsection, the Secretary of
12 the Treasury—

13 “(A) shall consult with the Chairman of
14 the Board of Governors of the Federal Reserve
15 System, any other appropriate Federal banking
16 agency, as defined in section 3 of the Federal
17 Deposit Insurance Act, the Secretary of State,
18 the Securities and Exchange Commission, the
19 Commodity Futures Trading Commission, the
20 National Credit Union Administration Board,
21 and in the sole discretion of the Secretary, such
22 other agencies and interested parties as the
23 Secretary may find to be appropriate; and

24 “(B) shall consider—

1 “(i) whether similar action has been
2 or is being taken by other nations or multi-
3 lateral groups;

4 “(ii) whether the imposition of any
5 particular special measure would create a
6 significant competitive disadvantage, in-
7 cluding any undue cost or burden associ-
8 ated with compliance, for financial institu-
9 tions organized or licensed in the United
10 States;

11 “(iii) the extent to which the action or
12 the timing of the action would have a sig-
13 nificant adverse systemic impact on the
14 international payment, clearance, and set-
15 tlement system, or on legitimate business
16 activities involving the particular jurisdic-
17 tion, institution, or class of transactions;
18 and

19 “(iv) the effect of the action on
20 United States national security and foreign
21 policy.

22 “(5) NO LIMITATION ON OTHER AUTHORITY.—
23 This section shall not be construed as superseding or
24 otherwise restricting any other authority granted to

1 the Secretary, or to any other agency, by this sub-
2 chapter or otherwise.

3 “(b) SPECIAL MEASURES.—The special measures re-
4 ferred to in subsection (a), with respect to a jurisdiction
5 outside of the United States, financial institution oper-
6 ating outside of the United States, class of transaction
7 within, or involving, a jurisdiction outside of the United
8 States, or 1 or more types of accounts are as follows:

9 “(1) RECORDKEEPING AND REPORTING OF
10 CERTAIN FINANCIAL TRANSACTIONS.—

11 “(A) IN GENERAL.—The Secretary of the
12 Treasury may require any domestic financial in-
13 stitution or domestic financial agency to main-
14 tain records, file reports, or both, concerning
15 the aggregate amount of transactions, or con-
16 cerning each transaction, with respect to a ju-
17 risdiction outside of the United States, 1 or
18 more financial institutions operating outside of
19 the United States, 1 or more classes of trans-
20 actions within, or involving, a jurisdiction out-
21 side of the United States, or 1 or more types
22 of accounts if the Secretary finds any such ju-
23 risdiction, institution, or class of transactions to
24 be of primary money laundering concern.

1 “(B) FORM OF RECORDS AND REPORTS.—

2 Such records and reports shall be made and re-
3 tained at such time, in such manner, and for
4 such period of time, as the Secretary shall de-
5 termine, and shall include such information as
6 the Secretary may determine, including—

7 “(i) the identity and address of the
8 participants in a transaction or relation-
9 ship, including the identity of the origi-
10 nator of any funds transfer;

11 “(ii) the legal capacity in which a par-
12 ticipant in any transaction is acting;

13 “(iii) the identity of the beneficial
14 owner of the funds involved in any trans-
15 action, in accordance with such procedures
16 as the Secretary determines to be reason-
17 able and practicable to obtain and retain
18 the information; and

19 “(iv) a description of any transaction.

20 “(2) INFORMATION RELATING TO BENEFICIAL
21 OWNERSHIP.—In addition to any other requirement
22 under any other provision of law, the Secretary may
23 require any domestic financial institution or domes-
24 tic financial agency to take such steps as the Sec-
25 retary may determine to be reasonable and prac-

1 ticable to obtain and retain information concerning
2 the beneficial ownership of any account opened or
3 maintained in the United States by a foreign person
4 (other than a foreign entity whose shares are subject
5 to public reporting requirements or are listed and
6 traded on a regulated exchange or trading market),
7 or a representative of such a foreign person, that in-
8 volves a jurisdiction outside of the United States, 1
9 or more financial institutions operating outside of
10 the United States, 1 or more classes of transactions
11 within, or involving, a jurisdiction outside of the
12 United States, or 1 or more types of accounts if the
13 Secretary finds any such jurisdiction, institution, or
14 transaction or type of account to be of primary
15 money laundering concern.

16 “(3) INFORMATION RELATING TO CERTAIN PAY-
17 ABLE-THROUGH ACCOUNTS.—If the Secretary finds
18 a jurisdiction outside of the United States, 1 or
19 more financial institutions operating outside of the
20 United States, or 1 or more classes of transactions
21 within, or involving, a jurisdiction outside of the
22 United States to be of primary money laundering
23 concern, the Secretary may require any domestic fi-
24 nancial institution or domestic financial agency that
25 opens or maintains a payable-through account in the

1 United States for a foreign financial institution in-
2 volving any such jurisdiction or any such financial
3 institution operating outside of the United States, or
4 a payable through account through which any such
5 transaction may be conducted, as a condition of
6 opening or maintaining such account—

7 “(A) to identify each customer (and rep-
8 resentative of such customer) of such financial
9 institution who is permitted to use, or whose
10 transactions are routed through, such payable-
11 through account; and

12 “(B) to obtain, with respect to each such
13 customer (and each such representative), infor-
14 mation that is substantially comparable to that
15 which the depository institution obtains in the
16 ordinary course of business with respect to its
17 customers residing in the United States.

18 “(4) INFORMATION RELATING TO CERTAIN COR-
19 RESPONDENT ACCOUNTS.—If the Secretary finds a
20 jurisdiction outside of the United States, 1 or more
21 financial institutions operating outside of the United
22 States, or 1 or more classes of transactions within,
23 or involving, a jurisdiction outside of the United
24 States to be of primary money laundering concern,
25 the Secretary may require any domestic financial in-

1 stitution or domestic financial agency that opens or
2 maintains a correspondent account in the United
3 States for a foreign financial institution involving
4 any such jurisdiction or any such financial institu-
5 tion operating outside of the United States, or a cor-
6 respondent account through which any such trans-
7 action may be conducted, as a condition of opening
8 or maintaining such account—

9 “(A) to identify each customer (and rep-
10 representative of such customer) of any such finan-
11 cial institution who is permitted to use, or
12 whose transactions are routed through, such
13 correspondent account; and

14 “(B) to obtain, with respect to each such
15 customer (and each such representative), infor-
16 mation that is substantially comparable to that
17 which the depository institution obtains in the
18 ordinary course of business with respect to its
19 customers residing in the United States.

20 “(5) PROHIBITIONS OR CONDITIONS ON OPEN-
21 ING OR MAINTAINING CERTAIN CORRESPONDENT OR
22 PAYABLE-THROUGH ACCOUNTS.—If the Secretary
23 finds a jurisdiction outside of the United States, 1
24 or more financial institutions operating outside of
25 the United States, or 1 or more classes of trans-

1 actions within, or involving, a jurisdiction outside of
2 the United States to be of primary money laun-
3 dering concern, the Secretary, in consultation with
4 the Secretary of State, the Attorney General, and
5 the Chairman of the Board of Governors of the Fed-
6 eral Reserve System, may prohibit, or impose condi-
7 tions upon, the opening or maintaining in the United
8 States of a correspondent account or payable-
9 through account by any domestic financial institu-
10 tion or domestic financial agency for or on behalf of
11 a foreign banking institution, if such correspondent
12 account or payable-through account involves any
13 such jurisdiction or institution, or if any such trans-
14 action may be conducted through such cor-
15 respondent account or payable-through account.

16 “(c) CONSULTATIONS AND INFORMATION TO BE
17 CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,
18 TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRI-
19 MARY MONEY LAUNDERING CONCERN.—

20 “(1) IN GENERAL.—In making a finding that
21 reasonable grounds exist for concluding that a juris-
22 diction outside of the United States, 1 or more fi-
23 nancial institutions operating outside of the United
24 States, 1 or more classes of transactions within, or
25 involving, a jurisdiction outside of the United States,

1 or 1 or more types of accounts is of primary money
2 laundering concern so as to authorize the Secretary
3 of the Treasury to take 1 or more of the special
4 measures described in subsection (b), the Secretary
5 shall consult with the Secretary of State and the At-
6 torney General.

7 “(2) ADDITIONAL CONSIDERATIONS.—In mak-
8 ing a finding described in paragraph (1), the Sec-
9 retary shall consider in addition such information as
10 the Secretary determines to be relevant, including
11 the following potentially relevant factors:

12 “(A) JURISDICTIONAL FACTORS.—In the
13 case of a particular jurisdiction—

14 “(i) evidence that organized criminal
15 groups, international terrorists, or both,
16 have transacted business in that jurisdic-
17 tion;

18 “(ii) the extent to which that jurisdic-
19 tion or financial institutions operating in
20 that jurisdiction offer bank secrecy or spe-
21 cial regulatory advantages to nonresidents
22 or nondomiciliaries of that jurisdiction;

23 “(iii) the substance and quality of ad-
24 ministration of the bank supervisory and

1 counter-money laundering laws of that ju-
2 risdiction;

3 “(iv) the relationship between the vol-
4 ume of financial transactions occurring in
5 that jurisdiction and the size of the econ-
6 omy of the jurisdiction;

7 “(v) the extent to which that jurisdic-
8 tion is characterized as an offshore bank-
9 ing or secrecy haven by credible inter-
10 national organizations or multilateral ex-
11 pert groups;

12 “(vi) whether the United States has a
13 mutual legal assistance treaty with that ju-
14 risdiction, and the experience of United
15 States law enforcement officials and regu-
16 latory officials in obtaining information
17 about transactions originating in or routed
18 through or to such jurisdiction; and

19 “(vii) the extent to which that jurisdic-
20 tion is characterized by high levels of of-
21 ficial or institutional corruption.

22 “(B) INSTITUTIONAL FACTORS.—In the
23 case of a decision to apply 1 or more of the spe-
24 cial measures described in subsection (b) only
25 to a financial institution or institutions, or to a

1 transaction or class of transactions, or to a type
2 of account, or to all 3, within or involving a
3 particular jurisdiction—

4 “(i) the extent to which such financial
5 institutions, transactions, or types of ac-
6 counts are used to facilitate or promote
7 money laundering in or through the juris-
8 diction;

9 “(ii) the extent to which such institu-
10 tions, transactions, or types of accounts
11 are used for legitimate business purposes
12 in the jurisdiction; and

13 “(iii) the extent to which such action
14 is sufficient to ensure, with respect to
15 transactions involving the jurisdiction and
16 institutions operating in the jurisdiction,
17 that the purposes of this subchapter con-
18 tinue to be fulfilled, and to guard against
19 international money laundering and other
20 financial crimes.

21 “(d) NOTIFICATION OF SPECIAL MEASURES IN-
22 VOKED BY THE SECRETARY.—Not later than 10 days
23 after the date of any action taken by the Secretary of the
24 Treasury under subsection (a)(1), the Secretary shall no-
25 tify, in writing, the Committee on Financial Services of

1 the House of Representatives and the Committee on
2 Banking, Housing, and Urban Affairs of the Senate of any
3 such action.

4 “(e) DEFINITIONS.—Notwithstanding any other pro-
5 vision of this subchapter, for purposes of this section and
6 subsections (i) and (j) of section 5318, the following defi-
7 nitions shall apply:

8 “(1) BANK DEFINITIONS.—The following defini-
9 tions shall apply with respect to a bank:

10 “(A) ACCOUNT.—The term ‘account’—

11 “(i) means a formal banking or busi-
12 ness relationship established to provide
13 regular services, dealings, and other finan-
14 cial transactions; and

15 “(ii) includes a demand deposit, sav-
16 ings deposit, or other transaction or asset
17 account and a credit account or other ex-
18 tension of credit.

19 “(B) CORRESPONDENT ACCOUNT.—The
20 term ‘correspondent account’ means an account
21 established to receive deposits from, make pay-
22 ments on behalf of a foreign financial institu-
23 tion, or handle other financial transactions re-
24 lated to such institution.

1 “(C) PAYABLE-THROUGH ACCOUNT.—The
2 term ‘payable-through account’ means an ac-
3 count, including a transaction account (as de-
4 fined in section 19(b)(1)(C) of the Federal Re-
5 serve Act), opened at a depository institution by
6 a foreign financial institution by means of
7 which the foreign financial institution permits
8 its customers to engage, either directly or
9 through a subaccount, in banking activities
10 usual in connection with the business of bank-
11 ing in the United States.

12 “(2) DEFINITIONS APPLICABLE TO INSTITU-
13 TIONS OTHER THAN BANKS.—With respect to any fi-
14 nancial institution other than a bank, the Secretary
15 shall, after consultation with the appropriate Fed-
16 eral functional regulators (as defined in section 509
17 of the Gramm-Leach-Bliley Act), define by regula-
18 tion the term ‘account’, and shall include within the
19 meaning of that term, to the extent, if any, that the
20 Secretary deems appropriate, arrangements similar
21 to payable-through and correspondent accounts.

22 “(3) REGULATORY DEFINITION OF BENEFICIAL
23 OWNERSHIP.—The Secretary shall promulgate regu-
24 lations defining beneficial ownership of an account
25 for purposes of this section and subsections (i) and

1 (j) of section 5318. Such regulations shall address
2 issues related to an individual’s authority to fund,
3 direct, or manage the account (including, without
4 limitation, the power to direct payments into or out
5 of the account), and an individual’s material interest
6 in the income or corpus of the account, and shall en-
7 sure that the identification of individuals under this
8 section does not extend to any individual whose ben-
9 efiticial interest in the income or corpus of the ac-
10 count is immaterial.”.

11 “(4) OTHER TERMS.—The Secretary may, by
12 regulation, further define the terms in paragraphs
13 (1), (2), and (3), and define other terms for the pur-
14 poses of this section, as the Secretary deems appro-
15 priate.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for subchapter II of chapter 53 of title 31, United States
18 Code, is amended by inserting after the item relating to
19 section 5318 the following new item:

“5318A. Special measures for jurisdictions, financial institutions, or inter-
national transactions of primary money laundering concern.”.

1 **SEC. 312. SPECIAL DUE DILIGENCE FOR CORRESPONDENT**
2 **ACCOUNTS AND PRIVATE BANKING AC-**
3 **COUNTS.**

4 (a) IN GENERAL.—Section 5318 of title 31, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 “(i) DUE DILIGENCE FOR UNITED STATES PRIVATE
8 BANKING AND CORRESPONDENT BANK ACCOUNTS IN-
9 VOLVING FOREIGN PERSONS.—

10 “(1) IN GENERAL.—Each financial institution
11 that establishes, maintains, administers, or manages
12 a private banking account or a correspondent ac-
13 count in the United States for a non-United States
14 person, including a foreign individual visiting the
15 United States, or a representative of a non-United
16 States person shall establish appropriate, specific,
17 and, where necessary, enhanced, due diligence poli-
18 cies, procedures, and controls that are reasonably
19 designed to detect and report instances of money
20 laundering through those accounts.

21 “(2) ADDITIONAL STANDARDS FOR CERTAIN
22 CORRESPONDENT ACCOUNTS.—

23 “(A) IN GENERAL.—Subparagraph (B)
24 shall apply if a correspondent account is re-
25 quested or maintained by, or on behalf of, a
26 foreign bank operating—

1 “(i) under an offshore banking li-
2 cense; or

3 “(ii) under a banking license issued
4 by a foreign country that has been
5 designated—

6 “(I) as noncooperative with inter-
7 national anti-money laundering prin-
8 ciples or procedures by an intergov-
9 ernmental group or organization of
10 which the United States is a member,
11 with which designation the United
12 States representative to the group or
13 organization concurs; or

14 “(II) by the Secretary of the
15 Treasury as warranting special meas-
16 ures due to money laundering con-
17 cerns.

18 “(B) POLICIES, PROCEDURES, AND CON-
19 TROLS.—The enhanced due diligence policies,
20 procedures, and controls required under para-
21 graph (1) shall, at a minimum, ensure that the
22 financial institution in the United States takes
23 reasonable steps—

24 “(i) to ascertain for any such foreign
25 bank, the shares of which are not publicly

1 traded, the identity of each of the owners
2 of the foreign bank, and the nature and
3 extent of the ownership interest of each
4 such owner;

5 “(ii) to conduct enhanced scrutiny of
6 such account to guard against money laun-
7 dering and report any suspicious trans-
8 actions under subsection (g); and

9 “(iii) to ascertain whether such for-
10 eign bank provides correspondent accounts
11 to other foreign banks and, if so, the iden-
12 tity of those foreign banks and related due
13 diligence information, as appropriate under
14 paragraph (1).

15 “(3) MINIMUM STANDARDS FOR PRIVATE BANK-
16 ING ACCOUNTS.—If a private banking account is re-
17 quested or maintained by, or on behalf of, a non-
18 United States person, then the due diligence policies,
19 procedures, and controls required under paragraph
20 (1) shall, at a minimum, ensure that the financial
21 institution takes reasonable steps—

22 “(A) to ascertain the identity of the nomi-
23 nal and beneficial owners of, and the source of
24 funds deposited into, such account as needed to
25 guard against money laundering and report any

1 suspicious transactions under subsection (g);
2 and

3 “(B) to conduct enhanced scrutiny of any
4 such account that is requested or maintained
5 by, or on behalf of, a senior foreign political fig-
6 ure, or any immediate family member or close
7 associate of a senior foreign political figure that
8 is reasonably designed to detect and report
9 transactions that may involve the proceeds of
10 foreign corruption.

11 “(4) DEFINITION.—For purposes of this sub-
12 section, the following definitions shall apply:

13 “(A) OFFSHORE BANKING LICENSE.—The
14 term ‘offshore banking license’ means a license
15 to conduct banking activities which, as a condi-
16 tion of the license, prohibits the licensed entity
17 from conducting banking activities with the citi-
18 zens of, or with the local currency of, the coun-
19 try which issued the license.”.

20 “(B) PRIVATE BANKING ACCOUNT.—The
21 term ‘private banking account’ means an ac-
22 count (or any combination of accounts) that—

23 “(i) requires a minimum aggregate
24 deposits of funds or other assets of not less
25 than \$1,000,000;

1 “(ii) is established on behalf of 1 or
2 more individuals who have a direct or ben-
3 eficial ownership interest in the account;
4 and

5 “(iii) is assigned to, or is administered
6 or managed by, in whole or in part, an of-
7 ficer, employee, or agent of a financial in-
8 stitution acting as a liaison between the fi-
9 nancial institution and the direct or bene-
10 ficial owner of the account.”.

11 (b) REGULATORY AUTHORITY AND EFFECTIVE
12 DATE.—

13 (1) REGULATORY AUTHORITY.—Not later than
14 180 days after the date of enactment of this Act, the
15 Secretary, in consultation with the appropriate Fed-
16 eral functional regulators (as defined in section 509
17 of the Gramm-Leach-Bliley Act) of the affected fi-
18 nancial institutions, shall further delineate, by regu-
19 lation, the due diligence policies, procedures, and
20 controls required under section 5318(i)(1) of title
21 31, United States Code, as added by this section.

22 (2) EFFECTIVE DATE.—Section 5318(i) of title
23 31, United States Code, as added by this section,
24 shall take effect 270 days after the date of enact-
25 ment of this Act, whether or not final regulations

1 are issued under paragraph (1), and the failure to
2 issue such regulations shall in no way affect the en-
3 forceability of this section or the amendments made
4 by this section. Section 5318(i) of title 31, United
5 States Code, as added by this section, shall apply
6 with respect to accounts covered by that section
7 5318(i), that are opened before, on, or after the date
8 of enactment of this Act.

9 **SEC. 313. PROHIBITION ON UNITED STATES COR-**
10 **RESPONDENT ACCOUNTS WITH FOREIGN**
11 **SHELL BANKS.**

12 (a) IN GENERAL.—Section 5318 of title 31, United
13 States Code, as amended by this title, is amended by add-
14 ing at the end the following:

15 “(j) PROHIBITION ON UNITED STATES COR-
16 RESPONDENT ACCOUNTS WITH FOREIGN SHELL
17 BANKS.—

18 “(1) IN GENERAL.—A financial institution de-
19 scribed in subparagraphs (A) through (G) of section
20 5312(a)(2) (in this subsection referred to as a ‘cov-
21 ered financial institution’) shall not establish, main-
22 tain, administer, or manage a correspondent account
23 in the United States for, or on behalf of, a foreign
24 bank that does not have a physical presence in any
25 country.

1 “(2) PREVENTION OF INDIRECT SERVICE TO
2 FOREIGN SHELL BANKS.—A covered financial insti-
3 tution shall take reasonable steps to ensure that any
4 correspondent account established, maintained, ad-
5 ministered, or managed by that covered financial in-
6 stitution in the United States for a foreign bank is
7 not being used by that foreign bank to indirectly
8 provide banking services to another foreign bank
9 that does not have a physical presence in any coun-
10 try. The Secretary of the Treasury shall, by regula-
11 tion, delineate the reasonable steps necessary to
12 comply with this paragraph.

13 “(3) EXCEPTION.—Paragraphs (1) and (2) do
14 not prohibit a covered financial institution from pro-
15 viding a correspondent account to a foreign bank, if
16 the foreign bank—

17 “(A) is an affiliate of a depository institu-
18 tion, credit union, or foreign bank that main-
19 tains a physical presence in the United States
20 or a foreign country, as applicable; and

21 “(B) is subject to supervision by a banking
22 authority in the country regulating the affili-
23 ated depository institution, credit union, or for-
24 eign bank described in subparagraph (A), as
25 applicable.

1 “(4) DEFINITIONS.—For purposes of this
2 subsection—

3 “(A) the term ‘affiliate’ means a foreign
4 bank that is controlled by or is under common
5 control with a depository institution, credit
6 union, or foreign bank; and

7 “(B) the term ‘physical presence’ means a
8 place of business that—

9 “(i) is maintained by a foreign bank;

10 “(ii) is located at a fixed address
11 (other than solely an electronic address) in
12 a country in which the foreign bank is au-
13 thorized to conduct banking activities, at
14 which location the foreign bank—

15 “(I) employs 1 or more individ-
16 uals on a full-time basis; and

17 “(II) maintains operating records
18 related to its banking activities; and

19 “(iii) is subject to inspection by the
20 banking authority which licensed the for-
21 eign bank to conduct banking activities.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect at the end of the 60-day
24 period beginning on the date of enactment of this Act.

1 **SEC. 314. COOPERATIVE EFFORTS TO DETER MONEY LAUN-**
2 **DERING.**

3 (a) COOPERATION AMONG FINANCIAL INSTITUTIONS,
4 REGULATORY AUTHORITIES, AND LAW ENFORCEMENT
5 AUTHORITIES.—

6 (1) REGULATIONS.—The Secretary shall, within
7 120 days after the date of enactment of this Act,
8 adopt regulations to encourage further cooperation
9 among financial institutions, their regulatory au-
10 thorities, and law enforcement authorities, with the
11 specific purpose of encouraging regulatory authori-
12 ties and law enforcement authorities to share with
13 financial institutions information regarding individ-
14 uals, entities, and organizations engaged in or rea-
15 sonably suspected based on credible evidence of en-
16 gaging in terrorist acts or money laundering activi-
17 ties.

18 (2) COOPERATION AND INFORMATION SHARING
19 PROCEDURES.—The regulations adopted under para-
20 graph (1) may include or create procedures for co-
21 operation and information sharing focusing on—

22 (A) matters specifically related to the fi-
23 nances of terrorist groups, the means by which
24 terrorist groups transfer funds around the
25 world and within the United States, including
26 through the use of charitable organizations,

1 nonprofit organizations, and nongovernmental
2 organizations, and the extent to which financial
3 institutions in the United States are unwittingly
4 involved in such finances and the extent to
5 which such institutions are at risk as a result;

6 (B) the relationship, particularly the finan-
7 cial relationship, between international narcotics
8 traffickers and foreign terrorist organizations,
9 the extent to which their memberships overlap
10 and engage in joint activities, and the extent to
11 which they cooperate with each other in raising
12 and transferring funds for their respective pur-
13 poses; and

14 (C) means of facilitating the identification
15 of accounts and transactions involving terrorist
16 groups and facilitating the exchange of informa-
17 tion concerning such accounts and transactions
18 between financial institutions and law enforce-
19 ment organizations.

20 (3) CONTENTS.—The regulations adopted pur-
21 suant to paragraph (1) may—

22 (A) require that each financial institution
23 designate 1 or more persons to receive informa-
24 tion concerning, and to monitor accounts of in-

1 dividuals, entities, and organizations identified,
2 pursuant to paragraph (1); and

3 (B) further establish procedures for the
4 protection of the shared information, consistent
5 with the capacity, size, and nature of the insti-
6 tution to which the particular procedures apply.

7 (4) RULE OF CONSTRUCTION.—The receipt of
8 information by a financial institution pursuant to
9 this section shall not relieve or otherwise modify the
10 obligations of the financial institution with respect
11 to any other person or account.

12 (5) USE OF INFORMATION.—Information re-
13 ceived by a financial institution pursuant to this sec-
14 tion shall not be used for any purpose other than
15 identifying and reporting on activities that may in-
16 volve terrorist acts or money laundering activities.

17 (b) COOPERATION AMONG FINANCIAL INSTITU-
18 TIONS.—Upon notice provided to the Secretary, 2 or more
19 financial institutions and any association of financial insti-
20 tutions may share information with one another regarding
21 individuals, entities, organizations, and countries sus-
22 pected of possible terrorist or money laundering activities.
23 A financial institution or association that transmits, re-
24 ceives, or shares such information for the purposes of
25 identifying and reporting activities that may involve ter-

1 rorist acts or money laundering activities shall not be lia-
2 ble to any person under any law or regulation of the
3 United States, any constitution, law, or regulation of any
4 State or political subdivision thereof, or under any con-
5 tract or other legally enforceable agreement (including any
6 arbitration agreement), for such disclosure or for any fail-
7 ure to provide notice of such disclosure to the person who
8 is the subject of such disclosure, or any other person iden-
9 tified in the disclosure, except where such transmission,
10 receipt, or sharing violates this section or regulations pro-
11 mulgated pursuant to this section.

12 (c) RULE OF CONSTRUCTION.—Compliance with the
13 provisions of this title requiring or allowing financial insti-
14 tutions and any association of financial institutions to dis-
15 close or share information regarding individuals, entities,
16 and organizations engaged in or suspected of engaging in
17 terrorist acts or money laundering activities shall not con-
18 stitute a violation of the provisions of title V of the
19 Gramm-Leach-Bliley Act (Public Law 106–102).

20 (d) REPORTS TO THE FINANCIAL SERVICES INDUS-
21 TRY ON SUSPICIOUS FINANCIAL ACTIVITIES.—At least
22 semiannually, the Secretary shall—

23 (1) publish a report containing a detailed anal-
24 ysis identifying patterns of suspicious activity and
25 other investigative insights derived from suspicious

1 activity reports and investigations conducted by Fed-
2 eral, State, and local law enforcement agencies to
3 the extent appropriate; and

4 (2) distribute such report to financial institu-
5 tions (as defined in section 5312 of title 31, United
6 States Code).

7 **SEC. 315. INCLUSION OF FOREIGN CORRUPTION OFFENSES**
8 **AS MONEY LAUNDERING CRIMES.**

9 Section 1956(c)(7) of title 18, United States Code,
10 is amended—

11 (1) in subparagraph (B)—

12 (A) in clause (ii), by striking “or destruc-
13 tion of property by means of explosive or fire”
14 and inserting “destruction of property by means
15 of explosive or fire, or a crime of violence (as
16 defined in section 16)”;

17 (B) in clause (iii), by striking “1978” and
18 inserting “1978”;

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

20 “(iv) bribery of a public official, or
21 the misappropriation, theft, or embezzle-
22 ment of public funds by or for the benefit
23 of a public official;

24 “(v) smuggling or export control viola-
25 tions involving—

1 “(I) an item controlled on the
2 United States Munitions List estab-
3 lished under section 38 of the Arms
4 Export Control Act (22 U.S.C. 2778);
5 or

6 “(II) an item controlled under
7 regulations under the Export Admin-
8 istration Regulations (15 C.F.R.
9 Parts 730–774); or

10 “(vi) an offense with respect to which
11 the United States would be obligated by a
12 multilateral treaty, either to extradite the
13 alleged offender or to submit the case for
14 prosecution, if the offender were found
15 within the territory of the United States;”;
16 and

17 (2) in subparagraph (D)—

18 (A) by inserting “section 541 (relating to
19 goods falsely classified),” before “section 542”;

20 (B) by inserting “section 922(1) (relating
21 to the unlawful importation of firearms), sec-
22 tion 924(n) (relating to firearms trafficking),”
23 before “section 956”;

1 (C) by inserting “section 1030 (relating to
2 computer fraud and abuse),” before “1032”;
3 and

4 (D) by inserting “any felony violation of
5 the Foreign Agents Registration Act of 1938,”
6 before “or any felony violation of the Foreign
7 Corrupt Practices Act”.

8 **SEC. 316. ANTI-TERRORIST FORFEITURE PROTECTION.**

9 (a) **RIGHT TO CONTEST.**—An owner of property that
10 is confiscated under any provision of law relating to the
11 confiscation of assets of suspected international terrorists,
12 may contest that confiscation by filing a claim in the man-
13 ner set forth in the Federal Rules of Civil Procedure (Sup-
14 plemental Rules for Certain Admiralty and Maritime
15 Claims), and asserting as an affirmative defense that—

16 (1) the property is not subject to confiscation
17 under such provision of law; or

18 (2) the innocent owner provisions of section
19 983(d) of title 18, United States Code, apply to the
20 case.

21 (b) **EVIDENCE.**—In considering a claim filed under
22 this section, a court may admit evidence that is otherwise
23 inadmissible under the Federal Rules of Evidence, if the
24 court determines that the evidence is reliable, and that

1 compliance with the Federal Rules of Evidence may jeop-
2 ardize the national security interests of the United States.

3 (c) CLARIFICATIONS.—

4 (1) PROTECTION OF RIGHTS.—The exclusion of
5 certain provisions of Federal law from the definition
6 of the term “civil forfeiture statute” in section
7 983(i) of title 18, United States Code, shall not be
8 construed to deny an owner of property the right to
9 contest the confiscation of assets of suspected inter-
10 national terrorists under—

11 (A) subsection (a) of this section;

12 (B) the Constitution; or

13 (C) subchapter II of chapter 5 of title 5,
14 United States Code (commonly known as the
15 “Administrative Procedure Act”).

16 (2) SAVINGS CLAUSE.—Nothing in this section
17 shall limit or otherwise affect any other remedies
18 that may be available to an owner of property under
19 section 983 of title 18, United States Code, or any
20 other provision of law.

21 (d) TECHNICAL CORRECTION.—Section 983(i)(2)(D)
22 of title 18, United States Code, is amended by inserting
23 “or the International Emergency Economic Powers Act
24 (IEEPA) (50 U.S.C. 1701 et seq.)” before the semicolon.

1 **SEC. 317. LONG-ARM JURISDICTION OVER FOREIGN MONEY**
2 **LAUNDERERS.**

3 Section 1956(b) of title 18, United States Code, is
4 amended—

5 (1) by redesignating paragraphs (1) and (2) as
6 subparagraphs (A) and (B), respectively, and mov-
7 ing the margins 2 ems to the right;

8 (2) by inserting after “(b)” the following:

9 “PENALTIES.—

10 “(1) IN GENERAL.—”;

11 (3) by inserting “, or section 1957” after “or
12 (a)(3)”; and

13 (4) by adding at the end the following:

14 “(2) JURISDICTION OVER FOREIGN PERSONS.—

15 For purposes of adjudicating an action filed or en-
16 forcing a penalty ordered under this section, the dis-
17 trict courts shall have jurisdiction over any foreign
18 person, including any financial institution authorized
19 under the laws of a foreign country, against whom
20 the action is brought, if service of process upon the
21 foreign person is made under the Federal Rules of
22 Civil Procedure or the laws of the country in which
23 the foreign person is found, and—

24 “(A) the foreign person commits an offense
25 under subsection (a) involving a financial trans-

1 action that occurs in whole or in part in the
2 United States;

3 “(B) the foreign person converts, to his or
4 her own use, property in which the United
5 States has an ownership interest by virtue of
6 the entry of an order of forfeiture by a court
7 of the United States; or

8 “(C) the foreign person is a financial insti-
9 tution that maintains a bank account at a fi-
10 nancial institution in the United States.

11 “(3) COURT AUTHORITY OVER ASSETS.—A
12 court described in paragraph (2) may issue a pre-
13 trial restraining order or take any other action nec-
14 essary to ensure that any bank account or other
15 property held by the defendant in the United States
16 is available to satisfy a judgment under this section.

17 “(4) FEDERAL RECEIVER.—

18 “(A) IN GENERAL.—A court described in
19 paragraph (2) may appoint a Federal Receiver,
20 in accordance with subparagraph (B) of this
21 paragraph, to collect, marshal, and take cus-
22 tody, control, and possession of all assets of the
23 defendant, wherever located, to satisfy a civil
24 judgment under this subsection, a forfeiture
25 judgment under section 981 or 982, or a crimi-

1 nal sentence under section 1957 or subsection
2 (a) of this section, including an order of restitu-
3 tion to any victim of a specified unlawful activ-
4 ity.

5 “(B) APPOINTMENT AND AUTHORITY.—A
6 Federal Receiver described in subparagraph
7 (A)—

8 “(i) may be appointed upon applica-
9 tion of a Federal prosecutor or a Federal
10 or State regulator, by the court having ju-
11 risdiction over the defendant in the case;

12 “(ii) shall be an officer of the court,
13 and the powers of the Federal Receiver
14 shall include the powers set out in section
15 754 of title 28, United States Code; and

16 “(iii) shall have standing equivalent to
17 that of a Federal prosecutor for the pur-
18 pose of submitting requests to obtain infor-
19 mation regarding the assets of the
20 defendant—

21 “(I) from the Financial Crimes
22 Enforcement Network of the Depart-
23 ment of the Treasury; or

24 “(II) from a foreign country pur-
25 suant to a mutual legal assistance

1 treaty, multilateral agreement, or
2 other arrangement for international
3 law enforcement assistance, provided
4 that such requests are in accordance
5 with the policies and procedures of the
6 Attorney General.”.

7 **SEC. 318. LAUNDERING MONEY THROUGH A FOREIGN**
8 **BANK.**

9 Section 1956(c) of title 18, United States Code, is
10 amended by striking paragraph (6) and inserting the fol-
11 lowing:

12 “(6) the term ‘financial institution’ includes—

13 “(A) any financial institution, as defined in
14 section 5312(a)(2) of title 31, United States
15 Code, or the regulations promulgated there-
16 under; and

17 “(B) any foreign bank, as defined in sec-
18 tion 1 of the International Banking Act of 1978
19 (12 U.S.C. 3101).”.

20 **SEC. 319. FORFEITURE OF FUNDS IN UNITED STATES**
21 **INTERBANK ACCOUNTS.**

22 (a) FORFEITURE FROM UNITED STATES INTERBANK
23 ACCOUNT.—Section 981 of title 18, United States Code,
24 is amended by adding at the end the following:

25 “(k) INTERBANK ACCOUNTS.—

1 “(1) IN GENERAL.—

2 “(A) IN GENERAL.—For the purpose of a
3 forfeiture under this section or under the Con-
4 trolled Substances Act (21 U.S.C. 801 et seq.),
5 if funds are deposited into an account at a for-
6 eign bank, and that foreign bank has an inter-
7 bank account in the United States with a cov-
8 ered financial institution (as defined in section
9 5318(j)(1) of title 31), the funds shall be
10 deemed to have been deposited into the inter-
11 bank account in the United States, and any re-
12 straining order, seizure warrant, or arrest war-
13 rant in rem regarding the funds may be served
14 on the covered financial institution, and funds
15 in the interbank account, up to the value of the
16 funds deposited into the account at the foreign
17 bank, may be restrained, seized, or arrested.

18 “(B) AUTHORITY TO SUSPEND.—The At-
19 torney General, in consultation with the Sec-
20 retary of the Treasury, may suspend or termi-
21 nate a forfeiture under this section if the Attor-
22 ney General determines that a conflict of law
23 exists between the laws of the jurisdiction in
24 which the foreign bank is located and the laws
25 of the United States with respect to liabilities

1 arising from the restraint, seizure, or arrest of
2 such funds, and that such suspension or termi-
3 nation would be in the interest of justice and
4 would not harm the national interests of the
5 United States.

6 “(2) NO REQUIREMENT FOR GOVERNMENT TO
7 TRACE FUNDS.—If a forfeiture action is brought
8 against funds that are restrained, seized, or arrested
9 under paragraph (1), it shall not be necessary for
10 the Government to establish that the funds are di-
11 rectly traceable to the funds that were deposited into
12 the foreign bank, nor shall it be necessary for the
13 Government to rely on the application of section
14 984.

15 “(3) CLAIMS BROUGHT BY OWNER OF THE
16 FUNDS.—If a forfeiture action is instituted against
17 funds restrained, seized, or arrested under para-
18 graph (1), the owner of the funds deposited into the
19 account at the foreign bank may contest the for-
20 feiture by filing a claim under section 983.

21 “(4) DEFINITIONS.—For purposes of this sub-
22 section, the following definitions shall apply:

23 “(A) INTERBANK ACCOUNT.—The term
24 ‘interbank account’ has the same meaning as in
25 section 984(c)(2)(B).

