

107TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

---

IN THE SENATE OF THE UNITED STATES

\_\_\_\_\_ (for himself, \_\_\_\_\_  
\_\_\_\_\_) introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

---

**A BILL**

To deter and punish terrorist acts in the United States  
and around the world, to enhance law enforcement inves-  
tigatory 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Uniting and Strengthening America Act” or the “USA  
6 Act of 2001”.

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

Sec. 1. Short title and table of contents.

## TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

- Sec. 101. Office for Counterterrorism and Homeland Security.
- Sec. 102. Funding for national counterterrorism and homeland security programs and activities.
- Sec. 103. FBI security career program.
- Sec. 104. Counterterrorism Fund.
- Sec. 105. Sense of Congress condemning discrimination against Arab and Muslim Americans.
- Sec. 106. Increased funding for the Technical Support Center at the Federal Bureau of Investigation.

## TITLE II—ENHANCED SURVEILLANCE PROCEDURES

- Sec. 201. Authority to intercept wire, oral, and electronic communications relating to terrorism.
- Sec. 202. Authority to intercept wire, oral, and electronic communications relating to computer fraud and abuse offenses.
- Sec. 203. Authority to share criminal investigative information with intelligence officers to facilitate counterterrorism investigations.
- Sec. 204. Enhanced authority for use of pen register and trap and trace devices.
- Sec. 205. Clarification of intelligence exceptions from limitations on interception and disclosure of wire, oral, and electronic communications.
- Sec. 206. Employment of translators by the Federal Bureau of Investigation.
- Sec. 207. Roving surveillance authority under Foreign Intelligence Surveillance Act.
- Sec. 208. Duration of FISA surveillance of non-United States persons who are agents of foreign power.
- Sec. 209. Designation of judges.
- Sec. 210. Encouraging airline employees to report suspicious activities.

## TITLE III—ENHANCED MONEY LAUNDERING TOOLS

## Subtitle A—Modernizing and Strengthening Existing Federal Laws To Combat Money Laundering

- Sec. 301. Findings and purpose.
- Sec. 302. Inclusion of foreign corruption offenses as money laundering crimes.
- Sec. 303. Anti-money laundering measures for United States bank accounts involving foreign persons.
- Sec. 304. Long-arm jurisdiction over foreign money launderers.
- Sec. 305. Laundering money through a foreign bank.
- Sec. 306. Concentration accounts at financial institutions.
- Sec. 307. Charging money laundering as a course of conduct.
- Sec. 308. Forfeiture of funds in United States interbank accounts.
- Sec. 309. Inclusion of acts of terrorism as specified unlawful activity under the money laundering statutes.
- Sec. 310. Effective date.

## Subtitle B—International Counter-Money Laundering

- Sec. 321. Findings.
- Sec. 322. Purposes.

## CHAPTER 1—INTERNATIONAL COUNTER-MONEY LAUNDERING MEASURES

## 3

- Sec. 331. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.

CHAPTER 2—CURRENCY TRANSACTION REPORTING AMENDMENTS AND RELATED IMPROVEMENTS

- Sec. 341. Amendments relating to reporting of suspicious activities.  
 Sec. 342. Penalties for violations of geographic targeting orders and certain recordkeeping requirements, and lengthening effective period of geographic targeting orders.  
 Sec. 343. Authorization to include suspicions of illegal activity in written employment references.  
 Sec. 344. Agency reports on reconciling penalty amounts.

CHAPTER 3—ANTICORRUPTION MEASURES

- Sec. 351. Corruption of foreign governments and ruling elites.  
 Sec. 352. Support for the Financial Action Task Force on Money Laundering.

TITLE IV—PROTECTING THE NORTHERN BORDER

- Sec. 401. Ensuring adequate personnel on the Northern border.  
 Sec. 402. Northern border personnel.  
 Sec. 403. Access by the Department of State and the INS to certain identifying information in the criminal history records of visa applicants and applicants for admission to the United States.

TITLE V—REMOVING OBSTACLES TO INVESTIGATING TERRORISM

- Sec. 501. Professional standards for Government Attorneys Act of 2001.  
 Sec. 502. Elimination of limitations period for certain terrorism offenses.  
 Sec. 503. Reimbursement of personnel performing counterterrorism duties for professional liability insurance.  
 Sec. 504. Danger pay for FBI agents on hazardous duty outside United States.  
 Sec. 505. Foreign reimbursements to improve law enforcement or national security operations.  
 Sec. 506. Attorney General's authority to pay rewards to combat terrorism.  
 Sec. 507. DNA identification of terrorists and other violent offenders.

TITLE VI—PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES

Subtitle A—Aid to Families of Public Safety Officers

- Sec. 601. Expedited payment for public safety officers involved in the prevention, investigation, rescue, or recovery efforts related to a terrorist attack.

Subtitle B—Benefits for Law Enforcement Officers and Federal Prosecutors

- Sec. 611. Short title.  
 Sec. 612. Expansion of the definition of a law enforcement officer.  
 Sec. 613. Provisions relating to incumbents.  
 Sec. 614. Department of Justice administrative actions.

Subtitle C—Amendments to the Victims of Crime Act of 1984

- Sec. 621. Crime Victims Fund.  
 Sec. 622. Crime victim compensation.

- Sec. 623. Crime victim assistance.
- Sec. 624. Victims of terrorism.

TITLE VII—INCREASED INFORMATION SHARING FOR CRITICAL  
INFRASTRUCTURE PROTECTION

Subtitle A—Information Sharing Among Law Enforcement Agencies

- Sec. 711. Expansion of regional information sharing system to facilitate Federal-State-local law enforcement response related to terrorist attacks.
- Sec. 712. Sharing of grand jury information with members of the intelligence community.

Subtitle B—Critical Infrastructure Information Security Act of 2001

- Sec. 721. Short title; findings and purpose.
- Sec. 722. Definitions.
- Sec. 723. Protection for cyber security information.
- Sec. 724. Cyber security working groups.

TITLE VIII—STRENGTHENING THE CRIMINAL LAWS AGAINST  
TERRORISM AND ENHANCING REGULATION OF BIOLOGICAL  
AND CHEMICAL WEAPONS

- Sec. 801. Inclusion of acts of terrorism as racketeering activity.
- Sec. 802. Terrorist attacks and other acts of violence against mass transportation systems.
- Sec. 803. Expansion of the biological weapons statute.

1 **TITLE I—ENHANCING DOMESTIC**  
2 **SECURITY AGAINST TERRORISM**

3 **SEC. 101. OFFICE FOR COUNTERTERRORISM AND HOME-**  
4 **LAND SECURITY.**

5 (a) ESTABLISHMENT.—The Attorney General shall  
6 establish in the Federal Bureau of Investigation an office  
7 to be known as the “Office for Counterterrorism and  
8 Homeland Security”.

9 (b) DEPUTY DIRECTOR OF THE FBI.—The head of  
10 the office shall be the Deputy Director of the Federal Bu-  
11 reau of Investigation for Counterterrorism and Homeland

1 Security, who shall be appointed by the President, by and  
2 with the advice and consent of the Senate.

3 (c) RESPONSIBILITIES.—Subject to the authority of  
4 the Attorney General and the direction and control of the  
5 Director of the Federal Bureau of Investigation, the re-  
6 sponsibilities of the Deputy Director shall include—

7 (1) serving as principal adviser to the Attorney  
8 General and the Director of the Federal Bureau of  
9 Investigation on terrorism and homeland security  
10 policy;

11 (2) developing policies, goals, objectives, and  
12 priorities for counterterrorism and homeland secu-  
13 rity;

14 (3) coordinating, overseeing, and evaluating the  
15 implementation of a National Counterterrorism and  
16 Homeland Security Strategy by the Federal depart-  
17 ments and agencies responsible for counterterrorism  
18 and homeland security;

19 (4) making recommendations on the implemen-  
20 tation and execution of the National  
21 Counterterrorism and Homeland Security Strategy  
22 to the heads of the Federal departments and agen-  
23 cies responsible for counterterrorism and homeland  
24 security;

1           (5) consulting with and assisting State and  
2 local governments regarding their activities under  
3 the National Counterterrorism and Homeland Security  
4 Strategy; and

5           (6) carrying out any other responsibilities relating  
6 to development, coordination, and implementation  
7 of national policy on terrorism and homeland  
8 security that the Attorney General considers appropriate.  
9

10       (d) NATIONAL COUNTERTERRORISM AND HOMELAND  
11 SECURITY STRATEGY.—

12           (1) IN GENERAL.—The Attorney General shall  
13 submit to Congress a comprehensive plan for reducing  
14 the threat of terrorism and protecting the homeland  
15 security of the United States. The plan shall be  
16 known as the “National Counterterrorism and  
17 Homeland Security Strategy”.

18           (2) DEVELOPMENT.—The Attorney General  
19 shall develop the National Counterterrorism and  
20 Homeland Security Strategy through the Deputy Director  
21 of the FBI for Counterterrorism and Homeland  
22 Security.

1 **SEC. 102. FUNDING FOR NATIONAL COUNTERTERRORISM**  
2 **AND HOMELAND SECURITY PROGRAMS AND**  
3 **ACTIVITIES.**

4 (a) SUBMITTAL OF PROPOSED BUDGETS TO DIREC-  
5 TOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—  
6 The head of each Federal agency responsible for  
7 counterterrorism and homeland security activities shall  
8 submit to the Director of the Office of Management and  
9 Budget each year the proposed budget of such agency for  
10 the fiscal year beginning in such year for such programs  
11 and activities.