1 “(B) OWNER.—

2 “(i) IN GENERAL.—Except as pro-
3 vided in clause (ii), the term ‘owner’—

4 “(I) means the person who was
5 the owner, as that term is defined in
6 section 983(d)(6), of the funds that
7 were deposited into the foreign bank
8 at the time such funds were deposited;
9 and

10 “(II) does not include either the
11 foreign bank or any financial institu-
12 tion acting as an intermediary in the
13 transfer of the funds into the inter-
14 bank account.

15 “(ii) EXCEPTION.—The foreign bank
16 may be considered the ‘owner’ of the funds
17 (and no other person shall qualify as the
18 owner of such funds) only if—

19 “(I) the basis for the forfeiture
20 action is wrongdoing committed by
21 the foreign bank; or

22 “(II) the foreign bank estab-
23 lishes, by a preponderance of the evi-
24 dence, that prior to the restraint, sei-
25 zure, or arrest of the funds, the for-

1 eign bank had discharged all or part
2 of its obligation to the prior owner of
3 the funds, in which case the foreign
4 bank shall be deemed the owner of the
5 funds to the extent of such discharged
6 obligation.”.

7 (b) BANK RECORDS.—Section 5318 of title 31,
8 United States Code, as amended by this title, is amended
9 by adding at the end the following:

10 “(k) BANK RECORDS RELATED TO ANTI-MONEY
11 LAUNDERING PROGRAMS.—

12 “(1) DEFINITIONS.—For purposes of this sub-
13 section, the following definitions shall apply:

14 “(A) APPROPRIATE FEDERAL BANKING
15 AGENCY.—The term ‘appropriate Federal bank-
16 ing agency’ has the same meaning as in section
17 3 of the Federal Deposit Insurance Act (12
18 U.S.C. 1813).

19 “(B) INCORPORATED TERM.—The term
20 ‘correspondent account’ has the same meaning
21 as in section 5318A(f)(1)(B).

22 “(2) 120-HOUR RULE.—Not later than 120
23 hours after receiving a request by an appropriate
24 Federal banking agency for information related to
25 anti-money laundering compliance by a covered fi-

1 nancial institution or a customer of such institution,
2 a covered financial institution shall provide to the
3 appropriate Federal banking agency, or make avail-
4 able at a location specified by the representative of
5 the appropriate Federal banking agency, information
6 and account documentation for any account opened,
7 maintained, administered or managed in the United
8 States by the covered financial institution.

9 “(3) FOREIGN BANK RECORDS.—

10 “(A) SUMMONS OR SUBPOENA OF
11 RECORDS.—

12 “(i) IN GENERAL.—The Secretary of
13 the Treasury or the Attorney General may
14 issue a summons or subpoena to any for-
15 eign bank that maintains a correspondent
16 account in the United States and request
17 records related to such correspondent ac-
18 count, including records maintained out-
19 side of the United States relating to the
20 deposit of funds into the foreign bank.

21 “(ii) SERVICE OF SUMMONS OR SUB-
22 POENA.—A summons or subpoena referred
23 to in clause (i) may be served on the for-
24 eign bank in the United States if the for-
25 eign bank has a representative in the

1 United States, or in a foreign country pur-
2 suant to any mutual legal assistance trea-
3 ty, multilateral agreement, or other request
4 for international law enforcement assist-
5 ance.

6 “(B) ACCEPTANCE OF SERVICE.—

7 “(i) MAINTAINING RECORDS IN THE
8 UNITED STATES.—Any covered financial
9 institution which maintains a cor-
10 respondent account in the United States
11 for a foreign bank shall maintain records
12 in the United States identifying the owners
13 of such foreign bank and the name and ad-
14 dress of a person who resides in the United
15 States and is authorized to accept service
16 of legal process for records regarding the
17 correspondent account.

18 “(ii) LAW ENFORCEMENT REQUEST.—

19 Upon receipt of a written request from a
20 Federal law enforcement officer for infor-
21 mation required to be maintained under
22 this paragraph, the covered financial insti-
23 tution shall provide the information to the
24 requesting officer not later than 7 days
25 after receipt of the request.

1 “(C) TERMINATION OF CORRESPONDENT
2 RELATIONSHIP.—

3 “(i) TERMINATION UPON RECEIPT OF
4 NOTICE.—A covered financial institution
5 shall terminate any correspondent relation-
6 ship with a foreign bank not later than 10
7 business days after receipt of written no-
8 tice from the Secretary or the Attorney
9 General (in each case, after consultation
10 with the other) that the foreign bank has
11 failed—

12 “(I) to comply with a summons
13 or subpoena issued under subpara-
14 graph (A); or

15 “(II) to initiate proceedings in a
16 United States court contesting such
17 summons or subpoena.

18 “(ii) LIMITATION ON LIABILITY.—A
19 covered financial institution shall not be
20 liable to any person in any court or arbi-
21 tration proceeding for terminating a cor-
22 respondent relationship in accordance with
23 this subsection.

24 “(iii) FAILURE TO TERMINATE RELA-
25 TIONSHIP.—Failure to terminate a cor-

1 respondent relationship in accordance with
2 this subsection shall render the covered fi-
3 nancial institution liable for a civil penalty
4 of up to \$10,000 per day until the cor-
5 respondent relationship is so terminated.”.

6 (c) GRACE PERIOD.—Financial institutions shall
7 have 60 days from the date of enactment of this Act to
8 comply with the provisions of section 5318(k) of title 31,
9 United States Code, as added by this section.

10 (d) AUTHORITY TO ORDER CONVICTED CRIMINAL
11 TO RETURN PROPERTY LOCATED ABROAD.—

12 (1) FORFEITURE OF SUBSTITUTE PROPERTY.—
13 Section 413(p) of the Controlled Substances Act (21
14 U.S.C. 853) is amended to read as follows:

15 “(p) FORFEITURE OF SUBSTITUTE PROPERTY.—

16 “(1) IN GENERAL.—Paragraph (2) of this sub-
17 section shall apply, if any property described in sub-
18 section (a), as a result of any act or omission of the
19 defendant—

20 “(A) cannot be located upon the exercise of
21 due diligence;

22 “(B) has been transferred or sold to, or
23 deposited with, a third party;

24 “(C) has been placed beyond the jurisdic-
25 tion of the court;

1 “(D) has been substantially diminished in
2 value; or

3 “(E) has been commingled with other
4 property which cannot be divided without dif-
5 ficulty.

6 “(2) SUBSTITUTE PROPERTY.—In any case de-
7 scribed in any of subparagraphs (A) through (E) of
8 paragraph (1), the court shall order the forfeiture of
9 any other property of the defendant, up to the value
10 of any property described in subparagraphs (A)
11 through (E) of paragraph (1), as applicable.

12 “(3) RETURN OF PROPERTY TO JURISDIC-
13 TION.—In the case of property described in para-
14 graph (1)(C), the court may, in addition to any
15 other action authorized by this subsection, order the
16 defendant to return the property to the jurisdiction
17 of the court so that the property may be seized and
18 forfeited.”.

19 “(2) PROTECTIVE ORDERS.—Section 413(e) of
20 the Controlled Substances Act (21 U.S.C. 853(e)) is
21 amended by adding at the end the following:

22 “(4) ORDER TO REPATRIATE AND DEPOSIT.—

23 “(A) IN GENERAL.—Pursuant to its au-
24 thority to enter a pretrial restraining order
25 under this section, the court may order a de-

1 fendant to repatriate any property that may be
2 seized and forfeited, and to deposit that prop-
3 erty pending trial in the registry of the court,
4 or with the United States Marshals Service or
5 the Secretary of the Treasury, in an interest-
6 bearing account, if appropriate.

7 “(B) FAILURE TO COMPLY.—Failure to
8 comply with an order under this subsection, or
9 an order to repatriate property under sub-
10 section (p), shall be punishable as a civil or
11 criminal contempt of court, and may also result
12 in an enhancement of the sentence of the de-
13 fendant under the obstruction of justice provi-
14 sion of the Federal Sentencing Guidelines.”.

15 **SEC. 320. PROCEEDS OF FOREIGN CRIMES.**

16 Section 981(a)(1)(B) of title 18, United States Code,
17 is amended to read as follows:

18 “(B) Any property, real or personal, within the
19 jurisdiction of the United States, constituting, de-
20 rived from, or traceable to, any proceeds obtained di-
21 rectly or indirectly from an offense against a foreign
22 nation, or any property used to facilitate such an of-
23 fense, if the offense—

24 “(i) involves the manufacture, importation,
25 sale, or distribution of a controlled substance

1 (as that term is defined for purposes of the
2 Controlled Substances Act), or any other con-
3 duct described in section 1956(c)(7)(B);

4 “(ii) would be punishable within the juris-
5 diction of the foreign nation by death or impris-
6 onment for a term exceeding 1 year; and

7 “(iii) would be punishable under the laws
8 of the United States by imprisonment for a
9 term exceeding 1 year, if the act or activity con-
10 stituting the offense had occurred within the ju-
11 risdiction of the United States.”.

12 **SEC. 321. FINANCIAL INSTITUTIONS SPECIFIED IN SUB-**
13 **CHAPTER II OF CHAPTER 53 OF TITLE 31,**
14 **UNITED STATES CODE.**

15 (a) CREDIT UNIONS.—Subparagraph (E) of section
16 5312(2) of title 31, United States Code, is amended to
17 read as follows:

18 “(E) any credit union;”.

19 (b) FUTURES COMMISSION MERCHANT; COMMODITY
20 TRADING ADVISOR; COMMODITY POOL OPERATOR.—Sec-
21 tion 5312 of title 31, United States Code, is amended by
22 adding at the end the following new subsection:

23 “(c) ADDITIONAL DEFINITIONS.—For purposes of
24 this subchapter, the following definitions shall apply:

1 “(1) CERTAIN INSTITUTIONS INCLUDED IN
2 DEFINITION.—The term ‘financial institution’ (as
3 defined in subsection (a)) includes the following:

4 “(A) Any futures commission merchant,
5 commodity trading advisor, or commodity pool
6 operator registered, or required to register,
7 under the Commodity Exchange Act.”.

8 (c) CFTC INCLUDED.—For purposes of this Act and
9 any amendment made by this Act to any other provision
10 of law, the term “Federal functional regulator” includes
11 the Commodity Futures Trading Commission.

12 **SEC. 322. CORPORATION REPRESENTED BY A FUGITIVE.**

13 Section 2466 of title 18, United States Code, is
14 amended by designating the present matter as subsection
15 (a), and adding at the end the following:

16 “(b) Subsection (a) may be applied to a claim filed
17 by a corporation if any majority shareholder, or individual
18 filing the claim on behalf of the corporation is a person
19 to whom subsection (a) applies.”.

20 **SEC. 323. ENFORCEMENT OF FOREIGN JUDGMENTS.**

21 Section 2467 of title 28, United States Code, is
22 amended—

23 (1) in subsection (d), by adding the following
24 after paragraph (2):

25 “(3) PRESERVATION OF PROPERTY.—

1 “(A) IN GENERAL.—To preserve the avail-
2 ability of property subject to a foreign forfeiture
3 or confiscation judgment, the Government may
4 apply for, and the court may issue, a restrain-
5 ing order pursuant to section 983(j) of title 18,
6 at any time before or after an application is
7 filed pursuant to subsection (c)(1) of this sec-
8 tion.

9 “(B) EVIDENCE.—The court, in issuing a
10 restraining order under subparagraph (A)—

11 “(i) may rely on information set forth
12 in an affidavit describing the nature of the
13 proceeding or investigation underway in
14 the foreign country, and setting forth a
15 reasonable basis to believe that the prop-
16 erty to be restrained will be named in a
17 judgment of forfeiture at the conclusion of
18 such proceeding; or

19 “(ii) may register and enforce a re-
20 straining order that has been issued by a
21 court of competent jurisdiction in the for-
22 eign country and certified by the Attorney
23 General pursuant to subsection (b)(2).

24 “(C) LIMIT ON GROUNDS FOR OBJEC-
25 TION.—No person may object to a restraining

1 order under subparagraph (A) on any ground
2 that is the subject of parallel litigation involving
3 the same property that is pending in a foreign
4 court.”;

5 (2) in subsection (b)(1)(C), by striking “estab-
6 lishing that the defendant received notice of the pro-
7 ceedings in sufficient time to enable the defendant”
8 and inserting “establishing that the foreign nation
9 took steps, in accordance with the principles of due
10 process, to give notice of the proceedings to all per-
11 sons with an interest in the property in sufficient
12 time to enable such persons”;

13 (3) in subsection (d)(1)(D), by striking “the de-
14 fendant in the proceedings in the foreign court did
15 not receive notice” and inserting “the foreign nation
16 did not take steps, in accordance with the principles
17 of due process, to give notice of the proceedings to
18 a person with an interest in the property”; and

19 (4) in subsection (a)(2)(A), by inserting “, any
20 violation of foreign law that would constitute a viola-
21 tion or an offense for which property could be for-
22 feited under Federal law if the offense were com-
23 mitted in the United States” after “United Nations
24 Convention”.

1 **SEC. 324. REPORT AND RECOMMENDATION.**

2 Not later than 30 months after the date of enactment
3 of this Act, the Secretary, in consultation with the Attor-
4 ney General, the Federal banking agencies (as defined at
5 section 3 of the Federal Deposit Insurance Act), the Na-
6 tional Credit Union Administration Board, the Securities
7 and Exchange Commission, and such other agencies as the
8 Secretary may determine, at the discretion of the Sec-
9 retary, shall evaluate the operations of the provisions of
10 this subtitle and make recommendations to Congress as
11 to any legislative action with respect to this subtitle as
12 the Secretary may determine to be necessary or advisable.

13 **SEC. 325. CONCENTRATION ACCOUNTS AT FINANCIAL IN-**
14 **STITUTIONS.**

15 Section 5318(h) of title 31, United States Code, as
16 amended by section 202 of this title, is amended by adding
17 at the end the following:

18 “(3) CONCENTRATION ACCOUNTS.—The Sec-
19 retary may prescribe regulations under this sub-
20 section that govern maintenance of concentration ac-
21 counts by financial institutions, in order to ensure
22 that such accounts are not used to prevent associa-
23 tion of the identity of an individual customer with
24 the movement of funds of which the customer is the
25 direct or beneficial owner, which regulations shall, at
26 a minimum—

1 “(A) prohibit financial institutions from al-
2 lowing clients to direct transactions that move
3 their funds into, out of, or through the con-
4 centration accounts of the financial institution;

5 “(B) prohibit financial institutions and
6 their employees from informing customers of
7 the existence of, or the means of identifying,
8 the concentration accounts of the institution;
9 and

10 “(C) require each financial institution to
11 establish written procedures governing the doc-
12 umentation of all transactions involving a con-
13 centration account, which procedures shall en-
14 sure that, any time a transaction involving a
15 concentration account commingles funds belong-
16 ing to 1 or more customers, the identity of, and
17 specific amount belonging to, each customer is
18 documented.”.

19 **SEC. 326. VERIFICATION OF IDENTIFICATION.**

20 (a) IN GENERAL.—Section 5318 of title 31, United
21 States Code, as amended by this title, is amended by add-
22 ing at the end the following:

23 “(l) IDENTIFICATION AND VERIFICATION OF
24 ACCOUNTHOLDERS.—

1 “(1) IN GENERAL.—Subject to the require-
2 ments of this subsection, the Secretary of the Treas-
3 ury shall prescribe regulations setting forth the min-
4 imum standards for financial institutions and their
5 customers regarding the identity of the customer
6 that shall apply in connection with the opening of an
7 account at a financial institution.

8 “(2) MINIMUM REQUIREMENTS.—The regula-
9 tions shall, at a minimum, require financial institu-
10 tions to implement, and customers (after being given
11 adequate notice) to comply with, reasonable proce-
12 dures for—

13 “(A) verifying the identity of any person
14 seeking to open an account to the extent rea-
15 sonable and practicable;

16 “(B) maintaining records of the informa-
17 tion used to verify a person’s identity, including
18 name, address, and other identifying informa-
19 tion; and

20 “(C) consulting lists of known or suspected
21 terrorists or terrorist organizations provided to
22 the financial institution by any government
23 agency to determine whether a person seeking
24 to open an account appears on any such list.

1 “(3) FACTORS TO BE CONSIDERED.—In pre-
2 scribing regulations under this subsection, the Sec-
3 retary shall take into consideration the various types
4 of accounts maintained by various types of financial
5 institutions, the various methods of opening ac-
6 counts, and the various types of identifying informa-
7 tion available.

8 “(4) CERTAIN FINANCIAL INSTITUTIONS.—In
9 the case of any financial institution the business of
10 which is engaging in financial activities described in
11 section 4(k) of the Bank Holding Company Act of
12 1956 (including financial activities subject to the ju-
13 risdiction of the Commodity Futures Trading Com-
14 mission), the regulations prescribed by the Secretary
15 under paragraph (1) shall be prescribed jointly with
16 each Federal functional regulator (as defined in sec-
17 tion 509 of the Gramm-Leach-Bliley Act, including
18 the Commodity Futures Trading Commission) ap-
19 propriate for such financial institution.

20 “(5) EXEMPTIONS.—The Secretary (and, in the
21 case of any financial institution described in para-
22 graph (4), any Federal agency described in such
23 paragraph) may, by regulation or order, exempt any
24 financial institution or type of account from the re-
25 quirements of any regulation prescribed under this

1 subsection in accordance with such standards and
2 procedures as the Secretary may prescribe.

3 “(6) EFFECTIVE DATE.—Final regulations pre-
4 scribed under this subsection shall take effect before
5 the end of the 1-year period beginning on the date
6 of enactment of the International Money Laundering
7 Abatement and Financial Anti-Terrorism Act of
8 2001.”.

9 (b) STUDY AND REPORT REQUIRED.—Within 6
10 months after the date of enactment of this Act, the Sec-
11 retary, in consultation with the Federal functional regu-
12 lators (as defined in section 509 of the Gramm-Leach-Bli-
13 ley Act) and other appropriate Government agencies, shall
14 submit a report to the Congress containing recommenda-
15 tions for—

16 (1) determining the most timely and effective
17 way to require foreign nationals to provide domestic
18 financial institutions and agencies with appropriate
19 and accurate information, comparable to that which
20 is required of United States nationals, concerning
21 the identity, address, and other related information
22 about such foreign nationals necessary to enable
23 such institutions and agencies to comply with the re-
24 quirements of this section;

1 (2) requiring foreign nationals to apply for and
2 obtain, before opening an account with a domestic
3 financial institution, an identification number which
4 would function similarly to a Social Security number
5 or tax identification number; and

6 (3) establishing a system for domestic financial
7 institutions and agencies to review information
8 maintained by relevant Government agencies for
9 purposes of verifying the identities of foreign nation-
10 als seeking to open accounts at those institutions
11 and agencies.

12 **SEC. 327. CONSIDERATION OF ANTI-MONEY LAUNDERING**
13 **RECORD.**

14 (a) BANK HOLDING COMPANY ACT OF 1956.—

15 (1) IN GENERAL.—Section 3(c) of the Bank
16 Holding Company Act of 1956 (12 U.S.C. 1842(c))
17 is amended by adding at the end the following new
18 paragraph:

19 “(6) MONEY LAUNDERING.—In every case, the
20 Board shall take into consideration the effectiveness
21 of the company or companies in combatting money
22 laundering activities, including in overseas
23 branches.”.

24 (2) SCOPE OF APPLICATION.—The amendment made
25 by paragraph (1) shall apply with respect to any applica-

1 tion submitted to the Board of Governors of the Federal
2 Reserve System under section 3 of the Bank Holding
3 Company Act of 1956 after December 31, 2001, which
4 has not been approved by the Board before the date of
5 enactment of this Act.

6 (b) MERGERS SUBJECT TO REVIEW UNDER FED-
7 ERAL DEPOSIT INSURANCE ACT.—

8 (1) IN GENERAL.—Section 18(c) of the Federal
9 Deposit Insurance Act (12 U.S.C. 1828(c)) is
10 amended—

11 (A) by redesignating paragraph (11) as
12 paragraph (12); and

13 (B) by inserting after paragraph (10), the
14 following new paragraph:

15 “(11) MONEY LAUNDERING.—In every case, the
16 responsible agency, shall take into consideration the
17 effectiveness of any insured depository institution in-
18 volved in the proposed merger transaction in com-
19 battling money laundering activities, including in
20 overseas branches.”.

21 (2) SCOPE OF APPLICATION.—The amendment
22 made by paragraph (1) shall apply with respect to
23 any application submitted to the responsible agency
24 under section 18(c) of the Federal Deposit Insur-
25 ance Act after December 31, 2001, which has not

1 been approved by all appropriate responsible agen-
2 cies before the date of enactment of this Act.

3 **SEC. 328. INTERNATIONAL COOPERATION ON IDENTIFICA-**
4 **TION OF ORIGINATORS OF WIRE TRANSFERS.**

5 The Secretary shall—

6 (1) in consultation with the Attorney General
7 and the Secretary of State, take all reasonable steps
8 to encourage foreign governments to require the in-
9 clusion of the name of the originator in wire transfer
10 instructions sent to the United States and other
11 countries, with the information to remain with the
12 transfer from its origination until the point of dis-
13 bursement; and

14 (2) report annually to the Committee on Finan-
15 cial Services of the House of Representatives and
16 the Committee on Banking, Housing, and Urban Af-
17 fairs of the Senate on—

18 (A) progress toward the goal enumerated
19 in paragraph (1), as well as impediments to im-
20 plementation and an estimated compliance rate;
21 and

22 (B) impediments to instituting a regime in
23 which all appropriate identification, as defined
24 by the Secretary, about wire transfer recipients

1 shall be included with wire transfers from their
2 point of origination until disbursement.

3 **SEC. 329. CRIMINAL PENALTIES.**

4 Any person who is an official or employee of any de-
5 partment, agency, bureau, office, commission, or other en-
6 tity of the Federal Government, and any other person who
7 is acting for or on behalf of any such entity, who, directly
8 or indirectly, in connection with the administration of this
9 title, corruptly demands, seeks, receives, accepts, or agrees
10 to receive or accept anything of value personally or for
11 any other person or entity in return for—

12 (1) being influenced in the performance of any
13 official act;

14 (2) being influenced to commit or aid in the
15 committing, or to collude in, or allow, any fraud, or
16 make opportunity for the commission of any fraud,
17 on the United States; or

18 (3) being induced to do or omit to do any act
19 in violation of the official duty of such official or
20 person,

21 shall be fined in an amount not more than 3 times the
22 monetary equivalent of the thing of value, or imprisoned
23 for not more than 15 years, or both. A violation of this
24 section shall be subject to chapter 227 of title 18, United

1 States Code, and the provisions of the United States Sen-
2 tencing Guidelines.

3 **SEC. 330. INTERNATIONAL COOPERATION IN INVESTIGA-**
4 **TIONS OF MONEY LAUNDERING, FINANCIAL**
5 **CRIMES, AND THE FINANCES OF TERRORIST**
6 **GROUPS.**

7 (a) NEGOTIATIONS.—It is the sense of the Congress
8 that the President should direct the Secretary of State,
9 the Attorney General, or the Secretary of the Treasury,
10 as appropriate, and in consultation with the Board of Gov-
11 ernors of the Federal Reserve System, to seek to enter
12 into negotiations with the appropriate financial super-
13 visory agencies and other officials of any foreign country
14 the financial institutions of which do business with United
15 States financial institutions or which may be utilized by
16 any foreign terrorist organization (as designated under
17 section 219 of the Immigration and Nationality Act), any
18 person who is a member or representative of any such or-
19 ganization, or any person engaged in money laundering
20 or financial or other crimes.

21 (b) PURPOSES OF NEGOTIATIONS.—It is the sense of
22 the Congress that, in carrying out any negotiations de-
23 scribed in paragraph (1), the President should direct the
24 Secretary of State, the Attorney General, or the Secretary
25 of the Treasury, as appropriate, to seek to enter into and

1 further cooperative efforts, voluntary information ex-
2 changes, the use of letters rogatory, mutual legal assist-
3 ance treaties, and international agreements to—

4 (1) ensure that foreign banks and other finan-
5 cial institutions maintain adequate records of trans-
6 action and account information relating to any for-
7 eign terrorist organization (as designated under sec-
8 tion 219 of the Immigration and Nationality Act),
9 any person who is a member or representative of any
10 such organization, or any person engaged in money
11 laundering or financial or other crimes; and

12 (2) establish a mechanism whereby such records
13 may be made available to United States law enforce-
14 ment officials and domestic financial institution su-
15 pervisors, when appropriate.

16 **Subtitle B—Bank Secrecy Act**
17 **Amendments and Related Im-**
18 **provements**

19 **SEC. 351. AMENDMENTS RELATING TO REPORTING OF SUS-**
20 **PICIOUS ACTIVITIES.**

21 (a) AMENDMENT RELATING TO CIVIL LIABILITY IM-
22 MUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title
23 31, United States Code, is amended to read as follows:

24 “(3) LIABILITY FOR DISCLOSURES.—

1 “(A) IN GENERAL.—Any financial institu-
2 tion that makes a voluntary disclosure of any
3 possible violation of law or regulation to a gov-
4 ernment agency or makes a disclosure pursuant
5 to this subsection or any other authority, and
6 any director, officer, employee, or agent of such
7 institution who makes, or requires another to
8 make any such disclosure, shall not be liable to
9 any person under any law or regulation of the
10 United States, any constitution, law, or regula-
11 tion of any State or political subdivision of any
12 State, or under any contract or other legally en-
13 forceable agreement (including any arbitration
14 agreement), for such disclosure or for any fail-
15 ure to provide notice of such disclosure to the
16 person who is the subject of such disclosure or
17 any other person identified in the disclosure.

18 “(B) RULE OF CONSTRUCTION.—Subpara-
19 graph (A) shall not be construed as creating—

20 “(i) any inference that the term ‘per-
21 son’, as used in such subparagraph, may
22 be construed more broadly than its ordi-
23 nary usage so as to include any govern-
24 ment or agency of government; or

1 “(ii) any immunity against, or other-
2 wise affecting, any civil or criminal action
3 brought by any government or agency of
4 government to enforce any constitution,
5 law, or regulation of such government or
6 agency.”.

7 (b) PROHIBITION ON NOTIFICATION OF DISCLO-
8 SURES.—Section 5318(g)(2) of title 31, United States
9 Code, is amended to read as follows:

10 “(2) NOTIFICATION PROHIBITED.—

11 “(A) IN GENERAL.—If a financial institu-
12 tion or any director, officer, employee, or agent
13 of any financial institution, voluntarily or pur-
14 suant to this section or any other authority, re-
15 ports a suspicious transaction to a government
16 agency—

17 “(i) the financial institution, director,
18 officer, employee, or agent may not notify
19 any person involved in the transaction that
20 the transaction has been reported; and

21 “(ii) no officer or employee of the
22 Federal Government or of any State, local,
23 tribal, or territorial government within the
24 United States, who has any knowledge that
25 such report was made may disclose to any

1 person involved in the transaction that the
2 transaction has been reported, other than
3 as necessary to fulfill the official duties of
4 such officer or employee.

5 “(B) DISCLOSURES IN CERTAIN EMPLOY-
6 MENT REFERENCES.—

7 “(i) RULE OF CONSTRUCTION.—Not-
8 withstanding the application of subpara-
9 graph (A) in any other context, subpara-
10 graph (A) shall not be construed as prohib-
11 iting any financial institution, or any direc-
12 tor, officer, employee, or agent of such in-
13 stitution, from including information that
14 was included in a report to which subpara-
15 graph (A) applies—

16 “(I) in a written employment ref-
17 erence that is provided in accordance
18 with section 18(w) of the Federal De-
19 posit Insurance Act in response to a
20 request from another financial institu-
21 tion; or

22 “(II) in a written termination no-
23 tice or employment reference that is
24 provided in accordance with the rules
25 of a self-regulatory organization reg-

1 istered with the Securities and Ex-
2 change Commission or the Commodity
3 Futures Trading Commission,
4 except that such written reference or notice
5 may not disclose that such information was
6 also included in any such report, or that
7 such report was made.

8 “(ii) INFORMATION NOT REQUIRED.—
9 Clause (i) shall not be construed, by itself,
10 to create any affirmative duty to include
11 any information described in clause (i) in
12 any employment reference or termination
13 notice referred to in clause (i).”.

14 **SEC. 352. ANTI-MONEY LAUNDERING PROGRAMS.**

15 (a) IN GENERAL.—Section 5318(h) of title 31,
16 United States Code, is amended to read as follows:

17 “(h) ANTI-MONEY LAUNDERING PROGRAMS.—

18 “(1) IN GENERAL.—In order to guard against
19 money laundering through financial institutions,
20 each financial institution shall establish anti-money
21 laundering programs, including, at a minimum—

22 “(A) the development of internal policies,
23 procedures, and controls;

24 “(B) the designation of a compliance offi-
25 cer;

1 “(C) an ongoing employee training pro-
2 gram; and

3 “(D) an independent audit function to test
4 programs.

5 “(2) REGULATIONS.—The Secretary of the
6 Treasury, after consultation with the appropriate
7 Federal functional regulator (as defined in section
8 509 of the Gramm-Leach-Bliley Act), may prescribe
9 minimum standards for programs established under
10 paragraph (1), and may exempt from the application
11 of those standards any financial institution that is
12 not subject to the provisions of the rules contained
13 in part 103 of title 31, of the Code of Federal Regu-
14 lations, or any successor rule thereto, for so long as
15 such financial institution is not subject to the provi-
16 sions of such rules.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall take effect at the end of the 180-day
19 period beginning on the date of enactment of this Act.

20 (c) DATE OF APPLICATION OF REGULATIONS; FAC-
21 TORS TO BE TAKEN INTO ACCOUNT.—Before the end of
22 the 180-day period beginning on the date of enactment
23 of this Act, the Secretary shall prescribe regulations that
24 consider the extent to which the requirements imposed
25 under this section are commensurate with the size, loca-

1 tion, and activities of the financial institutions to which
2 such regulations apply.

3 **SEC. 353. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC**
4 **TARGETING ORDERS AND CERTAIN RECORD-**
5 **KEEPING REQUIREMENTS, AND LENGTH-**
6 **ENING EFFECTIVE PERIOD OF GEOGRAPHIC**
7 **TARGETING ORDERS.**

8 (a) CIVIL PENALTY FOR VIOLATION OF TARGETING
9 ORDER.—Section 5321(a)(1) of title 31, United States
10 Code, is amended—

11 (1) by inserting “or order issued” after “sub-
12 chapter or a regulation prescribed”; and

13 (2) by inserting “, or willfully violating a regu-
14 lation prescribed under section 21 of the Federal
15 Deposit Insurance Act or section 123 of Public Law
16 91–508,” after “sections 5314 and 5315”).

17 (b) CRIMINAL PENALTIES FOR VIOLATION OF TAR-
18 GETING ORDER.—Section 5322 of title 31, United States
19 Code, is amended—

20 (1) in subsection (a)—

21 (A) by inserting “or order issued” after
22 “willfully violating this subchapter or a regula-
23 tion prescribed”; and

24 (B) by inserting “, or willfully violating a
25 regulation prescribed under section 21 of the

1 Federal Deposit Insurance Act or section 123
2 of Public Law 91–508,” after “under section
3 5315 or 5324”); and

4 (2) in subsection (b)—

5 (A) by inserting “or order issued” after
6 “willfully violating this subchapter or a regula-
7 tion prescribed”; and

8 (B) by inserting “or willfully violating a
9 regulation prescribed under section 21 of the
10 Federal Deposit Insurance Act or section 123
11 of Public Law 91–508,” after “under section
12 5315 or 5324),”.

13 (c) STRUCTURING TRANSACTIONS TO EVADE TAR-
14 GETING ORDER OR CERTAIN RECORDKEEPING REQUIRE-
15 MENTS.—Section 5324(a) of title 31, United States Code,
16 is amended—

17 (1) by inserting a comma after “shall”;

18 (2) by striking “section—” and inserting “sec-
19 tion, the reporting or recordkeeping requirements
20 imposed by any order issued under section 5326, or
21 the recordkeeping requirements imposed by any reg-
22 ulation prescribed under section 21 of the Federal
23 Deposit Insurance Act or section 123 of Public Law
24 91–508—”;

1 (3) in paragraph (1), by inserting “, to file a
2 report or to maintain a record required by an order
3 issued under section 5326, or to maintain a record
4 required pursuant to any regulation prescribed
5 under section 21 of the Federal Deposit Insurance
6 Act or section 123 of Public Law 91–508” after
7 “regulation prescribed under any such section”; and

8 (4) in paragraph (2), by inserting “, to file a
9 report or to maintain a record required by any order
10 issued under section 5326, or to maintain a record
11 required pursuant to any regulation prescribed
12 under section 5326, or to maintain a record required
13 pursuant to any regulation prescribed under section
14 21 of the Federal Deposit Insurance Act or section
15 123 of Public Law 91–508,” after “regulation pre-
16 scribed under any such section”.

17 (d) LENGTHENING EFFECTIVE PERIOD OF GEO-
18 GRAPHIC TARGETING ORDERS.—Section 5326(d) of title
19 31, United States Code, is amended by striking “more
20 than 60” and inserting “more than 180”.

21 **SEC. 354. ANTI-MONEY LAUNDERING STRATEGY.**

22 Section 5341(b) of title 31, United States Code, is
23 amended by adding at the end the following:

24 “(12) DATA REGARDING FUNDING OF TER-
25 RORISM.—Data concerning money laundering efforts

1 related to the funding of acts of international ter-
2 rorism, and efforts directed at the prevention, detec-
3 tion, and prosecution of such funding.”.

4 **SEC. 355. AUTHORIZATION TO INCLUDE SUSPICIONS OF IL-**
5 **LEGAL ACTIVITY IN WRITTEN EMPLOYMENT**
6 **REFERENCES.**

7 Section 18 of the Federal Deposit Insurance Act (12
8 U.S.C. 1828) is amended by adding at the end the fol-
9 lowing:

10 “(w) WRITTEN EMPLOYMENT REFERENCES MAY
11 CONTAIN SUSPICIONS OF INVOLVEMENT IN ILLEGAL AC-
12 TIVITY.—

13 “(1) AUTHORITY TO DISCLOSE INFORMA-
14 TION.—Notwithstanding any other provision of law,
15 any insured depository institution, and any director,
16 officer, employee, or agent of such institution, may
17 disclose in any written employment reference relat-
18 ing to a current or former institution-affiliated party
19 of such institution which is provided to another in-
20 sured depository institution in response to a request
21 from such other institution, information concerning
22 the possible involvement of such institution-affiliated
23 party in potentially unlawful activity.

24 “(2) INFORMATION NOT REQUIRED.—Nothing
25 in paragraph (1) shall be construed, by itself, to cre-

1 ate any affirmative duty to include any information
2 described in paragraph (1) in any employment ref-
3 erence referred to in paragraph (1).

4 “(3) MALICIOUS INTENT.—Notwithstanding
5 any other provision of this subsection, voluntary dis-
6 closure made by an insured depository institution,
7 and any director, officer, employee, or agent of such
8 institution under this subsection concerning poten-
9 tially unlawful activity that is made with malicious
10 intent, shall not be shielded from liability from the
11 person identified in the disclosure.

12 “(4) DEFINITION.—For purposes of this sub-
13 section, the term ‘insured depository institution’ in-
14 cludes any uninsured branch or agency of a foreign
15 bank.”.

16 **SEC. 356. REPORTING OF SUSPICIOUS ACTIVITIES BY SECU-**
17 **RITIES BROKERS AND DEALERS; INVEST-**
18 **MENT COMPANY STUDY.**

19 (a) DEADLINE FOR SUSPICIOUS ACTIVITY REPORT-
20 ING REQUIREMENTS FOR REGISTERED BROKERS AND
21 DEALERS.—The Secretary, after consultation with the Se-
22 curities and Exchange Commission and the Board of Gov-
23 ernors of the Federal Reserve System, shall publish pro-
24 posed regulations in the Federal Register before January
25 1, 2002, requiring brokers and dealers registered with the

1 Securities and Exchange Commission under the Securities
2 Exchange Act of 1934 to submit suspicious activity re-
3 ports under section 5318(g) of title 31, United States
4 Code. Such regulations shall be published in final form
5 not later than July 1, 2002.

6 (b) SUSPICIOUS ACTIVITY REPORTING REQUIRE-
7 MENTS FOR FUTURES COMMISSION MERCHANTS, COM-
8 MODITY TRADING ADVISORS, AND COMMODITY POOL OP-
9 ERATORS.—The Secretary, in consultation with the Com-
10 modity Futures Trading Commission, may prescribe regu-
11 lations requiring futures commission merchants, com-
12 modity trading advisors, and commodity pool operators
13 registered under the Commodity Exchange Act to submit
14 suspicious activity reports under section 5318(g) of title
15 31, United States Code.

16 (c) REPORT ON INVESTMENT COMPANIES.—

17 (1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of this Act, the Secretary, the
19 Board of Governors of the Federal Reserve System,
20 and the Securities and Exchange Commission shall
21 jointly submit a report to the Congress on rec-
22 ommendations for effective regulations to apply the
23 requirements of subchapter II of chapter 53 of title
24 31, United States Code, to investment companies

1 pursuant to section 5312(a)(2)(I) of title 31, United
2 States Code.

3 (2) DEFINITION.—For purposes of this sub-
4 section, the term “investment company”—

5 (A) has the same meaning as in section 3
6 of the Investment Company Act of 1940 (15
7 U.S.C. 80a–3); and

8 (B) includes any person that, but for the
9 exceptions provided for in paragraph (1) or (7)
10 of section 3(c) of the Investment Company Act
11 of 1940 (15 U.S.C. 80a–3(e)), would be an in-
12 vestment company.

13 (3) ADDITIONAL RECOMMENDATIONS.—The re-
14 port required by paragraph (1) may make different
15 recommendations for different types of entities cov-
16 ered by this subsection.

17 (4) BENEFICIAL OWNERSHIP OF PERSONAL
18 HOLDING COMPANIES.—The report described in
19 paragraph (1) shall also include recommendations as
20 to whether the Secretary should promulgate regula-
21 tions to treat any corporation or business or other
22 grantor trust whose assets are predominantly securi-
23 ties, bank certificates of deposit, or other securities
24 or investment instruments (other than such as relate
25 to operating subsidiaries of such corporation or

1 trust) and that has 5 or fewer common shareholders
2 or holders of beneficial or other equity interest, as
3 a financial institution within the meaning of that
4 phrase in section 5312(a)(2)(I) and whether to re-
5 quire such corporations or trusts to disclose their
6 beneficial owners when opening accounts or initi-
7 ating funds transfers at any domestic financial insti-
8 tution.

9 **SEC. 357. SPECIAL REPORT ON ADMINISTRATION OF BANK**
10 **SECRECY PROVISIONS.**

11 (a) REPORT REQUIRED.—Not later than 6 months
12 after the date of enactment of this Act, the Secretary shall
13 submit a report to the Congress relating to the role of
14 the Internal Revenue Service in the administration of sub-
15 chapter II of chapter 53 of title 31, United States Code
16 (commonly known as the “Bank Secrecy Act”).

17 (b) CONTENTS.—The report required by subsection
18 (a)—

19 (1) shall specifically address, and contain rec-
20 ommendations concerning—

21 (A) whether it is advisable to shift the
22 processing of information reporting to the De-
23 partment of the Treasury under the Bank Se-
24 crecy Act provisions to facilities other than

1 those managed by the Internal Revenue Service;
2 and

3 (B) whether it remains reasonable and effi-
4 cient, in light of the objective of both anti-
5 money-laundering programs and Federal tax
6 administration, for the Internal Revenue Serv-
7 ice to retain authority and responsibility for
8 audit and examination of the compliance of
9 money services businesses and gaming institu-
10 tions with those Bank Secrecy Act provisions;
11 and

12 (2) shall, if the Secretary determines that the
13 information processing responsibility or the audit
14 and examination responsibility of the Internal Rev-
15 enue Service, or both, with respect to those Bank
16 Secrecy Act provisions should be transferred to other
17 agencies, include the specific recommendations of
18 the Secretary regarding the agency or agencies to
19 which any such function should be transferred, com-
20 plete with a budgetary and resources plan for expe-
21 ditiously accomplishing the transfer.

1 **SEC. 358. BANK SECRECY PROVISIONS AND ACTIVITIES OF**
2 **UNITED STATES INTELLIGENCE AGENCIES**
3 **TO FIGHT INTERNATIONAL TERRORISM.**

4 (a) AMENDMENT RELATING TO THE PURPOSES OF
5 CHAPTER 53 OF TITLE 31, UNITED STATES CODE.—Sec-
6 tion 5311 of title 31, United States Code, is amended by
7 inserting before the period at the end the following: “, or
8 in the conduct of intelligence or counterintelligence activi-
9 ties, including analysis, to protect against international
10 terrorism”.

11 (b) AMENDMENT RELATING TO REPORTING OF SUS-
12 PICIOUS ACTIVITIES.—Section 5318(g)(4)(B) of title 31,
13 United States Code, is amended by striking “or super-
14 visory agency” and inserting “, supervisory agency, or
15 United States intelligence agency for use in the conduct
16 of intelligence or counterintelligence activities, including
17 analysis, to protect against international terrorism”.

18 (c) AMENDMENT RELATING TO AVAILABILITY OF
19 REPORTS.—Section 5319 of title 31, United States Code,
20 is amended to read as follows:

21 **“§ 5319. Availability of reports**

22 “The Secretary of the Treasury shall make informa-
23 tion in a report filed under this subchapter available to
24 an agency, including any State financial institutions su-
25 pervisory agency, United States intelligence agency or self-
26 regulatory organization registered with the Securities and

1 Exchange Commission or the Commodity Futures Trading
2 Commission, upon request of the head of the agency or
3 organization. The report shall be available for a purpose
4 that is consistent with this subchapter. The Secretary may
5 only require reports on the use of such information by any
6 State financial institutions supervisory agency for other
7 than supervisory purposes or by United States intelligence
8 agencies. However, a report and records of reports are ex-
9 empt from disclosure under section 552 of title 5.”.

10 (d) AMENDMENT RELATING TO THE PURPOSES OF
11 THE BANK SECRECY ACT PROVISIONS.—Section 21(a) of
12 the Federal Deposit Insurance Act (12 U.S.C. 1829b(a))
13 is amended to read as follows:

14 “(a) CONGRESSIONAL FINDINGS AND DECLARATION
15 OF PURPOSE.—

16 “(1) FINDINGS.—Congress finds that—

17 “(A) adequate records maintained by in-
18 sured depository institutions have a high degree
19 of usefulness in criminal, tax, and regulatory
20 investigations or proceedings, and that, given
21 the threat posed to the security of the Nation
22 on and after the terrorist attacks against the
23 United States on September 11, 2001, such
24 records may also have a high degree of useful-
25 ness in the conduct of intelligence or counter-

1 intelligence activities, including analysis, to pro-
2 tect against domestic and international ter-
3 rorism; and

4 “(B) microfilm or other reproductions and
5 other records made by insured depository insti-
6 tutions of checks, as well as records kept by
7 such institutions, of the identity of persons
8 maintaining or authorized to act with respect to
9 accounts therein, have been of particular value
10 in proceedings described in subparagraph (A).

11 “(2) PURPOSE.—It is the purpose of this sec-
12 tion to require the maintenance of appropriate types
13 of records by insured depository institutions in the
14 United States where such records have a high degree
15 of usefulness in criminal, tax, or regulatory inves-
16 tigation or proceedings, recognizes that, given the
17 threat posed to the security of the Nation on and
18 after the terrorist attacks against the United States
19 on September 11, 2001, such records may also have
20 a high degree of usefulness in the conduct of intel-
21 ligence or counterintelligence activities, including
22 analysis, to protect against international terrorism.”.

23 (e) AMENDMENT RELATING TO THE PURPOSES OF
24 THE BANK SECRECY ACT.—Section 123(a) of Public Law

1 91–508 (12 U.S.C. 1953(a)) is amended to read as fol-
2 lows:

3 “(a) REGULATIONS.—If the Secretary determines
4 that the maintenance of appropriate records and proce-
5 dures by any uninsured bank or uninsured institution, or
6 any person engaging in the business of carrying on in the
7 United States any of the functions referred to in sub-
8 section (b), has a high degree of usefulness in criminal,
9 tax, or regulatory investigations or proceedings, and that,
10 given the threat posed to the security of the Nation on
11 and after the terrorist attacks against the United States
12 on September 11, 2001, such records may also have a high
13 degree of usefulness in the conduct of intelligence or coun-
14 terintelligence activities, including analysis, to protect
15 against international terrorism, he may by regulation re-
16 quire such bank, institution, or person.”.

17 (f) AMENDMENTS TO THE RIGHT TO FINANCIAL PRI-
18 VACY ACT.—The Right to Financial Privacy Act of 1978
19 is amended—

20 (1) in section 1112(a) (12 U.S.C. 3412(a)), by
21 inserting “, or intelligence or counterintelligence ac-
22 tivity, investigation or analysis related to inter-
23 national terrorism” after “legitimate law enforce-
24 ment inquiry”;

1 (2) in section 1114(a)(1) (12 U.S.C.
2 3414(a)(1))—

3 (A) in subparagraph (A), by striking “or”
4 at the end;

5 (B) in subparagraph (B), by striking the
6 period at the end and inserting “; or”; and

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

8 “(C) a Government authority authorized to
9 conduct investigations of, or intelligence or
10 counterintelligence analyses related to, inter-
11 national terrorism for the purpose of con-
12 ducting such investigations or analyses.”; and

13 (3) in section 1120(a)(2) (12 U.S.C.
14 3420(a)(2)), by inserting “, or for a purpose author-
15 ized by section 1112(a)” before the semicolon at the
16 end.

17 (g) AMENDMENT TO THE FAIR CREDIT REPORTING
18 ACT.—

19 (1) IN GENERAL.—The Fair Credit Reporting
20 Act (15 U.S.C. 1681 et seq.) is amended—

21 (A) by redesignating the second of the 2
22 sections designated as section 624 (15 U.S.C.
23 1681u) (relating to disclosure to FBI for coun-
24 terintelligence purposes) as section 625; and

1 (B) by adding at the end the following new
2 section:

3 **“§ 626. Disclosures to governmental agencies for**
4 **counterterrorism purposes**

5 “(a) DISCLOSURE.—Notwithstanding section 604 or
6 any other provision of this title, a consumer reporting
7 agency shall furnish a consumer report of a consumer and
8 all other information in a consumer’s file to a government
9 agency authorized to conduct investigations of, or intel-
10 ligence or counterintelligence activities or analysis related
11 to, international terrorism when presented with a written
12 certification by such government agency that such infor-
13 mation is necessary for the agency’s conduct or such inves-
14 tigation, activity or analysis.

15 “(b) FORM OF CERTIFICATION.—The certification
16 described in subsection (a) shall be signed by a supervisory
17 official designated by the head of a Federal agency or an
18 officer of a Federal agency whose appointment to office
19 is required to be made by the President, by and with the
20 advice and consent of the Senate.

21 “(c) CONFIDENTIALITY.—No consumer reporting
22 agency, or officer, employee, or agent of such consumer
23 reporting agency, shall disclose to any person, or specify
24 in any consumer report, that a government agency has

1 sought or obtained access to information under subsection
2 (a).

3 “(d) RULE OF CONSTRUCTION.—Nothing in section
4 625 shall be construed to limit the authority of the Direc-
5 tor of the Federal Bureau of Investigation under this sec-
6 tion.

7 “(e) SAFE HARBOR.—Notwithstanding any other
8 provision of this title, any consumer reporting agency or
9 agent or employee thereof making disclosure of consumer
10 reports or other information pursuant to this section in
11 good-faith reliance upon a certification of a governmental
12 agency pursuant to the provisions of this section shall not
13 be liable to any person for such disclosure under this sub-
14 chapter, the constitution of any State, or any law or regu-
15 lation of any State or any political subdivision of any
16 State.”.

17 (2) CLERICAL AMENDMENTS.—The table of sec-
18 tions for the Fair Credit Reporting Act (15 U.S.C.
19 1681 et seq.) is amended—

20 (A) by redesignating the second of the 2
21 items designated as section 624 as section 625;
22 and

23 (B) by inserting after the item relating to
24 section 625 (as so redesignated) the following
25 new item:

“626. Disclosures to governmental agencies for counterterrorism purposes.”.

1 (h) APPLICATION OF AMENDMENTS.—The amend-
2 ments made by this section shall apply with respect to re-
3 ports filed or records maintained on, before, or after the
4 date of enactment of this Act.

5 **SEC. 359. REPORTING OF SUSPICIOUS ACTIVITIES BY UN-**
6 **DERGROUND BANKING SYSTEMS.**

7 (a) DEFINITION FOR SUBCHAPTER.—Section
8 5312(a)(2)(R) of title 31, United States Code, is amended
9 to read as follows:

10 “(R) a licensed sender of money or any
11 other person who engages as a business in the
12 transmission of funds, including any person
13 who engages as a business in an informal
14 money transfer system or any network of people
15 who engage as a business in facilitating the
16 transfer of money domestically or internation-
17 ally outside of the conventional financial institu-
18 tions system;”.

19 (b) MONEY TRANSMITTING BUSINESS.—Section
20 5330(d)(1)(A) of title 31, United States Code, is amended
21 by inserting before the semicolon the following: “or any
22 other person who engages as a business in the trans-
23 mission of funds, including any person who engages as a
24 business in an informal money transfer system or any net-
25 work of people who engage as a business in facilitating

1 the transfer of money domestically or internationally out-
2 side of the conventional financial institutions system;”.

3 (c) APPLICABILITY OF RULES.—Section 5318 of title
4 31, United States Code, as amended by this title, is
5 amended by adding at the end the following:

6 “(l) APPLICABILITY OF RULES.—Any rules promul-
7 gated pursuant to the authority contained in section 21
8 of the Federal Deposit Insurance Act (12 U.S.C. 1829b)
9 shall apply, in addition to any other financial institution
10 to which such rules apply, to any person that engages as
11 a business in the transmission of funds, including any per-
12 son who engages as a business in an informal money
13 transfer system or any network of people who engage as
14 a business in facilitating the transfer of money domesti-
15 cally or internationally outside of the conventional finan-
16 cial institutions system.”.

17 (d) REPORT.—Not later than 1 year after the date
18 of enactment of this Act, the Secretary of the Treasury
19 shall report to Congress on the need for any additional
20 legislation relating to persons who engage as a business
21 in an informal money transfer system or any network of
22 people who engage as a business in facilitating the trans-
23 fer of money domestically or internationally outside of the
24 conventional financial institutions system, counter money
25 laundering and regulatory controls relating to under-

1 ground money movement and banking systems, including
2 whether the threshold for the filing of suspicious activity
3 reports under section 5318(g) of title 31, United States
4 Code should be lowered in the case of such systems.

5 **SEC. 360. USE OF AUTHORITY OF UNITED STATES EXECU-**
6 **TIVE DIRECTORS.**

7 (a) ACTION BY THE PRESIDENT.—If the President
8 determines that a particular foreign country has taken or
9 has committed to take actions that contribute to efforts
10 of the United States to respond to, deter, or prevent acts
11 of international terrorism, the Secretary may, consistent
12 with other applicable provisions of law, instruct the United
13 States Executive Director of each international financial
14 institution to use the voice and vote of the Executive Di-
15 rector to support any loan or other utilization of the funds
16 of respective institutions for such country, or any public
17 or private entity within such country.

18 (b) USE OF VOICE AND VOTE.—The Secretary may
19 instruct the United States Executive Director of each
20 international financial institution to aggressively use the
21 voice and vote of the Executive Director to require an au-
22 diting of disbursements at such institutions to ensure that
23 no funds are paid to persons who commit, threaten to
24 commit, or support terrorism.

1 (c) DEFINITION.—For purposes of this section, the
2 term “international financial institution” means an insti-
3 tution described in section 1701(c)(2) of the International
4 Financial Institutions Act (22 U.S.C. 262r(c)(2)).

5 **SEC. 361. FINANCIAL CRIMES ENFORCEMENT NETWORK.**

6 (a) IN GENERAL.—Subchapter I of chapter 3 of title
7 31, United States Code, is amended—

8 (1) by redesignating section 310 as section 311;

9 and

10 (2) by inserting after section 309 the following
11 new section:

12 **“§ 310. Financial Crimes Enforcement Network**

13 “(a) IN GENERAL.—The Financial Crimes Enforce-
14 ment Network established by order of the Secretary of the
15 Treasury (Treasury Order Numbered 105-08, in this sec-
16 tion referred to as ‘FinCEN’) on April 25, 1990, shall be
17 a bureau in the Department of the Treasury.

18 “(b) DIRECTOR.—

19 “(1) APPOINTMENT.—The head of FinCEN
20 shall be the Director, who shall be appointed by the
21 Secretary of the Treasury.

22 “(2) DUTIES AND POWERS.—The duties and
23 powers of the Director are as follows:

24 “(A) Advise and make recommendations
25 on matters relating to financial intelligence, fi-

1 nancial criminal activities, and other financial
2 activities to the Under Secretary of the Treas-
3 ury for Enforcement.

4 “(B) Maintain a government-wide data ac-
5 cess service, with access, in accordance with ap-
6 plicable legal requirements, to the following:

7 “(i) Information collected by the De-
8 partment of the Treasury, including report
9 information filed under subchapter II of
10 chapter 53 of this title (such as reports on
11 cash transactions, foreign financial agency
12 transactions and relationships, foreign cur-
13 rency transactions, exporting and import-
14 ing monetary instruments, and suspicious
15 activities), chapter 2 of title I of Public
16 Law 91–508, and section 21 of the Fed-
17 eral Deposit Insurance Act.

18 “(ii) Information regarding national
19 and international currency flows.

20 “(iii) Other records and data main-
21 tained by other Federal, State, local, and
22 foreign agencies, including financial and
23 other records developed in specific cases.

24 “(iv) Other privately and publicly
25 available information.

1 “(C) Analyze and disseminate the available
2 data in accordance with applicable legal require-
3 ments and policies and guidelines established by
4 the Secretary of the Treasury and the Under
5 Secretary of the Treasury for Enforcement to—

6 “(i) identify possible criminal activity
7 to appropriate Federal, State, local, and
8 foreign law enforcement agencies;

9 “(ii) support ongoing criminal finan-
10 cial investigations and prosecutions and re-
11 lated proceedings, including civil and crimi-
12 nal tax and forfeiture proceedings;

13 “(iii) identify possible instances of
14 noncompliance with subchapter II of chap-
15 ter 53 of this title, chapter 2 of title I of
16 Public Law 91–508, and section 21 of the
17 Federal Deposit Insurance Act to Federal
18 agencies with statutory responsibility for
19 enforcing compliance with such provisions
20 and other appropriate Federal regulatory
21 agencies;

22 “(iv) evaluate and recommend possible
23 uses of special currency reporting require-
24 ments under section 5326;

1 “(v) determine emerging trends and
2 methods in money laundering and other fi-
3 nancial crimes;

4 “(vi) support the conduct of intel-
5 ligence or counterintelligence activities, in-
6 cluding analysis, to protect against inter-
7 national terrorism; and

8 “(vii) support government initiatives
9 against money laundering.

10 “(D) Establish and maintain a financial
11 crimes communications center to furnish law
12 enforcement authorities with intelligence infor-
13 mation related to emerging or ongoing inves-
14 tigations and undercover operations.

15 “(E) Furnish research, analytical, and in-
16 formational services to financial institutions,
17 appropriate Federal regulatory agencies with
18 regard to financial institutions, and appropriate
19 Federal, State, local, and foreign law enforce-
20 ment authorities, in accordance with policies
21 and guidelines established by the Secretary of
22 the Treasury or the Under Secretary of the
23 Treasury for Enforcement, in the interest of de-
24 tection, prevention, and prosecution of ter-

1 rorism, organized crime, money laundering, and
2 other financial crimes.

3 “(F) Assist Federal, State, local, and for-
4 eign law enforcement and regulatory authorities
5 in combatting the use of informal, nonbank net-
6 works and payment and barter system mecha-
7 nisms that permit the transfer of funds or the
8 equivalent of funds without records and without
9 compliance with criminal and tax laws.

10 “(G) Provide computer and data support
11 and data analysis to the Secretary of the Treas-
12 ury for tracking and controlling foreign assets.

13 “(H) Coordinate with financial intelligence
14 units in other countries on anti-terrorism and
15 anti-money laundering initiatives, and similar
16 efforts.

17 “(I) Administer the requirements of sub-
18 chapter II of chapter 53 of this title, chapter 2
19 of title I of Public Law 91–508, and section 21
20 of the Federal Deposit Insurance Act, to the ex-
21 tent delegated such authority by the Secretary
22 of the Treasury.

23 “(J) Such other duties and powers as the
24 Secretary of the Treasury may delegate or pre-
25 scribe.

1 “(c) REQUIREMENTS RELATING TO MAINTENANCE
2 AND USE OF DATA BANKS.—The Secretary of the Treas-
3 ury shall establish and maintain operating procedures with
4 respect to the government-wide data access service and the
5 financial crimes communications center maintained by
6 FinCEN which provide—

7 “(1) for the coordinated and efficient trans-
8 mital of information to, entry of information into,
9 and withdrawal of information from, the data main-
10 tenance system maintained by the Network,
11 including—

12 “(A) the submission of reports through the
13 Internet or other secure network, whenever pos-
14 sible;

15 “(B) the cataloguing of information in a
16 manner that facilitates rapid retrieval by law
17 enforcement personnel of meaningful data; and

18 “(C) a procedure that provides for a
19 prompt initial review of suspicious activity re-
20 ports and other reports, or such other means as
21 the Secretary may provide, to identify informa-
22 tion that warrants immediate action; and

23 “(2) in accordance with section 552a of title 5
24 and the Right to Financial Privacy Act of 1978, ap-

1 appropriate standards and guidelines for
2 determining—

3 “(A) who is to be given access to the infor-
4 mation maintained by the Network;

5 “(B) what limits are to be imposed on the
6 use of such information; and

7 “(C) how information about activities or
8 relationships which involve or are closely associ-
9 ated with the exercise of constitutional rights is
10 to be screened out of the data maintenance sys-
11 tem.

12 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated for FinCEN such sums
14 as may be necessary for fiscal years 2002, 2003, 2004,
15 and 2005.”.

16 (b) COMPLIANCE WITH REPORTING REQUIRE-
17 MENTS.—The Secretary of the Treasury shall study meth-
18 ods for improving compliance with the reporting require-
19 ments established in section 5314 of title 31, United
20 States Code, and shall submit a report on such study to
21 the Congress by the end of the 6-month period beginning
22 on the date of enactment of this Act and each 1-year pe-
23 riod thereafter. The initial report shall include historical
24 data on compliance with such reporting requirements.

1 (c) CLERICAL AMENDMENT.—The table of sections
2 for subchapter I of chapter 3 of title 31, United States
3 Code, is amended—

4 (1) by redesignating the item relating to section
5 310 as section 311; and

6 (2) by inserting after the item relating to sec-
7 tion 309 the following new item:

“310. Financial Crimes Enforcement Network.”.

8 **SEC. 362. ESTABLISHMENT OF HIGHLY SECURE NETWORK.**

9 (a) IN GENERAL.—The Secretary shall establish a
10 highly secure network in the Financial Crimes Enforce-
11 ment Network that—

12 (1) allows financial institutions to file reports
13 required under subchapter II or III of chapter 53 of
14 title 31, United States Code, chapter 2 of Public
15 Law 91–508, or section 21 of the Federal Deposit
16 Insurance Act through the secure network; and

17 (2) provides financial institutions with alerts
18 and other information regarding suspicious activities
19 that warrant immediate and enhanced scrutiny.

20 (b) EXPEDITED DEVELOPMENT.—The Secretary
21 shall take such action as may be necessary to ensure that
22 the secure network required under subsection (a) is fully
23 operational before the end of the 9-month period begin-
24 ning on the date of enactment of this Act.

1 **SEC. 363. INCREASE IN CIVIL AND CRIMINAL PENALTIES**
2 **FOR MONEY LAUNDERING.**

3 (a) CIVIL PENALTIES.—Section 5321(a) of title 31,
4 United States Code, is amended by adding at the end the
5 following:

6 “(7) PENALTIES FOR INTERNATIONAL
7 COUNTER MONEY LAUNDERING VIOLATIONS.—The
8 Secretary may impose a civil money penalty in an
9 amount equal to not less than 2 times the amount
10 of the transaction, but not more than \$1,000,000,
11 on any financial institution or agency that violates
12 any provision of subsection (i) or (j) of section 5318
13 or any special measures imposed under section
14 5318A.”.

15 (b) CRIMINAL PENALTIES.—Section 5322 of title 31,
16 United States Code, is amended by adding at the end the
17 following:

18 “(d) A financial institution or agency that violates
19 any provision of subsection (i) or (j) of section 5318, or
20 any special measures imposed under section 5318A, or any
21 regulation prescribed under subsection (i) or (j) of section
22 5318 or section 5318A, shall be fined in an amount equal
23 to not less than 2 times the amount of the transaction,
24 but not more than \$1,000,000.”.

1 **SEC. 364. UNIFORM PROTECTION AUTHORITY FOR FED-**
2 **ERAL RESERVE FACILITIES.**

3 Section 11 of the Federal Reserve Act (12 U.S.C.
4 248) is amended by adding at the end the following:

5 “(q) UNIFORM PROTECTION AUTHORITY FOR FED-
6 ERAL RESERVE FACILITIES.—

7 “(1) Notwithstanding any other provision of
8 law, to authorize personnel to act as law enforce-
9 ment officers to protect and safeguard the premises,
10 grounds, property, personnel, including members of
11 the Board, of the Board, or any Federal reserve
12 bank, and operations conducted by or on behalf of
13 the Board or a reserve bank.

14 “(2) The Board may, subject to the regulations
15 prescribed under paragraph (5), delegate authority
16 to a Federal reserve bank to authorize personnel to
17 act as law enforcement officers to protect and safe-
18 guard the bank’s premises, grounds, property, per-
19 sonnel, and operations conducted by or on behalf of
20 the bank.

21 “(3) Law enforcement officers designated or
22 authorized by the Board or a reserve bank under
23 paragraph (1) or (2) are authorized while on duty
24 to carry firearms and make arrests without warrants
25 for any offense against the United States committed
26 in their presence, or for any felony cognizable under

1 the laws of the United States committed or being
2 committed within the buildings and grounds of the
3 Board or a reserve bank if they have reasonable
4 grounds to believe that the person to be arrested has
5 committed or is committing such a felony. Such offi-
6 cers shall have access to law enforcement informa-
7 tion that may be necessary for the protection of the
8 property or personnel of the Board or a reserve
9 bank.

10 “(4) For purposes of this subsection, the term
11 ‘law enforcement officers’ means personnel who have
12 successfully completed law enforcement training and
13 are authorized to carry firearms and make arrests
14 pursuant to this subsection.

15 “(5) The law enforcement authorities provided
16 for in this subsection may be exercised only pursu-
17 ant to regulations prescribed by the Board and ap-
18 proved by the Attorney General.”.

19 **SEC. 365. REPORTS RELATING TO COINS AND CURRENCY**
20 **RECEIVED IN NONFINANCIAL TRADE OR**
21 **BUSINESS.**

22 (a) REPORTS REQUIRED.—Subchapter II of chapter
23 53 of title 31, United States Code, is amended by adding
24 at the end the following new section:

1 **“§ 5331. Reports relating to coins and currency re-**
2 **ceived in nonfinancial trade or business**

3 “(a) COIN AND CURRENCY RECEIPTS OF MORE
4 THAN \$10,000.—Any person—

5 “(1) who is engaged in a trade or business; and

6 “(2) who, in the course of such trade or busi-
7 ness, receives more than \$10,000 in coins or cur-
8 rency in 1 transaction (or 2 or more related trans-
9 actions),

10 shall file a report described in subsection (b) with respect
11 to such transaction (or related transactions) with the Fi-
12 nancial Crimes Enforcement Network at such time and
13 in such manner as the Secretary may, by regulation, pre-
14 scribe.

15 “(b) FORM AND MANNER OF REPORTS.—A report is
16 described in this subsection if such report—

17 “(1) is in such form as the Secretary may pre-
18 scribe;

19 “(2) contains—

20 “(A) the name and address, and such
21 other identification information as the Sec-
22 retary may require, of the person from whom
23 the coins or currency was received;

24 “(B) the amount of coins or currency re-
25 ceived;

1 “(C) the date and nature of the trans-
2 action; and

3 “(D) such other information, including the
4 identification of the person filing the report, as
5 the Secretary may prescribe.

6 “(c) EXCEPTIONS.—

7 “(1) AMOUNTS RECEIVED BY FINANCIAL INSTI-
8 TUTIONS.—Subsection (a) shall not apply to
9 amounts received in a transaction reported under
10 section 5313 and regulations prescribed under such
11 section.

12 “(2) TRANSACTIONS OCCURRING OUTSIDE THE
13 UNITED STATES.—Except to the extent provided in
14 regulations prescribed by the Secretary, subsection
15 (a) shall not apply to any transaction if the entire
16 transaction occurs outside the United States.

17 “(d) CURRENCY INCLUDES FOREIGN CURRENCY AND
18 CERTAIN MONETARY INSTRUMENTS.—

19 “(1) IN GENERAL.—For purposes of this sec-
20 tion, the term ‘currency’ includes—

21 “(A) foreign currency; and

22 “(B) to the extent provided in regulations
23 prescribed by the Secretary, any monetary in-
24 strument (whether or not in bearer form) with
25 a face amount of not more than \$10,000.

1 “(2) SCOPE OF APPLICATION.—Paragraph
2 (1)(B) shall not apply to any check drawn on the ac-
3 count of the writer in a financial institution referred
4 to in subparagraph (A), (B), (C), (D), (E), (F), (G),
5 (J), (K), (R), or (S) of section 5312(a)(2).”.

6 (b) PROHIBITION ON STRUCTURING TRANS-
7 ACTIONS.—

8 (1) IN GENERAL.—Section 5324 of title 31,
9 United States Code, is amended—

10 (A) by redesignating subsections (b) and
11 (c) as subsections (e) and (d), respectively; and

12 (B) by inserting after subsection (a) the
13 following new subsection:

14 “(b) DOMESTIC COIN AND CURRENCY TRANS-
15 ACTIONS INVOLVING NONFINANCIAL TRADES OR BUSI-
16 NESSES.—No person shall, for the purpose of evading the
17 report requirements of section 5333 or any regulation pre-
18 scribed under such section—

19 “(1) cause or attempt to cause a nonfinancial
20 trade or business to fail to file a report required
21 under section 5333 or any regulation prescribed
22 under such section;

23 “(2) cause or attempt to cause a nonfinancial
24 trade or business to file a report required under sec-
25 tion 5333 or any regulation prescribed under such

1 section that contains a material omission or
2 misstatement of fact; or

3 “(3) structure or assist in structuring, or at-
4 tempt to structure or assist in structuring, any
5 transaction with 1 or more nonfinancial trades or
6 businesses.’.

7 (2) TECHNICAL AND CONFORMING AMEND-
8 MENTS.—

9 (A) The heading for subsection (a) of sec-
10 tion 5324 of title 31, United States Code, is
11 amended by inserting “INVOLVING FINANCIAL
12 INSTITUTIONS” after “TRANSACTIONS’.

13 (B) Section 5317(c) of title 31, United
14 States Code, is amended by striking “5324(b)”
15 and inserting “5324(c)”.

16 (c) DEFINITION OF NONFINANCIAL TRADE OR BUSI-
17 NESS.—

18 (1) IN GENERAL.—Section 5312(a) of title 31,
19 United States Code, is amended—

20 (A) by redesignating paragraphs (4) and
21 (5) as paragraphs (5) and (6), respectively; and

22 (B) by inserting after paragraph (3) the
23 following new paragraph:

24 “(4) NONFINANCIAL TRADE OR BUSINESS.—

25 The term ‘nonfinancial trade or business’ means any

1 trade or business other than a financial institution
2 that is subject to the reporting requirements of sec-
3 tion 5313 and regulations prescribed under such sec-
4 tion.”.

5 (2) TECHNICAL AND CONFORMING AMEND-
6 MENTS.—

7 (A) Section 5312(a)(3)(C) of title 31,
8 United States Code, is amended by striking
9 “section 5316,” and inserting “sections 5333
10 and 5316,”.

11 (B) Subsections (a) through (f) of section
12 5318 of title 31, United States Code, and sec-
13 tions 5321, 5326, and 5328 of such title are
14 each amended—

15 (i) by inserting “or nonfinancial trade
16 or business” after “financial institution”
17 each place such term appears; and

18 (ii) by inserting “or nonfinancial
19 trades or businesses” after “financial insti-
20 tutions” each place such term appears.

21 (c) CLERICAL AMENDMENT.—The table of sections
22 for chapter 53 of title 31, United States Code, is amended
23 by inserting after the item relating to section 5332 (as
24 added by section 112 of this title) the following new item:

“5331. Reports relating to coins and currency received in nonfinancial trade or
business.”.

1 (f) REGULATIONS.—Regulations which the Secretary
2 determines are necessary to implement this section shall
3 be published in final form before the end of the 6-month
4 period beginning on the date of enactment of this Act.

5 **SEC. 366. EFFICIENT USE OF CURRENCY TRANSACTION RE-**
6 **PORT SYSTEM.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) The Congress established the currency
9 transaction reporting requirements in 1970 because
10 the Congress found then that such reports have a
11 high degree of usefulness in criminal, tax, and regu-
12 latory investigations and proceedings and the useful-
13 ness of such reports has only increased in the years
14 since the requirements were established.

15 (2) In 1994, in response to reports and testi-
16 mony that excess amounts of currency transaction
17 reports were interfering with effective law enforce-
18 ment, the Congress reformed the currency trans-
19 action report exemption requirements to provide—

20 (A) mandatory exemptions for certain re-
21 ports that had little usefulness for law enforce-
22 ment, such as cash transfers between depository
23 institutions and cash deposits from government
24 agencies; and

1 (B) discretionary authority for the Sec-
2 retary of the Treasury to provide exemptions,
3 subject to criteria and guidelines established by
4 the Secretary, for financial institutions with re-
5 gard to regular business customers that main-
6 tain accounts at an institution into which fre-
7 quent cash deposits are made.

8 (3) Today there is evidence that some financial
9 institutions are not utilizing the exemption system,
10 or are filing reports even if there is an exemption in
11 effect, with the result that the volume of currency
12 transaction reports is once again interfering with ef-
13 fective law enforcement.

14 (b) STUDY AND REPORT.—

15 (1) STUDY REQUIRED.—The Secretary shall
16 conduct a study of—

17 (A) the possible expansion of the statutory
18 exemption system in effect under section 5313
19 of title 31, United States Code; and

20 (B) methods for improving financial insti-
21 tution utilization of the statutory exemption
22 provisions as a way of reducing the submission
23 of currency transaction reports that have little
24 or no value for law enforcement purposes, in-
25 cluding improvements in the systems in effect

1 at financial institutions for regular review of
2 the exemption procedures used at the institu-
3 tion and the training of personnel in its effec-
4 tive use.

5 (2) REPORT REQUIRED.—The Secretary of the
6 Treasury shall submit a report to the Congress be-
7 fore the end of the 1-year period beginning on the
8 date of enactment of this Act containing the findings
9 and conclusions of the Secretary with regard to the
10 study required under subsection (a), and such rec-
11 ommendations for legislative or administrative action
12 as the Secretary determines to be appropriate.

13 **Subtitle C—Currency Crimes and** 14 **Protection**

15 **SEC. 371. BULK CASH SMUGGLING INTO OR OUT OF THE** 16 **UNITED STATES.**

17 (a) FINDINGS.—The Congress finds the following:

18 (1) Effective enforcement of the currency re-
19 porting requirements of subchapter II of chapter 53
20 of title 31, United States Code, and the regulations
21 prescribed under such subchapter, has forced drug
22 dealers and other criminals engaged in cash-based
23 businesses to avoid using traditional financial insti-
24 tutions.

1 (2) In their effort to avoid using traditional fi-
2 nancial institutions, drug dealers and other criminals
3 are forced to move large quantities of currency in
4 bulk form to and through the airports, border cross-
5 ings, and other ports of entry where the currency
6 can be smuggled out of the United States and placed
7 in a foreign financial institution or sold on the black
8 market.

9 (3) The transportation and smuggling of cash
10 in bulk form may now be the most common form of
11 money laundering, and the movement of large sums
12 of cash is one of the most reliable warning signs of
13 drug trafficking, terrorism, money laundering, rack-
14 eteering, tax evasion and similar crimes.

15 (4) The intentional transportation into or out of
16 the United States of large amounts of currency or
17 monetary instruments, in a manner designed to cir-
18 cumvent the mandatory reporting provisions of sub-
19 chapter II of chapter 53 of title 31, United States
20 Code,, is the equivalent of, and creates the same
21 harm as, the smuggling of goods.

22 (5) The arrest and prosecution of bulk cash
23 smugglers are important parts of law enforcement's
24 effort to stop the laundering of criminal proceeds,
25 but the couriers who attempt to smuggle the cash

1 out of the United States are typically low-level em-
2 ployees of large criminal organizations, and thus are
3 easily replaced. Accordingly, only the confiscation of
4 the smuggled bulk cash can effectively break the
5 cycle of criminal activity of which the laundering of
6 the bulk cash is a critical part.

7 (6) The current penalties for violations of the
8 currency reporting requirements are insufficient to
9 provide a deterrent to the laundering of criminal
10 proceeds. In particular, in cases where the only
11 criminal violation under current law is a reporting
12 offense, the law does not adequately provide for the
13 confiscation of smuggled currency. In contrast, if the
14 smuggling of bulk cash were itself an offense, the
15 cash could be confiscated as the corpus delicti of the
16 smuggling offense.

17 (b) PURPOSES.—The purposes of this section are—

18 (1) to make the act of smuggling bulk cash
19 itself a criminal offense;

20 (2) to authorize forfeiture of any cash or instru-
21 ments of the smuggling offense; and

22 (3) to emphasize the seriousness of the act of
23 bulk cash smuggling.

24 (c) ENACTMENT OF BULK CASH SMUGGLING OF-
25 FENSE.—Subchapter II of chapter 53 of title 31, United

1 States Code, is amended by adding at the end the fol-
2 lowing:

3 **“§ 5332. Bulk cash smuggling into or out of the**
4 **United States**

5 “(a) CRIMINAL OFFENSE.—

6 “(1) IN GENERAL.—Whoever, with the intent to
7 evade a currency reporting requirement under sec-
8 tion 5316, knowingly conceals more than \$10,000 in
9 currency or other monetary instruments on the per-
10 son of such individual or in any conveyance, article
11 of luggage, merchandise, or other container, and
12 transports or transfers or attempts to transport or
13 transfer such currency or monetary instruments
14 from a place within the United States to a place out-
15 side of the United States, or from a place outside
16 the United States to a place within the United
17 States, shall be guilty of a currency smuggling of-
18 fense and subject to punishment pursuant to sub-
19 section (b).