12 (b) REVIEW OF PROPOSED BUDGETS.—The Director  
13 of the Office of Management and Budget, in consultation  
14 with the Attorney General and the Assistant to the Presi-  
15 dent for National Security Affairs, shall review each pro-  
16 posed budget submitted to the Director under subsection  
17 (a) to ensure that it provides for implementation of the  
18 National Counterterrorism and Homeland Security Strat-  
19 egy and the National Security Strategy of the United  
20 States.

21 (c) NATIONAL COUNTERTERRORISM AND HOMELAND  
22 SECURITY PROGRAM.—

23 (1) IN GENERAL.—For each fiscal year, fol-  
24 lowing the submission of proposed budgets to the  
25 Director of OMB under subsection (a), the Director

1 shall, in consultation with the head of each Federal  
2 agency concerned—

3 (A) develop a consolidated proposed budget  
4 for such fiscal year for all counterterrorism and  
5 homeland security programs and budgets; and

6 (B) submit the consolidated proposed  
7 budget to the President and to Congress.

8 (2) PROGRAM BUDGET.—The consolidated pro-  
9 posed budget for a fiscal year under this subsection  
10 shall be known as the “National Counterterrorism  
11 and Homeland Security Program Budget” for the  
12 fiscal year.

13 **SEC. 103. FBI SECURITY CAREER PROGRAM.**

14 (a) SECURITY MANAGEMENT POLICIES; POLICIES  
15 AND PROCEDURES.—The Attorney General shall establish  
16 policies and procedures for the effective management (in-  
17 cluding accession, education, training, and career develop-  
18 ment) of persons serving in security positions in the Fed-  
19 eral Bureau of Investigation (referred to in this section  
20 as the “FBI”).

21 (b) DIRECTOR OF THE FBI: AUTHORITIES AND RE-  
22 SPONSIBILITIES.—Subject to the authority, direction, and  
23 control of the Attorney General, the Director of the FBI  
24 shall carry out all powers, functions, and duties of the At-  
25 torney General with respect to the security workforce in

1 the FBI. The Director shall ensure that the policies of  
2 the Attorney General established in accordance with this  
3 section are implemented throughout the FBI.

4 (c) DIRECTOR OF SECURITY.—The Director of the  
5 FBI shall appoint a Director of Security to assist the Di-  
6 rector of the FBI in the performance of his duties under  
7 this section.

8 (d) SECURITY CAREER PROGRAM BOARDS.—

9 (1) ESTABLISHMENT.—The Director of the  
10 FBI acting through the Director of Security shall  
11 establish a security career program board to advise  
12 the Director of the FBI in managing the accession,  
13 training, education, and career development of per-  
14 sonnel in the FBI security workforce.

15 (2) COMPOSITION OF BOARD.—The security  
16 program board shall include the Director of Security  
17 (or his representative), the Assistant Director with  
18 responsibility for manpower (or his representative),  
19 the Assistant Director with responsibility for infor-  
20 mation management (or his representative), and the  
21 senior officials with responsibility for personnel de-  
22 velopment in the various security career fields. The  
23 Director of Security (or his representative) shall be  
24 the head of the board.

1           (3) SUBORDINATE BOARDS.—The Director of  
2 Security may establish a subordinate board structure  
3 to which functions of the security career program  
4 board may be delegated.

5 (e) DESIGNATION OF SECURITY POSITIONS.—

6           (1) DESIGNATION.—The Director of the FBI  
7 shall designate in regulations those positions in the  
8 FBI that are security positions for purposes of this  
9 section.

10          (2) REQUIRED POSITIONS.—In designating the  
11 positions under paragraph (1), the Director of the  
12 FBI shall include, at a minimum, all security-related  
13 positions in the areas of—

14                   (A) personnel security and access control;

15                   (B) information systems security and in-  
16 formation assurance;

17                   (C) physical security and technical surveil-  
18 lance countermeasures;

19                   (D) operational, program, and industrial  
20 security; and

21                   (E) information security and classification  
22 management.

23 (f) CAREER DEVELOPMENT.—

24           (1) CAREER PATHS.—The Director of the FBI  
25 shall ensure that appropriate career paths for per-

1       sonnel who wish to pursue careers in security are  
2       identified in terms of the education, training, experi-  
3       ence, and assignments necessary for career progres-  
4       sion to the most senior security positions and shall  
5       make available published information on those ca-  
6       reer paths.

7               (2) LIMITATION ON PREFERENCE FOR SPECIAL  
8       AGENTS.—

9               (A) IN GENERAL.—Except as provided in  
10       the policy established under subparagraph (B),  
11       the Attorney General shall ensure that no re-  
12       quirement or preference for a Special Agent of  
13       the FBI is used in the consideration of persons  
14       for security positions.

15              (B) POLICY.—The Attorney General may  
16       establish a policy that permits a particular se-  
17       curity position to be specified as available only  
18       to Special Agents of the FBI, if a determina-  
19       tion is made, under criteria specified in the pol-  
20       icy, that a Special Agent of the FBI—

21                   (i) is required for that position by law;

22                   (ii) is essential for performance of the  
23       duties of the position; or

24                   (iii) is necessary for another compel-  
25       ling reason.

1 (C) REPORT.—Not later than December  
2 15 of each year, the Director of the FBI shall  
3 submit to the Attorney General a report that  
4 lists—

5 (i) each security position that is re-  
6 stricted to Special Agents of the FBI  
7 under the policy established under sub-  
8 paragraph (B); and

9 (ii) the recommendation of the Direc-  
10 tor as to whether each restricted security  
11 position should remain restricted.

12 (3) OPPORTUNITIES TO QUALIFY.—The Attor-  
13 ney General shall ensure that all personnel, includ-  
14 ing Special Agents of the FBI, are provided the op-  
15 portunity to acquire the education, training, and ex-  
16 perience necessary to qualify for senior security posi-  
17 tions.

18 (4) BEST QUALIFIED.—The Attorney General  
19 shall ensure that the policies established under this  
20 section are designed to provide for the selection of  
21 the best qualified individual for a position, consistent  
22 with other applicable law.

23 (5) ASSIGNMENTS POLICY.—The Attorney Gen-  
24 eral shall establish a policy for assigning Special

1 Agents of the FBI to security positions that provides  
2 for a balance between—

3 (i) the need for personnel to serve in  
4 career broadening positions; and

5 (ii) the need for requiring service in  
6 each such position for sufficient time to  
7 provide the stability necessary to effectively  
8 carry out the duties of the position and to  
9 allow for the establishment of responsi-  
10 bility and accountability for actions taken  
11 in the position.

12 (6) LENGTH OF ASSIGNMENT.—In imple-  
13 menting the policy established under paragraph  
14 (2)(B), the Director of the FBI shall provide, as ap-  
15 propriate, for longer lengths of assignments to secu-  
16 rity positions than assignments to other positions.

17 (7) PERFORMANCE APPRAISALS.—The Director  
18 of the FBI shall provide an opportunity for review  
19 and inclusion of any comments on any appraisal of  
20 the performance of a person serving in a security po-  
21 sition by a person serving in a security position in  
22 the same security career field.

23 (8) BALANCED WORKFORCE POLICY.—In the  
24 development of security workforce policies under this  
25 section with respect to any employees or applicants

1 for employment, the Attorney General shall, con-  
2 sistent with the merit system principles set out in  
3 paragraphs (1) and (2) of section 2301(b) of title 5,  
4 take into consideration the need to maintain a bal-  
5 anced workforce in which women and members of  
6 racial and ethnic minority groups are appropriately  
7 represented in Government service.

8 (g) GENERAL EDUCATION, TRAINING, AND EXPERI-  
9 ENCE REQUIREMENTS.—

10 (1) IN GENERAL.—The Director of the FBI  
11 shall establish education, training, and experience  
12 requirements for each security position, based on the  
13 level of complexity of duties carried out in the posi-  
14 tion.

15 (2) QUALIFICATION REQUIREMENTS.—Before  
16 being assigned to a position as a program manager  
17 or deputy program manager of a significant security  
18 program, a person—

19 (A) must have successfully completed a se-  
20 curity program management course that is ac-  
21 credited by the Intelligence Community-Depart-  
22 ment of Defense Joint Security Training Con-  
23 sortium or is determined to be comparable by  
24 the Director of the FBI; and

1 (B) must have adequate experience in se-  
2 curity, which may have been performed in a  
3 similar program office or organization.

4 (h) EDUCATION AND TRAINING PROGRAMS.—

5 (1) IN GENERAL.—The Director of the FBI, in  
6 consultation with the Director of Central Intelligence  
7 and the Secretary of Defense, shall establish and im-  
8 plement education and training programs for per-  
9 sons serving in security positions in the FBI.

10 (2) OTHER PROGRAMS.—The Director of the  
11 FBI shall ensure that programs established under  
12 paragraph (1) are established and implemented, to  
13 the maximum extent practicable, uniformly with the  
14 programs of the Intelligence Community and the De-  
15 partment of Defense.

16 (i) OFFICE OF PERSONNEL MANAGEMENT AP-  
17 PROVAL.—

18 (1) IN GENERAL.—The Attorney General shall  
19 submit any requirement that is established under  
20 subsection (g) to the Director of the Office of Per-  
21 sonnel Management for approval.

22 (2) FINAL APPROVAL.—If the Director of the  
23 Office of Personnel Management does not disapprove  
24 the requirements established under subsection (g)  
25 within 30 days after the date on which the Director

1 receives the requirement, the requirement is deemed  
2 to be approved by the Director.