20 “(2) CONCEALMENT ON PERSON.—For pur-
21 poses of this section, the concealment of currency on
22 the person of any individual includes concealment in
23 any article of clothing worn by the individual or in
24 any luggage, backpack, or other container worn or
25 carried by such individual.

1 “(b) PENALTY.—

2 “(1) TERM OF IMPRISONMENT.—A person con-
3 victed of a currency smuggling offense under sub-
4 section (a), or a conspiracy to commit such offense,
5 shall be imprisoned for not more than 5 years.

6 “(2) FORFEITURE.—In addition, the court, in
7 imposing sentence under paragraph (1), shall order
8 that the defendant forfeit to the United States, any
9 property, real or personal, involved in the offense,
10 and any property traceable to such property, subject
11 to subsection (d) of this section.

12 “(3) PROCEDURE.—The seizure, restraint, and
13 forfeiture of property under this section shall be gov-
14 erned by section 413 of the Controlled Substances
15 Act.

16 “(4) PERSONAL MONEY JUDGMENT.—If the
17 property subject to forfeiture under paragraph (2) is
18 unavailable, and the defendant has insufficient sub-
19 stitute property that may be forfeited pursuant to
20 section 413(p) of the Controlled Substances Act, the
21 court shall enter a personal money judgment against
22 the defendant for the amount that would be subject
23 to forfeiture.

24 “(c) CIVIL FORFEITURE.—

1 “(1) IN GENERAL.—Any property involved in a
2 violation of subsection (a), or a conspiracy to com-
3 mit such violation, and any property traceable to
4 such violation or conspiracy, may be seized and, sub-
5 ject to subsection (d) of this section, forfeited to the
6 United States.

7 “(2) PROCEDURE.—The seizure and forfeiture
8 shall be governed by the procedures governing civil
9 forfeitures in money laundering cases pursuant to
10 section 981(a)(1)(A) of title 18, United States Code.

11 “(3) TREATMENT OF CERTAIN PROPERTY AS
12 INVOLVED IN THE OFFENSE.—For purposes of this
13 subsection and subsection (b), any currency or other
14 monetary instrument that is concealed or intended
15 to be concealed in violation of subsection (a) or a
16 conspiracy to commit such violation, any article, con-
17 tainer, or conveyance used, or intended to be used,
18 to conceal or transport the currency or other mone-
19 tary instrument, and any other property used, or in-
20 tended to be used, to facilitate the offense, shall be
21 considered property involved in the offense.”.

22 “(c) CLERICAL AMENDMENT.—The table of sections
23 for subchapter II of chapter 53 of title 31, United States
24 Code, is amended by inserting after the item relating to
25 section 5331, as added by this Act, the following new item:

“5332. Bulk cash smuggling into or out of the United States.”.

1 **SEC. 372. FORFEITURE IN CURRENCY REPORTING CASES.**

2 (a) IN GENERAL.—Subsection (c) of section 5317 of
3 title 31, United States Code, is amended to read as fol-
4 lows:

5 “(c) FORFEITURE.—

6 “(1) CRIMINAL FORFEITURE.—

7 “(A) IN GENERAL.—The court in imposing
8 sentence for any violation of section 5313,
9 5316, or 5324 of this title, or any conspiracy to
10 commit such violation, shall order the defendant
11 to forfeit all property, real or personal, involved
12 in the offense and any property traceable there-
13 to.

14 “(B) PROCEDURE.—Forfeitures under this
15 paragraph shall be governed by the procedures
16 established in section 413 of the Controlled
17 Substances Act.

18 “(2) CIVIL FORFEITURE.—Any property in-
19 volved in a violation of section 5313, 5316, or 5324
20 of this title, or any conspiracy to commit any such
21 violation, and any property traceable to any such
22 violation or conspiracy, may be seized and forfeited
23 to the United States in accordance with the proce-
24 dures governing civil forfeitures in money laundering
25 cases pursuant to section 981(a)(1)(A) of title 18,
26 United States Code.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 981(a)(1)(A) of title 18, United
3 States Code, is amended—

4 (A) by striking “of section 5313(a) or
5 5324(a) of title 31, or”; and

6 (B) by striking “However” and all that fol-
7 lows through the end of the subparagraph.

8 (2) Section 982(a)(1) of title 18, United States
9 Code, is amended—

10 (A) by striking “of section 5313(a), 5316,
11 or 5324 of title 31, or”; and

12 (B) by striking “However” and all that fol-
13 lows through the end of the paragraph.

14 **SEC. 373. ILLEGAL MONEY TRANSMITTING BUSINESSES.**

15 (a) **SCIENTER REQUIREMENT FOR SECTION 1960**
16 **VIOLATION.**—Section 1960 of title 18, United States
17 Code, is amended to read as follows:

18 **“§ 1960. Prohibition of unlicensed money transmit-**
19 **ting businesses**

20 “(a) Whoever knowingly conducts, controls, manages,
21 supervises, directs, or owns all or part of an unlicensed
22 money transmitting business, shall be fined in accordance
23 with this title or imprisoned not more than 5 years, or
24 both.

25 “(b) As used in this section—

1 “(1) the term ‘unlicensed money transmitting
2 business’ means a money transmitting business
3 which affects interstate or foreign commerce in any
4 manner or degree and—

5 “(A) is operated without an appropriate
6 money transmitting license in a State where
7 such operation is punishable as a misdemeanor
8 or a felony under State law, whether or not the
9 defendant knew that the operation was required
10 to be licensed or that the operation was so pun-
11 ishable;

12 “(B) fails to comply with the money trans-
13 mitting business registration requirements
14 under section 5330 of title 31, United States
15 Code, or regulations prescribed under such sec-
16 tion; or

17 “(C) otherwise involves the transportation
18 or transmission of funds that are known to the
19 defendant to have been derived from a criminal
20 offense or are intended to be used to be used
21 to promote or support unlawful activity;

22 “(2) the term ‘money transmitting’ includes
23 transferring funds on behalf of the public by any
24 and all means including but not limited to transfers

1 within this country or to locations abroad by wire,
2 check, draft, facsimile, or courier; and

3 “(3) the term ‘State’ means any State of the
4 United States, the District of Columbia, the North-
5 ern Mariana Islands, and any commonwealth, terri-
6 tory, or possession of the United States.”.

7 (b) SEIZURE OF ILLEGALLY TRANSMITTED
8 FUNDS.—Section 981(a)(1)(A) of title 18, United States
9 Code, is amended by striking “or 1957” and inserting “,
10 1957 or 1960”.

11 (c) CLERICAL AMENDMENT.—The table of sections
12 for chapter 95 of title 18, United States Code, is amended
13 in the item relating to section 1960 by striking “illegal”
14 and inserting “unlicensed”.

15 **SEC. 374. COUNTERFEITING DOMESTIC CURRENCY AND OB-**
16 **LIGATIONS.**

17 (a) COUNTERFEIT ACTS COMMITTED OUTSIDE THE
18 UNITED STATES.—Section 470 of title 18, United States
19 Code, is amended—

20 (1) in paragraph (2), by inserting “analog, dig-
21 ital, or electronic image,” after “plate, stone,”; and

22 (2) by striking “shall be fined under this title,
23 imprisoned not more than 20 years, or both” and in-
24 serting “shall be punished as is provided for the like
25 offense within the United States”.

1 (b) OBLIGATIONS OR SECURITIES OF THE UNITED
2 STATES.—Section 471 of title 18, United States Code, is
3 amended by striking “fifteen years” and inserting “20
4 years”.

5 (c) UTTERING COUNTERFEIT OBLIGATIONS OR SE-
6 CURITIES.—Section 472 of title 18, United States Code,
7 is amended by striking “fifteen years” and inserting “20
8 years”.

9 (d) DEALING IN COUNTERFEIT OBLIGATIONS OR SE-
10 CURITIES.—Section 473 of title 18, United States Code,
11 is amended by striking “ten years” and inserting “20
12 years”.

13 (e) PLATES, STONES, OR ANALOG, DIGITAL, OR
14 ELECTRONIC IMAGES FOR COUNTERFEITING OBLIGA-
15 TIONS OR SECURITIES.—

16 (1) IN GENERAL.—Section 474(a) of title 18,
17 United States Code, is amended by inserting after
18 the second paragraph the following new paragraph:

19 “Whoever, with intent to defraud, makes, executes,
20 acquires, scans, captures, records, receives, transmits, re-
21 produces, sells, or has in such person’s control, custody,
22 or possession, an analog, digital, or electronic image of
23 any obligation or other security of the United States; or”.

24 (2) AMENDMENT TO DEFINITION.—Section
25 474(b) of title 18, United States Code, is amended

1 by striking the first sentence and inserting the fol-
2 lowing new sentence: “For purposes of this section,
3 the term ‘analog, digital, or electronic image’ in-
4 cludes any analog, digital, or electronic method used
5 for the making, execution, acquisition, scanning,
6 capturing, recording, retrieval, transmission, or re-
7 production of any obligation or security, unless such
8 use is authorized by the Secretary of the Treasury.”.

9 (3) TECHNICAL AND CONFORMING AMEND-
10 MENT.—The heading for section 474 of title 18,
11 United States Code, is amended by striking “**or**
12 **stones**” and inserting “**, stones, or analog,**
13 **digital, or electronic images**”.

14 (4) CLERICAL AMENDMENT.—The table of sec-
15 tions for chapter 25 of title 18, United States Code,
16 is amended in the item relating to section 474 by
17 striking “or stones” and inserting “, stones, or ana-
18 log, digital, or electronic images”.

19 (f) TAKING IMPRESSIONS OF TOOLS USED FOR OBLI-
20 GATIONS OR SECURITIES.—Section 476 of title 18, United
21 States Code, is amended—

22 (1) by inserting “analog, digital, or electronic
23 image,” after “impression, stamp,”; and

24 (2) by striking “ten years” and inserting “25
25 years”.

1 (g) POSSESSING OR SELLING IMPRESSIONS OF
2 TOOLS USED FOR OBLIGATIONS OR SECURITIES.—Sec-
3 tion 477 of title 18, United States Code, is amended—

4 (1) in the first paragraph, by inserting “analog,
5 digital, or electronic image,” after “imprint,
6 stamp,”;

7 (2) in the second paragraph, by inserting “ana-
8 log, digital, or electronic image,” after “imprint,
9 stamp,”; and

10 (3) in the third paragraph, by striking “ten
11 years” and inserting “25 years”.

12 (h) CONNECTING PARTS OF DIFFERENT NOTES.—
13 Section 484 of title 18, United States Code, is amended
14 by striking “five years” and inserting “10 years”.

15 (i) BONDS AND OBLIGATIONS OF CERTAIN LENDING
16 AGENCIES.—The first and second paragraphs of section
17 493 of title 18, United States Code, are each amended
18 by striking “five years” and inserting “10 years”.

19 **SEC. 375. COUNTERFEITING FOREIGN CURRENCY AND OB-**
20 **LIGATIONS.**

21 (a) FOREIGN OBLIGATIONS OR SECURITIES.—Sec-
22 tion 478 of title 18, United States Code, is amended by
23 striking “five years” and inserting “20 years”.

24 (b) UTTERING COUNTERFEIT FOREIGN OBLIGA-
25 TIONS OR SECURITIES.—Section 479 of title 18, United

1 States Code, is amended by striking “three years” and
2 inserting “20 years”.

3 (c) POSSESSING COUNTERFEIT FOREIGN OBLIGA-
4 TIONS OR SECURITIES.—Section 480 of title 18, United
5 States Code, is amended by striking “one year” and in-
6 serting “20 years”.

7 (d) PLATES, STONES, OR ANALOG, DIGITAL, OR
8 ELECTRONIC IMAGES FOR COUNTERFEITING FOREIGN
9 OBLIGATIONS OR SECURITIES.—

10 (1) IN GENERAL.—Section 481 of title 18,
11 United States Code, is amended by inserting after
12 the second paragraph the following new paragraph:

13 “Whoever, with intent to defraud, makes, executes,
14 acquires, scans, captures, records, receives, transmits, re-
15 produces, sells, or has in such person’s control, custody,
16 or possession, an analog, digital, or electronic image of
17 any bond, certificate, obligation, or other security of any
18 foreign government, or of any treasury note, bill, or prom-
19 ise to pay, lawfully issued by such foreign government and
20 intended to circulate as money; or”.

21 (2) INCREASED SENTENCE.—The last para-
22 graph of section 481 of title 18, United States Code,
23 is amended by striking “five years” and inserting
24 “25 years”.

1 (3) TECHNICAL AND CONFORMING AMEND-
2 MENT.—The heading for section 481 of title 18,
3 United States Code, is amended by striking “**or**
4 **stones**” and inserting “, **stones, or analog,**
5 **digital, or electronic images**”.

6 (4) CLERICAL AMENDMENT.—The table of sec-
7 tions for chapter 25 of title 18, United States Code,
8 is amended in the item relating to section 481 by
9 striking “or stones” and inserting “, stones, or ana-
10 log, digital, or electronic images”.

11 (e) FOREIGN BANK NOTES.—Section 482 of title 18,
12 United States Code, is amended by striking “two years”
13 and inserting “20 years”.

14 (f) UTTERING COUNTERFEIT FOREIGN BANK
15 NOTES.—Section 483 of title 18, United States Code, is
16 amended by striking “one year” and inserting “20 years”.

17 **SEC. 376. LAUNDERING THE PROCEEDS OF TERRORISM.**

18 Section 1956(c)(7)(D) of title 18, United States
19 Code, is amended by inserting “or 2339B” after “2339A”.

20 **SEC. 377. EXTRATERRITORIAL JURISDICTION.**

21 Section 1029 of title 18, United States Code, is
22 amended by adding at the end the following:

23 “(h) Any person who, outside the jurisdiction of the
24 United States, engages in any act that, if committed with-
25 in the jurisdiction of the United States, would constitute

1 an offense under subsection (a) or (b) of this section, shall
2 be subject to the fines, penalties, imprisonment, and for-
3 feiture provided in this title if—

4 “(1) the offense involves an access device
5 issued, owned, managed, or controlled by a financial
6 institution, account issuer, credit card system mem-
7 ber, or other entity within the jurisdiction of the
8 United States; and

9 “(2) the person transports, delivers, conveys,
10 transfers to or through, or otherwise stores, secrets,
11 or holds within the jurisdiction of the United States,
12 any article used to assist in the commission of the
13 offense or the proceeds of such offense or property
14 derived therefrom.”.

15 **TITLE IV—PROTECTING THE** 16 **BORDER**

17 **Subtitle A—Protecting the** 18 **Northern Border**

19 **SEC. 401. ENSURING ADEQUATE PERSONNEL ON THE** 20 **NORTHERN BORDER.**

21 The Attorney General is authorized to waive any
22 FTE cap on personnel assigned to the Immigration and
23 Naturalization Service on the Northern border.

24 **SEC. 402. NORTHERN BORDER PERSONNEL.**

25 There are authorized to be appropriated—

1 (1) such sums as may be necessary to triple the
2 number of Border Patrol personnel (from the num-
3 ber authorized under current law), and the necessary
4 personnel and facilities to support such personnel, in
5 each State along the Northern Border;

6 (2) such sums as may be necessary to triple the
7 number of Customs Service personnel (from the
8 number authorized under current law), and the nec-
9 essary personnel and facilities to support such per-
10 sonnel, at ports of entry in each State along the
11 Northern Border;

12 (3) such sums as may be necessary to triple the
13 number of INS inspectors (from the number author-
14 ized on the date of the enactment of this Act), and
15 the necessary personnel and facilities to support
16 such personnel, at ports of entry in each State along
17 the Northern Border; and

18 (4) an additional \$50,000,000 each to the Im-
19 migration and Naturalization Service and the United
20 States Customs Service for purposes of making im-
21 provements in technology for monitoring the North-
22 ern Border and acquiring additional equipment at
23 the Northern Border.

1 **SEC. 403. ACCESS BY THE DEPARTMENT OF STATE AND**
2 **THE INS TO CERTAIN IDENTIFYING INFORMA-**
3 **TION IN THE CRIMINAL HISTORY RECORDS**
4 **OF VISA APPLICANTS AND APPLICANTS FOR**
5 **ADMISSION TO THE UNITED STATES.**

6 (a) AMENDMENT OF THE IMMIGRATION AND NA-
7 TIONALITY ACT.—Section 105 of the Immigration and
8 Nationality Act (8 U.S.C. 1105) is amended—

9 (1) in the section heading, by inserting “; DATA
10 EXCHANGE” after “SECURITY OFFICERS”;

11 (2) by inserting “(a)” after “SEC. 105.”;

12 (3) in subsection (a), by inserting “and border”
13 after “internal” the second place it appears; and

14 (4) by adding at the end the following:

15 “(b)(1) The Attorney General and the Director of the
16 Federal Bureau of Investigation shall provide the Depart-
17 ment of State and the Service access to the criminal his-
18 tory record information contained in the National Crime
19 Information Center’s Interstate Identification Index
20 (NCIC-III), Wanted Persons File, and to any other files
21 maintained by the National Crime Information Center
22 that may be mutually agreed upon by the Attorney Gen-
23 eral and the agency receiving the access, for the purpose
24 of determining whether or not a visa applicant or appli-
25 cant for admission has a criminal history record indexed
26 in any such file.

1 “(2) Such access shall be provided by means of ex-
2 tracts of the records for placement in the automated visa
3 lookout or other appropriate database, and shall be pro-
4 vided without any fee or charge.

5 “(3) The Federal Bureau of Investigation shall pro-
6 vide periodic updates of the extracts at intervals mutually
7 agreed upon with the agency receiving the access. Upon
8 receipt of such updated extracts, the receiving agency shall
9 make corresponding updates to its database and destroy
10 previously provided extracts.

11 “(4) Access to an extract does not entitle the Depart-
12 ment of State to obtain the full content of the cor-
13 responding automated criminal history record. To obtain
14 the full content of a criminal history record, the Depart-
15 ment of State shall submit the applicant’s fingerprints and
16 any appropriate fingerprint processing fee authorized by
17 law to the Criminal Justice Information Services Division
18 of the Federal Bureau of Investigation.

19 “(c) The provision of the extracts described in sub-
20 section (b) may be reconsidered by the Attorney General
21 and the receiving agency upon the development and de-
22 ployment of a more cost-effective and efficient means of
23 sharing the information.

24 “(d) For purposes of administering this section, the
25 Department of State shall, prior to receiving access to

1 NCIC data but not later than 4 months after the date
2 of enactment of this subsection, promulgate final
3 regulations—

4 “(1) to implement procedures for the taking of
5 fingerprints; and

6 “(2) to establish the conditions for the use of
7 the information received from the Federal Bureau of
8 Investigation, in order—

9 “(A) to limit the redissemination of such
10 information;

11 “(B) to ensure that such information is
12 used solely to determine whether or not to issue
13 a visa to an alien or to admit an alien to the
14 United States;

15 “(C) to ensure the security, confidentiality,
16 and destruction of such information; and

17 “(D) to protect any privacy rights of indi-
18 viduals who are subjects of such information.”.

19 (b) REPORTING REQUIREMENT.—Not later than 2
20 years after the date of enactment of this Act, the Attorney
21 General and the Secretary of State jointly shall report to
22 Congress on the implementation of the amendments made
23 by this section.

24 (c) TECHNOLOGY STANDARD TO CONFIRM IDEN-
25 TITY.—

1 (1) IN GENERAL.—The Attorney General and
2 the Secretary of State jointly, through the National
3 Institute of Standards and Technology (NIST), and
4 in consultation with the Secretary of the Treasury
5 and other Federal law enforcement and intelligence
6 agencies the Attorney General or Secretary of State
7 deems appropriate and in consultation with Con-
8 gress, shall within 2 years after the date of the en-
9 actment of this section, develop and certify a tech-
10 nology standard that can be used to verify the iden-
11 tity of persons applying for a United States visa or
12 such persons seeking to enter the United States pur-
13 suant to a visa for the purposes of conducting back-
14 ground checks, confirming identity, and ensuring
15 that a person has not received a visa under a dif-
16 ferent name or such person seeking to enter the
17 United States pursuant to a visa.

18 (2) INTEGRATED.—The technology standard de-
19 veloped pursuant to paragraph (1), shall be the tech-
20 nological basis for a cross-agency, cross-platform
21 electronic system that is a cost-effective, efficient,
22 fully integrated means to share law enforcement and
23 intelligence information necessary to confirm the
24 identity of such persons applying for a United States

1 visa or such person seeking to enter the United
2 States pursuant to a visa.

3 (3) ACCESSIBLE.—The electronic system de-
4 scribed in paragraph (2), once implemented, shall be
5 readily and easily accessible to—

6 (A) all consular officers responsible for the
7 issuance of visas;

8 (B) all Federal inspection agents at all
9 United States border inspection points; and

10 (C) all law enforcement and intelligence of-
11 ficers as determined by regulation to be respon-
12 sible for investigation or identification of aliens
13 admitted to the United States pursuant to a
14 visa.

15 (4) REPORT.—Not later than 18 months after
16 the date of the enactment of this Act, and every 2
17 years thereafter, the Attorney General and the Sec-
18 retary of State shall jointly, in consultation with the
19 Secretary of Treasury, report to Congress describing
20 the development, implementation, efficacy, and pri-
21 vacy implications of the technology standard and
22 electronic database system described in this sub-
23 section.

24 (5) FUNDING.—There is authorized to be ap-
25 propriated to the Secretary of State, the Attorney

1 General, and the Director of the National Institute
2 of Standards and Technology such sums as may be
3 necessary to carry out the provisions of this sub-
4 section.

5 (d) STATUTORY CONSTRUCTION.—Nothing in this
6 section, or in any other law, shall be construed to limit
7 the authority of the Attorney General or the Director of
8 the Federal Bureau of Investigation to provide access to
9 the criminal history record information contained in the
10 National Crime Information Center’s (NCIC) Interstate
11 Identification Index (NCIC-III), or to any other informa-
12 tion maintained by the NCIC, to any Federal agency or
13 officer authorized to enforce or administer the immigra-
14 tion laws of the United States, for the purpose of such
15 enforcement or administration, upon terms that are con-
16 sistent with the National Crime Prevention and Privacy
17 Compact Act of 1998 (subtitle A of title II of Public Law
18 105–251; 42 U.S.C. 14611–16) and section 552a of title
19 5, United States Code.

20 **SEC. 404. LIMITED AUTHORITY TO PAY OVERTIME.**

21 The matter under the headings “Immigration And
22 Naturalization Service: Salaries and Expenses, Enforce-
23 ment And Border Affairs” and “Immigration And Natu-
24 ralization Service: Salaries and Expenses, Citizenship And
25 Benefits, Immigration And Program Direction” in the De-

1 partment of Justice Appropriations Act, 2001 (as enacted
2 into law by Appendix B (H.R. 5548) of Public Law 106–
3 553 (114 Stat. 2762A–58 to 2762A–59)) is amended by
4 striking the following each place it occurs: “*Provided*, That
5 none of the funds available to the Immigration and Natu-
6 ralization Service shall be available to pay any employee
7 overtime pay in an amount in excess of \$30,000 during
8 the calendar year beginning January 1, 2001:”.

9 **SEC. 405. REPORT ON THE INTEGRATED AUTOMATED FIN-**
10 **GERPRINT IDENTIFICATION SYSTEM FOR**
11 **PORTS OF ENTRY AND OVERSEAS CONSULAR**
12 **POSTS.**

13 (a) IN GENERAL.—The Attorney General, in con-
14 sultation with the appropriate heads of other Federal
15 agencies, including the Secretary of State, Secretary of the
16 Treasury, and the Secretary of Transportation, shall re-
17 port to Congress on the feasibility of enhancing the Inte-
18 grated Automated Fingerprint Identification System
19 (IAFIS) of the Federal Bureau of Investigation and other
20 identification systems in order to better identify a person
21 who holds a foreign passport or a visa and may be wanted
22 in connection with a criminal investigation in the United
23 States or abroad, before the issuance of a visa to that per-
24 son or the entry or exit from the United States by that
25 person.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated not less than \$2,000,000
3 to carry out this section.

4 **Subtitle B—Enhanced Immigration** 5 **Provisions**

6 **SEC. 411. DEFINITIONS RELATING TO TERRORISM.**

7 (a) GROUNDS OF INADMISSIBILITY.—Section
8 212(a)(3) of the Immigration and Nationality Act (8
9 U.S.C. 1182(a)(3)) is amended—

10 (1) in subparagraph (B)—

11 (A) in clause (i)—

12 (i) by amending subclause (IV) to
13 read as follows:

14 “(IV) is a representative (as de-
15 fined in clause (v)) of—

16 “(aa) a foreign terrorist or-
17 ganization, as designated by the
18 Secretary of State under section
19 219, or

20 “(bb) a political, social or
21 other similar group whose public
22 endorsement of acts of terrorist
23 activity the Secretary of State
24 has determined undermines

1 United States efforts to reduce or
2 eliminate terrorist activities,”;

3 (ii) in subclause (V), by inserting “or”
4 after “section 219,”; and

5 (iii) by adding at the end the fol-
6 lowing new subclauses:

7 “(VI) has used the alien’s posi-
8 tion of prominence within any country
9 to endorse or espouse terrorist activ-
10 ity, or to persuade others to support
11 terrorist activity or a terrorist organi-
12 zation, in a way that the Secretary of
13 State has determined undermines
14 United States efforts to reduce or
15 eliminate terrorist activities, or

16 “(VII) is the spouse or child of
17 an alien who is inadmissible under
18 this section, if the activity causing the
19 alien to be found inadmissible oc-
20 curred within the last 5 years,”;

21 (B) by redesignating clauses (ii), (iii), and
22 (iv) as clauses (iii), (iv), and (v), respectively;

23 (C) in clause (i)(II), by striking “clause
24 (iii)” and inserting “clause (iv)”;

1 (D) by inserting after clause (i) the fol-
2 lowing:

3 “(ii) EXCEPTION.—Subclause (VII) of
4 clause (i) does not apply to a spouse or
5 child—

6 “(I) who did not know or should
7 not reasonably have known of the ac-
8 tivity causing the alien to be found in-
9 admissible under this section; or

10 “(II) whom the consular officer
11 or Attorney General has reasonable
12 grounds to believe has renounced the
13 activity causing the alien to be found
14 inadmissible under this section.”;

15 (E) in clause (iii) (as redesignated by sub-
16 paragraph (B))—

17 (i) by inserting “it had been” before
18 “committed in the United States”; and

19 (ii) in subclause (V)(b), by striking
20 “or firearm” and inserting “, firearm, or
21 other weapon or dangerous device”;

22 (F) by amending clause (iv) (as redesign-
23 ated by subparagraph (B)) to read as follows:

24 “(iv) ENGAGE IN TERRORIST ACTIVITY
25 DEFINED.—As used in this chapter, the

1 term ‘engage in terrorist activity’ means,
2 in an individual capacity or as a member
3 of an organization—

4 “(I) to commit or to incite to
5 commit, under circumstances indi-
6 cating an intention to cause death or
7 serious bodily injury, a terrorist activ-
8 ity;

9 “(II) to prepare or plan a ter-
10 rorist activity;

11 “(III) to gather information on
12 potential targets for terrorist activity;

13 “(IV) to solicit funds or other
14 things of value for—

15 “(aa) a terrorist activity;

16 “(bb) a terrorist organiza-
17 tion described in clause (vi)(I) or
18 (vi)(II); or

19 “(cc) a terrorist organiza-
20 tion described in clause (vi)(III),
21 unless the solicitor can dem-
22 onstrate that he did not know,
23 and should not reasonably have
24 known, that the solicitation

1 would further the organization’s
2 terrorist activity;
3 “(V) to solicit any individual—
4 “(aa) to engage in conduct
5 otherwise described in this
6 clause;
7 “(bb) for membership in a
8 terrorist organization described
9 in clause (vi)(I) or (vi)(II); or
10 “(cc) for membership in a
11 terrorist organization described
12 in clause (vi)(III), unless the so-
13 licitor can demonstrate that he
14 did not know, and should not
15 reasonably have known, that the
16 solicitation would further the or-
17 ganization’s terrorist activity; or
18 “(VI) to commit an act that the
19 actor knows, or reasonably should
20 know, affords material support, in-
21 cluding a safe house, transportation,
22 communications, funds, transfer of
23 funds or other material financial ben-
24 efit, false documentation or identifica-
25 tion, weapons (including chemical, bi-

1 ological, or radiological weapons), ex-
2 plosives, or training—

3 “ (aa) for the commission of
4 a terrorist activity;

5 “ (bb) to any individual who
6 the actor knows, or reasonably
7 should know, has committed or
8 plans to commit a terrorist activ-
9 ity;

10 “ (cc) to a terrorist organiza-
11 tion described in clause (vi)(I) or
12 (vi)(II); or

13 “ (dd) to a terrorist organi-
14 zation described in clause
15 (vi)(III), unless the actor can
16 demonstrate that he did not
17 know, and should not reasonably
18 have known, that the act would
19 further the organization’s ter-
20 rorist activity.

21 This clause shall not apply to any ma-
22 terial support the alien afforded to an
23 organization or individual that has
24 committed terrorist activity, if the
25 Secretary of State, after consultation

1 with the Attorney General, or the At-
2 torney General, after consultation
3 with the Secretary of State, concludes
4 in his sole unreviewable discretion,
5 that this clause should not apply.”;
6 and

7 (G) by adding at the end the following new
8 clause:

9 “(vi) **TERRORIST ORGANIZATION DE-**
10 **FINED.**—As used in clause (i)(VI) and
11 clause (iv), the term ‘terrorist organiza-
12 tion’ means an organization—

13 “(I) designated under section
14 219;

15 “(II) otherwise designated, upon
16 publication in the Federal Register, by
17 the Secretary of State in consultation
18 with or upon the request of the Attor-
19 ney General, as a terrorist organiza-
20 tion, after finding that the organiza-
21 tion engages in the activities described
22 in subclause (I), (II), or (III) of
23 clause (iv), or that the organization
24 provides material support to further
25 terrorist activity; or

1 “(III) that is a group of two or
2 more individuals, whether organized
3 or not, which engages in the activities
4 described in subclause (I), (II), or
5 (III) of clause (iv).”; and

6 (2) by adding at the end the following new sub-
7 paragraph:

8 “(F) ASSOCIATION WITH TERRORIST ORGA-
9 NIZATIONS.—Any alien who the Secretary of
10 State, after consultation with the Attorney Gen-
11 eral, or the Attorney General, after consultation
12 with the Secretary of State, determines has
13 been associated with a terrorist organization
14 and intends while in the United States to en-
15 gage solely, principally, or incidentally in activi-
16 ties that could endanger the welfare, safety, or
17 security of the United States is inadmissible.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 237(a)(4)(B) of the Immigration
20 and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is
21 amended by striking “section 212(a)(3)(B)(iii)” and
22 inserting “section 212(a)(3)(B)(iv)”.

23 (2) Section 208(b)(2)(A)(v) of the Immigration
24 and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v)) is

1 amended by striking “or (IV)” and inserting “(IV),
2 or (VI)”.

3 (c) RETROACTIVE APPLICATION OF AMENDMENTS.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this subsection, the amendments made by
6 this section shall take effect on the date of the en-
7 actment of this Act and shall apply to—

8 (A) actions taken by an alien before, on, or
9 after such date; and

10 (B) all aliens, without regard to the date
11 of entry or attempted entry into the United
12 States—

13 (i) in removal proceedings on or after
14 such date (except for proceedings in which
15 there has been a final administrative deci-
16 sion before such date); or

17 (ii) seeking admission to the United
18 States on or after such date.

19 (2) SPECIAL RULE FOR ALIENS IN EXCLUSION
20 OR DEPORTATION PROCEEDINGS.—Notwithstanding
21 any other provision of law, sections 212(a)(3)(B)
22 and 237(a)(4)(B) of the Immigration and Nation-
23 ality Act, as amended by this Act, shall apply to all
24 aliens in exclusion or deportation proceedings on or
25 after the date of the enactment of this Act (except

1 for proceedings in which there has been a final ad-
2 ministrative decision before such date) as if such
3 proceedings were removal proceedings.

4 (3) SPECIAL RULE FOR SECTION 219 ORGANIZA-
5 TIONS AND ORGANIZATIONS DESIGNATED UNDER
6 SECTION 212(a)(3)(B)(vi)(II).—

7 (A) IN GENERAL.—Notwithstanding para-
8 graphs (1) and (2), no alien shall be considered
9 inadmissible under section 212(a)(3) of the Im-
10 migration and Nationality Act (8 U.S.C.
11 1182(a)(3)), or deportable under section
12 237(a)(4)(B) of such Act (8 U.S.C.
13 1227(a)(4)(B)), by reason of the amendments
14 made by subsection (a), on the ground that the
15 alien engaged in a terrorist activity described in
16 subclause (IV)(bb), (V)(bb), or (VI)(cc) of sec-
17 tion 212(a)(3)(B)(iv) of such Act (as so amend-
18 ed) with respect to a group at any time when
19 the group was not a terrorist organization des-
20 ignated by the Secretary of State under section
21 219 of such Act (8 U.S.C. 1189) or otherwise
22 designated under section 212(a)(3)(B)(vi)(II) of
23 such Act (as so amended).

24 (B) STATUTORY CONSTRUCTION.—Sub-
25 paragraph (A) shall not be construed to prevent

1 an alien from being considered inadmissible or
2 deportable for having engaged in a terrorist
3 activity—

4 (i) described in subclause (IV)(bb),
5 (V)(bb), or (VI)(cc) of section
6 212(a)(3)(B)(iv) of such Act (as so amend-
7 ed) with respect to a terrorist organization
8 at any time when such organization was
9 designated by the Secretary of State under
10 section 219 of such Act or otherwise des-
11 ignated under section 212(a)(3)(B)(vi)(II)
12 of such Act (as so amended); or

13 (ii) described in subclause (IV)(cc),
14 (V)(cc), or (VI)(dd) of section
15 212(a)(3)(B)(iv) of such Act (as so amend-
16 ed) with respect to a terrorist organization
17 described in section 212(a)(3)(B)(vi)(III)
18 of such Act (as so amended).

19 (4) EXCEPTION.—The Secretary of State, in
20 consultation with the Attorney General, may deter-
21 mine that the amendments made by this section
22 shall not apply with respect to actions by an alien
23 taken outside the United States before the date of
24 the enactment of this Act upon the recommendation
25 of a consular officer who has concluded that there

1 is not reasonable ground to believe that the alien
2 knew or reasonably should have known that the ac-
3 tions would further a terrorist activity.

4 (c) DESIGNATION OF FOREIGN TERRORIST ORGANI-
5 ZATIONS.—Section 219(a) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1189(a)) is amended—

7 (1) in paragraph (1)(B), by inserting “or ter-
8 rorism (as defined in section 140(d)(2) of the For-
9 eign Relations Authorization Act, Fiscal Years 1988
10 and 1989 (22 U.S.C. 2656f(d)(2)), or retains the ca-
11 pability and intent to engage in terrorist activity or
12 terrorism” after “212(a)(3)(B)”;

13 (2) in paragraph (1)(C), by inserting “or ter-
14 rorism” after “terrorist activity”;

15 (3) by amending paragraph (2)(A) to read as
16 follows:

17 “(A) NOTICE.—

18 “(i) TO CONGRESSIONAL LEADERS.—
19 Seven days before making a designation
20 under this subsection, the Secretary shall,
21 by classified communication, notify the
22 Speaker and Minority Leader of the House
23 of Representatives, the President pro tem-
24 pore, Majority Leader, and Minority Lead-
25 er of the Senate, and the members of the

1 relevant committees of the House of Rep-
2 resentatives and the Senate, in writing, of
3 the intent to designate an organization
4 under this subsection, together with the
5 findings made under paragraph (1) with
6 respect to that organization, and the fac-
7 tual basis therefor.

8 “(ii) PUBLICATION IN FEDERAL REG-
9 ISTER.—The Secretary shall publish the
10 designation in the Federal Register seven
11 days after providing the notification under
12 clause (i).”;

13 (4) in paragraph (2)(B)(i), by striking “sub-
14 paragraph (A)” and inserting “subparagraph
15 (A)(ii)”;

16 (5) in paragraph (2)(C), by striking “paragraph
17 (2)” and inserting “paragraph (2)(A)(i)”;

18 (6) in paragraph (3)(B), by striking “sub-
19 section (c)” and inserting “subsection (b)”;

20 (7) in paragraph (4)(B), by inserting after the
21 first sentence the following: “The Secretary also may
22 redesignate such organization at the end of any 2-
23 year redesignation period (but not sooner than 60
24 days prior to the termination of such period) for an
25 additional 2-year period upon a finding that the rel-

1 evant circumstances described in paragraph (1) still
2 exist. Any redesignation shall be effective imme-
3 diately following the end of the prior 2-year designa-
4 tion or redesignation period unless a different effec-
5 tive date is provided in such redesignation.”;

6 (8) in paragraph (6)(A)—

7 (A) by inserting “or a redesignation made
8 under paragraph (4)(B)” after “paragraph
9 (1)”;

10 (B) in clause (i)—

11 (i) by inserting “or redesignation”
12 after “designation” the first place it ap-
13 pears; and

14 (ii) by striking “of the designation”;

15 and

16 (C) in clause (ii), by striking “of the des-
17 ignation”;

18 (9) in paragraph (6)(B)—

19 (A) by striking “through (4)” and insert-
20 ing “and (3)”;

21 (B) by inserting at the end the following
22 new sentence: “Any revocation shall take effect
23 on the date specified in the revocation or upon
24 publication in the Federal Register if no effec-
25 tive date is specified.”;

1 “(2) RELEASE.—Except as provided in para-
2 graphs (5) and (6), the Attorney General shall main-
3 tain custody of such an alien until the alien is re-
4 moved from the United States. Except as provided
5 in paragraph (6), such custody shall be maintained
6 irrespective of any relief from removal for which the
7 alien may be eligible, or any relief from removal
8 granted the alien, until the Attorney General deter-
9 mines that the alien is no longer an alien who may
10 be certified under paragraph (3). If the alien is fi-
11 nally determined not to be removable, detention pur-
12 suant to this subsection shall terminate.

13 “(3) CERTIFICATION.—The Attorney General
14 may certify an alien under this paragraph if the At-
15 torney General has reasonable grounds to believe
16 that the alien—

17 “(A) is described in section
18 212(a)(3)(A)(i), 212(a)(3)(A)(iii),
19 212(a)(3)(B), 237(a)(4)(A)(i),
20 237(a)(4)(A)(iii), or 237(a)(4)(B); or

21 “(B) is engaged in any other activity that
22 endangers the national security of the United
23 States.

24 “(4) NONDELEGATION.—The Attorney General
25 may delegate the authority provided under para-

1 graph (3) only to the Deputy Attorney General. The
2 Deputy Attorney General may not delegate such au-
3 thority.

4 “(5) COMMENCEMENT OF PROCEEDINGS.—The
5 Attorney General shall place an alien detained under
6 paragraph (1) in removal proceedings, or shall
7 charge the alien with a criminal offense, not later
8 than 7 days after the commencement of such deten-
9 tion. If the requirement of the preceding sentence is
10 not satisfied, the Attorney General shall release the
11 alien.

12 “(6) LIMITATION ON INDEFINITE DETEN-
13 TION.—An alien detained solely under paragraph (1)
14 who has not been removed under section
15 241(a)(1)(A), and whose removal is unlikely in the
16 reasonably foreseeable future, may be detained for
17 additional periods of up to six months only if the re-
18 lease of the alien will threaten the national security
19 of the United States or the safety of the community
20 or any person.

21 “(7) REVIEW OF CERTIFICATION.—The Attor-
22 ney General shall review the certification made
23 under paragraph (3) every 6 months. If the Attorney
24 General determines, in the Attorney General’s dis-
25 cretion, that the certification should be revoked, the

1 alien may be released on such conditions as the At-
2 torney General deems appropriate, unless such re-
3 lease is otherwise prohibited by law. The alien may
4 request each 6 months in writing that the Attorney
5 General reconsider the certification and may submit
6 documents or other evidence in support of that re-
7 quest.

8 “(b) HABEAS CORPUS AND JUDICIAL REVIEW.—

9 “(1) IN GENERAL.—Judicial review of any ac-
10 tion or decision relating to this section (including ju-
11 dicial review of the merits of a determination made
12 under subsection (a)(3) or (a)(6)) is available exclu-
13 sively in habeas corpus proceedings consistent with
14 this subsection. Except as provided in the preceding
15 sentence, no court shall have jurisdiction to review,
16 by habeas corpus petition or otherwise, any such ac-
17 tion or decision.

18 “(2) APPLICATION.—

19 “(A) IN GENERAL.—Notwithstanding any
20 other provision of law, including section
21 2241(a) of title 28, United States Code, habeas
22 corpus proceedings described in paragraph (1)
23 may be initiated only by an application filed
24 with—

25 “(i) the Supreme Court;

1 “(ii) any justice of the Supreme
2 Court;

3 “(iii) any circuit judge of the United
4 States Court of Appeals for the District of
5 Columbia Circuit; or

6 “(iv) any district court otherwise hav-
7 ing jurisdiction to entertain it.

8 “(B) APPLICATION TRANSFER.—Section
9 2241(b) of title 28, United States Code, shall
10 apply to an application for a writ of habeas cor-
11 pus described in subparagraph (A).

12 “(3) APPEALS.—Notwithstanding any other
13 provision of law, including section 2253 of title 28,
14 in habeas corpus proceedings described in paragraph
15 (1) before a circuit or district judge, the final order
16 shall be subject to review, on appeal, by the United
17 States Court of Appeals for the District of Columbia
18 Circuit. There shall be no right of appeal in such
19 proceedings to any other circuit court of appeals.

20 “(4) RULE OF DECISION.—The law applied by
21 the Supreme Court and the United States Court of
22 Appeals for the District of Columbia Circuit shall be
23 regarded as the rule of decision in habeas corpus
24 proceedings described in paragraph (1).

1 “(c) STATUTORY CONSTRUCTION.—The provisions of
2 this section shall not be applicable to any other provision
3 of this Act.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
5 of the Immigration and Nationality Act is amended by in-
6 serting after the item relating to section 236 the following:

“Sec. 236A. Mandatory detention of suspected terrorist; habeas corpus; judicial
review.”.

7 (c) REPORTS.—Not later than 6 months after the
8 date of the enactment of this Act, and every 6 months
9 thereafter, the Attorney General shall submit a report to
10 the Committee on the Judiciary of the House of Rep-
11 resentatives and the Committee on the Judiciary of the
12 Senate, with respect to the reporting period, on—

13 (1) the number of aliens certified under section
14 236A(a)(3) of the Immigration and Nationality Act,
15 as added by subsection (a);

16 (2) the grounds for such certifications;

17 (3) the nationalities of the aliens so certified;

18 (4) the length of the detention for each alien so
19 certified; and

20 (5) the number of aliens so certified who—

21 (A) were granted any form of relief from
22 removal;

23 (B) were removed;

1 (C) the Attorney General has determined
2 are no longer aliens who may be so certified; or

3 (D) were released from detention.

4 **SEC. 413. MULTILATERAL COOPERATION AGAINST TERROR-**
5 **ISTS.**

6 Section 222(f) of the Immigration and Nationality
7 Act (8 U.S.C. 1202(f)) is amended—

8 (1) by striking “except that in the discretion
9 of” and inserting the following: “except that—

10 “(1) in the discretion of”; and

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

12 “(2) the Secretary of State, in the Secretary’s
13 discretion and on the basis of reciprocity, may pro-
14 vide to a foreign government information in the De-
15 partment of State’s computerized visa lookout data-
16 base and, when necessary and appropriate, other
17 records covered by this section related to informa-
18 tion in the database—

19 “(A) with regard to individual aliens, at
20 any time on a case-by-case basis for the pur-
21 pose of preventing, investigating, or punishing
22 acts that would constitute a crime in the United
23 States, including, but not limited to, terrorism
24 or trafficking in controlled substances, persons,
25 or illicit weapons; or

1 “(B) with regard to any or all aliens in the
2 database, pursuant to such conditions as the
3 Secretary of State shall establish in an agree-
4 ment with the foreign government in which that
5 government agrees to use such information and
6 records for the purposes described in subpara-
7 graph (A) or to deny visas to persons who
8 would be inadmissible to the United States.”.

9 **SEC. 414. VISA INTEGRITY AND SECURITY.**

10 (a) SENSE OF CONGRESS REGARDING THE NEED TO
11 EXPEDITE IMPLEMENTATION OF INTEGRATED ENTRY
12 AND EXIT DATA SYSTEM.—

13 (1) SENSE OF CONGRESS.—In light of the ter-
14 rorist attacks perpetrated against the United States
15 on September 11, 2001, it is the sense of the Con-
16 gress that—

17 (A) the Attorney General, in consultation
18 with the Secretary of State, should fully imple-
19 ment the integrated entry and exit data system
20 for airports, seaports, and land border ports of
21 entry, as specified in section 110 of the Illegal
22 Immigration Reform and Immigrant Responsi-
23 bility Act of 1996 (8 U.S.C. 1365a), with all
24 deliberate speed and as expeditiously as prac-
25 ticable; and

1 (B) the Attorney General, in consultation
2 with the Secretary of State, the Secretary of
3 Commerce, the Secretary of the Treasury, and
4 the Office of Homeland Security, should imme-
5 diately begin establishing the Integrated Entry
6 and Exit Data System Task Force, as described
7 in section 3 of the Immigration and Naturaliza-
8 tion Service Data Management Improvement
9 Act of 2000 (Public Law 106–215).

10 (2) AUTHORIZATION OF APPROPRIATIONS.—

11 There is authorized to be appropriated such sums as
12 may be necessary to fully implement the system de-
13 scribed in paragraph (1)(A).

14 (b) DEVELOPMENT OF THE SYSTEM.—In the devel-
15 opment of the integrated entry and exit data system under
16 section 110 of the Illegal Immigration Reform and Immi-
17 grant Responsibility Act of 1996 (8 U.S.C. 1365a), the
18 Attorney General and the Secretary of State shall particu-
19 larly focus on—

20 (1) the utilization of biometric technology; and

21 (2) the development of tamper-resistant docu-
22 ments readable at ports of entry.

23 (c) INTERFACE WITH LAW ENFORCEMENT DATA-
24 BASES.—The entry and exit data system described in this
25 section shall be able to interface with law enforcement

1 databases for use by Federal law enforcement to identify
2 and detain individuals who pose a threat to the national
3 security of the United States.

4 (d) REPORT ON SCREENING INFORMATION.—Not
5 later than 12 months after the date of enactment of this
6 Act, the Office of Homeland Security shall submit a report
7 to Congress on the information that is needed from any
8 United States agency to effectively screen visa applicants
9 and applicants for admission to the United States to iden-
10 tify those affiliated with terrorist organizations or those
11 that pose any threat to the safety or security of the United
12 States, including the type of information currently re-
13 ceived by United States agencies and the regularity with
14 which such information is transmitted to the Secretary of
15 State and the Attorney General.

16 **SEC. 415. PARTICIPATION OF OFFICE OF HOMELAND SECU-**
17 **RITY ON ENTRY-EXIT TASK FORCE.**

18 Section 3 of the Immigration and Naturalization
19 Service Data Management Improvement Act of 2000
20 (Public Law 106–215) is amended by striking “and the
21 Secretary of the Treasury,” and inserting “the Secretary
22 of the Treasury, and the Office of Homeland Security”.

23 **SEC. 416. FOREIGN STUDENT MONITORING PROGRAM.**

24 (a) FULL IMPLEMENTATION AND EXPANSION OF
25 FOREIGN STUDENT VISA MONITORING PROGRAM RE-

1 QUIRED.—The Attorney General, in consultation with the
2 Secretary of State, shall fully implement and expand the
3 program established by section 641(a) of the Illegal Immi-
4 gration Reform and Immigrant Responsibility Act of 1996
5 (8 U.S.C. 1372(a)).

6 (b) INTEGRATION WITH PORT OF ENTRY INFORMA-
7 TION.—For each alien with respect to whom information
8 is collected under section 641 of the Illegal Immigration
9 Reform and Immigrant Responsibility Act of 1996 (8
10 U.S.C. 1372), the Attorney General, in consultation with
11 the Secretary of State, shall include information on the
12 date of entry and port of entry.

13 (c) EXPANSION OF SYSTEM TO INCLUDE OTHER AP-
14 PROVED EDUCATIONAL INSTITUTIONS.—Section 641 of
15 the Illegal Immigration Reform and Immigrant Responsi-
16 bility Act of 1996 (8 U.S.C.1372) is amended—

17 (1) in subsection (a)(1), subsection (c)(4)(A),
18 and subsection (d)(1) (in the text above subpara-
19 graph (A)), by inserting “, other approved edu-
20 cational institutions,” after “higher education” each
21 place it appears;

22 (2) in subsections (c)(1)(C), (c)(1)(D), and
23 (d)(1)(A), by inserting “, or other approved edu-
24 cational institution,” after “higher education” each
25 place it appears;

1 (3) in subsections (d)(2), (e)(1), and (e)(2), by
2 inserting “, other approved educational institution,”
3 after “higher education” each place it appears; and

4 (4) in subsection (h), by adding at the end the
5 following new paragraph:

6 “(3) OTHER APPROVED EDUCATIONAL INSTITU-
7 TION.—The term ‘other approved educational insti-
8 tution’ includes any air flight school, language train-
9 ing school, or vocational school, approved by the At-
10 torney General, in consultation with the Secretary of
11 Education and the Secretary of State, under sub-
12 paragraph (F), (J), or (M) of section 101(a)(15) of
13 the Immigration and Nationality Act.”.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to the Department of Jus-
16 tice \$36,800,000 for the period beginning on the date of
17 enactment of this Act and ending on January 1, 2003,
18 to fully implement and expand prior to January 1, 2003,
19 the program established by section 641(a) of the Illegal
20 Immigration Reform and Immigrant Responsibility Act of
21 1996 (8 U.S.C. 1372(a)).

22 **SEC. 417. MACHINE READABLE PASSPORTS.**

23 (a) AUDITS.—The Secretary of State shall, each fis-
24 cal year until September 30, 2007—

1 (1) perform annual audits of the implementa-
2 tion of section 217(c)(2)(B) of the Immigration and
3 Nationality Act (8 U.S.C. 1187(c)(2)(B));

4 (2) check for the implementation of pre-
5 cautionary measures to prevent the counterfeiting
6 and theft of passports; and

7 (3) ascertain that countries designated under
8 the visa waiver program have established a program
9 to develop tamper-resistant passports.

10 (b) PERIODIC REPORTS.—Beginning one year after
11 the date of enactment of this Act, and every year there-
12 after until 2007, the Secretary of State shall submit a re-
13 port to Congress setting forth the findings of the most
14 recent audit conducted under subsection (a)(1).

15 (c) ADVANCING DEADLINE FOR SATISFACTION OF
16 REQUIREMENT.—Section 217(a)(3) of the Immigration
17 and Nationality Act (8 U.S.C. 1187(a)(3)) is amended by
18 striking “2007” and inserting “2003”.

19 (d) WAIVER.—Section 217(a)(3) of the Immigration
20 and Nationality Act (8 U.S.C. 1187(a)(3)) is amended—

21 (1) by striking “On or after” and inserting the
22 following:

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), on or after”; and

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

1 “(B) LIMITED WAIVER AUTHORITY.—For
2 the period beginning October 1, 2003, and end-
3 ing September 30, 2007, the Secretary of State
4 may waive the requirement of subparagraph (A)
5 with respect to nationals of a program country
6 (as designated under subsection (c)), if the Sec-
7 retary of State finds that the program
8 country—

9 “(i) is making progress toward ensur-
10 ing that passports meeting the requirement
11 of subparagraph (A) are generally available
12 to its nationals; and

13 “(ii) has taken appropriate measures
14 to protect against misuse of passports the
15 country has issued that do not meet the re-
16 quirement of subparagraph (A).”.

17 **SEC. 418. PREVENTION OF CONSULATE SHOPPING.**

18 (a) REVIEW.—The Secretary of State shall review
19 how consular officers issue visas to determine if consular
20 shopping is a problem.

21 (b) ACTIONS TO BE TAKEN.—If the Secretary of
22 State determines under subsection (a) that consular shop-
23 ping is a problem, the Secretary shall take steps to address
24 the problem and shall submit a report to Congress describ-
25 ing what action was taken.

1 **Subtitle C—Preservation of Immi-**
2 **gration Benefits for Victims of**
3 **Terrorism**

4 **SEC. 421. SPECIAL IMMIGRANT STATUS.**

5 (a) IN GENERAL.—For purposes of the Immigration
6 and Nationality Act (8 U.S.C. 1101 et seq.), the Attorney
7 General may provide an alien described in subsection (b)
8 with the status of a special immigrant under section
9 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the
10 alien—

11 (1) files with the Attorney General a petition
12 under section 204 of such Act (8 U.S.C. 1154) for
13 classification under section 203(b)(4) of such Act (8
14 U.S.C. 1153(b)(4)); and

15 (2) is otherwise eligible to receive an immigrant
16 visa and is otherwise admissible to the United States
17 for permanent residence, except in determining such
18 admissibility, the grounds for inadmissibility speci-
19 fied in section 212(a)(4) of such Act (8 U.S.C.
20 1182(a)(4)) shall not apply.

21 (b) ALIENS DESCRIBED.—

22 (1) PRINCIPAL ALIENS.—An alien is described
23 in this subsection if—

24 (A) the alien was the beneficiary of—

1 (i) a petition that was filed with the
2 Attorney General on or before September
3 11, 2001—

4 (I) under section 204 of the Im-
5 migration and Nationality Act (8
6 U.S.C. 1154) to classify the alien as
7 a family-sponsored immigrant under
8 section 203(a) of such Act (8 U.S.C.
9 1153(a)) or as an employment-based
10 immigrant under section 203(b) of
11 such Act (8 U.S.C. 1153(b)); or

12 (II) under section 214(d) (8
13 U.S.C. 1184(d)) of such Act to au-
14 thorize the issuance of a non-
15 immigrant visa to the alien under sec-
16 tion 101(a)(15)(K) of such Act (8
17 U.S.C. 1101(a)(15)(K)); or

18 (ii) an application for labor certifi-
19 cation under section 212(a)(5)(A) of such
20 Act (8 U.S.C. 1182(a)(5)(A)) that was
21 filed under regulations of the Secretary of
22 Labor on or before such date; and

23 (B) such petition or application was re-
24 voked or terminated (or otherwise rendered
25 null), either before or after its approval, due to

1 a specified terrorist activity that directly re-
2 sulted in—

3 (i) the death or disability of the peti-
4 tioner, applicant, or alien beneficiary; or

5 (ii) loss of employment due to physical
6 damage to, or destruction of, the business
7 of the petitioner or applicant.

8 (2) SPOUSES AND CHILDREN.—

9 (A) IN GENERAL.—An alien is described in
10 this subsection if—

11 (i) the alien was, on September 10,
12 2001, the spouse or child of a principal
13 alien described in paragraph (1); and

14 (ii) the alien—

15 (I) is accompanying such prin-
16 cipal alien; or

17 (II) is following to join such prin-
18 cipal alien not later than September
19 11, 2003.

20 (B) CONSTRUCTION.—For purposes of
21 construing the terms “accompanying” and “fol-
22 lowing to join” in subparagraph (A)(ii), any
23 death of a principal alien that is described in
24 paragraph (1)(B)(i) shall be disregarded.

1 (3) GRANDPARENTS OF ORPHANS.—An alien is
2 described in this subsection if the alien is a grand-
3 parent of a child, both of whose parents died as a
4 direct result of a specified terrorist activity, if either
5 of such deceased parents was, on September 10,
6 2001, a citizen or national of the United States or
7 an alien lawfully admitted for permanent residence
8 in the United States.

9 (c) PRIORITY DATE.—Immigrant visas made avail-
10 able under this section shall be issued to aliens in the
11 order in which a petition on behalf of each such alien is
12 filed with the Attorney General under subsection (a)(1),
13 except that if an alien was assigned a priority date with
14 respect to a petition described in subsection (b)(1)(A)(i),
15 the alien may maintain that priority date.

16 (d) NUMERICAL LIMITATIONS.—For purposes of the
17 application of sections 201 through 203 of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1151–1153) in any fis-
19 cal year, aliens eligible to be provided status under this
20 section shall be treated as special immigrants described
21 in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27))
22 who are not described in subparagraph (A), (B), (C), or
23 (K) of such section.

1 **SEC. 422. EXTENSION OF FILING OR REENTRY DEADLINES.**

2 (a) AUTOMATIC EXTENSION OF NONIMMIGRANT STA-
3 TUS.—

4 (1) IN GENERAL.—Notwithstanding section 214
5 of the Immigration and Nationality Act (8 U.S.C.
6 1184), in the case of an alien described in paragraph
7 (2) who was lawfully present in the United States as
8 a nonimmigrant on September 10, 2001, the alien
9 may remain lawfully in the United States in the
10 same nonimmigrant status until the later of—

11 (A) the date such lawful nonimmigrant
12 status otherwise would have terminated if this
13 subsection had not been enacted; or

14 (B) 1 year after the death or onset of dis-
15 ability described in paragraph (2).

16 (2) ALIENS DESCRIBED.—

17 (A) PRINCIPAL ALIENS.—An alien is de-
18 scribed in this paragraph if the alien was dis-
19 abled as a direct result of a specified terrorist
20 activity.

21 (B) SPOUSES AND CHILDREN.—An alien is
22 described in this paragraph if the alien was, on
23 September 10, 2001, the spouse or child of—

24 (i) a principal alien described in sub-
25 paragraph (A); or

1 (ii) an alien who died as a direct re-
2 sult of a specified terrorist activity.

3 (3) AUTHORIZED EMPLOYMENT.—During the
4 period in which a principal alien or alien spouse is
5 in lawful nonimmigrant status under paragraph (1),
6 the alien shall be provided an “employment author-
7 ized” endorsement or other appropriate document
8 signifying authorization of employment not later
9 than 30 days after the alien requests such authoriza-
10 tion.

11 (b) NEW DEADLINES FOR EXTENSION OR CHANGE
12 OF NONIMMIGRANT STATUS.—

13 (1) FILING DELAYS.—In the case of an alien
14 who was lawfully present in the United States as a
15 nonimmigrant on September 10, 2001, if the alien
16 was prevented from filing a timely application for an
17 extension or change of nonimmigrant status as a di-
18 rect result of a specified terrorist activity, the alien’s
19 application shall be considered timely filed if it is
20 filed not later than 60 days after it otherwise would
21 have been due.

22 (2) DEPARTURE DELAYS.—In the case of an
23 alien who was lawfully present in the United States
24 as a nonimmigrant on September 10, 2001, if the
25 alien is unable timely to depart the United States as

1 a direct result of a specified terrorist activity, the
2 alien shall not be considered to have been unlawfully
3 present in the United States during the period be-
4 ginning on September 11, 2001, and ending on the
5 date of the alien's departure, if such departure oc-
6 curs on or before November 11, 2001.

7 (3) SPECIAL RULE FOR ALIENS UNABLE TO RE-
8 TURN FROM ABROAD.—

9 (A) PRINCIPAL ALIENS.—In the case of an
10 alien who was in a lawful nonimmigrant status
11 on September 10, 2001, but who was not
12 present in the United States on such date, if
13 the alien was prevented from returning to the
14 United States in order to file a timely applica-
15 tion for an extension of nonimmigrant status as
16 a direct result of a specified terrorist activity—

17 (i) the alien's application shall be con-
18 sidered timely filed if it is filed not later
19 than 60 days after it otherwise would have
20 been due; and

21 (ii) the alien's lawful nonimmigrant
22 status shall be considered to continue until
23 the later of—

1 (I) the date such status otherwise
2 would have terminated if this sub-
3 paragraph had not been enacted; or

4 (II) the date that is 60 days
5 after the date on which the applica-
6 tion described in clause (i) otherwise
7 would have been due.

8 (B) SPOUSES AND CHILDREN.—In the case
9 of an alien who is the spouse or child of a prin-
10 cipal alien described in subparagraph (A), if the
11 spouse or child was in a lawful nonimmigrant
12 status on September 10, 2001, the spouse or
13 child may remain lawfully in the United States
14 in the same nonimmigrant status until the later
15 of—

16 (i) the date such lawful nonimmigrant
17 status otherwise would have terminated if
18 this subparagraph had not been enacted;
19 or

20 (ii) the date that is 60 days after the
21 date on which the application described in
22 subparagraph (A) otherwise would have
23 been due.

24 (4) CIRCUMSTANCES PREVENTING TIMELY AC-
25 TION.—

1 (A) FILING DELAYS.—For purposes of
2 paragraph (1), circumstances preventing an
3 alien from timely acting are—

4 (i) office closures;

5 (ii) mail or courier service cessations
6 or delays; and

7 (iii) other closures, cessations, or
8 delays affecting case processing or travel
9 necessary to satisfy legal requirements.

10 (B) DEPARTURE AND RETURN DELAYS.—
11 For purposes of paragraphs (2) and (3), cir-
12 cumstances preventing an alien from timely act-
13 ing are—

14 (i) office closures;

15 (ii) airline flight cessations or delays;
16 and

17 (iii) other closures, cessations, or
18 delays affecting case processing or travel
19 necessary to satisfy legal requirements.

20 (c) DIVERSITY IMMIGRANTS.—

21 (1) WAIVER OF FISCAL YEAR LIMITATION.—

22 Notwithstanding section 203(e)(2) of the Immigra-
23 tion and Nationality Act (8 U.S.C. 1153(e)(2)), an
24 immigrant visa number issued to an alien under sec-
25 tion 203(c) of such Act for fiscal year 2001 may be

1 used by the alien during the period beginning on Oc-
2 tober 1, 2001, and ending on April 1, 2002, if the
3 alien establishes that the alien was prevented from
4 using it during fiscal year 2001 as a direct result of
5 a specified terrorist activity.

6 (2) WORLDWIDE LEVEL.—In the case of an
7 alien entering the United States as a lawful perma-
8 nent resident, or adjusting to that status, under
9 paragraph (1) or (3), the alien shall be counted as
10 a diversity immigrant for fiscal year 2001 for pur-
11 poses of section 201(e) of the Immigration and Na-
12 tionality Act (8 U.S.C. 1151(e)), unless the world-
13 wide level under such section for such year has been
14 exceeded, in which case the alien shall be counted as
15 a diversity immigrant for fiscal year 2002.

16 (3) TREATMENT OF FAMILY MEMBERS OF CER-
17 TAIN ALIENS.—In the case of a principal alien
18 issued an immigrant visa number under section
19 203(c) of the Immigration and Nationality Act (8
20 U.S.C. 1153(c)) for fiscal year 2001, if such prin-
21 cipal alien died as a direct result of a specified ter-
22 rorist activity, the aliens who were, on September
23 10, 2001, the spouse and children of such principal
24 alien shall, until June 30, 2002, if not otherwise en-
25 titled to an immigrant status and the immediate

1 issuance of a visa under subsection (a), (b), or (c)
2 of section 203 of such Act, be entitled to the same
3 status, and the same order of consideration, that
4 would have been provided to such alien spouse or
5 child under section 203(d) of such Act as if the prin-
6 cipal alien were not deceased and as if the spouse
7 or child's visa application had been adjudicated by
8 September 30, 2001.

9 (4) CIRCUMSTANCES PREVENTING TIMELY AC-
10 TION.—For purposes of paragraph (1), cir-
11 cumstances preventing an alien from using an immi-
12 grant visa number during fiscal year 2001 are—

13 (A) office closures;

14 (B) mail or courier service cessations or
15 delays;

16 (C) airline flight cessations or delays; and

17 (D) other closures, cessations, or delays af-
18 fecting case processing or travel necessary to
19 satisfy legal requirements.

20 (d) EXTENSION OF EXPIRATION OF IMMIGRANT
21 VISAS.—

22 (1) IN GENERAL.—Notwithstanding the limita-
23 tions under section 221(e) of the Immigration and
24 Nationality Act (8 U.S.C. 1201(e)), in the case of
25 any immigrant visa issued to an alien that expires

1 or expired before December 31, 2001, if the alien
2 was unable to effect entry into the United States as
3 a direct result of a specified terrorist activity, then
4 the period of validity of the visa is extended until
5 December 31, 2001, unless a longer period of valid-
6 ity is otherwise provided under this subtitle.

7 (2) CIRCUMSTANCES PREVENTING ENTRY.—For
8 purposes of this subsection, circumstances pre-
9 venting an alien from effecting entry into the United
10 States are—

11 (A) office closures;

12 (B) airline flight cessations or delays; and

13 (C) other closures, cessations, or delays af-
14 fecting case processing or travel necessary to
15 satisfy legal requirements.

16 (e) GRANTS OF PAROLE EXTENDED.—

17 (1) IN GENERAL.—In the case of any parole
18 granted by the Attorney General under section
19 212(d)(5) of the Immigration and Nationality Act (8
20 U.S.C. 1182(d)(5)) that expires on a date on or
21 after September 11, 2001, if the alien beneficiary of
22 the parole was unable to return to the United States
23 prior to the expiration date as a direct result of a
24 specified terrorist activity, the parole is deemed ex-
25 tended for an additional 90 days.

1 (2) CIRCUMSTANCES PREVENTING RETURN.—

2 For purposes of this subsection, circumstances pre-
3 venting an alien from timely returning to the United
4 States are—

5 (A) office closures;

6 (B) airline flight cessations or delays; and

7 (C) other closures, cessations, or delays af-
8 fecting case processing or travel necessary to
9 satisfy legal requirements.

10 (f) VOLUNTARY DEPARTURE.—Notwithstanding sec-
11 tion 240B of the Immigration and Nationality Act (8
12 U.S.C. 1229c), if a period for voluntary departure under
13 such section expired during the period beginning on Sep-
14 tember 11, 2001, and ending on October 11, 2001, such
15 voluntary departure period is deemed extended for an ad-
16 ditional 30 days.

17 **SEC. 423. HUMANITARIAN RELIEF FOR CERTAIN SURVIVING**
18 **SPOUSES AND CHILDREN.**

19 (a) TREATMENT AS IMMEDIATE RELATIVES.—

20 (1) SPOUSES.—Notwithstanding the second
21 sentence of section 201(b)(2)(A)(i) of the Immigra-
22 tion and Nationality Act (8 U.S.C.
23 1151(b)(2)(A)(i)), in the case of an alien who was
24 the spouse of a citizen of the United States at the
25 time of the citizen's death and was not legally sepa-

1 rated from the citizen at the time of the citizen's
2 death, if the citizen died as a direct result of a speci-
3 fied terrorist activity, the alien (and each child of
4 the alien) shall be considered, for purposes of section
5 201(b) of such Act, to remain an immediate relative
6 after the date of the citizen's death, but only if the
7 alien files a petition under section 204(a)(1)(A)(ii)
8 of such Act within 2 years after such date and only
9 until the date the alien remarries. For purposes of
10 such section 204(a)(1)(A)(ii), an alien granted relief
11 under the preceding sentence shall be considered an
12 alien spouse described in the second sentence of sec-
13 tion 201(b)(2)(A)(i) of such Act.

14 (2) CHILDREN.—

15 (A) IN GENERAL.—In the case of an alien
16 who was the child of a citizen of the United
17 States at the time of the citizen's death, if the
18 citizen died as a direct result of a specified ter-
19 rorist activity, the alien shall be considered, for
20 purposes of section 201(b) of the Immigration
21 and Nationality Act (8 U.S.C. 1151(b)), to re-
22 main an immediate relative after the date of the
23 citizen's death (regardless of changes in age or
24 marital status thereafter), but only if the alien

1 files a petition under subparagraph (B) within
2 2 years after such date.

3 (B) PETITIONS.—An alien described in
4 subparagraph (A) may file a petition with the
5 Attorney General for classification of the alien
6 under section 201(b)(2)(A)(i) of the Immigra-
7 tion and Nationality Act (8 U.S.C.
8 1151(b)(2)(A)(i)). For purposes of such Act,
9 such a petition shall be considered a petition
10 filed under section 204(a)(1)(A) of such Act (8
11 U.S.C. 1154(a)(1)(A)).

12 (b) SPOUSES, CHILDREN, UNMARRIED SONS AND
13 DAUGHTERS OF LAWFUL PERMANENT RESIDENT
14 ALIENS.—

15 (1) IN GENERAL.—Any spouse, child, or unmar-
16 ried son or daughter of an alien described in para-
17 graph (3) who is included in a petition for classifica-
18 tion as a family-sponsored immigrant under section
19 203(a)(2) of the Immigration and Nationality Act (8
20 U.S.C. 1153(a)(2)) that was filed by such alien be-
21 fore September 11, 2001, shall be considered (if the
22 spouse, child, son, or daughter has not been admit-
23 ted or approved for lawful permanent residence by
24 such date) a valid petitioner for preference status
25 under such section with the same priority date as

1 that assigned prior to the death described in para-
2 graph (3)(A). No new petition shall be required to
3 be filed. Such spouse, child, son, or daughter may be
4 eligible for deferred action and work authorization.

5 (2) SELF-PETITIONS.—Any spouse, child, or
6 unmarried son or daughter of an alien described in
7 paragraph (3) who is not a beneficiary of a petition
8 for classification as a family-sponsored immigrant
9 under section 203(a)(2) of the Immigration and Na-
10 tionality Act may file a petition for such classifica-
11 tion with the Attorney General, if the spouse, child,
12 son, or daughter was present in the United States
13 on September 11, 2001. Such spouse, child, son, or
14 daughter may be eligible for deferred action and
15 work authorization.

16 (3) ALIENS DESCRIBED.—An alien is described
17 in this paragraph if the alien—

18 (A) died as a direct result of a specified
19 terrorist activity; and

20 (B) on the day of such death, was lawfully
21 admitted for permanent residence in the United
22 States.

23 (c) APPLICATIONS FOR ADJUSTMENT OF STATUS BY
24 SURVIVING SPOUSES AND CHILDREN OF EMPLOYMENT-
25 BASED IMMIGRANTS.—

1 (1) IN GENERAL.—Any alien who was, on Sep-
2 tember 10, 2001, the spouse or child of an alien de-
3 scribed in paragraph (2), and who applied for ad-
4 justment of status prior to the death described in
5 paragraph (2)(A), may have such application adju-
6 dicated as if such death had not occurred.

7 (2) ALIENS DESCRIBED.—An alien is described
8 in this paragraph if the alien—

9 (A) died as a direct result of a specified
10 terrorist activity; and

11 (B) on the day before such death, was—

12 (i) an alien lawfully admitted for per-
13 manent residence in the United States by
14 reason of having been allotted a visa under
15 section 203(b) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1153(b)); or

17 (ii) an applicant for adjustment of
18 status to that of an alien described in
19 clause (i), and admissible to the United
20 States for permanent residence.

21 (d) WAIVER OF PUBLIC CHARGE GROUNDS.—In de-
22 termining the admissibility of any alien accorded an immi-
23 gration benefit under this section, the grounds for inad-
24 missibility specified in section 212(a)(4) of the Immigra-

1 tion and Nationality Act (8 U.S.C. 1182(a)(4)) shall not
2 apply.

3 **SEC. 424. “AGE-OUT” PROTECTION FOR CHILDREN.**

4 For purposes of the administration of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1101 et seq.), in the
6 case of an alien—

7 (1) whose 21st birthday occurs in September
8 2001, and who is the beneficiary of a petition or ap-
9 plication filed under such Act on or before Sep-
10 tember 11, 2001, the alien shall be considered to be
11 a child for 90 days after the alien’s 21st birthday
12 for purposes of adjudicating such petition or applica-
13 tion; and

14 (2) whose 21st birthday occurs after September
15 2001, and who is the beneficiary of a petition or ap-
16 plication filed under such Act on or before Sep-
17 tember 11, 2001, the alien shall be considered to be
18 a child for 45 days after the alien’s 21st birthday
19 for purposes of adjudicating such petition or applica-
20 tion.

21 **SEC. 425. TEMPORARY ADMINISTRATIVE RELIEF.**

22 The Attorney General, for humanitarian purposes or
23 to ensure family unity, may provide temporary administra-
24 tive relief to any alien who—

1 (1) was lawfully present in the United States on
2 September 10, 2001;

3 (2) was on such date the spouse, parent, or
4 child of an individual who died or was disabled as
5 a direct result of a specified terrorist activity; and

6 (3) is not otherwise entitled to relief under any
7 other provision of this subtitle.

8 **SEC. 426. EVIDENCE OF DEATH, DISABILITY, OR LOSS OF**
9 **EMPLOYMENT.**

10 (a) **IN GENERAL.**—The Attorney General shall estab-
11 lish appropriate standards for evidence demonstrating, for
12 purposes of this subtitle, that any of the following oc-
13 curred as a direct result of a specified terrorist activity:

14 (1) Death.

15 (2) Disability.

16 (3) Loss of employment due to physical damage
17 to, or destruction of, a business.

18 (b) **WAIVER OF REGULATIONS.**—The Attorney Gen-
19 eral shall carry out subsection (a) as expeditiously as pos-
20 sible. The Attorney General is not required to promulgate
21 regulations prior to implementing this subtitle.

1 **SEC. 427. NO BENEFITS TO TERRORISTS OR FAMILY MEM-**
2 **BERS OF TERRORISTS.**

3 Notwithstanding any other provision of this subtitle,
4 nothing in this subtitle shall be construed to provide any
5 benefit or relief to—

6 (1) any individual culpable for a specified ter-
7 rorist activity; or

8 (2) any family member of any individual de-
9 scribed in paragraph (1).

10 **SEC. 428. DEFINITIONS.**

11 (a) **APPLICATION OF IMMIGRATION AND NATION-**
12 **ALITY ACT PROVISIONS.**—Except as otherwise specifically
13 provided in this subtitle, the definitions used in the Immi-
14 gration and Nationality Act (excluding the definitions ap-
15 plicable exclusively to title III of such Act) shall apply in
16 the administration of this subtitle.

17 (b) **SPECIFIED TERRORIST ACTIVITY.**—For purposes
18 of this subtitle, the term “specified terrorist activity”
19 means any terrorist activity conducted against the Govern-
20 ment or the people of the United States on September 11,
21 2001.