3 **SEC. 104. COUNTERTERRORISM FUND.**

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

9 (1) to reimburse any Department of Justice  
10 component for any costs incurred in connection  
11 with—

12 (A) reestablishing the operational capa-  
13 bility of an office or facility that has been dam-  
14 aged or destroyed as the result of any domestic  
15 or international terrorism incident;

16 (B) providing support to counter, inves-  
17 tigate, or prosecute domestic or international  
18 terrorism, including, without limitation, paying  
19 rewards in connection with these activities; and

20 (C) conducting terrorism threat assess-  
21 ments of Federal agencies and their facilities;  
22 and

23 (2) to reimburse any department or agency of  
24 the Federal Government for any costs incurred in  
25 connection with detaining in foreign countries indi-

1       viduals accused of acts of terrorism that violate the  
2       laws of the United States.

3       (b) **NO EFFECT ON PRIOR APPROPRIATIONS.**—The  
4       amendment made by subsection (a) shall not affect the  
5       amount or availability of any appropriation to the  
6       Counterterrorism Fund made before the date of enact-  
7       ment of this Act.

8       **SEC. 105. SENSE OF CONGRESS CONDEMNING DISCRIMINA-**  
9                                   **TION AGAINST ARAB AND MUSLIM AMERI-**  
10                                  **CANS.**

11       (a) **FINDINGS.**—Congress finds the following:

12               (1) Arab Americans, Muslim Americans, and  
13       Americans from South Asia play a vital role in our  
14       Nation and are entitled to nothing less than the full  
15       rights of every American.

16               (2) The acts of violence that have been taken  
17       against Arab and Muslim Americans since the Sep-  
18       tember 11, 2001, attacks against the United States  
19       should be and are condemned by all Americans who  
20       value freedom.

21               (3) The concept of individual responsibility for  
22       wrongdoing is sacrosanct in American society, and  
23       applies equally to all religious, racial, and ethnic  
24       groups.

1           (4) When American citizens commit acts of vio-  
2           lence against those who are, or are perceived to be,  
3           of Arab or Muslim descent, they should be punished  
4           to the full extent of the law, including, where appro-  
5           priate, under laws preventing hate crimes.

6           (5) At least 40 incidents of crimes committed  
7           against Arab or Muslim Americans have been re-  
8           ported to authorities since September 11, 2001, and  
9           there are surely other victims who have been too  
10          fearful to report other offenses.

11          (6) Offenses committed include—

12                 (A) the apparent murder of a Sikh man  
13                 who was a small businessman in Mesa, Arizona,  
14                 and who was apparently believed by his assail-  
15                 ant to be Muslim;

16                 (B) the shooting death of a 46-year-old  
17                 Pakistani man in Dallas, Texas, on September  
18                 15, 2001, in a crime that is also being inves-  
19                 tigated as a potential hate crime; and

20                 (C) attacks on mosques in at least 6  
21                 States, including a September 17, 2001, inci-  
22                 dent in which a man drove a car through the  
23                 doors of an Islamic center in Ohio.

1           (7) Muslim Americans have become so fearful  
2 of harassment that many Muslim women are chang-  
3 ing the way they dress to avoid becoming targets.

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

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

13           (1) the civil rights and civil liberties of all  
14 Americans, including Arab Americans, Muslim  
15 Americans, and Americans from South Asia, must  
16 be protected, and that every effort must be taken to  
17 preserve their safety;

18           (2) any acts of violence or discrimination  
19 against any Americans be condemned; and

20           (3) the Nation is called upon to recognize the  
21 patriotism of fellow citizens from all ethnic, racial,  
22 and religious backgrounds.

1 **SEC. 106. INCREASED FUNDING FOR THE TECHNICAL SUP-**  
2 **PORT CENTER AT THE FEDERAL BUREAU OF**  
3 **INVESTIGATION.**

4 There are authorized to be appropriated for the Tech-  
5 nical Support Center established in section 811 of the  
6 Antiterrorism and Effective Death Penalty Act of 1996,  
7 Public Law 104–132, to help meet the demands for activi-  
8 ties to combat terrorism and support and enhance the  
9 technical support and tactical operations of the FBI,  
10 \$200,000,000 for fiscal years 2002, 2003, and 2004.

11 **TITLE II—ENHANCED**  
12 **SURVEILLANCE PROCEDURES**

13 **SEC. 201. AUTHORITY TO INTERCEPT WIRE, ORAL, AND**  
14 **ELECTRONIC COMMUNICATIONS RELATING**  
15 **TO TERRORISM.**

16 Section 2516(1) of title 18, United States Code, is  
17 amended—

18 (1) by redesignating paragraph (p), as so redesi-  
19 gnated by section 434(2) of the Antiterrorism and  
20 Effective Death Penalty Act of 1996 (Public Law  
21 104–132; 110 Stat. 1274), as paragraph (r); and

22 (2) by inserting after paragraph (p), as so re-  
23 designated by section 201(3) of the Illegal Immigra-  
24 tion Reform and Immigrant Responsibility Act of  
25 1996 (division C of Public Law 104–208; 110 Stat.  
26 3009–565), the following new paragraph:

1 “(q) any criminal violation of sections 2332, 2332a,  
2 2332b, 2332d, 2339A, or 2339B of this title (relating to  
3 terrorism); or”.

4 **SEC. 202. AUTHORITY TO INTERCEPT WIRE, ORAL, AND**  
5 **ELECTRONIC COMMUNICATIONS RELATING**  
6 **TO COMPUTER FRAUD AND ABUSE OF**  
7 **FENSES.**

8 Section 2516(1)(c) of title 18, United States Code,  
9 is amended by striking “and section 1341 (relating to mail  
10 fraud),” and inserting “section 1341 (relating to mail  
11 fraud), a felony violation of section 1030 (relating to com-  
12 puter fraud and abuse),”.

13 **SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE**  
14 **INFORMATION WITH INTELLIGENCE OFFI-**  
15 **CERS TO FACILITATE COUNTERTERRORISM**  
16 **INVESTIGATIONS.**

17 Section 2517(1) of title 18, United States Code, is  
18 amended by—

19 (1) striking “may disclose such contents to an-  
20 other investigative or law enforcement officer to the  
21 extent that such disclosure is appropriate to the  
22 proper performance of the official duties of the offi-  
23 cer making or receiving the disclosure”; and

24 (2) inserting “may disclose such contents to an-  
25 other investigative or law enforcement officer and to

1 an officer of the United States intelligence commu-  
2 nity, as defined in section 3(4) of the National Secu-  
3 rity Act of 1947 (50 U.S.C. 401(a)), to the extent  
4 that such disclosure is appropriate to the proper per-  
5 formance of the official duties of the officer making  
6 or receiving the disclosure”.

7 **SEC. 204. ENHANCED AUTHORITY FOR USE OF PEN REG-**  
8 **ISTER AND TRAP AND TRACE DEVICES.**

9 (a) IN GENERAL.—Section 3121(c) of title 18,  
10 United States Code, is amended by—

11 (1) inserting “or trap and trace device” after  
12 “pen register”; and

13 (2) striking “call processing” and inserting  
14 “identifying the origination or destination of wire  
15 and electronic communications”.

16 (b) STATEMENT OF FACTS.—Section 3122(b)(2) of  
17 title 18, United States Code, is amended by striking “cer-  
18 tification by the applicant” and inserting “statement of  
19 facts showing”.

20 (c) APPLICATIONS.—Section 3123 of title 18, United  
21 States Code, is amended—

22 (1) by amending subsection (a) to read as fol-  
23 lows:

24 “(a) IN GENERAL.—(1) Upon an application made  
25 under section 3122(a)(1) of this title, the court shall enter

1 an ex parte order authorizing the installation and use of  
2 a pen register or a trap and trace device if the court finds,  
3 based on facts contained in the application, that the infor-  
4 mation likely to be obtained by such installation and use  
5 is relevant to an ongoing criminal investigation. Such  
6 order shall, upon service of such order, apply to any entity  
7 providing wire or electronic communication service in the  
8 United States whose assistance may facilitate the execu-  
9 tion of the order.

10 “(2) Upon an application made under section  
11 3122(a)(2) of this title, the court shall enter an ex parte  
12 order authorizing the installation and use of a pen register  
13 or a trap and trace device within the jurisdiction of the  
14 court if the court finds, based on facts contained in the  
15 application, that the information likely to be obtained by  
16 such installation and use is relevant to an ongoing crimi-  
17 nal investigation.”;

18 (2) in subsection (b)(1)(A), by inserting—

19 (A) “or other facility” after “line”; and

20 (B) “or applied” after “attached”;

21 (3) in subsection (b)(1)(C) by—

22 (A) striking “the number” and inserting  
23 “the attributes of the communications to which  
24 the order applies, such as the number or other  
25 identifier”;

1 (B) striking “physical”;

2 (C) inserting “or other facility” after  
3 “line”;

4 (D) inserting “or applied” after “at-  
5 tached”; and

6 (E) inserting “authorized under subsection  
7 (a)(2) of this section” after “device” the second  
8 time it appears; and

9 (4) in subsection (d)(2), by—

10 (A) inserting “or other facility” after  
11 “line”;

12 (B) inserting “or applied” after “at-  
13 tached”; and

14 (C) striking “has been ordered by the  
15 court” and inserting “is obligated by the  
16 order”.

17 (d) EMERGENCY INSTALLATION.—Section  
18 3125(a)(1) of title 18, United States Code, is amended—

19 (1) in subparagraph (A), by inserting “ter-  
20 rorism or” before “immediate” and striking “or” at  
21 the end;

22 (2) by striking the comma at the end of sub-  
23 paragraph (B) and inserting a semicolon; and

24 (3) by adding after subparagraph (B) the fol-  
25 lowing:

1           “(C) an immediate threat to a national se-  
2           curity interest; or

3           “(D) an ongoing attack on the integrity or  
4           availability of a protected computer under sec-  
5           tion 1030 of this title.”.

6           (e) DEFINITIONS.—Section 3127 of title 18, United  
7 States Code, is amended—

8           (1) by amending paragraph (2)(A) to read as  
9           follows:

10           “(A) any district court of the United  
11           States (including a magistrate judge of such a  
12           court) or United States Court of Appeals hav-  
13           ing jurisdiction over the offense being inves-  
14           tigated; or”;

15           (2) in paragraph (3), by—

16           (A) striking “otherwise transmitted on the  
17           telephone line to which such device is attached”  
18           and inserting “or other signaling information  
19           that identifies the destination of wire or elec-  
20           tronic communications transmitted by an in-  
21           strument or facility to which such device or  
22           process is attached or applied ”; and

23           (B) inserting “or process” after “device”  
24           each place it appears;

25           (3) in paragraph (4), by—

1 (A) inserting “or process” after “device”  
2 the second time it appears; and

3 (B) striking “which identify the originating  
4 number of an” and inserting “or other sig-  
5 naling information which identify the origi-  
6 nating”;

7 (4) in paragraph (5), by striking “and”;

8 (5) in paragraph (6), by striking the period and  
9 inserting “; and”; and

10 (6) by adding after paragraph (6) the following:

11 “(7) the term ‘protected computer’ has the  
12 meaning set forth in section 1030 of this title.”.

13 **SEC. 205. CLARIFICATION OF INTELLIGENCE EXCEPTIONS**  
14 **FROM LIMITATIONS ON INTERCEPTION AND**  
15 **DISCLOSURE OF WIRE, ORAL, AND ELEC-**  
16 **TRONIC COMMUNICATIONS.**

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

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

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

1 **SEC. 206. 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.

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. 207. ROVING SURVEILLANCE AUTHORITY UNDER FOR-**  
2 **EIGN INTELLIGENCE SURVEILLANCE ACT.**

3 (a) APPLICATION.—Section 105 of the Foreign Intel-  
4 ligence Surveillance Act of 1978 (50 U.S.C. 1805 et seq.)  
5 is amended to add at the end the following:

6 “(i) MULTIPPOINT ORDERS.—The requirements of  
7 sections 1804(a)(4)(B), 1805(a)(3)(B), and  
8 1805(c)(1)(B) relating to the specification of the facilities  
9 or places at which the electronic surveillance will be di-  
10 rected do not apply if—

11 “(1) the applicant makes a showing that there  
12 is probable cause to believe that the actions of the  
13 person whose communications are to be intercepted  
14 could have the effect of thwarting electronic surveil-  
15 lance of a specified facility or place; and

16 “(2) the judge finds that such showing has been  
17 adequately made.”.

18 (b) REQUEST.—Section 1805(c)(2)(B) is amended to  
19 read as follows:

20 “(B) that, upon the request of the appli-  
21 cant, a specified communication or other com-  
22 mon carrier, landlord, custodian, or other speci-  
23 fied person or, in circumstances where the  
24 judge finds that the actions of the person whose  
25 communications are to be intercepted could  
26 have the effect of thwarting the identification of

1 a specified person, such other persons furnish  
2 the applicant forthwith all information, facili-  
3 ties, or technical assistance necessary to accom-  
4 plish the electronic surveillance in such a man-  
5 ner as will protect its secrecy and produce a  
6 minimum of interference with the services that  
7 such carrier, landlord, custodian, or other per-  
8 son is providing that target of electronic surveil-  
9 lance;”.

10 **SEC. 208. DURATION OF FISA SURVEILLANCE OF NON-**  
11 **UNITED STATES PERSONS WHO ARE AGENTS**  
12 **OF FOREIGN POWER.**

13 Section 105(e)(1) of the Foreign Intelligence Surveil-  
14 lance Act of 1978 (50 U.S.C. 1801 et. seq.) is amended  
15 to read as follows:

16 “(1) An order issued under this section may ap-  
17 prove an electronic surveillance for the period nec-  
18 essary to achieve its purpose, or for 90 days, which-  
19 ever is less except that an order under this section  
20 may approve an electronic surveillance targeted  
21 against a foreign power, as defined in section 101(a)  
22 (1), (2), or (3), or an agent of a foreign power who  
23 is not a United States person and who acts in the  
24 United States as an officer or employee of a foreign  
25 power, as defined in section 101(a) (1), (2), or (3),

1 for the period specified in the application or for 1  
2 year, whichever is less.”.

3 **SEC. 209. DESIGNATION OF JUDGES.**

4 Section 103(a) of the Foreign Intelligence Surveil-  
5 lance Act of 1978 (50 U.S.C. 1801 et seq.) is amended  
6 by striking “seven district court judges” and inserting “14  
7 district court judges”.

8 **SEC. 210. ENCOURAGING AIRLINE EMPLOYEES TO REPORT**  
9 **SUSPICIOUS ACTIVITIES.**

10 (a) IN GENERAL.—Subchapter II of chapter 449 of  
11 title 49, United States Code, is amended by inserting at  
12 the end the following:

13 **“§ 44938. Immunity for reporting suspicious activities**

14 “Any air carrier or foreign air carrier or any em-  
15 ployee of an air carrier or foreign air carrier who makes  
16 a voluntary disclosure of any suspicious transaction rel-  
17 evant to a possible violation of law or regulation, including  
18 air piracy, aircraft or passenger safety, or terrorism, as  
19 defined by section 3077 of title 18, United States Code,  
20 to any employee or agent of the Department of Transpor-  
21 tation, the Department of Justice, any Federal, State, or  
22 local law enforcement officer, or any airport or airline se-  
23 curity officer shall not be liable to any person under any  
24 law or regulation of the United States, any constitution,

1 law, or regulation of any State or political subdivision of  
2 any State, for such disclosure.

3 **“§ 44939. Training of airline employees**

4 “The Attorney General, in consultation with the Sec-  
5 retary of Transportation and the Director of the Federal  
6 Bureau of Investigation, shall develop guidelines and pro-  
7 cedures for training of airline and airport personnel in de-  
8 tecting possible violations of law or regulations and poten-  
9 tial threats to airline and passenger safety and for moni-  
10 toring the effectiveness of such training programs.”.

11 (b) CHAPTER ANALYSIS.—The chapter analysis for  
12 chapter 449 of title 49, United States Code, is amended  
13 by inserting at the end the following:

“44938. Immunity for reporting suspicious activities  
“44939. Training of airline employees.”.

14 **TITLE III—ENHANCED MONEY**  
15 **LAUNDERING TOOLS**  
16 **Subtitle A—Modernizing and**  
17 **Strengthening Existing Federal**  
18 **Laws To Combat Money Laun-**  
19 **dering**

20 **SEC. 301. FINDINGS AND PURPOSE.**

21 (a) FINDINGS.—Congress finds that—

22 (1) money laundering, the process by which  
23 proceeds from criminal activity are disguised as le-  
24 gitimate money, is contrary to the national interest

1 of the United States, because it finances crime, un-  
2 dermines the integrity of international financial sys-  
3 tems, impedes the international fight against corrup-  
4 tion and drug trafficking, distorts economies, and  
5 weakens emerging democracies and international  
6 stability;

7 (2) United States banks are frequently used to  
8 launder dirty money, and private banking, which  
9 provides services to individuals with large deposits,  
10 and correspondent banking, which occurs when 1  
11 bank provides financial services to another bank, are  
12 specific banking sectors which are particularly vul-  
13 nerable to money laundering;

14 (3) private banking is particularly vulnerable to  
15 money laundering by corrupt foreign government of-  
16 ficials because the services provided (offshore ac-  
17 counts, secrecy, and large international wire trans-  
18 fers) are also key tools used to launder money;

19 (4) correspondent banking is vulnerable to  
20 money laundering because United States banks—

21 (A) often fail to screen and monitor the  
22 transactions of their high-risk foreign bank cli-  
23 ents; and

24 (B) enable the owners and clients of the  
25 foreign bank to get indirect access to the

1 United States banking system when they would  
2 be unlikely to get access directly;

3 (5) the high-risk foreign bank that currently  
4 poses the greatest money laundering risks in the  
5 United States correspondent banking field is a shell  
6 bank, which has no physical presence in any coun-  
7 try, is not affiliated with any other bank, and is able  
8 to evade day-to-day bank regulation; and

9 (6) United States anti-money laundering efforts  
10 are currently impeded by outmoded and inadequate  
11 statutory provisions that make United States inves-  
12 tigation, prosecutions and forfeitures more difficult  
13 when money laundering involves foreign persons, for-  
14 eign banks, or foreign countries.

15 (b) PURPOSE.—The purpose of this subtitle is to  
16 modernize and strengthen existing Federal laws to combat  
17 money laundering, particularly in the private banking and  
18 correspondent banking fields when money laundering of-  
19 fenses involve foreign persons, foreign banks, or foreign  
20 countries.

21 **SEC. 302. INCLUSION OF FOREIGN CORRUPTION OFFENSES**

22 **AS MONEY LAUNDERING CRIMES.**

23 Section 1956(c)(7)(B) of title 18, United States  
24 Code, is amended—



1                   ministration Act of 1979 (50 U.S.C.  
2                   App. 2401 et seq.) or any successor  
3                   statute;

4                   “(vii) an offense with respect to which  
5                   the United States would be obligated by a  
6                   multilateral treaty, either to extradite the  
7                   alleged offender or to submit the case for  
8                   prosecution, if the offender were found  
9                   within the territory of the United States;  
10                  or

11                  “(viii) the misuse of funds of, or pro-  
12                  vided by, the International Monetary Fund  
13                  in contravention of the Articles of Agree-  
14                  ment of the Fund or the misuse of funds  
15                  of, or provided by, any other international  
16                  financial institution (as defined in section  
17                  1701(c)(2) of the International Financial  
18                  Institutions Act (22 U.S.C. 262r(c)(2)) in  
19                  contravention of any treaty or other inter-  
20                  national agreement to which the United  
21                  States is a party, including any articles of  
22                  agreement of the members of the inter-  
23                  national financial institution;”.