1 **TITLE V—REMOVING OBSTA-**
2 **CLES TO INVESTIGATING**
3 **TERRORISM**

4 **SEC. 501. ATTORNEY GENERAL'S AUTHORITY TO PAY RE-**
5 **WARDS TO COMBAT TERRORISM.**

6 (a) PAYMENT OF REWARDS TO COMBAT TER-
7 RORISM.—Funds available to the Attorney General may
8 be used for the payment of rewards pursuant to public
9 advertisements for assistance to the Department of Jus-
10 tice to combat terrorism and defend the Nation against
11 terrorist acts, in accordance with procedures and regula-
12 tions established or issued by the Attorney General.

13 (b) CONDITIONS.—In making rewards under this
14 section—

15 (1) no such reward of \$250,000 or more may
16 be made or offered without the personal approval of
17 either the Attorney General or the President;

18 (2) the Attorney General shall give written no-
19 tice to the Chairmen and ranking minority members
20 of the Committees on Appropriations and the Judici-
21 ary of the Senate and of the House of Representa-
22 tives not later than 30 days after the approval of a
23 reward under paragraph (1);

24 (3) any executive agency or military department
25 (as defined, respectively, in sections 105 and 102 of

1 title 5, United States Code) may provide the Attor-
2 ney General with funds for the payment of rewards;

3 (4) neither the failure of the Attorney General
4 to authorize a payment nor the amount authorized
5 shall be subject to judicial review; and

6 (5) no such reward shall be subject to any per-
7 or aggregate reward spending limitation established
8 by law, unless that law expressly refers to this sec-
9 tion, and no reward paid pursuant to any such offer
10 shall count toward any such aggregate reward
11 spending limitation.

12 **SEC. 502. SECRETARY OF STATE'S AUTHORITY TO PAY RE-**
13 **WARDS.**

14 Section 36 of the State Department Basic Authorities
15 Act of 1956 (Public Law 885, August 1, 1956; 22 U.S.C.
16 2708) is amended—

17 (1) in subsection (b)—

18 (A) in paragraph (4), by striking “or” at
19 the end;

20 (B) in paragraph (5), by striking the pe-
21 riod at the end and inserting “, including by
22 dismantling an organization in whole or signifi-
23 cant part; or”; and

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

1 “(6) the identification or location of an indi-
2 vidual who holds a key leadership position in a ter-
3 rorist organization.”;

4 (2) in subsection (d), by striking paragraphs
5 (2) and (3) and redesignating paragraph (4) as
6 paragraph (2); and

7 (3) in subsection (e)(1), by inserting “, except
8 as personally authorized by the Secretary of State if
9 he determines that offer or payment of an award of
10 a larger amount is necessary to combat terrorism or
11 defend the Nation against terrorist acts.” after
12 “\$5,000,000”.

13 **SEC. 503. DNA IDENTIFICATION OF TERRORISTS AND**
14 **OTHER VIOLENT OFFENDERS.**

15 Section 3(d)(2) of the DNA Analysis Backlog Elimini-
16 nation Act of 2000 (42 U.S.C. 14135a(d)(2)) is amended
17 to read as follows:

18 “(2) In addition to the offenses described in
19 paragraph (1), the following offenses shall be treated
20 for purposes of this section as qualifying Federal of-
21 fenses, as determined by the Attorney General:

22 “(A) Any offense listed in section
23 2332b(g)(5)(B) of title 18, United States Code.

24 “(B) Any crime of violence (as defined in
25 section 16 of title 18, United States Code).

1 “(C) Any attempt or conspiracy to commit
2 any of the above offenses.”.

3 **SEC. 504. COORDINATION WITH LAW ENFORCEMENT.**

4 (a) INFORMATION ACQUIRED FROM AN ELECTRONIC
5 SURVEILLANCE.—Section 106 of the Foreign Intelligence
6 Surveillance Act of 1978 (50 U.S.C. 1806), is amended
7 by adding at the end the following:

8 “(k)(1) Federal officers who conduct electronic sur-
9 veillance to acquire foreign intelligence information under
10 this title may consult with Federal law enforcement offi-
11 cers to coordinate efforts to investigate or protect
12 against—

13 “(A) actual or potential attack or other grave
14 hostile acts of a foreign power or an agent of a for-
15 eign power;

16 “(B) sabotage or international terrorism by a
17 foreign power or an agent of a foreign power; or

18 “(C) clandestine intelligence activities by an in-
19 telligence service or network of a foreign power or by
20 an agent of a foreign power.

21 “(2) Coordination authorized under paragraph (1)
22 shall not preclude the certification required by section
23 104(a)(7)(B) or the entry of an order under section 105.”.

24 (b) INFORMATION ACQUIRED FROM A PHYSICAL
25 SEARCH.—Section 305 of the Foreign Intelligence Surveil-

1 lance Act of 1978 (50 U.S.C. 1825) is amended by adding
2 at the end the following:

3 “(k)(1) Federal officers who conduct physical
4 searches to acquire foreign intelligence information under
5 this title may consult with Federal law enforcement offi-
6 cers to coordinate efforts to investigate or protect
7 against—

8 “(A) actual or potential attack or other grave
9 hostile acts of a foreign power or an agent of a for-
10 eign power;

11 “(B) sabotage or international terrorism by a
12 foreign power or an agent of a foreign power; or

13 “(C) clandestine intelligence activities by an in-
14 telligence service or network of a foreign power or by
15 an agent of a foreign power.

16 “(2) Coordination authorized under paragraph (1)
17 shall not preclude the certification required by section
18 303(a)(7) or the entry of an order under section 304.”.

19 **SEC. 505. MISCELLANEOUS NATIONAL SECURITY AUTHORI-**
20 **TIES.**

21 (a) TELEPHONE TOLL AND TRANSACTIONAL
22 RECORDS.—Section 2709(b) of title 18, United States
23 Code, is amended—

24 (1) in the matter preceding paragraph (1), by
25 inserting “at Bureau headquarters or a Special

1 Agent in Charge in a Bureau field office designated
2 by the Director” after “Assistant Director”;

3 (2) in paragraph (1)—

4 (A) by striking “in a position not lower
5 than Deputy Assistant Director”; and

6 (B) by striking “made that” and all that
7 follows and inserting the following: “made that
8 the name, address, length of service, and toll
9 billing records sought are relevant to an author-
10 ized investigation to protect against inter-
11 national terrorism or clandestine intelligence ac-
12 tivities, provided that such an investigation of a
13 United States person is not conducted solely on
14 the basis of activities protected by the first
15 amendment to the Constitution of the United
16 States; and”;

17 (3) in paragraph (2)—

18 (A) by striking “in a position not lower
19 than Deputy Assistant Director”; and

20 (B) by striking “made that” and all that
21 follows and inserting the following: “made that
22 the information sought is relevant to an author-
23 ized investigation to protect against inter-
24 national terrorism or clandestine intelligence ac-
25 tivities, provided that such an investigation of a

1 United States person is not conducted solely
2 upon the basis of activities protected by the
3 first amendment to the Constitution of the
4 United States.”.

5 (b) FINANCIAL RECORDS.—Section 1114(a)(5)(A) of
6 the Right to Financial Privacy Act of 1978 (12 U.S.C.
7 3414(a)(5)(A)) is amended—

8 (1) by inserting “in a position not lower than
9 Deputy Assistant Director at Bureau headquarters
10 or a Special Agent in Charge in a Bureau field office
11 designated by the Director” after “designee”; and

12 (2) by striking “sought” and all that follows
13 and inserting “sought for foreign counter intel-
14 ligence purposes to protect against international ter-
15 rorism or clandestine intelligence activities, provided
16 that such an investigation of a United States person
17 is not conducted solely upon the basis of activities
18 protected by the first amendment to the Constitution
19 of the United States.”.

20 (c) CONSUMER REPORTS.—Section 624 of the Fair
21 Credit Reporting Act (15 U.S.C. 1681u) is amended—

22 (1) in subsection (a)—

23 (A) by inserting “in a position not lower
24 than Deputy Assistant Director at Bureau
25 headquarters or a Special Agent in Charge of a

1 Bureau field office designated by the Director”
2 after “designee” the first place it appears; and

3 (B) by striking “in writing that” and all
4 that follows through the end and inserting the
5 following: “in writing, that such information is
6 sought for the conduct of an authorized inves-
7 tigation to protect against international ter-
8 rorism or clandestine intelligence activities, pro-
9 vided that such an investigation of a United
10 States person is not conducted solely upon the
11 basis of activities protected by the first amend-
12 ment to the Constitution of the United
13 States.”;

14 (2) in subsection (b)—

15 (A) by inserting “in a position not lower
16 than Deputy Assistant Director at Bureau
17 headquarters or a Special Agent in Charge of a
18 Bureau field office designated by the Director”
19 after “designee” the first place it appears; and

20 (B) by striking “in writing that” and all
21 that follows through the end and inserting the
22 following: “in writing that such information is
23 sought for the conduct of an authorized inves-
24 tigation to protect against international ter-
25 rorism or clandestine intelligence activities, pro-

1 vided that such an investigation of a United
2 States person is not conducted solely upon the
3 basis of activities protected by the first amend-
4 ment to the Constitution of the United
5 States.”; and

6 (3) in subsection (c)—

7 (A) by inserting “in a position not lower
8 than Deputy Assistant Director at Bureau
9 headquarters or a Special Agent in Charge in a
10 Bureau field office designated by the Director”
11 after “designee of the Director”; and

12 (B) by striking “in camera that” and all
13 that follows through “States.” and inserting the
14 following: “in camera that the consumer report
15 is sought for the conduct of an authorized in-
16 vestigation to protect against international ter-
17 rorism or clandestine intelligence activities, pro-
18 vided that such an investigation of a United
19 States person is not conducted solely upon the
20 basis of activities protected by the first amend-
21 ment to the Constitution of the United
22 States.”.

1 **SEC. 506. EXTENSION OF SECRET SERVICE JURISDICTION.**

2 (a) CONCURRENT JURISDICTION UNDER 18 U.S.C.
3 1030.—Section 1030(d) of title 18, United States Code,
4 is amended to read as follows:

5 “(d)(1) The United States Secret Service shall, in ad-
6 dition to any other agency having such authority, have the
7 authority to investigate offenses under this section.

8 “(2) The Federal Bureau of Investigation shall have
9 primary authority to investigate offenses under subsection
10 (a)(1) for any cases involving espionage, foreign counter-
11 intelligence, information protected against unauthorized
12 disclosure for reasons of national defense or foreign rela-
13 tions, or Restricted Data (as that term is defined in sec-
14 tion 11y of the Atomic Energy Act of 1954 (42 U.S.C.
15 2014(y)), except for offenses affecting the duties of the
16 United States Secret Service pursuant to section 3056(a)
17 of this title.

18 “(3) Such authority shall be exercised in accordance
19 with an agreement which shall be entered into by the Sec-
20 retary of the Treasury and the Attorney General.”.

21 (b) REAUTHORIZATION OF JURISDICTION UNDER 18
22 U.S.C. 1344.—Section 3056(b)(3) of title 18, United
23 States Code, is amended by striking “credit and debit card
24 frauds, and false identification documents or devices” and
25 inserting “access device frauds, false identification docu-
26 ments or devices, and any fraud or other criminal or un-

1 lawful activity in or against any federally insured financial
2 institution”.

3 **SEC. 507. DISCLOSURE OF EDUCATIONAL RECORDS.**

4 Section 444 of the General Education Provisions Act
5 (20 U.S.C. 1232g), is amended by adding after subsection
6 (i) a new subsection (j) to read as follows:

7 “(j) INVESTIGATION AND PROSECUTION OF TER-
8 RORISM.—

9 “(1) IN GENERAL.—Notwithstanding sub-
10 sections (a) through (i) or any provision of State
11 law, the Attorney General (or any Federal officer or
12 employee, in a position not lower than an Assistant
13 Attorney General, designated by the Attorney Gen-
14 eral) may submit a written application to a court of
15 competent jurisdiction for an ex parte order requir-
16 ing an educational agency or institution to permit
17 the Attorney General (or his designee) to—

18 “(A) collect education records in the pos-
19 session of the educational agency or institution
20 that are relevant to an authorized investigation
21 or prosecution of an offense listed in section
22 2332b(g)(5)(B) of title 18 United States Code,
23 or an act of domestic or international terrorism
24 as defined in section 2331 of that title; and

1 “(B) for official purposes related to the in-
2 vestigation or prosecution of an offense de-
3 scribed in paragraph (1)(A), retain, dissemi-
4 nate, and use (including as evidence at trial or
5 in other administrative or judicial proceedings)
6 such records, consistent with such guidelines as
7 the Attorney General, after consultation with
8 the Secretary, shall issue to protect confiden-
9 tiality.

10 “(2) APPLICATION AND APPROVAL.—

11 “(A) IN GENERAL.—An application under
12 paragraph (1) shall certify that there are spe-
13 cific and articulable facts giving reason to be-
14 lieve that the education records are likely to
15 contain information described in paragraph
16 (1)(A).

17 “(B) The court shall issue an order de-
18 scribed in paragraph (1) if the court finds that
19 the application for the order includes the certifi-
20 cation described in subparagraph (A).

21 “(3) PROTECTION OF EDUCATIONAL AGENCY
22 OR INSTITUTION.—An educational agency or institu-
23 tion that, in good faith, produces education records
24 in accordance with an order issued under this sub-

1 section shall not be liable to any person for that pro-
2 duction.

3 “(4) RECORD-KEEPING.—Subsection (b)(4)
4 does not apply to education records subject to a
5 court order under this subsection.”.

6 **SEC. 508. DISCLOSURE OF INFORMATION FROM NCES SUR-**
7 **VEYS.**

8 Section 408 of the National Education Statistics Act
9 of 1994 (20 U.S.C. 9007), is amended by adding after
10 subsection (b) a new subsection (c) to read as follows:

11 “(c) INVESTIGATION AND PROSECUTION OF TER-
12 RORISM.—

13 “(1) IN GENERAL.—Notwithstanding sub-
14 sections (a) and (b), the Attorney General (or any
15 Federal officer or employee, in a position not lower
16 than an Assistant Attorney General, designated by
17 the Attorney General) may submit a written applica-
18 tion to a court of competent jurisdiction for an ex
19 parte order requiring the Secretary to permit the At-
20 torney General (or his designee) to—

21 “(A) collect reports, records, and informa-
22 tion (including individually identifiable informa-
23 tion) in the possession of the center that are
24 relevant to an authorized investigation or pros-
25 ecution of an offense listed in section

1 2332b(g)(5)(B) of title 18, United States Code,
2 or an act of domestic or international terrorism
3 as defined in section 2331 of that title; and

4 “(B) for official purposes related to the in-
5 vestigation or prosecution of an offense de-
6 scribed in paragraph (1)(A), retain, dissemi-
7 nate, and use (including as evidence at trial or
8 in other administrative or judicial proceedings)
9 such information, consistent with such guide-
10 lines as the Attorney General, after consultation
11 with the Secretary, shall issue to protect con-
12 fidentiality.

13 “(2) APPLICATION AND APPROVAL.—

14 “(A) IN GENERAL.—An application under
15 paragraph (1) shall certify that there are spe-
16 cific and articulable facts giving reason to be-
17 lieve that the information sought is described in
18 paragraph (1)(A).

19 “(B) The court shall issue an order de-
20 scribed in paragraph (1) if the court finds that
21 the application for the order includes the certifi-
22 cation described in subparagraph (A).

23 “(3) PROTECTION.—An officer or employee
24 of the Department who, in good faith, produces
25 information in accordance with an order issued

1 under this subsection does not violate sub-
2 section (b)(2) and shall not be liable to any per-
3 son for that production.”.

4 **TITLE VI—PROVIDING FOR VIC-**
5 **TIMS OF TERRORISM, PUBLIC**
6 **SAFETY OFFICERS, AND**
7 **THEIR FAMILIES**
8 **Subtitle A—Aid to Families of**
9 **Public Safety Officers**

10 **SEC. 611. EXPEDITED PAYMENT FOR PUBLIC SAFETY OFFI-**
11 **CERS INVOLVED IN THE PREVENTION, INVES-**
12 **TIGATION, RESCUE, OR RECOVERY EFFORTS**
13 **RELATED TO A TERRORIST ATTACK.**

14 (a) IN GENERAL.—Notwithstanding the limitations
15 of subsection (b) of section 1201 or the provisions of sub-
16 sections (c), (d), and (e) of such section or section 1202
17 of title I of the Omnibus Crime Control and Safe Streets
18 Act of 1968 (42 U.S.C. 3796, 3796a), upon certification
19 (containing identification of all eligible payees of benefits
20 pursuant to section 1201 of such Act) by a public agency
21 that a public safety officer employed by such agency was
22 killed or suffered a catastrophic injury producing perma-
23 nent and total disability as a direct and proximate result
24 of a personal injury sustained in the line of duty as de-
25 scribed in section 1201 of such Act in connection with pre-

1 vention, investigation, rescue, or recovery efforts related
2 to a terrorist attack, the Director of the Bureau of Justice
3 Assistance shall authorize payment to qualified bene-
4 ficiaries, said payment to be made not later than 30 days
5 after receipt of such certification, benefits described under
6 subpart 1 of part L of such Act (42 U.S.C. 3796 et seq.).

7 (b) DEFINITIONS.—For purposes of this section, the
8 terms “catastrophic injury”, “public agency”, and “public
9 safety officer” have the same meanings given such terms
10 in section 1204 of title I of the Omnibus Crime Control
11 and Safe Streets Act of 1968 (42 U.S.C. 3796b).

12 **SEC. 612. TECHNICAL CORRECTION WITH RESPECT TO EX-**
13 **PEDITED PAYMENTS FOR HEROIC PUBLIC**
14 **SAFETY OFFICERS.**

15 Section 1 of Public Law 107-37 (an Act to provide
16 for the expedited payment of certain benefits for a public
17 safety officer who was killed or suffered a catastrophic in-
18 jury as a direct and proximate result of a personal injury
19 sustained in the line of duty in connection with the ter-
20 rorist attacks of September 11, 2001) is amended by—

21 (1) inserting before “by a” the following: “(con-
22 taining identification of all eligible payees of benefits
23 pursuant to section 1201)”;

1 (2) inserting “producing permanent and total
2 disability” after “suffered a catastrophic injury”;
3 and

4 (3) striking “1201(a)” and inserting “1201”.

5 **SEC. 613. PUBLIC SAFETY OFFICERS BENEFIT PROGRAM**
6 **PAYMENT INCREASE.**

7 (a) PAYMENTS.—Section 1201(a) of the Omnibus
8 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
9 3796) is amended by striking “\$100,000” and inserting
10 “\$250,000”.

11 (b) APPLICABILITY.—The amendment made by sub-
12 section (a) shall apply to any death or disability occurring
13 on or after January 1, 2001.

14 **SEC. 614. OFFICE OF JUSTICE PROGRAMS.**

15 Section 112 of title I of section 101(b) of division
16 A of Public Law 105–277 and section 108(a) of appendix
17 A of Public Law 106–113 (113 Stat. 1501A–20) are
18 amended—

19 (1) after “that Office”, each place it occurs, by
20 inserting “(including, notwithstanding any contrary
21 provision of law (unless the same should expressly
22 refer to this section), any organization that admin-
23 isters any program established in title 1 of Public
24 Law 90–351)”;

1 (2) by inserting “functions, including any”
2 after “all”.

3 **Subtitle B—Amendments to the**
4 **Victims of Crime Act of 1984**

5 **SEC. 621. CRIME VICTIMS FUND.**

6 (a) DEPOSIT OF GIFTS IN THE FUND.—Section
7 1402(b) of the Victims of Crime Act of 1984 (42 U.S.C.
8 10601(b)) is amended—

9 (1) in paragraph (3), by striking “and” at the
10 end;

11 (2) in paragraph (4), by striking the period at
12 the end and inserting “; and”; and

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

14 “(5) any gifts, bequests, or donations to the
15 Fund from private entities or individuals.”.

16 (b) FORMULA FOR FUND DISTRIBUTIONS.—Section
17 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C.
18 10601(c)) is amended to read as follows:

19 “(c) FUND DISTRIBUTION; RETENTION OF SUMS IN
20 FUND; AVAILABILITY FOR EXPENDITURE WITHOUT FIS-
21 CAL YEAR LIMITATION.—

22 “(1) Subject to the availability of money in the
23 Fund, in each fiscal year, beginning with fiscal year
24 2003, the Director shall distribute not less than 90
25 percent nor more than 110 percent of the amount

1 distributed from the Fund in the previous fiscal
2 year, except the Director may distribute up to 120
3 percent of the amount distributed in the previous
4 fiscal year in any fiscal year that the total amount
5 available in the Fund is more than 2 times the
6 amount distributed in the previous fiscal year.

7 “(2) In each fiscal year, the Director shall dis-
8 tribute amounts from the Fund in accordance with
9 subsection (d). All sums not distributed during a fis-
10 cal year shall remain in reserve in the Fund to be
11 distributed during a subsequent fiscal year. Notwith-
12 standing any other provision of law, all sums depos-
13 ited in the Fund that are not distributed shall re-
14 main in reserve in the Fund for obligation in future
15 fiscal years, without fiscal year limitation.”.

16 (c) ALLOCATION OF FUNDS FOR COSTS AND
17 GRANTS.—Section 1402(d)(4) of the Victims of Crime Act
18 of 1984 (42 U.S.C. 10601(d)(4)) is amended—

19 (1) by striking “deposited in” and inserting “to
20 be distributed from”;

21 (2) in subparagraph (A), by striking “48.5”
22 and inserting “47.5”;

23 (3) in subparagraph (B), by striking “48.5”
24 and inserting “47.5”; and

1 (4) in subparagraph (C), by striking “3” and
2 inserting “5”.

3 (d) ANTITERRORISM EMERGENCY RESERVE.—Sec-
4 tion 1402(d)(5) of the Victims of Crime Act of 1984 (42
5 U.S.C. 10601(d)(5)) is amended to read as follows:

6 “(5)(A) In addition to the amounts distributed
7 under paragraphs (2), (3), and (4), the Director
8 may set aside up to \$50,000,000 from the amounts
9 transferred to the Fund in response to the airplane
10 hijackings and terrorist acts that occurred on Sep-
11 tember 11, 2001, as an antiterrorism emergency re-
12 serve. The Director may replenish any amounts ex-
13 pended from such reserve in subsequent fiscal years
14 by setting aside up to 5 percent of the amounts re-
15 maining in the Fund in any fiscal year after distrib-
16 uting amounts under paragraphs (2), (3) and (4).
17 Such reserve shall not exceed \$50,000,000.

18 “(B) The antiterrorism emergency reserve re-
19 ferred to in subparagraph (A) may be used for sup-
20 plemental grants under section 1404B and to pro-
21 vide compensation to victims of international ter-
22 rorism under section 1404C.

23 “(C) Amounts in the antiterrorism emergency
24 reserve established pursuant to subparagraph (A)
25 may be carried over from fiscal year to fiscal year.

1 Notwithstanding subsection (c) and section 619 of
2 the Departments of Commerce, Justice, and State,
3 the Judiciary, and Related Agencies Appropriations
4 Act, 2001 (and any similar limitation on Fund obli-
5 gations in any future Act, unless the same should
6 expressly refer to this section), any such amounts
7 carried over shall not be subject to any limitation on
8 obligations from amounts deposited to or available in
9 the Fund.”.

10 (e) VICTIMS OF SEPTEMBER 11, 2001.—Amounts
11 transferred to the Crime Victims Fund for use in respond-
12 ing to the airplane hijackings and terrorist acts (including
13 any related search, rescue, relief, assistance, or other simi-
14 lar activities) that occurred on September 11, 2001, shall
15 not be subject to any limitation on obligations from
16 amounts deposited to or available in the Fund,
17 notwithstanding—

18 (1) section 619 of the Departments of Com-
19 merce, Justice, and State, the Judiciary, and Re-
20 lated Agencies Appropriations Act, 2001, and any
21 similar limitation on Fund obligations in such Act
22 for Fiscal Year 2002; and

23 (2) subsections (c) and (d) of section 1402 of
24 the Victims of Crime Act of 1984 (42 U.S.C.
25 10601).

1 **SEC. 622. CRIME VICTIM COMPENSATION.**

2 (a) ALLOCATION OF FUNDS FOR COMPENSATION
3 AND ASSISTANCE.—Paragraphs (1) and (2) of section
4 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C.
5 10602(a)) are amended by inserting “in fiscal year 2002
6 and of 60 percent in subsequent fiscal years” after “40
7 percent”.

8 (b) LOCATION OF COMPENSABLE CRIME.—Section
9 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42
10 U.S.C. 10602(b)(6)(B)) is amended by striking “are out-
11 side the United States (if the compensable crime is ter-
12 rorism, as defined in section 2331 of title 18), or”.

13 (c) RELATIONSHIP OF CRIME VICTIM COMPENSA-
14 TION TO MEANS-TESTED FEDERAL BENEFIT PRO-
15 GRAMS.—Section 1403 of the Victims of Crime Act of
16 1984 (42 U.S.C. 10602) is amended by striking subsection
17 (c) and inserting the following:

18 “(c) EXCLUSION FROM INCOME, RESOURCES, AND
19 ASSETS FOR PURPOSES OF MEANS TESTS.—Notwith-
20 standing any other law (other than title IV of Public Law
21 107–42), for the purpose of any maximum allowed income,
22 resource, or asset eligibility requirement in any Federal,
23 State, or local government program using Federal funds
24 that provides medical or other assistance (or payment or
25 reimbursement of the cost of such assistance), any amount
26 of crime victim compensation that the applicant receives

1 through a crime victim compensation program under this
2 section shall not be included in the income, resources, or
3 assets of the applicant, nor shall that amount reduce the
4 amount of the assistance available to the applicant from
5 Federal, State, or local government programs using Fed-
6 eral funds, unless the total amount of assistance that the
7 applicant receives from all such programs is sufficient to
8 fully compensate the applicant for losses suffered as a re-
9 sult of the crime.”.

10 (d) DEFINITIONS OF “COMPENSABLE CRIME” AND
11 “STATE”.—Section 1403(d) of the Victims of Crime Act
12 of 1984 (42 U.S.C. 10602(d)) is amended—

13 (1) in paragraph (3), by striking “crimes in-
14 volving terrorism,”; and

15 (2) in paragraph (4), by inserting “the United
16 States Virgin Islands,” after “the Commonwealth of
17 Puerto Rico,”.

18 (e) RELATIONSHIP OF ELIGIBLE CRIME VICTIM COM-
19 PENSATION PROGRAMS TO THE SEPTEMBER 11TH VICTIM
20 COMPENSATION FUND.—

21 (1) IN GENERAL.—Section 1403(e) of the Vic-
22 tims of Crime Act of 1984 (42 U.S.C. 10602(e)) is
23 amended by inserting “including the program estab-
24 lished under title IV of Public Law 107–42,” after
25 “Federal program,”.

1 (2) COMPENSATION.—With respect to any com-
2 pensation payable under title IV of Public Law 107–
3 42, the failure of a crime victim compensation pro-
4 gram, after the effective date of final regulations
5 issued pursuant to section 407 of Public Law 107–
6 42, to provide compensation otherwise required pur-
7 suant to section 1403 of the Victims of Crime Act
8 of 1984 (42 U.S.C. 10602) shall not render that
9 program ineligible for future grants under the Vic-
10 tims of Crime Act of 1984.

11 **SEC. 623. CRIME VICTIM ASSISTANCE.**

12 (a) ASSISTANCE FOR VICTIMS IN THE DISTRICT OF
13 COLUMBIA, PUERTO RICO, AND OTHER TERRITORIES
14 AND POSSESSIONS.—Section 1404(a) of the Victims of
15 Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by
16 adding at the end the following:

17 “(6) An agency of the Federal Government per-
18 forming local law enforcement functions in and on
19 behalf of the District of Columbia, the Common-
20 wealth of Puerto Rico, the United States Virgin Is-
21 lands, or any other territory or possession of the
22 United States may qualify as an eligible crime victim
23 assistance program for the purpose of grants under
24 this subsection, or for the purpose of grants under
25 subsection (c)(1).”.

1 (b) PROHIBITION ON DISCRIMINATION AGAINST CER-
2 TAIN VICTIMS.—Section 1404(b)(1) of the Victims of
3 Crime Act of 1984 (42 U.S.C. 10603(b)(1)) is amended—

4 (1) in subparagraph (D), by striking “and” at
5 the end;

6 (2) in subparagraph (E), by striking the period
7 at the end and inserting “; and”; and

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

9 “(F) does not discriminate against victims
10 because they disagree with the way the State is
11 prosecuting the criminal case.”.

12 (c) GRANTS FOR PROGRAM EVALUATION AND COM-
13 PLIANCE EFFORTS.—Section 1404(c)(1)(A) of the Vic-
14 tims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A))
15 is amended by inserting “, program evaluation, compliance
16 efforts,” after “demonstration projects”.

17 (d) ALLOCATION OF DISCRETIONARY GRANTS.—Sec-
18 tion 1404(c)(2) of the Victims of Crime Act of 1984 (42
19 U.S.C. 10603(c)(2)) is amended—

20 (1) in subparagraph (A), by striking “not more
21 than” and inserting “not less than”; and

22 (2) in subparagraph (B), by striking “not less
23 than” and inserting “not more than”.

1 (e) FELLOWSHIPS AND CLINICAL INTERNSHIPS.—
2 Section 1404(c)(3) of the Victims of Crime Act of 1984
3 (42 U.S.C. 10603(c)(3)) is amended—

4 (1) in subparagraph (C), by striking “and” at
5 the end;

6 (2) in subparagraph (D), by striking the period
7 at the end and inserting “; and”; and

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

9 “(E) use funds made available to the Di-
10 rector under this subsection—

11 “(i) for fellowships and clinical intern-
12 ships; and

13 “(ii) to carry out programs of training
14 and special workshops for the presentation
15 and dissemination of information resulting
16 from demonstrations, surveys, and special
17 projects.”.

18 **SEC. 624. VICTIMS OF TERRORISM.**

19 (a) COMPENSATION AND ASSISTANCE TO VICTIMS OF
20 DOMESTIC TERRORISM.—Section 1404B(b) of the Victims
21 of Crime Act of 1984 (42 U.S.C. 10603b(b)) is amended
22 to read as follows:

23 “(b) VICTIMS OF TERRORISM WITHIN THE UNITED
24 STATES.—The Director may make supplemental grants as
25 provided in section 1402(d)(5) to States for eligible crime

1 victim compensation and assistance programs, and to vic-
2 tim service organizations, public agencies (including Fed-
3 eral, State, or local governments) and nongovernmental
4 organizations that provide assistance to victims of crime,
5 which shall be used to provide emergency relief, including
6 crisis response efforts, assistance, compensation, training
7 and technical assistance, and ongoing assistance, including
8 during any investigation or prosecution, to victims of ter-
9 rorist acts or mass violence occurring within the United
10 States.”.

11 (b) ASSISTANCE TO VICTIMS OF INTERNATIONAL
12 TERRORISM.—Section 1404B(a)(1) of the Victims of
13 Crime Act of 1984 (42 U.S.C. 10603b(a)(1)) is amended
14 by striking “who are not persons eligible for compensation
15 under title VIII of the Omnibus Diplomatic Security and
16 Antiterrorism Act of 1986”.

17 (c) COMPENSATION TO VICTIMS OF INTERNATIONAL
18 TERRORISM.—Section 1404C(b) of the Victims of Crime
19 of 1984 (42 U.S.C. 10603c(b)) is amended by adding at
20 the end the following: “The amount of compensation
21 awarded to a victim under this subsection shall be reduced
22 by any amount that the victim received in connection with
23 the same act of international terrorism under title VIII
24 of the Omnibus Diplomatic Security and Antiterrorism
25 Act of 1986.”.

1 **TITLE VII—INCREASED INFOR-**
2 **MATION SHARING FOR CRIT-**
3 **ICAL INFRASTRUCTURE PRO-**
4 **TECTION**

5 **SEC. 701. EXPANSION OF REGIONAL INFORMATION SHAR-**
6 **ING SYSTEM TO FACILITATE FEDERAL-STATE-**
7 **LOCAL LAW ENFORCEMENT RESPONSE RE-**
8 **LATED TO TERRORIST ATTACKS.**

9 Section 1301 of title I of the Omnibus Crime Control
10 and Safe Streets Act of 1968 (42 U.S.C. 3796h) is
11 amended—

12 (1) in subsection (a), by inserting “and ter-
13 rorist conspiracies and activities” after “activities”;

14 (2) in subsection (b)—

15 (A) in paragraph (3), by striking “and”
16 after the semicolon;

17 (B) by redesignating paragraph (4) as
18 paragraph (5);

19 (C) by inserting after paragraph (3) the
20 following:

21 “(4) establishing and operating secure informa-
22 tion sharing systems to enhance the investigation
23 and prosecution abilities of participating enforce-
24 ment agencies in addressing multi-jurisdictional ter-
25 rorist conspiracies and activities; and (5)”;

1 (3) by inserting at the end the following:

2 “(d) AUTHORIZATION OF APPROPRIATION TO THE
3 BUREAU OF JUSTICE ASSISTANCE.—There are authorized
4 to be appropriated to the Bureau of Justice Assistance
5 to carry out this section \$50,000,000 for fiscal year 2002
6 and \$100,000,000 for fiscal year 2003.”.

7 **TITLE VIII—STRENGTHENING**
8 **THE CRIMINAL LAWS**
9 **AGAINST TERRORISM**

10 **SEC. 801. TERRORIST ATTACKS AND OTHER ACTS OF VIO-**
11 **LENCE AGAINST MASS TRANSPORTATION**
12 **SYSTEMS.**

13 Chapter 97 of title 18, United States Code, is amend-
14 ed by adding at the end the following:

15 **“§ 1993. Terrorist attacks and other acts of violence**
16 **against mass transportation systems**

17 “(a) GENERAL PROHIBITIONS.—Whoever willfully—

18 “(1) wrecks, derails, sets fire to, or disables a
19 mass transportation vehicle or ferry;

20 “(2) places or causes to be placed any biological
21 agent or toxin for use as a weapon, destructive sub-
22 stance, or destructive device in, upon, or near a
23 mass transportation vehicle or ferry, without pre-
24 viously obtaining the permission of the mass trans-
25 portation provider, and with intent to endanger the

1 safety of any passenger or employee of the mass
2 transportation provider, or with a reckless disregard
3 for the safety of human life;

4 “(3) sets fire to, or places any biological agent
5 or toxin for use as a weapon, destructive substance,
6 or destructive device in, upon, or near any garage,
7 terminal, structure, supply, or facility used in the
8 operation of, or in support of the operation of, a
9 mass transportation vehicle or ferry, without pre-
10 viously obtaining the permission of the mass trans-
11 portation provider, and knowing or having reason to
12 know such activity would likely derail, disable, or
13 wreck a mass transportation vehicle or ferry used,
14 operated, or employed by the mass transportation
15 provider;

16 “(4) removes appurtenances from, damages, or
17 otherwise impairs the operation of a mass transpor-
18 tation signal system, including a train control sys-
19 tem, centralized dispatching system, or rail grade
20 crossing warning signal without authorization from
21 the mass transportation provider;

22 “(5) interferes with, disables, or incapacitates
23 any dispatcher, driver, captain, or person while they
24 are employed in dispatching, operating, or maintain-
25 ing a mass transportation vehicle or ferry, with in-

1 tent to endanger the safety of any passenger or em-
2 ployee of the mass transportation provider, or with
3 a reckless disregard for the safety of human life;

4 “(6) commits an act, including the use of a
5 dangerous weapon, with the intent to cause death or
6 serious bodily injury to an employee or passenger of
7 a mass transportation provider or any other person
8 while any of the foregoing are on the property of a
9 mass transportation provider;

10 “(7) conveys or causes to be conveyed false in-
11 formation, knowing the information to be false, con-
12 cerning an attempt or alleged attempt being made or
13 to be made, to do any act which would be a crime
14 prohibited by this subsection; or

15 “(8) attempts, threatens, or conspires to do any
16 of the aforesaid acts,

17 shall be fined under this title or imprisoned not more than
18 twenty years, or both, if such act is committed, or in the
19 case of a threat or conspiracy such act would be com-
20 mitted, on, against, or affecting a mass transportation
21 provider engaged in or affecting interstate or foreign com-
22 merce, or if in the course of committing such act, that
23 person travels or communicates across a State line in
24 order to commit such act, or transports materials across
25 a State line in aid of the commission of such act.

1 “(b) AGGRAVATED OFFENSE.—Whoever commits an
2 offense under subsection (a) in a circumstance in which—

3 “(1) the mass transportation vehicle or ferry
4 was carrying a passenger at the time of the offense;
5 or

6 “(2) the offense has resulted in the death of
7 any person,

8 shall be guilty of an aggravated form of the offense and
9 shall be fined under this title or imprisoned for a term
10 of years or for life, or both.

11 “(c) DEFINITIONS.—In this section—

12 “(1) the term ‘biological agent’ has the meaning
13 given to that term in section 178(1) of this title;

14 “(2) the term ‘dangerous weapon’ has the
15 meaning given to that term in section 930 of this
16 title;

17 “(3) the term ‘destructive device’ has the mean-
18 ing given to that term in section 921(a)(4) of this
19 title;

20 “(4) the term ‘destructive substance’ has the
21 meaning given to that term in section 31 of this
22 title;

23 “(5) the term ‘mass transportation’ has the
24 meaning given to that term in section 5302(a)(7) of
25 title 49, United States Code, except that the term

1 shall include schoolbus, charter, and sightseeing
2 transportation;

3 “(6) the term ‘serious bodily injury’ has the
4 meaning given to that term in section 1365 of this
5 title;

6 “(7) the term ‘State’ has the meaning given to
7 that term in section 2266 of this title; and

8 “(8) the term ‘toxin’ has the meaning given to
9 that term in section 178(2) of this title.”.