1 **SEC. 303. ANTI-MONEY LAUNDERING MEASURES FOR**  
2 **UNITED STATES BANK ACCOUNTS INVOLVING**  
3 **FOREIGN PERSONS.**

4 (a) REQUIREMENTS RELATING TO UNITED STATES  
5 BANK ACCOUNTS INVOLVING FOREIGN PERSONS.—Sub-  
6 chapter II of chapter 53 of title 31, United States Code,  
7 is amended by inserting after section 5318 the following:

8 **“§ 5318A. Requirements relating to United States**  
9 **bank accounts involving foreign persons**

10 “(a) DEFINITIONS.—

11 “(1) IN GENERAL.—In this section, the fol-  
12 lowing definitions shall apply:

13 “(A) ACCOUNT.—The term ‘account’—

14 “(i) means a formal banking or busi-  
15 ness relationship established to provide  
16 regular services, dealings, or financial  
17 transactions; and

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

22 “(B) BRANCH OR AGENCY OF A FOREIGN  
23 BANK.—The term ‘branch or agency of a for-  
24 eign bank’ has the meanings given those terms  
25 in section 1 of the International Banking Act of  
26 1978 (12 U.S.C. 3101).

1           “(C) CORRESPONDENT ACCOUNT.—The  
2 term ‘correspondent account’ means an account  
3 established for a depository institution, credit  
4 union, or foreign bank.

5           “(D) CORRESPONDENT BANK.—The term  
6 ‘correspondent bank’ means a depository insti-  
7 tution, credit union, or foreign bank that estab-  
8 lishes a correspondent account for and provides  
9 banking services to a depository institution,  
10 credit union, or foreign bank.

11           “(E) COVERED FINANCIAL INSTITUTION.—  
12 The term ‘covered financial institution’  
13 means—

14                   “(i) a depository institution;

15                   “(ii) a credit union; and

16                   “(iii) a branch or agency of a foreign  
17 bank.

18           “(F) CREDIT UNION.—The term ‘credit  
19 union’ means any insured credit union, as de-  
20 fined in section 101 of the Federal Credit  
21 Union Act (12 U.S.C. 1752), or any credit  
22 union that is eligible to make application to be-  
23 come an insured credit union pursuant to sec-  
24 tion 201 of the Federal Credit Union Act (12  
25 U.S.C. 1781).

1           “(G) DEPOSITORY INSTITUTION.—The  
2 term ‘depository institution’ has the same  
3 meaning as in section 3 of the Federal Deposit  
4 Insurance Act (12 U.S.C. 1813).

5           “(H) FOREIGN BANK.—The term ‘foreign  
6 bank’ has the same meaning as in section 1 of  
7 the International Banking Act of 1978 (12  
8 U.S.C. 3101).

9           “(I) FOREIGN COUNTRY.—The term ‘for-  
10 eign country’ has the same meaning as in sec-  
11 tion 1 of the International Banking Act of 1978  
12 (12 U.S.C. 3101).

13           “(J) FOREIGN PERSON.—The term ‘for-  
14 eign person’ means any foreign organization or  
15 any individual resident in a foreign country or  
16 any organization or individual owned or con-  
17 trolled by such an organization or individual.

18           “(K) OFFSHORE BANKING LICENSE.—The  
19 term ‘offshore banking license’ means a license  
20 to conduct banking activities which, as a condi-  
21 tion of the license, prohibits the licensed entity  
22 from conducting banking activities with the citi-  
23 zens of, or with the local currency of, the for-  
24 eign country which issued the license.

1           “(L) PRIVATE BANK ACCOUNT.—The term  
2           ‘private bank account’ means an account (or  
3           combination of accounts) that—

4                   “(i) requires a minimum aggregate  
5                   deposit of funds or assets in an amount  
6                   equal to not less than \$1,000,000;

7                   “(ii) is established on behalf of 1 or  
8                   more individuals who have a direct or ben-  
9                   eficial ownership interest in the account;  
10                  and

11                  “(iii) is assigned to, administered, or  
12                  managed in whole or in part by an em-  
13                  ployee of a financial institution acting as a  
14                  liaison between the institution and the di-  
15                  rect or beneficial owner of the account.

16           “(2) OTHER TERMS.—After consultation with  
17           the Board of Governors of the Federal Reserve Sys-  
18           tem, the Secretary may, by regulation, order, or oth-  
19           erwise as permitted by law, define any term that is  
20           used in this section and that is not otherwise defined  
21           in this section or section 5312, as the Secretary  
22           deems appropriate.

23           “(b) UNITED STATES BANK ACCOUNTS WITH UN-  
24           IDENTIFIED FOREIGN OWNERS.—

25                   “(1) RECORDS.—

1           “(A) IN GENERAL.—A covered financial in-  
2           stitution shall not establish, maintain, admin-  
3           ister, or manage an account in the United  
4           States for a foreign person or a representative  
5           of a foreign person, unless the covered financial  
6           institution maintains in the United States, for  
7           each such account, a record identifying, by a  
8           verifiable name and account number, each indi-  
9           vidual or entity having a direct or beneficial  
10          ownership interest in the account.

11          “(B) PUBLICLY TRADED CORPORATIONS.—  
12          A record required under subparagraph (A) that  
13          identifies an entity, the shares of which are  
14          publicly traded on a stock exchange regulated  
15          by an organization or agency that is a member  
16          of and endorses the principles of the Inter-  
17          national Organization of Securities Commis-  
18          sions (in this section referred to as ‘publicly  
19          traded’), is not required to identify individual  
20          shareholders of the entity.

21          “(C) FOREIGN BANKS.—In the case of a  
22          correspondent account that is established for a  
23          foreign bank, the shares of which are not pub-  
24          licly traded, the record required under subpara-  
25          graph (A) shall identify each of the owners of

1           the foreign bank, and the nature and extent of  
2           the ownership interest of each such owner.

3           “(2) COMPLEX OWNERSHIP INTERESTS.—The  
4           Secretary may, by regulation, order, or otherwise as  
5           permitted by law, further delineate the information  
6           to be maintained in the United States under para-  
7           graph (1)(A), including information for accounts  
8           with multiple, complex, or changing ownership inter-  
9           ests.

10          “(c) PROHIBITION ON UNITED STATES COR-  
11          RESPONDENT ACCOUNTS WITH FOREIGN SHELL  
12          BANKS.—

13                 “(1) IN GENERAL.—A covered financial institu-  
14                 tion shall not establish, maintain, administer, or  
15                 manage a correspondent account in the United  
16                 States for, or on behalf of, a foreign bank that does  
17                 not have a physical presence in any country.

18                 “(2) PREVENTION OF INDIRECT SERVICE TO  
19                 FOREIGN SHELL BANKS.—A covered financial insti-  
20                 tution shall take reasonable steps to ensure that any  
21                 correspondent account established, maintained, ad-  
22                 ministered, or managed by that covered financial in-  
23                 stitution in the United States for a foreign bank is  
24                 not being used by that foreign bank to indirectly  
25                 provide banking services to another foreign bank

1 that does not have a physical presence in any coun-  
2 try.

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

7 “(A) is an affiliate of a depository institu-  
8 tion, credit union, or other foreign bank that  
9 maintains a physical presence in the United  
10 States or a foreign country, as applicable; and

11 “(B) is subject to supervision by a banking  
12 authority in the country regulating the affili-  
13 ated depository institution, credit union, or for-  
14 eign bank, described in subparagraph (A), as  
15 applicable.

16 “(4) DEFINITIONS.—For purposes of this  
17 subsection—

18 “(A) the term ‘affiliate’ means a foreign  
19 bank that is controlled by or is under common  
20 control with a depository institution, credit  
21 union, or foreign bank; and

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

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

1                   “(ii) is located at a fixed address  
2                   (other than solely an electronic address) in  
3                   a country in which the foreign bank is au-  
4                   thorized to conduct banking activities, at  
5                   which location the foreign bank—

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

8                               “(II) maintains operating records  
9                               related to its banking activities; and

10                              “(iii) is subject to inspection by the  
11                              banking authority which licensed the for-  
12                              eign bank to conduct banking activities.

13                   “(d) DUE DILIGENCE FOR UNITED STATES PRIVATE  
14                   BANK AND CORRESPONDENT BANK ACCOUNTS INVOLV-  
15                   ING FOREIGN PERSONS.—

16                              “(1) IN GENERAL.—Each covered financial in-  
17                              stitution that establishes, maintains, administers, or  
18                              manages a private bank account or a correspondent  
19                              account in the United States for a foreign person or  
20                              a representative of a foreign person shall establish  
21                              enhanced due diligence policies, procedures, and con-  
22                              trols to prevent, detect, and report possible instances  
23                              of money laundering through those accounts.