10 (f) CONFORMING AMENDMENT.—The analysis of
11 chapter 97 of title 18, United States Code, is amended
12 by adding at the end:

“1993. Terrorist attacks and other acts of violence against mass transportation systems.”.

13 **SEC. 802. DEFINITION OF DOMESTIC TERRORISM.**

14 (a) DOMESTIC TERRORISM DEFINED.—Section 2331
15 of title 18, United States Code, is amended—

16 (1) in paragraph (1)(B)(iii), by striking “by as-
17 sassination or kidnapping” and inserting “by mass
18 destruction, assassination, or kidnapping”;

19 (2) in paragraph (3), by striking “and”;

20 (3) in paragraph (4), by striking the period at
21 the end and inserting “; and”; and

22 (4) by adding at the end the following:

23 “(5) the term ‘domestic terrorism’ means activi-
24 ties that—

1 “(A) involve acts dangerous to human life
2 that are a violation of the criminal laws of the
3 United States or of any State;

4 “(B) appear to be intended—

5 “(i) to intimidate or coerce a civilian
6 population;

7 “(ii) to influence the policy of a gov-
8 ernment by intimidation or coercion; or

9 “(iii) to affect the conduct of a gov-
10 ernment by mass destruction, assassina-
11 tion, or kidnapping; and

12 “(C) occur primarily within the territorial
13 jurisdiction of the United States.”.

14 (b) CONFORMING AMENDMENT.—Section 3077(1) of
15 title 18, United States Code, is amended to read as fol-
16 lows:

17 “(1) ‘act of terrorism’ means an act of domestic
18 or international terrorism as defined in section
19 2331;”.

20 **SEC. 803. PROHIBITION AGAINST HARBORING TERRORISTS.**

21 (a) IN GENERAL.—Chapter 113B of title 18, United
22 States Code, is amended by adding after section 2338 the
23 following new section:

1 **“§ 2339. Harboring or concealing terrorists**

2 “(a) Whoever harbors or conceals any person who he
3 knows, or has reasonable grounds to believe, has com-
4 mitted, or is about to commit, an offense under section
5 32 (relating to destruction of aircraft or aircraft facilities),
6 section 175 (relating to biological weapons), section 229
7 (relating to chemical weapons), section 831 (relating to
8 nuclear materials), paragraph (2) or (3) of section 844(f)
9 (relating to arson and bombing of government property
10 risking or causing injury or death), section 1366(a) (relat-
11 ing to the destruction of an energy facility), section 2280
12 (relating to violence against maritime navigation), section
13 2332a (relating to weapons of mass destruction), or sec-
14 tion 2332b (relating to acts of terrorism transcending na-
15 tional boundaries) of this title, section 236(a) (relating to
16 sabotage of nuclear facilities or fuel) of the Atomic Energy
17 Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (relat-
18 ing to aircraft piracy) of title 49, shall be fined under this
19 title or imprisoned not more than ten years, or both.”.

20 “(b) A violation of this section may be prosecuted in
21 any Federal judicial district in which the underlying of-
22 fense was committed, or in any other Federal judicial dis-
23 trict as provided by law.”.

24 (b) TECHNICAL AMENDMENT.—The chapter analysis
25 for chapter 113B of title 18, United States Code, is

1 amended by inserting after the item for section 2338 the
2 following:

“2339. Harboring or concealing terrorists.”.

3 **SEC. 804. JURISDICTION OVER CRIMES COMMITTED AT U.S.**
4 **FACILITIES ABROAD.**

5 Section 7 of title 18, United States Code, is amended
6 by adding at the end the following:

7 “(9) With respect to offenses committed by or
8 against a national of the United States as that term
9 is used in section 101 of the Immigration and Na-
10 tionality Act—

11 “(A) the premises of United States diplo-
12 matic, consular, military or other United States
13 Government missions or entities in foreign
14 States, including the buildings, parts of build-
15 ings, and land appurtenant or ancillary thereto
16 or used for purposes of those missions or enti-
17 ties, irrespective of ownership; and

18 “(B) residences in foreign States and the
19 land appurtenant or ancillary thereto, irrespec-
20 tive of ownership, used for purposes of those
21 missions or entities or used by United States
22 personnel assigned to those missions or entities.

23 Nothing in this paragraph shall be deemed to super-
24 sede any treaty or international agreement with
25 which this paragraph conflicts. This paragraph does

1 not apply with respect to an offense committed by
2 a person described in section 3261(a) of this title.”.

3 **SEC. 805. MATERIAL SUPPORT FOR TERRORISM.**

4 (a) IN GENERAL.—Section 2339A of title 18, United
5 States Code, is amended—

6 (1) in subsection (a)—

7 (A) by striking “, within the United
8 States,”;

9 (B) by inserting “229,” after “175,”;

10 (C) by inserting “1993,” after “1992,”;

11 (D) by inserting “, section 236 of the
12 Atomic Energy Act of 1954 (42 U.S.C. 2284),”
13 after “of this title”;

14 (E) by inserting “or 60123(b)” after
15 “46502”; and

16 (F) by inserting at the end the following:
17 “A violation of this section may be prosecuted
18 in any Federal judicial district in which the un-
19 derlying offense was committed, or in any other
20 Federal judicial district as provided by law.”;
21 and

22 (2) in subsection (b)—

23 (A) by striking “or other financial securi-
24 ties” and inserting “or monetary instruments
25 or financial securities”; and

1 (B) by inserting “expert advice or assist-
2 ance,” after “training.”

3 (b) TECHNICAL AMENDMENT.—Section
4 1956(c)(7)(D) of title 18, United States Code, is amended
5 by inserting “or 2339B” after “2339A”.

6 **SEC. 806. ASSETS OF TERRORIST ORGANIZATIONS.**

7 Section 981(a)(1) of title 18, United States Code, is
8 amended by inserting at the end the following:

9 “(G) All assets, foreign or domestic—

10 “(i) of any individual, entity, or organiza-
11 tion engaged in planning or perpetrating any
12 act of domestic or international terrorism (as
13 defined in section 2331) against the United
14 States, citizens or residents of the United
15 States, or their property, and all assets, foreign
16 or domestic, affording any person a source of
17 influence over any such entity or organization;

18 “(ii) acquired or maintained by any person
19 with the intent and for the purpose of sup-
20 porting, planning, conducting, or concealing an
21 act of domestic or international terrorism (as
22 defined in section 2331) against the United
23 States, citizens or residents of the United
24 States, or their property; or

1 “(iii) derived from, involved in, or used or
2 intended to be used to commit any act of do-
3 mestic or international terrorism (as defined in
4 section 2331) against the United States, citi-
5 zens or residents of the United States, or their
6 property.”.

7 **SEC. 807. TECHNICAL CLARIFICATION RELATING TO PROVI-**
8 **SION OF MATERIAL SUPPORT TO TER-**
9 **RORISM.**

10 No provision of the Trade Sanctions Reform and Ex-
11 port Enhancement Act of 2000 (title IX of Public Law
12 106–387) shall be construed to limit or otherwise affect
13 section 2339A or 2339B of title 18, United States Code.

14 **SEC. 808. DEFINITION OF FEDERAL CRIME OF TERRORISM.**

15 Section 2332b of title 18, United States Code, is
16 amended—

17 (1) in subsection (f), by inserting “and any vio-
18 lation of section 351(e), 844(e), 844(f)(1), 956(b),
19 1361, 1366(b), 1366(c), 1751(e), 2152, or 2156 of
20 this title,” before “and the Secretary”; and

21 (2) in subsection (g)(5)(B), by striking clauses
22 (i) through (iii) and inserting the following:

23 “(i) section 32 (relating to destruction
24 of aircraft or aircraft facilities), 37 (relat-
25 ing to violence at international airports),

1 81 (relating to arson within special mari-
2 time and territorial jurisdiction), 175 or
3 175b (relating to biological weapons), 229
4 (relating to chemical weapons), subsection
5 (a), (b), (c), or (d) of section 351 (relating
6 to congressional, cabinet, and Supreme
7 Court assassination and kidnaping), 831
8 (relating to nuclear materials), 842(m) or
9 (n) (relating to plastic explosives),
10 844(f)(2) or (3) (relating to arson and
11 bombing of Government property risking
12 or causing death), 844(i) (relating to arson
13 and bombing of property used in interstate
14 commerce), 930(c) (relating to killing or
15 attempted killing during an attack on a
16 Federal facility with a dangerous weapon),
17 956(a)(1) (relating to conspiracy to mur-
18 der, kidnap, or maim persons abroad),
19 1030(a)(1) (relating to protection of com-
20 puters), 1030(a)(5)(A)(i) resulting in dam-
21 age as defined in 1030(a)(5)(B)(ii)
22 through (v) (relating to protection of com-
23 puters), 1114 (relating to killing or at-
24 tempted killing of officers and employees of
25 the United States), 1116 (relating to mur-

1 der or manslaughter of foreign officials, of-
2 ficial guests, or internationally protected
3 persons), 1203 (relating to hostage tak-
4 ing), 1362 (relating to destruction of com-
5 munication lines, stations, or systems),
6 1363 (relating to injury to buildings or
7 property within special maritime and terri-
8 torial jurisdiction of the United States),
9 1366(a) (relating to destruction of an en-
10 ergy facility), 1751(a), (b), (c), or (d) (re-
11 lating to Presidential and Presidential staff
12 assassination and kidnaping), 1992 (relat-
13 ing to wrecking trains), 1993 (relating to
14 terrorist attacks and other acts of violence
15 against mass transportation systems),
16 2155 (relating to destruction of national
17 defense materials, premises, or utilities),
18 2280 (relating to violence against maritime
19 navigation), 2281 (relating to violence
20 against maritime fixed platforms), 2332
21 (relating to certain homicides and other vi-
22 olence against United States nationals oc-
23 ccurring outside of the United States),
24 2332a (relating to use of weapons of mass
25 destruction), 2332b (relating to acts of ter-

1 rorism transcending national boundaries),
2 2339 (relating to harboring terrorists),
3 2339A (relating to providing material sup-
4 port to terrorists), 2339B (relating to pro-
5 viding material support to terrorist organi-
6 zations), or 2340A (relating to torture) of
7 this title;

8 “(ii) section 236 (relating to sabotage
9 of nuclear facilities or fuel) of the Atomic
10 Energy Act of 1954 (42 U.S.C. 2284); or

11 “(iii) section 46502 (relating to air-
12 craft piracy), the second sentence of sec-
13 tion 46504 (relating to assault on a flight
14 crew with a dangerous weapon), section
15 46505(b)(3) or (c) (relating to explosive or
16 incendiary devices, or endangerment of
17 human life by means of weapons, on air-
18 craft), section 46506 if homicide or at-
19 tempted homicide is involved (relating to
20 application of certain criminal laws to acts
21 on aircraft), or section 60123(b) (relating
22 to destruction of interstate gas or haz-
23 ardous liquid pipeline facility) of title 49.”.

1 **SEC. 809. NO STATUTE OF LIMITATION FOR CERTAIN TER-**
2 **RORISM OFFENSES.**

3 (a) IN GENERAL.—Section 3286 of title 18, United
4 States Code, is amended to read as follows:

5 **“§ 3286. Extension of statute of limitation for certain**
6 **terrorism offenses**

7 “(a) EIGHT-YEAR LIMITATION.—Notwithstanding
8 section 3282, no person shall be prosecuted, tried, or pun-
9 ished for any noncapital offense involving a violation of
10 any provision listed in section 2332b(g)(5)(B), or a viola-
11 tion of section 112, 351(e), 1361, or 1751(e) of this title,
12 or section 46504, 46505, or 46506 of title 49, unless the
13 indictment is found or the information is instituted within
14 8 years after the offense was committed. Notwithstanding
15 the preceding sentence, offenses listed in section 3295 are
16 subject to the statute of limitations set forth in that sec-
17 tion.

18 “(b) NO LIMITATION.—Notwithstanding any other
19 law, an indictment may be found or an information insti-
20 tuted at any time without limitation for any offense listed
21 in section 2332b(g)(5)(B), if the commission of such of-
22 fense resulted in, or created a foreseeable risk of, death
23 or serious bodily injury to another person.”.

24 (b) APPLICATION.—The amendments made by this
25 section shall apply to the prosecution of any offense com-

1 mitted before, on, or after the date of the enactment of
2 this section.

3 **SEC. 810. ALTERNATE MAXIMUM PENALTIES FOR TER-**
4 **RORISM OFFENSES.**

5 (a) ARSON.—Section 81 of title 18, United States
6 Code, is amended in the second undesignated paragraph
7 by striking “not more than twenty years” and inserting
8 “for any term of years or for life”.

9 (b) DESTRUCTION OF AN ENERGY FACILITY.—Sec-
10 tion 1366 of title 18, United States Code, is amended—

11 (1) in subsection (a), by striking “ten” and in-
12 serting “20”; and

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

14 “(d) Whoever is convicted of a violation of subsection
15 (a) or (b) that has resulted in the death of any person
16 shall be subject to imprisonment for any term of years
17 or life.”.

18 (c) MATERIAL SUPPORT TO TERRORISTS.—Section
19 2339A(a) of title 18, United States Code, is amended—

20 (1) by striking “10” and inserting “15”; and

21 (2) by striking the period and inserting “, and,
22 if the death of any person results, shall be impris-
23 oned for any term of years or for life.”.

1 (d) MATERIAL SUPPORT TO DESIGNATED FOREIGN
2 TERRORIST ORGANIZATIONS.—Section 2339B(a)(1) of
3 title 18, United States Code, is amended—

4 (1) by striking “10” and inserting “15”; and

5 (2) by striking the period after “or both” and
6 inserting “, and, if the death of any person results,
7 shall be imprisoned for any term of years or for
8 life.”.

9 (e) DESTRUCTION OF NATIONAL-DEFENSE MATE-
10 RIALS.—Section 2155(a) of title 18, United States Code,
11 is amended—

12 (1) by striking “ten” and inserting “20”; and

13 (2) by striking the period at the end and insert-
14 ing “, and, if death results to any person, shall be
15 imprisoned for any term of years or for life.”.

16 (f) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—
17 Section 236 of the Atomic Energy Act of 1954 (42 U.S.C.
18 2284), is amended—

19 (1) by striking “ten” each place it appears and
20 inserting “20”;

21 (2) in subsection (a), by striking the period at
22 the end and inserting “, and, if death results to any
23 person, shall be imprisoned for any term of years or
24 for life.”; and

1 (3) in subsection (b), by striking the period at
2 the end and inserting “, and, if death results to any
3 person, shall be imprisoned for any term of years or
4 for life.”.

5 (g) SPECIAL AIRCRAFT JURISDICTION OF THE
6 UNITED STATES.—Section 46505(c) of title 49, United
7 States Code, is amended—

8 (1) by striking “15” and inserting “20”; and

9 (2) by striking the period at the end and insert-
10 ing “, and, if death results to any person, shall be
11 imprisoned for any term of years or for life.”.

12 (h) DAMAGING OR DESTROYING AN INTERSTATE GAS
13 OR HAZARDOUS LIQUID PIPELINE FACILITY.—Section
14 60123(b) of title 49, United States Code, is amended—

15 (1) by striking “15” and inserting “20”; and

16 (2) by striking the period at the end and insert-
17 ing “, and, if death results to any person, shall be
18 imprisoned for any term of years or for life.”.

19 **SEC. 811. PENALTIES FOR TERRORIST CONSPIRACIES.**

20 (a) ARSON.—Section 81 of title 18, United States
21 Code, is amended in the first undesignated paragraph—

22 (1) by striking “, or attempts to set fire to or
23 burn”; and

24 (2) by inserting “or attempts or conspires to do
25 such an act,” before “shall be imprisoned”.

1 (b) KILLINGS IN FEDERAL FACILITIES.—Section
2 930(c) of title 18, United States Code, is amended—

3 (1) by striking “or attempts to kill”;

4 (2) by inserting “or attempts or conspires to do
5 such an act,” before “shall be punished”; and

6 (3) by striking “and 1113” and inserting
7 “1113, and 1117”.

8 (c) COMMUNICATIONS LINES, STATIONS, OR SYS-
9 TEMS.—Section 1362 of title 18, United States Code, is
10 amended in the first undesignated paragraph—

11 (1) by striking “or attempts willfully or mali-
12 ciously to injure or destroy”; and

13 (2) by inserting “or attempts or conspires to do
14 such an act,” before “shall be fined”.

15 (d) BUILDINGS OR PROPERTY WITHIN SPECIAL
16 MARITIME AND TERRITORIAL JURISDICTION.—Section
17 1363 of title 18, United States Code, is amended—

18 (1) by striking “or attempts to destroy or in-
19 jure”; and

20 (2) by inserting “or attempts or conspires to do
21 such an act,” before “shall be fined” the first place
22 it appears.

23 (e) WRECKING TRAINS.—Section 1992 of title 18,
24 United States Code, is amended by adding at the end the
25 following:

1 “(c) A person who conspires to commit any offense
2 defined in this section shall be subject to the same pen-
3 alties (other than the penalty of death) as the penalties
4 prescribed for the offense, the commission of which was
5 the object of the conspiracy.”.

6 (f) MATERIAL SUPPORT TO TERRORISTS.—Section
7 2339A of title 18, United States Code, is amended by in-
8 serting “or attempts or conspires to do such an act,” be-
9 fore “shall be fined”.

10 (g) TORTURE.—Section 2340A of title 18, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 “(c) CONSPIRACY.—A person who conspires to com-
14 mit an offense under this section shall be subject to the
15 same penalties (other than the penalty of death) as the
16 penalties prescribed for the offense, the commission of
17 which was the object of the conspiracy.”.

18 (h) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—
19 Section 236 of the Atomic Energy Act of 1954 (42 U.S.C.
20 2284), is amended—

21 (1) in subsection (a)—

22 (A) by striking “, or who intentionally and
23 willfully attempts to destroy or cause physical
24 damage to”;

1 (B) in paragraph (4), by striking the pe-
2 riod at the end and inserting a comma; and

3 (C) by inserting “or attempts or conspires
4 to do such an act,” before “shall be fined”; and
5 (2) in subsection (b)—

6 (A) by striking “or attempts to cause”;
7 and

8 (B) by inserting “or attempts or conspires
9 to do such an act,” before “shall be fined”.

10 (i) INTERFERENCE WITH FLIGHT CREW MEMBERS
11 AND ATTENDANTS.—Section 46504 of title 49, United
12 States Code, is amended by inserting “or attempts or con-
13 spires to do such an act,” before “shall be fined”.

14 (j) SPECIAL AIRCRAFT JURISDICTION OF THE
15 UNITED STATES.—Section 46505 of title 49, United
16 States Code, is amended by adding at the end the fol-
17 lowing:

18 “(e) CONSPIRACY.—If two or more persons conspire
19 to violate subsection (b) or (c), and one or more of such
20 persons do any act to effect the object of the conspiracy,
21 each of the parties to such conspiracy shall be punished
22 as provided in such subsection.”.

23 (k) DAMAGING OR DESTROYING AN INTERSTATE GAS
24 OR HAZARDOUS LIQUID PIPELINE FACILITY.—Section
25 60123(b) of title 49, United States Code, is amended—

1 **SEC. 814. DETERRENCE AND PREVENTION OF**
2 **CYBERTERRORISM.**

3 (a) CLARIFICATION OF PROTECTION OF PROTECTED
4 COMPUTERS.—Section 1030(a)(5) of title 18, United
5 States Code, is amended—

6 (1) by inserting “(i)” after “(A)”;

7 (2) by redesignating subparagraphs (B) and
8 (C) as clauses (ii) and (iii), respectively;

9 (3) by adding “and” at the end of clause (iii),
10 as so redesignated; and

11 (4) by adding at the end the following:

12 “(B) by conduct described in clause (i),
13 (ii), or (iii) of subparagraph (A), caused (or, in
14 the case of an attempted offense, would, if com-
15 pleted, have caused)—

16 “(i) loss to 1 or more persons during
17 any 1-year period (and, for purposes of an
18 investigation, prosecution, or other pro-
19 ceeding brought by the United States only,
20 loss resulting from a related course of con-
21 duct affecting 1 or more other protected
22 computers) aggregating at least \$5,000 in
23 value;

24 “(ii) the modification or impairment,
25 or potential modification or impairment, of

1 the medical examination, diagnosis, treat-
2 ment, or care of 1 or more individuals;

3 “(iii) physical injury to any person;

4 “(iv) a threat to public health or safe-
5 ty; or

6 “(v) damage affecting a computer sys-
7 tem used by or for a government entity in
8 furtherance of the administration of jus-
9 tice, national defense, or national secu-
10 rity;”.

11 (b) PROTECTION FROM EXTORTION.—Section
12 1030(a)(7) of title 18, United States Code, is amended
13 by striking “, firm, association, educational institution, fi-
14 nancial institution, government entity, or other legal enti-
15 ty,”.

16 (c) PENALTIES.—Section 1030(c) of title 18, United
17 States Code, is amended—

18 (1) in paragraph (2)—

19 (A) in subparagraph (A) —

20 (i) by inserting “except as provided in
21 subparagraph (B),” before “a fine”;

22 (ii) by striking “(a)(5)(C)” and in-
23 serting “(a)(5)(A)(iii)”;

24 (iii) by striking “and’ at the end;

1 (B) in subparagraph (B), by inserting “or
2 an attempt to commit an offense punishable
3 under this subparagraph,” after “subsection
4 (a)(2),” in the matter preceding clause (i); and

5 (C) in subparagraph (C), by striking
6 “and” at the end;

7 (2) in paragraph (3)—

8 (A) by striking “, (a)(5)(A), (a)(5)(B),”
9 both places it appears; and

10 (B) by striking “(a)(5)(C)” and inserting
11 “(a)(5)(A)(iii)”;

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

13 “(4)(A) a fine under this title, imprisonment
14 for not more than 10 years, or both, in the case of
15 an offense under subsection (a)(5)(A)(i), or an at-
16 tempt to commit an offense punishable under that
17 subsection;

18 “(B) a fine under this title, imprisonment for
19 not more than 5 years, or both, in the case of an
20 offense under subsection (a)(5)(A)(ii), or an attempt
21 to commit an offense punishable under that sub-
22 section;

23 “(C) a fine under this title, imprisonment for
24 not more than 20 years, or both, in the case of an
25 offense under subsection (a)(5)(A)(i) or

1 (a)(5)(A)(ii), or an attempt to commit an offense
2 punishable under either subsection, that occurs after
3 a conviction for another offense under this section.”.

4 (d) DEFINITIONS.—Section 1030(e) of title 18,
5 United States Code is amended—

6 (1) in paragraph (2)(B), by inserting “, includ-
7 ing a computer located outside the United States
8 that is used in a manner that affects interstate or
9 foreign commerce or communication of the United
10 States” before the semicolon;

11 (2) in paragraph (7), by striking “and” at the
12 end;

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

15 “(8) the term ‘damage’ means any impairment
16 to the integrity or availability of data, a program, a
17 system, or information;”;

18 (4) in paragraph (9), by striking the period at
19 the end and inserting a semicolon; and

20 (5) by adding at the end the following:

21 “(10) the term ‘conviction’ shall include a con-
22 viction under the law of any State for a crime pun-
23 ishable by imprisonment for more than 1 year, an
24 element of which is unauthorized access, or exceed-
25 ing authorized access, to a computer;

1 “(11) the term ‘loss’ means any reasonable cost
2 to any victim, including the cost of responding to an
3 offense, conducting a damage assessment, and re-
4 storing the data, program, system, or information to
5 its condition prior to the offense, and any revenue
6 lost, cost incurred, or other consequential damages
7 incurred because of interruption of service; and

8 “(12) the term ‘person’ means any individual,
9 firm, corporation, educational institution, financial
10 institution, governmental entity, or legal or other en-
11 tity.”.

12 (e) DAMAGES IN CIVIL ACTIONS.—Section 1030(g)
13 of title 18, United States Code is amended—

14 (1) by striking the second sentence and insert-
15 ing the following: “A civil action for a violation of
16 this section may be brought only if the conduct in-
17 volves 1 of the factors set forth in clause (i), (ii),
18 (iii), (iv), or (v) of subsection (a)(5)(B). Damages
19 for a violation involving only conduct described in
20 subsection (a)(5)(B)(i) are limited to economic dam-
21 ages.”; and

22 (2) by adding at the end the following: “No ac-
23 tion may be brought under this subsection for the
24 negligent design or manufacture of computer hard-
25 ware, computer software, or firmware.”.

1 (f) AMENDMENT OF SENTENCING GUIDELINES RE-
2 LATING TO CERTAIN COMPUTER FRAUD AND ABUSE.—
3 Pursuant to its authority under section 994(p) of title 28,
4 United States Code, the United States Sentencing Com-
5 mission shall amend the Federal sentencing guidelines to
6 ensure that any individual convicted of a violation of sec-
7 tion 1030 of title 18, United States Code, can be subjected
8 to appropriate penalties, without regard to any mandatory
9 minimum term of imprisonment.

10 **SEC. 815. ADDITIONAL DEFENSE TO CIVIL ACTIONS RELAT-**
11 **ING TO PRESERVING RECORDS IN RESPONSE**
12 **TO GOVERNMENT REQUESTS.**

13 Section 2707(e)(1) of title 18, United States Code,
14 is amended by inserting after “or statutory authorization”
15 the following: “(including a request of a governmental en-
16 tity under section 2703(f) of this title)”.

17 **SEC. 816. DEVELOPMENT AND SUPPORT OF**
18 **CYBERSECURITY FORENSIC CAPABILITIES.**

19 (a) IN GENERAL.—The Attorney General shall estab-
20 lish such regional computer forensic laboratories as the
21 Attorney General considers appropriate, and provide sup-
22 port to existing computer forensic laboratories, in order
23 that all such computer forensic laboratories have the
24 capability—

1 (1) to provide forensic examinations with re-
2 spect to seized or intercepted computer evidence re-
3 lating to criminal activity (including cyberterrorism);

4 (2) to provide training and education for Fed-
5 eral, State, and local law enforcement personnel and
6 prosecutors regarding investigations, forensic anal-
7 yses, and prosecutions of computer-related crime (in-
8 cluding cyberterrorism);

9 (3) to assist Federal, State, and local law en-
10 forcement in enforcing Federal, State, and local
11 criminal laws relating to computer-related crime;

12 (4) to facilitate and promote the sharing of
13 Federal law enforcement expertise and information
14 about the investigation, analysis, and prosecution of
15 computer-related crime with State and local law en-
16 forcement personnel and prosecutors, including the
17 use of multijurisdictional task forces; and

18 (5) to carry out such other activities as the At-
19 torney General considers appropriate.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—

21 (1) AUTHORIZATION.—There is hereby author-
22 ized to be appropriated in each fiscal year
23 \$50,000,000 for purposes of carrying out this sec-
24 tion.

1 (2) AVAILABILITY.—Amounts appropriated pur-
2 suant to the authorization of appropriations in para-
3 graph (1) shall remain available until expended.

4 **SEC. 817. EXPANSION OF THE BIOLOGICAL WEAPONS STAT-**
5 **UTE.**

6 Chapter 10 of title 18, United States Code, is
7 amended—

8 (1) in section 175—

9 (A) in subsection (b)—

10 (i) by striking “does not include” and
11 inserting “includes”;

12 (ii) by inserting “other than” after
13 “system for”; and

14 (iii) by inserting “bona fide research”
15 after “protective”;

16 (B) by redesignating subsection (b) as sub-
17 section (c); and

18 (C) by inserting after subsection (a) the
19 following:

20 “(b) ADDITIONAL OFFENSE.—Whoever knowingly
21 possesses any biological agent, toxin, or delivery system
22 of a type or in a quantity that, under the circumstances,
23 is not reasonably justified by a prophylactic, protective,
24 bona fide research, or other peaceful purpose, shall be
25 fined under this title, imprisoned not more than 10 years,

1 or both. In this subsection, the terms ‘biological agent’ and
2 ‘toxin’ do not encompass any biological agent or toxin that
3 is in its naturally occurring environment, if the biological
4 agent or toxin has not been cultivated, collected, or other-
5 wise extracted from its natural source.”;

6 (2) by inserting after section 175a the fol-
7 lowing:

8 **“SEC. 175b. POSSESSION BY RESTRICTED PERSONS.**

9 “(a) No restricted person described in subsection (b)
10 shall ship or transport interstate or foreign commerce, or
11 possess in or affecting commerce, any biological agent or
12 toxin, or receive any biological agent or toxin that has been
13 shipped or transported in interstate or foreign commerce,
14 if the biological agent or toxin is listed as a select agent
15 in subsection (j) of section 72.6 of title 42, Code of Fed-
16 eral Regulations, pursuant to section 511(d)(l) of the
17 Antiterrorism and Effective Death Penalty Act of 1996
18 (Public Law 104–132), and is not exempted under sub-
19 section (h) of such section 72.6, or appendix A of part
20 72 of the Code of Regulations.

21 “(b) In this section:

22 “(1) The term ‘select agent’ does not include
23 any such biological agent or toxin that is in its natu-
24 rally-occurring environment, if the biological agent

1 or toxin has not been cultivated, collected, or other-
2 wise extracted from its natural source.

3 “(2) The term ‘restricted person’ means an individual
4 who—

5 “(A) is under indictment for a crime pun-
6 ishable by imprisonment for a term exceeding 1
7 year;

8 “(B) has been convicted in any court of a
9 crime punishable by imprisonment for a term
10 exceeding 1 year;

11 “(C) is a fugitive from justice;

12 “(D) is an unlawful user of any controlled
13 substance (as defined in section 102 of the Con-
14 trolled Substances Act (21 U.S.C. 802));

15 “(E) is an alien illegally or unlawfully in
16 the United States;

17 “(F) has been adjudicated as a mental de-
18 fective or has been committed to any mental in-
19 stitution;

20 “(G) is an alien (other than an alien law-
21 fully admitted for permanent residence) who is
22 a national of a country as to which the Sec-
23 retary of State, pursuant to section 6(j) of the
24 Export Administration Act of 1979 (50 U.S.C.
25 App. 2405(j)), section 620A of chapter 1 of

1 part M of the Foreign Assistance Act of 1961
2 (22 U.S.C. 2371), or section 40(d) of chapter
3 of the Arms Export Control Act (22 U.S.C.
4 2780(d)), has made a determination (that re-
5 mains in effect) that such country has repeat-
6 edly provided support for acts of international
7 terrorism; or

8 “(H) has been discharged from the Armed
9 Services of the United States under dishonor-
10 able conditions.

11 “(3) The term ‘alien’ has the same meaning as
12 in section 1010(a)(3) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1101(a)(3)).

14 “(4) The term ‘lawfully admitted for permanent
15 residence’ has the same meaning as in section
16 101(a)(20) of the Immigration and Nationality Act
17 (8 U.S.C. 1101(a)(20)).

18 “(c) Whoever knowingly violates this section shall be
19 fined as provided in this title, imprisoned not more than
20 10 years, or both, but the prohibition contained in this
21 section shall not apply with respect to any duly authorized
22 United States governmental activity.”; and

23 (3) in the chapter analysis, by inserting after
24 the item relating to section 175a the following:

“175b. Possession by restricted persons.”.

1 **TITLE IX—IMPROVED**
2 **INTELLIGENCE**

3 **SEC. 901. RESPONSIBILITIES OF DIRECTOR OF CENTRAL**
4 **INTELLIGENCE REGARDING FOREIGN INTEL-**
5 **LIGENCE COLLECTED UNDER FOREIGN IN-**
6 **TELLIGENCE SURVEILLANCE ACT OF 1978.**

7 Section 103(c) of the National Security Act of 1947
8 (50 U.S.C. 403–3(c)) is amended—

9 (1) by redesignating paragraphs (6) and (7) as
10 paragraphs (7) and (8), respectively; and

11 (2) by inserting after paragraph (5) the fol-
12 lowing new paragraph (6):

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

1 **SEC. 902. INCLUSION OF INTERNATIONAL TERRORIST AC-**
2 **TIVITIES WITHIN SCOPE OF FOREIGN INTEL-**
3 **LIGENCE UNDER NATIONAL SECURITY ACT**
4 **OF 1947.**

5 Section 3 of the National Security Act of 1947 (50
6 U.S.C. 401a) is amended—

7 (1) in paragraph (2), by inserting before the pe-
8 riod the following: “, or international terrorist activi-
9 ties”; and

10 (2) in paragraph (3), by striking “and activities
11 conducted” and inserting “, and activities con-
12 ducted,”.

13 **SEC. 903. SENSE OF CONGRESS ON THE ESTABLISHMENT**
14 **AND MAINTENANCE OF INTELLIGENCE RELA-**
15 **TIONSHIPS TO ACQUIRE INFORMATION ON**
16 **TERRORISTS AND TERRORIST ORGANIZA-**
17 **TIONS.**

18 It is the sense of Congress that officers and employ-
19 ees of the intelligence community of the Federal Govern-
20 ment, acting within the course of their official duties,
21 should be encouraged, and should make every effort, to
22 establish and maintain intelligence relationships with any
23 person, entity, or group for the purpose of engaging in
24 lawful intelligence activities, including the acquisition of
25 information on the identity, location, finances, affiliations,
26 capabilities, plans, or intentions of a terrorist or terrorist

1 organization, or information on any other person, entity,
2 or group (including a foreign government) engaged in har-
3 boring, comforting, financing, aiding, or assisting a ter-
4 rorist or terrorist organization.

5 **SEC. 904. TEMPORARY AUTHORITY TO DEFER SUBMITTAL**
6 **TO CONGRESS OF REPORTS ON INTEL-**
7 **LIGENCE AND INTELLIGENCE-RELATED MAT-**
8 **TERS.**

9 (a) **AUTHORITY TO DEFER.**—The Secretary of De-
10 fense, Attorney General, and Director of Central Intel-
11 ligence each may, during the effective period of this sec-
12 tion, defer the date of submittal to Congress of any cov-
13 ered intelligence report under the jurisdiction of such offi-
14 cial until February 1, 2002.

15 (b) **COVERED INTELLIGENCE REPORT.**—Except as
16 provided in subsection (c), for purposes of subsection (a),
17 a covered intelligence report is as follows:

18 (1) Any report on intelligence or intelligence-re-
19 lated activities of the United States Government
20 that is required to be submitted to Congress by an
21 element of the intelligence community during the ef-
22 fective period of this section.

23 (2) Any report or other matter that is required
24 to be submitted to the Select Committee on Intel-
25 ligence of the Senate and Permanent Select Com-

1 mittee on Intelligence of the House of Representa-
2 tives by the Department of Defense or the Depart-
3 ment of Justice during the effective period of this
4 section.

5 (c) EXCEPTION FOR CERTAIN REPORTS.—For pur-
6 poses of subsection (a), any report required by section 502
7 or 503 of the National Security Act of 1947 (50 U.S.C.
8 413a, 413b) is not a covered intelligence report.

9 (d) NOTICE TO CONGRESS.—Upon deferring the date
10 of submittal to Congress of a covered intelligence report
11 under subsection (a), the official deferring the date of sub-
12 mittal of the covered intelligence report shall submit to
13 Congress notice of the deferral. Notice of deferral of a re-
14 port shall specify the provision of law, if any, under which
15 the report would otherwise be submitted to Congress.

16 (e) EXTENSION OF DEFERRAL.—(1) Each official
17 specified in subsection (a) may defer the date of submittal
18 to Congress of a covered intelligence report under the ju-
19 risdiction of such official to a date after February 1, 2002,
20 if such official submits to the committees of Congress
21 specified in subsection (b)(2) before February 1, 2002, a
22 certification that preparation and submittal of the covered
23 intelligence report on February 1, 2002, will impede the
24 work of officers or employees who are engaged in
25 counterterrorism activities.

1 (2) A certification under paragraph (1) with respect
2 to a covered intelligence report shall specify the date on
3 which the covered intelligence report will be submitted to
4 Congress.

5 (f) **EFFECTIVE PERIOD.**—The effective period of this
6 section is the period beginning on the date of the enact-
7 ment of this Act and ending on February 1, 2002.

8 (g) **ELEMENT OF THE INTELLIGENCE COMMUNITY**
9 **DEFINED.**—In this section, the term “element of the intel-
10 ligence community” means any element of the intelligence
11 community specified or designated under section 3(4) of
12 the National Security Act of 1947 (50 U.S.C. 401a(4)).

13 **SEC. 905. DISCLOSURE TO DIRECTOR OF CENTRAL INTEL-**
14 **LIGENCE OF FOREIGN INTELLIGENCE-RE-**
15 **LATED INFORMATION WITH RESPECT TO**
16 **CRIMINAL INVESTIGATIONS.**

17 (a) **IN GENERAL.**—Title I of the National Security
18 Act of 1947 (50 U.S.C. 402 et seq.) is amended—

19 (1) by redesignating subsection 105B as section
20 105C; and

21 (2) by inserting after section 105A the fol-
22 lowing new section 105B:

1 “DISCLOSURE OF FOREIGN INTELLIGENCE ACQUIRED IN
2 CRIMINAL INVESTIGATIONS; NOTICE OF CRIMINAL
3 INVESTIGATIONS OF FOREIGN INTELLIGENCE
4 SOURCES

5 “SEC. 105B. (a) DISCLOSURE OF FOREIGN INTEL-
6 LIGENCE.—(1) Except as otherwise provided by law and
7 subject to paragraph (2), the Attorney General, or the
8 head of any other department or agency of the Federal
9 Government with law enforcement responsibilities, shall
10 expeditiously disclose to the Director of Central Intel-
11 ligence, pursuant to guidelines developed by the Attorney
12 General in consultation with the Director, foreign intel-
13 ligence acquired by an element of the Department of Jus-
14 tice or an element of such department or agency, as the
15 case may be, in the course of a criminal investigation.