24                              “(2) MINIMUM STANDARDS.—The enhanced  
25                              due diligence policies, procedures, and controls re-

1       quired under paragraph (1) of this subsection, shall,  
2       at a minimum, ensure that the covered financial  
3       institution—

4               “(A) ascertains the identity of each indi-  
5       vidual or entity having a direct or beneficial  
6       ownership interest in the account, and obtains  
7       sufficient information about the background of  
8       the individual or entity and the source of funds  
9       deposited into the account as is needed to  
10      guard against money laundering;

11              “(B) monitors such accounts on an ongo-  
12      ing basis to prevent, detect, and report possible  
13      instances of money laundering;

14              “(C) conducts enhanced scrutiny of any  
15      private bank account requested or maintained  
16      by, or on behalf of, a senior foreign political fig-  
17      ure, or any immediate family member or close  
18      associate of a senior foreign political figure, to  
19      prevent, detect, and report transactions that  
20      may involve the proceeds of foreign corruption;

21              “(D) conducts enhanced scrutiny of any  
22      correspondent account requested or maintained  
23      by, or on behalf of, a foreign bank operating—

24                      “(i) under an offshore banking li-  
25                      cense; or

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

4                   “(I) as noncooperative with inter-  
5                   national anti-money laundering prin-  
6                   ciples or procedures by an intergov-  
7                   ernmental group or organization of  
8                   which the United States is a member;  
9                   or

10                   “(II) by the Secretary as war-  
11                   ranting special measures due to  
12                   money laundering concerns; and

13                   “(E) ascertains, as part of the enhanced  
14                   scrutiny under subparagraph (D), whether the  
15                   foreign bank provides correspondent accounts to  
16                   other foreign banks and, if so, the identity of  
17                   those foreign banks and related due diligence  
18                   information, as appropriate, under paragraph  
19                   (1).”.

20           (b) REGULATORY AUTHORITY.—After consultation  
21 with the Board of Governors of the Federal Reserve Sys-  
22 tem, the Secretary of the Treasury may, by regulation,  
23 order, or otherwise as permitted by law, take measures  
24 that the Secretary deems appropriate to carry out section

1 5318A of title 31, United States Code (as added by this  
2 section).

3 (c) CONFORMING AMENDMENTS.—Section 5312(a) of  
4 title 31, United States Code, is amended—

5 (1) by redesignating paragraph (5) as para-  
6 graph (6); and

7 (2) by inserting after paragraph (4) the fol-  
8 lowing:

9 “(5) ‘Secretary’ means the Secretary of the  
10 Treasury, except as otherwise provided in this sub-  
11 chapter.”.

12 (d) CLERICAL AMENDMENT.—The table of sections  
13 for subchapter II of chapter 53 of title 31, United States  
14 Code, is amended by inserting after the item related to  
15 section 5318 the following:

“5318A. Requirements relating to United States bank accounts involving foreign  
persons.”.

16 (e) EFFECTIVE DATE.—Section 5318A of title 31,  
17 United States Code, as added by this section, shall take  
18 effect beginning 180 days after the date of enactment of  
19 this Act with respect to accounts covered by that section  
20 that are opened before, on, or after the date of enactment  
21 of this Act.

1 **SEC. 304. LONG-ARM JURISDICTION OVER FOREIGN MONEY**  
2 **LAUNDERERS.**

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

5 (1) redesignating paragraphs (1) and (2) as  
6 subparagraphs (A) and (B), respectively;

7 (2) inserting “(1)” after “(b)”;

8 (3) inserting “, or section 1957” after “or  
9 (a)(3)”;

10 (4) adding at the end the following:

11 “(2) For purposes of adjudicating an action  
12 filed or enforcing a penalty ordered under this sec-  
13 tion, the district courts shall have jurisdiction over  
14 any foreign person, including any financial institu-  
15 tion authorized under the laws of a foreign country,  
16 against whom the action is brought, if service of  
17 process upon the foreign person is made under the  
18 Federal Rules of Civil Procedure or the laws of the  
19 country in which the foreign person is found, and—

20 “(A) the foreign person commits an offense  
21 under subsection (a) involving a financial trans-  
22 action that occurs in whole or in part in the  
23 United States;

24 “(B) the foreign person converts, to his or  
25 her own use, property in which the United  
26 States has an ownership interest by virtue of

1 the entry of an order of forfeiture by a court  
2 of the United States; or

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

6 “(3) A court, described in paragraph (2), may  
7 issue a pretrial restraining order or take any other  
8 action necessary to ensure that any bank account or  
9 other property held by the defendant in the United  
10 States is available to satisfy a judgment under this  
11 section.

12 “(4) A court, described in paragraph (2), may  
13 appoint a Federal Receiver, in accordance with para-  
14 graph (5), to collect, marshal, and take custody, con-  
15 trol, and possession of all assets of the defendant,  
16 wherever located, to satisfy a judgment under this  
17 section or section 981, 982, or 1957, including an  
18 order of restitution to any victim of a specified un-  
19 lawful activity.

20 “(5) A Federal Receiver, described in para-  
21 graph (4)—

22 “(A) may be appointed upon application of  
23 a Federal prosecutor or a Federal or State reg-  
24 ulator, by the court having jurisdiction over the  
25 defendant in the case;

1           “(B) shall be an officer of the court, and  
2           the powers of the Federal Receiver shall include  
3           the powers set out in section 754 of title 28,  
4           United States Code; and

5           “(C) shall have standing equivalent to that  
6           of a Federal prosecutor for the purpose of sub-  
7           mitting requests to obtain information regard-  
8           ing the assets of the defendant—

9                   “(i) from the Financial Crimes En-  
10                  forcement Network of the Department of  
11                  the Treasury; or

12                   “(ii) from a foreign country pursuant  
13                  to a mutual legal assistance treaty, multi-  
14                  lateral agreement, or other arrangement  
15                  for international law enforcement assist-  
16                  ance, provided that such requests are in  
17                  accordance with the policies and proce-  
18                  dures of the Attorney General.”.

19 **SEC. 305. LAUNDERING MONEY THROUGH A FOREIGN**  
20 **BANK.**

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

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

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

5           “(B) any foreign bank, as defined in sec-  
6           tion 1 of the International Banking Act of 1978  
7           (12 U.S.C. 3101).”.

8 **SEC. 306. CONCENTRATION ACCOUNTS AT FINANCIAL IN-**  
9           **STITUTIONS.**

10          Section 5318(h) of title 31, United States Code, is  
11          amended by adding at the end the following:

12           “(3) CONCENTRATION ACCOUNTS.—The Sec-  
13          retary shall issue regulations under this subsection  
14          that govern maintenance of concentration accounts  
15          by financial institutions, in order to ensure that such  
16          accounts are not used to prevent association of the  
17          identity of an individual customer with the move-  
18          ment of funds of which the customer is the direct or  
19          beneficial owner, which regulations shall, at a  
20          minimum—

21           “(A) prohibit financial institutions from al-  
22          lowing clients to direct transactions that move  
23          their funds into, out of, or through the con-  
24          centration accounts of the financial institution;

1           “(B) prohibit financial institutions and  
2           their employees from informing customers of  
3           the existence of, or the means of identifying,  
4           the concentration accounts of the institution;  
5           and

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

15 **SEC. 307. CHARGING MONEY LAUNDERING AS A COURSE OF**  
16 **CONDUCT.**

17          Section 1956(h) of title 18, United States Code, is  
18          amended by —

19                 (1) inserting “(1)” before “Any person”; and

20                 (2) adding at the end the following:

21                 “(2) Any person who commits multiple violations of  
22          this section or section 1957 that are part of the same  
23          scheme or continuing course of conduct may be charged,  
24          at the election of the Government, in a single count in  
25          an indictment or information.”.

1 **SEC. 308. FORFEITURE OF FUNDS IN UNITED STATES**  
2 **INTERBANK ACCOUNTS.**

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

6 “(k) INTERBANK ACCOUNTS.—

7 “(1) IN GENERAL.—For the purpose of a for-  
8 feiture under this section or under the Controlled  
9 Substances Act (21 U.S.C. 801 et seq.), if funds are  
10 deposited into an account at a foreign bank, and  
11 that foreign bank has an interbank account in the  
12 United States with a covered financial institution (as  
13 defined in section 5318A of title 31), the funds shall  
14 be deemed to have been deposited into the interbank  
15 account in the United States, and any restraining  
16 order, seizure warrant, or arrest warrant in rem re-  
17 garding the funds may be served on the covered fi-  
18 nancial institution, and funds in the interbank ac-  
19 count, up to the value of the funds deposited into  
20 the account at the foreign bank, may be restrained,  
21 seized, or arrested.

22 “(2) NO REQUIREMENT FOR GOVERNMENT TO  
23 TRACE FUNDS.—If a forfeiture action is brought  
24 against funds that are restrained, seized, or arrested  
25 under paragraph (1), it shall not be necessary for  
26 the Government to establish that the funds are di-

1 rectly traceable to the funds that were deposited into  
2 the foreign bank, nor shall it be necessary for the  
3 Government to rely on the application of section  
4 984.

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

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

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

16 “(B) OWNER.—

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

19 “(I) has the same meaning as in  
20 section 983(d)(6); and

21 “(II) does not include any foreign  
22 bank or other financial institution act-  
23 ing as an intermediary in the transfer  
24 of funds into the interbank account

1 and having no ownership interest in  
2 the funds sought to be forfeited.

3 “(ii) EXCEPTION.—The foreign bank  
4 may be considered the ‘owner’ of the funds  
5 (and no other person shall qualify as the  
6 owner of such funds) only if—

7 “(I) the basis for the forfeiture  
8 action is wrongdoing committed by  
9 the foreign bank; or

10 “(II) the foreign bank estab-  
11 lishes, by a preponderance of the evi-  
12 dence, that prior to the restraint, sei-  
13 zure, or arrest of the funds, the for-  
14 eign bank had discharged all or part  
15 of its obligation to the prior owner of  
16 the funds, in which case the foreign  
17 bank shall be deemed the owner of the  
18 funds to the extent of such discharged  
19 obligation.”.

20 (b) BANK RECORDS.—Section 5318 of title 31,  
21 United States Code, is amended by adding at the end the  
22 following:

23 “(i) BANK RECORDS RELATED TO ANTI-MONEY  
24 LAUNDERING PROGRAMS.—

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

3           “(A) APPROPRIATE FEDERAL BANKING  
4 AGENCY.—The term ‘appropriate Federal bank-  
5 ing agency’ has the same meaning as in section  
6 3 of the Federal Deposit Insurance Act (12  
7 U.S.C. 1813).

8           “(B) INCORPORATED TERMS.—The terms  
9 ‘correspondent account’, ‘covered financial insti-  
10 tution’, and ‘foreign bank’ have the same mean-  
11 ings as in section 5318A.

12           “(2) 48-HOUR RULE.—Not later than 48 hours  
13 after receiving a request by an appropriate Federal  
14 banking agency for information related to anti-  
15 money laundering compliance by a covered financial  
16 institution or a customer of such institution, a cov-  
17 ered financial institution shall provide to the appro-  
18 priate Federal banking agency, or make available at  
19 a location specified by the representative of the ap-  
20 propriate Federal banking agency, information and  
21 account documentation for any account opened,  
22 maintained, administered or managed in the United  
23 States by the covered financial institution.

24           “(3) FOREIGN BANK RECORDS.—

1                   “(A) SUMMONS OR SUBPOENA OF  
2 RECORDS.—

3                   “(i) IN GENERAL.—The Secretary or  
4 the Attorney General may issue a sum-  
5 mons or subpoena to any foreign bank that  
6 maintains a correspondent account in the  
7 United States and request records related  
8 to such correspondent account.

9                   “(ii) SERVICE OF SUMMONS OR SUB-  
10 POENA.—A summons or subpoena referred  
11 to in clause (i) may be served on the for-  
12 eign bank in the United States if the for-  
13 eign bank has a representative in the  
14 United States, or in a foreign country pur-  
15 suant to any mutual legal assistance trea-  
16 ty, multilateral agreement, or other request  
17 for international law enforcement assist-  
18 ance.

19                   “(B) ACCEPTANCE OF SERVICE.—

20                   “(i) MAINTAINING RECORDS IN THE  
21 UNITED STATES.—Any covered financial  
22 institution which maintains a cor-  
23 respondent account in the United States  
24 for a foreign bank shall maintain records  
25 in the United States identifying the owners

1 of such foreign bank and the name and ad-  
2 dress of a person who resides in the United  
3 States and is authorized to accept service  
4 of legal process for records regarding the  
5 correspondent account.

6 “(ii) LAW ENFORCEMENT REQUEST.—  
7 Upon receipt of a written request from a  
8 Federal law enforcement officer for infor-  
9 mation required to be maintained under  
10 this paragraph, the covered financial insti-  
11 tution shall provide the information to the  
12 requesting officer not later than 7 days  
13 after receipt of the request.

14 “(C) TERMINATION OF CORRESPONDENT  
15 RELATIONSHIP.—

16 “(i) TERMINATION UPON RECEIPT OF  
17 NOTICE.—A covered financial institution  
18 shall terminate any correspondent relation-  
19 ship with a foreign bank not later than 10  
20 days after receipt of written notice from  
21 the Secretary or the Attorney General that  
22 the foreign bank has failed—

23 “(I) to comply with a summons  
24 or subpoena issued under subpara-  
25 graph (A); or

1                   “(II) to initiate proceedings in a  
2                   United States court contesting such  
3                   summons or subpoena.

4                   “(ii) LIMITATION ON LIABILITY.—A  
5                   covered financial institution shall not be  
6                   liable to any person in any court or arbi-  
7                   tration proceeding for terminating a cor-  
8                   respondent relationship in accordance with  
9                   this subsection.

10                   “(iii) FAILURE TO TERMINATE RELA-  
11                   TIONSHIP.—Failure to terminate a cor-  
12                   respondent relationship in accordance with  
13                   this subsection shall render the covered fi-  
14                   nancial institution liable for a civil penalty  
15                   of up to \$10,000 per day until the cor-  
16                   respondent relationship is so terminated.”.

17                   (c) AUTHORITY TO ORDER CONVICTED CRIMINAL TO  
18 RETURN PROPERTY LOCATED ABROAD.—

19                   (1) FORFEITURE OF SUBSTITUTE PROPERTY.—  
20                   Section 413 of the Controlled Substances Act (21  
21                   U.S.C. 853) is amended by striking subsection (p)  
22                   and inserting the following:

23                   “(p) FORFEITURE OF SUBSTITUTE PROPERTY.—

24                   “(1) IN GENERAL.—Paragraph (2) of this sub-  
25                   section shall apply, if any property described in sub-

1 section (a), as a result of any act or omission of the  
2 defendant—

3 “(A) cannot be located upon the exercise of  
4 due diligence;

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

7 “(C) has been placed beyond the jurisdic-  
8 tion of the court;

9 “(D) has been substantially diminished in  
10 value; or

11 “(E) has been commingled with other  
12 property which cannot be divided without dif-  
13 ficulty.

14 “(2) SUBSTITUTE PROPERTY.—In any case de-  
15 scribed in any of subparagraphs (A) through (E) of  
16 paragraph (1), the court shall order the forfeiture of  
17 any other property of the defendant, up to the value  
18 of any property described in subparagraphs (A)  
19 through (E) of paragraph (1), as applicable.

20 “(3) RETURN OF PROPERTY TO JURISDIC-  
21 TION.—In the case of property described in para-  
22 graph (1)(C), the court may, in addition to any  
23 other action authorized by this subsection, order the  
24 defendant to return the property to the jurisdiction

1 of the court so that the property may be seized and  
2 forfeited.”.

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

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

7 “(A) IN GENERAL.—Pursuant to its au-  
8 thority to enter a pretrial restraining order  
9 under this section, including its authority to re-  
10 strain any property forfeitable as substitute as-  
11 sets, the court may order a defendant to repa-  
12 triate any property that may be seized and for-  
13 feited, and to deposit that property pending  
14 trial in the registry of the court, or with the  
15 United States Marshals Service or the Sec-  
16 retary of the Treasury, in an interest-bearing  
17 account, if appropriate.

18 “(B) FAILURE TO COMPLY.—Failure to  
19 comply with an order under this subsection, or  
20 an order to repatriate property under sub-  
21 section (p), shall be punishable as a civil or  
22 criminal contempt of court, and may also result  
23 in an enhancement of the sentence of the de-  
24 fendant under the obstruction of justice provi-  
25 sion of the Federal Sentencing Guidelines.”.

1 **SEC. 309. INCLUSION OF ACTS OF TERRORISM AS SPECI-**  
2 **FIED UNLAWFUL ACTIVITY UNDER THE**  
3 **MONEY LAUNDERING STATUTES.**

4 Section 1956(c)(7)(D) of title 18, United States  
5 Code, is amended by—

6 (1) striking “or” after “section 2332b (relating  
7 to international terrorist acts transcending national  
8 boundaries,”; and

9 (2) inserting “section 2339B (relating to pro-  
10 viding material support to designated foreign ter-  
11 rorist organizations),” after “section 2339A (relat-  
12 ing to providing material support to terrorists),”.

13 **SEC. 310. EFFECTIVE DATE.**

14 Except as otherwise provided in this subtitle, this  
15 subtitle, and the amendments made by this subtitle, shall  
16 take effect 90 days after the date of enactment of this  
17 subtitle.

18 **Subtitle B—International Counter-**  
19 **Money Laundering**

20 **SEC. 321. FINDINGS.**

21 Congress finds that—

22 (1) money laundering, estimated by the Inter-  
23 national Monetary Fund to amount to between 2  
24 and 5 percent of global gross domestic product,  
25 which is at least \$600,000,000,000 annually, pro-  
26 vides the financial fuel that permits transnational

1 criminal enterprises to conduct and expand their op-  
2 erations to the detriment of the safety and security  
3 of American citizens;

4 (2) money launderers subvert legitimate finan-  
5 cial mechanisms and banking relationships by using  
6 them as protective covering for the movement of  
7 criminal proceeds and, by so doing, can undermine  
8 the integrity of United States financial institutions  
9 and of the global financial and trading systems upon  
10 which prosperity and growth depend;

11 (3) money launderers rely upon the existence  
12 and use of certain jurisdictions outside of the United  
13 States that offer bank secrecy and special tax or  
14 regulatory advantages to nonresidents, and often  
15 complement those advantages with weak financial  
16 supervisory and regulatory regimes;

17 (4) certain kinds of transactions involving such  
18 offshore jurisdictions, including those transactions  
19 specifically designed to offer anonymity or the avoid-  
20 ance of regulatory scrutiny, make it difficult for law  
21 enforcement officials and regulators to follow the  
22 trail of money earned by criminals and organized  
23 international criminal enterprises that undermine  
24 United States national interests and traffic in  
25 human misery, whether they are narcotics dealers,

1 terrorists, arms smugglers, traffickers in human  
2 beings, or those whose frauds prey upon law abiding  
3 citizens;

4 (5) certain banking relationships between finan-  
5 cial institutions in the United States and financial  
6 institutions located in such offshore jurisdictions,  
7 such as correspondent and payable-through ac-  
8 counts, are particularly vulnerable to abuse because  
9 of the difficulty in obtaining accurate information  
10 about the beneficial owners whose funds pass  
11 through such accounts;

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

16 (7) the Basle Committee on Banking Regula-  
17 tion and Supervisory Practices and the Financial  
18 Action Task Force on Money Laundering, of both of  
19 which the United States is a member, have each  
20 adopted international anti-money laundering prin-  
21 ciples and recommendations.