16 “(2) The Attorney General by regulation and in con-
17 sultation with the Director of Central Intelligence may
18 provide for exceptions to the applicability of paragraph (1)
19 for one or more classes of foreign intelligence, or foreign
20 intelligence with respect to one or more targets or matters,
21 if the Attorney General determines that disclosure of such
22 foreign intelligence under that paragraph would jeopardize
23 an ongoing law enforcement investigation or impair other
24 significant law enforcement interests.

1 “(b) PROCEDURES FOR NOTICE OF CRIMINAL INVES-
2 TIGATIONS.—Not later than 180 days after the date of
3 enactment of this section, the Attorney General, in con-
4 sultation with the Director of Central Intelligence, shall
5 develop guidelines to ensure that after receipt of a report
6 from an element of the intelligence community of activity
7 of a foreign intelligence source or potential foreign intel-
8 ligence source that may warrant investigation as criminal
9 activity, the Attorney General provides notice to the Direc-
10 tor of Central Intelligence, within a reasonable period of
11 time, of his intention to commence, or decline to com-
12 mence, a criminal investigation of such activity.

13 “(c) PROCEDURES.—The Attorney General shall de-
14 velop procedures for the administration of this section, in-
15 cluding the disclosure of foreign intelligence by elements
16 of the Department of Justice, and elements of other de-
17 partments and agencies of the Federal Government, under
18 subsection (a) and the provision of notice with respect to
19 criminal investigations under subsection (b).”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in the first section of that Act is amended by striking the
22 item relating to section 105B and inserting the following
23 new items:

“Sec. 105B. Disclosure of foreign intelligence acquired in criminal investiga-
tions; notice of criminal investigations of foreign intelligence
sources.

“Sec. 105C. Protection of the operational files of the National Imagery and
Mapping Agency.”.

1 **SEC. 906. FOREIGN TERRORIST ASSET TRACKING CENTER.**

2 (a) REPORT ON RECONFIGURATION.—Not later than
3 February 1, 2002, the Attorney General, the Director of
4 Central Intelligence, and the Secretary of the Treasury
5 shall jointly submit to Congress a report on the feasibility
6 and desirability of reconfiguring the Foreign Terrorist
7 Asset Tracking Center and the Office of Foreign Assets
8 Control of the Department of the Treasury in order to
9 establish a capability to provide for the effective and effi-
10 cient analysis and dissemination of foreign intelligence re-
11 lating to the financial capabilities and resources of inter-
12 national terrorist organizations.

13 (b) REPORT REQUIREMENTS.—(1) In preparing the
14 report under subsection (a), the Attorney General, the
15 Secretary, and the Director shall consider whether, and
16 to what extent, the capacities and resources of the Finan-
17 cial Crimes Enforcement Center of the Department of the
18 Treasury may be integrated into the capability con-
19 templated by the report.

20 (2) If the Attorney General, Secretary, and the Direc-
21 tor determine that it is feasible and desirable to undertake
22 the reconfiguration described in subsection (a) in order to
23 establish the capability described in that subsection, the
24 Attorney General, the Secretary, and the Director shall
25 include with the report under that subsection a detailed
26 proposal for legislation to achieve the reconfiguration.

1 **SEC. 907. NATIONAL VIRTUAL TRANSLATION CENTER.**

2 (a) REPORT ON ESTABLISHMENT.—(1) Not later
3 than February 1, 2002, the Director of Central Intel-
4 ligence shall, in consultation with the Director of the Fed-
5 eral Bureau of Investigation, submit to the appropriate
6 committees of Congress a report on the establishment and
7 maintenance within the intelligence community of an ele-
8 ment for purposes of providing timely and accurate trans-
9 lations of foreign intelligence for all other elements of the
10 intelligence community. In the report, the element shall
11 be referred to as the “National Virtual Translation Cen-
12 ter”.

13 (2) The report on the element described in paragraph
14 (1) shall discuss the use of state-of-the-art communica-
15 tions technology, the integration of existing translation ca-
16 pabilities in the intelligence community, and the utilization
17 of remote-connection capacities so as to minimize the need
18 for a central physical facility for the element.

19 (b) RESOURCES.—The report on the element required
20 by subsection (a) shall address the following:

21 (1) The assignment to the element of a staff of
22 individuals possessing a broad range of linguistic
23 and translation skills appropriate for the purposes of
24 the element.

25 (2) The provision to the element of communica-
26 tions capabilities and systems that are commensu-

1 rate with the most current and sophisticated com-
2 munications capabilities and systems available to
3 other elements of intelligence community.

4 (3) The assurance, to the maximum extent
5 practicable, that the communications capabilities and
6 systems provided to the element will be compatible
7 with communications capabilities and systems uti-
8 lized by the Federal Bureau of Investigation in se-
9 curing timely and accurate translations of foreign
10 language materials for law enforcement investiga-
11 tions.

12 (4) The development of a communications in-
13 frastructure to ensure the efficient and secure use of
14 the translation capabilities of the element.

15 (c) SECURE COMMUNICATIONS.—The report shall in-
16 clude a discussion of the creation of secure electronic com-
17 munications between the element described by subsection
18 (a) and the other elements of the intelligence community.

19 (d) DEFINITIONS.—In this section:

20 (1) FOREIGN INTELLIGENCE.—The term “for-
21 eign intelligence” has the meaning given that term
22 in section 3(2) of the National Security Act of 1947
23 (50 U.S.C. 401a(2)).

24 (2) ELEMENT OF THE INTELLIGENCE COMMU-
25 NITY.—The term “element of the intelligence com-

1 community” means any element of the intelligence com-
2 munity specified or designated under section 3(4) of
3 the National Security Act of 1947 (50 U.S.C.
4 401a(4)).

5 **SEC. 908. TRAINING OF GOVERNMENT OFFICIALS REGARD-**
6 **ING IDENTIFICATION AND USE OF FOREIGN**
7 **INTELLIGENCE.**

8 (a) PROGRAM REQUIRED.—The Attorney General
9 shall, in consultation with the Director of Central Intel-
10 ligence, carry out a program to provide appropriate train-
11 ing to officials described in subsection (b) in order to as-
12 sist such officials in—

13 (1) identifying foreign intelligence information
14 in the course of their duties; and

15 (2) utilizing foreign intelligence information in
16 the course of their duties, to the extent that the uti-
17 lization of such information is appropriate for such
18 duties.

19 (b) OFFICIALS.—The officials provided training
20 under subsection (a) are, at the discretion of the Attorney
21 General and the Director, the following:

22 (1) Officials of the Federal Government who
23 are not ordinarily engaged in the collection, dissemi-
24 nation, and use of foreign intelligence in the per-
25 formance of their duties.

1 (2) Officials of State and local governments
2 who encounter, or may encounter in the course of a
3 terrorist event, foreign intelligence in the perform-
4 ance of their duties.

5 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
6 hereby authorized to be appropriated for the Department
7 of Justice such sums as may be necessary for purposes
8 of carrying out the program required by subsection (a).

9 **TITLE X—MISCELLANEOUS**

10 **SEC. 1001. REVIEW OF THE DEPARTMENT OF JUSTICE.**

11 The Inspector General of the Department of Justice
12 shall designate one official who shall—

13 (1) review information and receive complaints
14 alleging abuses of civil rights and civil liberties by
15 employees and officials of the Department of Jus-
16 tice;

17 (2) make public through the Internet, radio, tel-
18 evision, and newspaper advertisements information
19 on the responsibilities and functions of, and how to
20 contact, the official; and

21 (3) submit to the Committee on the Judiciary
22 of the House of Representatives and the Committee
23 on the Judiciary of the Senate on a semi-annual
24 basis a report on the implementation of this sub-
25 section and detailing any abuses described in para-

1 graph (1), including a description of the use of
2 funds appropriations used to carry out this sub-
3 section.

4 **SEC. 1002. SENSE OF CONGRESS.**

5 (a) FINDINGS.—Congress finds that—

6 (1) all Americans are united in condemning, in
7 the strongest possible terms, the terrorists who
8 planned and carried out the attacks against the
9 United States on September 11, 2001, and in pur-
10 suing all those responsible for those attacks and
11 their sponsors until they are brought to justice;

12 (2) Sikh-Americans form a vibrant, peaceful,
13 and law-abiding part of America’s people;

14 (3) approximately 500,000 Sikhs reside in the
15 United States and are a vital part of the Nation;

16 (4) Sikh-Americans stand resolutely in support
17 of the commitment of our Government to bring the
18 terrorists and those that harbor them to justice;

19 (5) the Sikh faith is a distinct religion with a
20 distinct religious and ethnic identity that has its own
21 places of worship and a distinct holy text and reli-
22 gious tenets;

23 (6) many Sikh-Americans, who are easily rec-
24 ognizable by their turbans and beards, which are re-
25 quired articles of their faith, have suffered both

1 verbal and physical assaults as a result of misguided
2 anger toward Arab-Americans and Muslim-Ameri-
3 cans in the wake of the September 11, 2001 ter-
4 rorist attack;

5 (7) Sikh-Americans, as do all Americans, con-
6 demn acts of prejudice against any American; and

7 (8) Congress is seriously concerned by the num-
8 ber of crimes against Sikh-Americans and other
9 Americans all across the Nation that have been re-
10 ported in the wake of the tragic events that unfolded
11 on September 11, 2001.

12 (b) SENSE OF CONGRESS.—Congress—

13 (1) declares that, in the quest to identify, lo-
14 cate, and bring to justice the perpetrators and spon-
15 sors of the terrorist attacks on the United States on
16 September 11, 2001, the civil rights and civil lib-
17 erties of all Americans, including Sikh-Americans,
18 should be protected;

19 (2) condemns bigotry and any acts of violence
20 or discrimination against any Americans, including
21 Sikh-Americans;

22 (3) calls upon local and Federal law enforce-
23 ment authorities to work to prevent crimes against
24 all Americans, including Sikh-Americans; and

1 (4) calls upon local and Federal law enforce-
2 ment authorities to prosecute to the fullest extent of
3 the law all those who commit crimes.

4 **SEC. 1003. DEFINITION OF “ELECTRONIC SURVEILLANCE”.**

5 Section 101(f)(2) of the Foreign Intelligence Surveil-
6 lance Act (50 U.S.C. 1801(f)(2)) is amended by adding
7 at the end before the semicolon the following: “, but does
8 not include the acquisition of those communications of
9 computer trespassers that would be permissible under sec-
10 tion 2511(2)(i) of title 18, United States Code”.

11 **SEC. 1004. VENUE IN MONEY LAUNDERING CASES.**

12 Section 1956 of title 18, United States Code, is
13 amended by adding at the end the following:

14 “(i) VENUE.—(1) Except as provided in paragraph
15 (2), a prosecution for an offense under this section or sec-
16 tion 1957 may be brought in—

17 “(A) any district in which the financial or mon-
18 etary transaction is conducted; or

19 “(B) any district where a prosecution for the
20 underlying specified unlawful activity could be
21 brought, if the defendant participated in the transfer
22 of the proceeds of the specified unlawful activity
23 from that district to the district where the financial
24 or monetary transaction is conducted.

1 “(2) A prosecution for an attempt or conspiracy of-
2 fense under this section or section 1957 may be brought
3 in the district where venue would lie for the completed of-
4 fense under paragraph (1), or in any other district where
5 an act in furtherance of the attempt or conspiracy took
6 place.

7 “(3) For purposes of this section, a transfer of funds
8 from 1 place to another, by wire or any other means, shall
9 constitute a single, continuing transaction. Any person
10 who conducts (as that term is defined in subsection (c)(2))
11 any portion of the transaction may be charged in any dis-
12 trict in which the transaction takes place.”.

13 **SEC. 1005. FIRST RESPONDERS ASSISTANCE ACT.**

14 (a) GRANT AUTHORIZATION.—The Attorney General
15 shall make grants described in subsections (b) and (c) to
16 States and units of local government to improve the ability
17 of State and local law enforcement, fire department and
18 first responders to respond to and prevent acts of ter-
19 rorism.

20 (b) TERRORISM PREVENTION GRANTS.—Terrorism
21 prevention grants under this subsection may be used for
22 programs, projects, and other activities to—

23 (1) hire additional law enforcement personnel
24 dedicated to intelligence gathering and analysis func-

1 tions, including the formation of full-time intel-
2 ligence and analysis units;

3 (2) purchase technology and equipment for in-
4 telligence gathering and analysis functions, including
5 wire-tap, pen links, cameras, and computer hard-
6 ware and software;

7 (3) purchase equipment for responding to a
8 critical incident, including protective equipment for
9 patrol officers such as quick masks;

10 (4) purchase equipment for managing a critical
11 incident, such as communications equipment for im-
12 proved interoperability among surrounding jurisdic-
13 tions and mobile command posts for overall scene
14 management; and

15 (5) fund technical assistance programs that em-
16 phasize coordination among neighboring law enforce-
17 ment agencies for sharing resources, and resources
18 coordination among law enforcement agencies for
19 combining intelligence gathering and analysis func-
20 tions, and the development of policy, procedures,
21 memorandums of understanding, and other best
22 practices.

23 (c) ANTITERRORISM TRAINING GRANTS.—
24 Antiterrorism training grants under this subsection may

1 be used for programs, projects, and other activities to
2 address—

3 (1) intelligence gathering and analysis tech-
4 niques;

5 (2) community engagement and outreach;

6 (3) critical incident management for all forms
7 of terrorist attack;

8 (4) threat assessment capabilities;

9 (5) conducting followup investigations; and

10 (6) stabilizing a community after a terrorist in-
11 cident.

12 (d) APPLICATION.—

13 (1) IN GENERAL.—Each eligible entity that de-
14 sires to receive a grant under this section shall sub-
15 mit an application to the Attorney General, at such
16 time, in such manner, and accompanied by such ad-
17 ditional information as the Attorney General may
18 reasonably require.

19 (2) CONTENTS.—Each application submitted
20 pursuant to paragraph (1) shall—

21 (A) describe the activities for which assist-
22 ance under this section is sought; and

23 (B) provide such additional assurances as
24 the Attorney General determines to be essential

1 to ensure compliance with the requirements of
2 this section.

3 (e) **MINIMUM AMOUNT.**—If all applications submitted
4 by a State or units of local government within that State
5 have not been funded under this section in any fiscal year,
6 that State, if it qualifies, and the units of local government
7 within that State, shall receive in that fiscal year not less
8 than 0.5 percent of the total amount appropriated in that
9 fiscal year for grants under this section.

10 (f) **AUTHORIZATION OF APPROPRIATIONS.**—There
11 are authorized to be appropriated \$25,000,000 for each
12 of the fiscal years 2003 through 2007.

13 **SEC. 1006. INADMISSIBILITY OF ALIENS ENGAGED IN**
14 **MONEY LAUNDERING.**

15 (a) **AMENDMENT TO IMMIGRATION AND NATION-**
16 **ALITY ACT.**—Section 212(a)(2) of the Immigration and
17 Nationality Act (8 U.S.C. 1182(a)(2)) is amended by add-
18 ing at the end the following:

19 “(I) **MONEY LAUNDERING.**—Any alien—
20 “(i) who a consular officer or the At-
21 torney General knows, or has reason to be-
22 lieve, has engaged, is engaging, or seeks to
23 enter the United States to engage, in an
24 offense which is described in section 1956
25 or 1957 of title 18, United States Code

1 (relating to laundering of monetary instru-
2 ments); or

3 “(ii) who a consular officer or the At-
4 torney General knows is, or has been, a
5 knowing aider, abettor, assister, con-
6 spirator, or colluder with others in an of-
7 fense which is described in such section;
8 is inadmissible.”.

9 (b) MONEY LAUNDERING WATCHLIST.—Not later
10 than 90 days after the date of the enactment of this Act,
11 the Secretary of State shall develop, implement, and cer-
12 tify to the Congress that there has been established a
13 money laundering watchlist, which identifies individuals
14 worldwide who are known or suspected of money laun-
15 dering, which is readily accessible to, and shall be checked
16 by, a consular or other Federal official prior to the
17 issuance of a visa or admission to the United States. The
18 Secretary of State shall develop and continually update the
19 watchlist in cooperation with the Attorney General, the
20 Secretary of the Treasury, and the Director of Central In-
21 telligence.

22 **SEC. 1007. AUTHORIZATION OF FUNDS FOR DEA POLICE**
23 **TRAINING IN SOUTH AND CENTRAL ASIA.**

24 In addition to amounts otherwise available to carry
25 out section 481 of the Foreign Assistance Act of 1961 (22

1 U.S.C. 2291), there is authorized to be appropriated to
2 the President not less than \$5,000,000 for fiscal year
3 2002 for regional antidrug training in the Republic of
4 Turkey by the Drug Enforcement Administration for po-
5 lice, as well as increased precursor chemical control efforts
6 in the South and Central Asia region.

7 **SEC. 1008. FEASIBILITY STUDY ON USE OF BIOMETRIC**
8 **IDENTIFIER SCANNING SYSTEM WITH AC-**
9 **CESS TO THE FBI INTEGRATED AUTOMATED**
10 **FINGERPRINT IDENTIFICATION SYSTEM AT**
11 **OVERSEAS CONSULAR POSTS AND POINTS OF**
12 **ENTRY TO THE UNITED STATES.**

13 (a) IN GENERAL.—The Attorney General, in con-
14 sultation with the Secretary of State and the Secretary
15 of Transportation, shall conduct a study on the feasibility
16 of utilizing a biometric identifier (fingerprint) scanning
17 system, with access to the database of the Federal Bureau
18 of Investigation Integrated Automated Fingerprint Identi-
19 fication System, at consular offices abroad and at points
20 of entry into the United States to enhance the ability of
21 State Department and immigration officials to identify
22 aliens who may be wanted in connection with criminal or
23 terrorist investigations in the United States or abroad
24 prior to the issuance of visas or entry into the United
25 States.

1 (b) REPORT TO CONGRESS.—Not later than 90 days
2 after the date of the enactment of this Act, the Attorney
3 General shall submit a report summarizing the findings
4 of the study authorized under subsection (a) to the Com-
5 mittee on International Relations and the Committee on
6 the Judiciary of the House of Representatives and the
7 Committee on Foreign Relations and the Committee on
8 the Judiciary of the Senate.

9 **SEC. 1009. STUDY OF ACCESS.**

10 (a) IN GENERAL.—Not later than 120 days after en-
11 actment of this Act, the Federal Bureau of Investigation
12 shall study and report to Congress on the feasibility of
13 providing to airlines access via computer to the names of
14 passengers who are suspected of terrorist activity by Fed-
15 eral officials.

16 (b) AUTHORIZATION.—There are authorized to be ap-
17 propriated not more than \$250,000 to carry out sub-
18 section (a).

19 **SEC. 1010. TEMPORARY AUTHORITY TO CONTRACT WITH**
20 **LOCAL AND STATE GOVERNMENTS FOR PER-**
21 **FORMANCE OF SECURITY FUNCTIONS AT**
22 **UNITED STATES MILITARY INSTALLATIONS.**

23 (a) IN GENERAL.—Notwithstanding section 2465 of
24 title 10, United States Code, during the period of time
25 that United States armed forces are engaged in Operation

1 Enduring Freedom, and for the period of 180 days there-
2 after, funds appropriated to the Department of Defense
3 may be obligated and expended for the purpose of entering
4 into contracts or other agreements for the performance of
5 security functions at any military installation or facility
6 in the United States with a proximately located local or
7 State government, or combination of such governments,
8 whether or not any such government is obligated to pro-
9 vide such services to the general public without compensa-
10 tion.

11 (b) TRAINING.—Any contract or agreement entered
12 into under this section shall prescribe standards for the
13 training and other qualifications of local government law
14 enforcement personnel who perform security functions
15 under this section in accordance with criteria established
16 by the Secretary of the service concerned.

17 (c) REPORT.—One year after the date of enactment
18 of this section, the Secretary of Defense shall submit a
19 report to the Committees on Armed Services of the Senate
20 and the House of Representatives describing the use of
21 the authority granted under this section and the use by
22 the Department of Defense of other means to improve the
23 performance of security functions on military installations
24 and facilities located within the United States.

1 **SEC. 1011. CRIMES AGAINST CHARITABLE AMERICANS.**

2 (a) SHORT TITLE.—This section may be cited as the
3 “Crimes Against Charitable Americans Act of 2001”.

4 (b) TELEMARKETING AND CONSUMER FRAUD
5 ABUSE.—The Telemarketing and Consumer Fraud and
6 Abuse Prevention Act (15 U.S.C. 6101 et seq.) is
7 amended—

8 (1) in section 3(a)(2), by inserting after “prac-
9 tices” the second place it appears the following:
10 “which shall include fraudulent charitable solicita-
11 tions, and”;

12 (2) in section 3(a)(3)—

13 (A) in subparagraph (B), by striking
14 “and” at the end;

15 (B) in subparagraph (C), by striking the
16 period at the end and inserting “; and”; and

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

18 “(D) a requirement that any person en-
19 gaged in telemarketing for the solicitation of
20 charitable contributions, donations, or gifts of
21 money or any other thing of value, shall
22 promptly and clearly disclose to the person re-
23 ceiving the call that the purpose of the call is
24 to solicit charitable contributions, donations, or
25 gifts, and make such other disclosures as the
26 Commission considers appropriate, including

1 the name and mailing address of the charitable
2 organization on behalf of which the solicitation
3 is made.”; and

4 (3) in section 7(4), by inserting “, or a chari-
5 table contribution, donation, or gift of money or any
6 other thing of value,” after “services”.

7 (c) RED CROSS MEMBERS OR AGENTS.—Section 917
8 of title 18, United States Code, is amended by striking
9 “one year” and inserting “5 years”.

10 (d) TELEMARKETING FRAUD.—Section 2325(1) of
11 title 18, United States Code, is amended—

12 (1) in subparagraph (A), by striking “or” at
13 the end;

14 (2) in subparagraph (B), by striking the comma
15 at the end and inserting “; or”;

16 (3) by inserting after subparagraph (B) the fol-
17 lowing:

18 “(C) a charitable contribution, donation, or
19 gift of money or any other thing of value,”; and

20 (4) in the flush language, by inserting “or char-
21 itable contributor, or donor” after “participant”.

22 **SEC. 1012. LIMITATION ON ISSUANCE OF HAZMAT LI-**
23 **CENSES.**

24 (a) LIMITATION.—

1 (1) IN GENERAL.—Chapter 51 of title 49,
2 United States Code, is amended by inserting after
3 section 5103 the following new section:

4 **“§ 5103a. Limitation on issuance of hazmat licenses**

5 “(a) LIMITATION.—

6 “(1) ISSUANCE OF LICENSES.—A State may
7 not issue to any individual a license to operate a
8 motor vehicle transporting in commerce a hazardous
9 material unless the Secretary of Transportation has
10 first determined, upon receipt of a notification under
11 subsection (c)(1)(B), that the individual does not
12 pose a security risk warranting denial of the license.

13 “(2) RENEWALS INCLUDED.—For the purposes
14 of this section, the term ‘issue’, with respect to a li-
15 cense, includes renewal of the license.

16 “(b) HAZARDOUS MATERIALS DESCRIBED.—The
17 limitation in subsection (a) shall apply with respect to—

18 “(1) any material defined as a hazardous mate-
19 rial by the Secretary of Transportation; and

20 “(2) any chemical or biological material or
21 agent determined by the Secretary of Health and
22 Human Services or the Attorney General as being a
23 threat to the national security of the United States.

24 “(c) BACKGROUND RECORDS CHECK.—

1 “(1) IN GENERAL.—Upon the request of a
2 State regarding issuance of a license described in
3 subsection (a)(1) to an individual, the Attorney
4 General—

5 “(A) shall carry out a background records
6 check regarding the individual; and

7 “(B) upon completing the background
8 records check, shall notify the Secretary of
9 Transportation of the completion and results of
10 the background records check.

11 “(2) SCOPE.—A background records check re-
12 garding an individual under this subsection shall
13 consist of the following:

14 “(A) A check of the relevant criminal his-
15 tory data bases.

16 “(B) In the case of an alien, a check of the
17 relevant data bases to determine the status of
18 the alien under the immigration laws of the
19 United States.

20 “(C) As appropriate, a check of the rel-
21 evant international data bases through
22 Interpol–U.S. National Central Bureau or other
23 appropriate means.

24 “(d) REPORTING REQUIREMENT.—Each State shall
25 submit to the Secretary of Transportation, at such time

1 and in such manner as the Secretary may prescribe, the
2 name, address, and such other information as the Sec-
3 retary may require, concerning—

4 “(1) each alien to whom the State issues a li-
5 cense described in subsection (a); and

6 “(2) each other individual to whom such a li-
7 cense is issued, as the Secretary may require.

8 “(e) ALIEN DEFINED.—In this section, the term
9 ‘alien’ has the meaning given the term in section 101(a)(3)
10 of the Immigration and Nationality Act.”.

11 (2) CLERICAL AMENDMENT.—The table of sec-
12 tions at the beginning of such chapter is amended
13 by inserting after the item relating to section 5103
14 the following new item:

“5103a. Limitation on issuance of hazmat licenses.”.

15 (b) REGULATION OF DRIVER FITNESS.—Section
16 31305(a)(5) of title 49, United States Code, is amended—

17 (1) by striking “and” at the end of subpara-
18 graph (A);

19 (2) by inserting “and” at the end of subpara-
20 graph (B); and

21 (3) by adding at the end the following new sub-
22 paragraph:

23 “(C) is licensed by a State to operate the
24 vehicle after having first been determined under

1 section 5103a of this title as not posing a secu-
2 rity risk warranting denial of the license.”.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated for the Department of
5 Transportation and the Department of Justice such
6 amounts as may be necessary to carry out section 5103a
7 of title 49, United States Code, as added by subsection
8 (a).

9 **SEC. 1013. EXPRESSING THE SENSE OF THE SENATE CON-**
10 **CERNING THE PROVISION OF FUNDING FOR**
11 **BIOTERRORISM PREPAREDNESS AND RE-**
12 **SPONSE.**

13 (a) FINDINGS.—The Senate finds the following:

14 (1) Additional steps must be taken to better
15 prepare the United States to respond to potential
16 bioterrorism attacks.

17 (2) The threat of a bioterrorist attack is still
18 remote, but is increasing for a variety of reasons,
19 including—

20 (A) public pronouncements by Osama bin
21 Laden that it is his religious duty to acquire
22 weapons of mass destruction, including chem-
23 ical and biological weapons;

1 (B) the callous disregard for innocent
2 human life as demonstrated by the terrorists'
3 attacks of September 11, 2001;

4 (C) the resources and motivation of known
5 terrorists and their sponsors and supporters to
6 use biological warfare;

7 (D) recent scientific and technological ad-
8 vances in agent delivery technology such as
9 aerosolization that have made weaponization of
10 certain germs much easier; and

11 (E) the increasing access to the tech-
12 nologies and expertise necessary to construct
13 and deploy chemical and biological weapons of
14 mass destruction.

15 (3) Coordination of Federal, State, and local
16 terrorism research, preparedness, and response pro-
17 grams must be improved.

18 (4) States, local areas, and public health offi-
19 cials must have enhanced resources and expertise in
20 order to respond to a potential bioterrorist attack.

21 (5) National, State, and local communication
22 capacities must be enhanced to combat the spread of
23 chemical and biological illness.

1 (6) Greater resources must be provided to in-
2 crease the capacity of hospitals and local health care
3 workers to respond to public health threats.

4 (7) Health care professionals must be better
5 trained to recognize, diagnose, and treat illnesses
6 arising from biochemical attacks.

7 (8) Additional supplies may be essential to in-
8 crease the readiness of the United States to respond
9 to a bio-attack.

10 (9) Improvements must be made in assuring
11 the safety of the food supply.

12 (10) New vaccines and treatments are needed
13 to assure that we have an adequate response to a
14 biochemical attack.

15 (11) Government research, preparedness, and
16 response programs need to utilize private sector ex-
17 pertise and resources.

18 (12) Now is the time to strengthen our public
19 health system and ensure that the United States is
20 adequately prepared to respond to potential bioter-
21 rorist attacks, natural infectious disease outbreaks,
22 and other challenges and potential threats to the
23 public health.

1 (b) SENSE OF THE SENATE.—It is the sense of the
2 Senate that the United States should make a substantial
3 new investment this year toward the following:

4 (1) Improving State and local preparedness ca-
5 pabilities by upgrading State and local surveillance
6 epidemiology, assisting in the development of re-
7 sponse plans, assuring adequate staffing and train-
8 ing of health professionals to diagnose and care for
9 victims of bioterrorism, extending the electronics
10 communications networks and training personnel,
11 and improving public health laboratories.

12 (2) Improving hospital response capabilities by
13 assisting hospitals in developing plans for a bioter-
14 rorist attack and improving the surge capacity of
15 hospitals.

16 (3) Upgrading the bioterrorism capabilities of
17 the Centers for Disease Control and Prevention
18 through improving rapid identification and health
19 early warning systems.

20 (4) Improving disaster response medical sys-
21 tems, such as the National Disaster Medical System
22 and the Metropolitan Medical Response System and
23 Epidemic Intelligence Service.

24 (5) Targeting research to assist with the devel-
25 opment of appropriate therapeutics and vaccines for

1 likely bioterrorist agents and assisting with expedited drug and device review through the Food and Drug Administration.

4 (6) Improving the National Pharmaceutical Stockpile program by increasing the amount of necessary therapies (including smallpox vaccines and other post-exposure vaccines) and ensuring the appropriate deployment of stockpiles.

9 (7) Targeting activities to increase food safety at the Food and Drug Administration.

11 (8) Increasing international cooperation to secure dangerous biological agents, increase surveillance, and retrain biological warfare specialists.

14 **SEC. 1014. GRANT PROGRAM FOR STATE AND LOCAL DOMESTIC PREPAREDNESS SUPPORT.**

16 (a) IN GENERAL.—The Office for State and Local Domestic Preparedness Support of the Office of Justice Programs shall make a grant to each State, which shall be used by the State, in conjunction with units of local government, to enhance the capability of State and local jurisdictions to prepare for and respond to terrorist acts including events of terrorism involving weapons of mass destruction and biological, nuclear, radiological, incendiary, chemical, and explosive devices.

1 (b) USE OF GRANT AMOUNTS.—Grants under this
2 section may be used to purchase needed equipment and
3 to provide training and technical assistance to State and
4 local first responders.

5 (c) AUTHORIZATION OF APPROPRIATIONS.—

6 (1) IN GENERAL.—There is authorized to be
7 appropriated to carry out this section such sums as
8 necessary for each of fiscal years 2002 through
9 2007.

10 (2) LIMITATIONS.—Of the amount made avail-
11 able to carry out this section in any fiscal year not
12 more than 3 percent may be used by the Attorney
13 General for salaries and administrative expenses.

14 (3) MINIMUM AMOUNT.—Each State shall be
15 allocated in each fiscal year under this section not
16 less than 0.75 percent of the total amount appro-
17 priated in the fiscal year for grants pursuant to this
18 section, except that the United States Virgin Is-
19 lands, America Samoa, Guam, and the Northern
20 Mariana Islands each shall be allocated 0.25 per-
21 cent.

1 **SEC. 1015. EXPANSION AND REAUTHORIZATION OF THE**
2 **CRIME IDENTIFICATION TECHNOLOGY ACT**
3 **FOR ANTITERRORISM GRANTS TO STATES**
4 **AND LOCALITIES.**

5 Section 102 of the Crime Identification Technology
6 Act of 1998 (42 U.S.C. 14601) is amended—

7 (1) in subsection (b)—

8 (A) in paragraph (16), by striking “and”
9 at the end;

10 (B) in paragraph (17), by striking the pe-
11 riod and inserting “; and”; and

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

13 “(18) notwithstanding subsection (c),
14 antiterrorism purposes as they relate to any other
15 uses under this section or for other antiterrorism
16 programs.”; and

17 (2) in subsection (e)(1), by striking “this sec-
18 tion” and all that follows and inserting “this section
19 \$250,000,000 for each of fiscal years 2002 through
20 2007.”.

21 **SEC. 1016. CRITICAL INFRASTRUCTURES PROTECTION.**

22 (a) **SHORT TITLE.**—This section may be cited as the
23 “Critical Infrastructures Protection Act of 2001”.

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

1 (1) The information revolution has transformed
2 the conduct of business and the operations of gov-
3 ernment as well as the infrastructure relied upon for
4 the defense and national security of the United
5 States.

6 (2) Private business, government, and the na-
7 tional security apparatus increasingly depend on an
8 interdependent network of critical physical and in-
9 formation infrastructures, including telecommuni-
10 cations, energy, financial services, water, and trans-
11 portation sectors.

12 (3) A continuous national effort is required to
13 ensure the reliable provision of cyber and physical
14 infrastructure services critical to maintaining the na-
15 tional defense, continuity of government, economic
16 prosperity, and quality of life in the United States.

17 (4) This national effort requires extensive mod-
18 eling and analytic capabilities for purposes of evalu-
19 ating appropriate mechanisms to ensure the stability
20 of these complex and interdependent systems, and to
21 underpin policy recommendations, so as to achieve
22 the continuous viability and adequate protection of
23 the critical infrastructure of the Nation.

24 (c) POLICY OF THE UNITED STATES.—It is the pol-
25 icy of the United States—

1 (1) that any physical or virtual disruption of
2 the operation of the critical infrastructures of the
3 United States be rare, brief, geographically limited
4 in effect, manageable, and minimally detrimental to
5 the economy, human and government services, and
6 national security of the United States;

7 (2) that actions necessary to achieve the policy
8 stated in paragraph (1) be carried out in a public-
9 private partnership involving corporate and non-gov-
10 ernmental organizations; and

11 (3) to have in place a comprehensive and effec-
12 tive program to ensure the continuity of essential
13 Federal Government functions under all cir-
14 cumstances.

15 (d) ESTABLISHMENT OF NATIONAL COMPETENCE
16 FOR CRITICAL INFRASTRUCTURE PROTECTION.—

17 (1) SUPPORT OF CRITICAL INFRASTRUCTURE
18 PROTECTION AND CONTINUITY BY NATIONAL INFRA-
19 STRUCTURE SIMULATION AND ANALYSIS CENTER.—

20 There shall be established the National Infrastruc-
21 ture Simulation and Analysis Center (NISAC) to
22 serve as a source of national competence to address
23 critical infrastructure protection and continuity
24 through support for activities related to

1 counterterrorism, threat assessment, and risk miti-
2 gation.

3 (2) PARTICULAR SUPPORT.—The support pro-
4 vided under paragraph (1) shall include the fol-
5 lowing:

6 (A) Modeling, simulation, and analysis of
7 the systems comprising critical infrastructures,
8 including cyber infrastructure, telecommuni-
9 cations infrastructure, and physical infrastruc-
10 ture, in order to enhance understanding of the
11 large-scale complexity of such systems and to
12 facilitate modification of such systems to miti-
13 gate the threats to such systems and to critical
14 infrastructures generally.

15 (B) Acquisition from State and local gov-
16 ernments and the private sector of data nec-
17 essary to create and maintain models of such
18 systems and of critical infrastructures gen-
19 erally.

20 (C) Utilization of modeling, simulation,
21 and analysis under subparagraph (A) to provide
22 education and training to policymakers on mat-
23 ters relating to—

24 (i) the analysis conducted under that
25 subparagraph;

1 (ii) the implications of unintended or
2 unintentional disturbances to critical infra-
3 structures; and

4 (iii) responses to incidents or crises
5 involving critical infrastructures, including
6 the continuity of government and private
7 sector activities through and after such in-
8 cidents or crises.

9 (D) Utilization of modeling, simulation,
10 and analysis under subparagraph (A) to provide
11 recommendations to policymakers, and to de-
12 partments and agencies of the Federal Govern-
13 ment and private sector persons and entities
14 upon request, regarding means of enhancing the
15 stability of, and preserving, critical infrastruc-
16 tures.

17 (3) RECIPIENT OF CERTAIN SUPPORT.—Mod-
18 eling, simulation, and analysis provided under this
19 subsection shall be provided, in particular, to rel-
20 evant Federal, State, and local entities responsible
21 for critical infrastructure protection and policy.

22 (e) CRITICAL INFRASTRUCTURE DEFINED.—In this
23 section, the term “critical infrastructure” means systems
24 and assets, whether physical or virtual, so vital to the
25 United States that the incapacity or destruction of such

1 systems and assets would have a debilitating impact on
2 security, national economic security, national public health
3 or safety, or any combination of those matters.

4 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
5 hereby authorized for the Department of Defense for fiscal
6 year 2002, \$20,000,000 for the Defense Threat Reduction
7 Agency for activities of the National Infrastructure Sim-
8 ulation and Analysis Center under this section in that fis-
9 cal year.

Passed the House of Representatives October 24,
2001.

Attest:

JEFF TRANDAHL,

Clerk.