22 **SEC. 322. PURPOSES.**

23 The purposes of this subtitle are—

24 (1) to ensure that banking transactions and fi-  
25 nancial relationships, the conduct of such trans-

1 actions and relationships, or both, do not contravene  
2 the purposes of subchapter II of chapter 53 of title  
3 31, United States Code, section 21 of the Federal  
4 Deposit Insurance Act, or chapter 2 of title I of  
5 Public Law 91–508, or facilitate the evasion of any  
6 such provision, to ensure that the purposes of such  
7 subchapter II continue to be fulfilled, and to guard  
8 against international money laundering and other fi-  
9 nancial crimes;

10 (2) to provide a clear national mandate for sub-  
11 jecting to special scrutiny those foreign jurisdictions,  
12 financial institutions operating outside of the United  
13 States, and classes of international transactions that  
14 pose particular, identifiable opportunities for money  
15 laundering;

16 (3) to provide the Secretary of the Treasury  
17 with broad discretionary authority to take measures  
18 tailored to the particular money laundering problems  
19 presented by specific foreign jurisdictions, financial  
20 institutions operating outside of the United States,  
21 and classes of international transactions;

22 (4) to provide domestic financial institutions  
23 with guidance on particular foreign jurisdictions, fi-  
24 nancial institutions operating outside of the United  
25 States, and classes of international transactions that

1 are of primary money laundering concern to the  
2 United States Government;

3 (5) to clarify the terms of the safe harbor from  
4 civil liability for filing suspicious activity reports;

5 (6) to strengthen the authority of the Secretary  
6 of the Treasury to issue and administer geographic  
7 targeting orders, and to clarify that violations of  
8 such orders or any other requirement imposed under  
9 the authority contained in chapter 2 of title I of  
10 Public Law 91–508 and subchapters II and III of  
11 chapter 53 of title 31, United States Code, may re-  
12 sult in criminal and civil penalties;

13 (7) to strengthen the ability of financial institu-  
14 tions to maintain the integrity of their employee  
15 population; and

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

1    **CHAPTER 1—INTERNATIONAL COUNTER-**  
2           **MONEY LAUNDERING MEASURES**

3    **SEC. 331. SPECIAL MEASURES FOR JURISDICTIONS, FINAN-**  
4           **CIAL INSTITUTIONS, OR INTERNATIONAL**  
5           **TRANSACTIONS OF PRIMARY MONEY LAUN-**  
6           **DERING CONCERN.**

7           (a) IN GENERAL.—Subchapter II of chapter 53 of  
8 title 31, United States Code, is amended by inserting after  
9 section 5318A, as added by section 303 of this Act, the  
10 following new section:

11    **“§ 5318B. Special measures for jurisdictions, financial**  
12           **institutions, or international transactions**  
13           **of primary money laundering concern**

14           “(a) INTERNATIONAL COUNTER-MONEY LAUN-  
15 DERING REQUIREMENTS.—

16           “(1) IN GENERAL.—The Secretary may require  
17 domestic financial institutions and domestic financial  
18 agencies to take 1 or more of the special measures  
19 described in subsection (b) if the Secretary finds  
20 that reasonable grounds exist for concluding that a  
21 jurisdiction outside of the United States, 1 or more  
22 financial institutions operating outside of the United  
23 States, or 1 or more classes of transactions within,  
24 or involving, a jurisdiction outside of the United

1 States is of primary money laundering concern, in  
2 accordance with subsection (c).

3 “(2) FORM OF REQUIREMENT.—The special  
4 measures described in subsection (b) may be im-  
5 posed by regulation, order, or otherwise as permitted  
6 by law, and in such sequence or combination, as the  
7 Secretary shall determine.

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

11 “(A) shall consult with the Chairman of  
12 the Board of Governors of the Federal Reserve  
13 System and, in the sole discretion of the Sec-  
14 retary , such other agencies and interested par-  
15 ties as the Secretary may find to be appro-  
16 priate; and

17 “(B) shall consider—

18 “(i) whether similar action has been  
19 or is being taken by other nations or multi-  
20 lateral groups;

21 “(ii) whether the imposition of any  
22 particular special measure would create a  
23 significant competitive disadvantage, in-  
24 cluding any undue cost or burden associ-  
25 ated with compliance, for financial institu-

1                   tions organized or licensed in the United  
2                   States; and

3                   “(iii) the extent to which the action  
4                   would have a significant adverse systemic  
5                   impact on the international payment, clear-  
6                   ance and settlement system, or on legiti-  
7                   mate business activities involving the par-  
8                   ticular jurisdiction, institution, or class of  
9                   transactions.

10                  “(4) NO LIMITATION ON OTHER AUTHORITY.—

11                  This section shall not be construed as superseding or  
12                  otherwise restricting any other authority granted to  
13                  the Secretary, or to any other agency, by this sub-  
14                  chapter or otherwise.

15                  “(b) SPECIAL MEASURES.—The special measures re-  
16                  ferred to in subsection (a), with respect to a jurisdiction  
17                  outside of the United States, financial institution oper-  
18                  ating outside of the United States, or class of transaction  
19                  within, or involving, a jurisdiction outside of the United  
20                  States, are as follows:

21                  “(1) RECORDKEEPING AND REPORTING OF  
22                  CERTAIN FINANCIAL TRANSACTIONS.—

23                  “(A) IN GENERAL.—The Secretary may re-  
24                  quire any domestic financial institution or do-  
25                  mestic financial agency to maintain records, file

1 reports, or both, concerning the aggregate  
2 amount of transactions, or concerning each  
3 transaction, with respect to a jurisdiction out-  
4 side of the United States, 1 or more financial  
5 institutions operating outside of the United  
6 States, or 1 or more classes of transactions  
7 within, or involving, a jurisdiction outside of the  
8 United States, if the Secretary finds any such  
9 jurisdiction, institution, or class of transactions  
10 to be of primary money laundering concern.

11 “(B) FORM OF RECORDS AND REPORTS.—  
12 Such records and reports shall be made and re-  
13 tained at such time, in such manner, and for  
14 such period of time, as the Secretary shall de-  
15 termine, and shall include such information as  
16 the Secretary may determine, including—

17 “(i) the identity and address of the  
18 participants in a transaction or relation-  
19 ship, including the identity of the origi-  
20 nator of any funds transfer;

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

23 “(iii) the identity of the beneficial  
24 owner of the funds involved in any trans-  
25 action; and

1                   “(iv) a description of any transaction.

2                   “(2) INFORMATION RELATING TO BENEFICIAL  
3 OWNERSHIP.—In addition to any other requirement  
4 under any other provision of law, the Secretary may  
5 require any domestic financial institution or domes-  
6 tic financial agency to take such steps as the Sec-  
7 retary may determine to be reasonable and prac-  
8 ticable to obtain and retain information concerning  
9 the beneficial ownership of any account opened or  
10 maintained in the United States by a foreign person  
11 (other than a foreign entity whose shares are subject  
12 to public reporting requirements or are listed and  
13 traded on a regulated exchange or trading market),  
14 or a representative of such a foreign person, that in-  
15 volves a jurisdiction outside of the United States, 1  
16 or more financial institutions operating outside of  
17 the United States, or 1 or more classes of trans-  
18 actions within, or involving, a jurisdiction outside of  
19 the United States, if the Secretary finds any such  
20 jurisdiction, institution, or transaction to be of pri-  
21 mary money laundering concern.

22                   “(3) INFORMATION RELATING TO CERTAIN PAY-  
23 ABLE-THROUGH ACCOUNTS.—If the Secretary finds  
24 a jurisdiction outside of the United States, 1 or  
25 more financial institutions operating outside of the

1 United States, or 1 or more classes of transactions  
2 within, or involving, a jurisdiction outside of the  
3 United States to be of primary money laundering  
4 concern, the Secretary may require any domestic fi-  
5 nancial institution or domestic financial agency that  
6 opens or maintains a payable-through account in the  
7 United States for a foreign financial institution in-  
8 volving any such jurisdiction or any such financial  
9 institution operating outside of the United States, or  
10 a payable-through account through which any such  
11 transaction may be conducted, as a condition of  
12 opening or maintaining such account, to—

13 “(A) identify each customer (and rep-  
14 resentative of such customer) of such financial  
15 institution who is permitted to use, or whose  
16 transactions are routed through, such payable-  
17 through account; and

18 “(B) obtain, with respect to each such cus-  
19 tomer (and each such representative), the same  
20 information that the depository institution ob-  
21 tains in the ordinary course of business with re-  
22 spect to its customers residing in the United  
23 States.

24 “(4) INFORMATION RELATING TO CERTAIN COR-  
25 RESPONDENT ACCOUNTS.—If the Secretary finds a

1 jurisdiction outside of the United States, 1 or more  
2 financial institutions operating outside of the United  
3 States, or 1 or more classes of transactions within,  
4 or involving, a jurisdiction outside of the United  
5 States to be of primary money laundering concern,  
6 the Secretary may require any domestic financial in-  
7 stitution or domestic financial agency that opens or  
8 maintains a correspondent account in the United  
9 States for a foreign financial institution involving  
10 any such jurisdiction or any such financial institu-  
11 tion operating outside of the United States, or a cor-  
12 respondent account through which any such trans-  
13 action may be conducted, as a condition of opening  
14 or maintaining such account, to—

15 “(A) identify each customer (and rep-  
16 resentative of such customer) of any such finan-  
17 cial institution who is permitted to use, or  
18 whose transactions are routed through, such  
19 correspondent account; and

20 “(B) obtain, with respect to each such cus-  
21 tomer (and each such representative), the same  
22 information that the depository institution ob-  
23 tains in the ordinary course of business with re-  
24 spect to its customers residing in the United  
25 States.

1           “(5) PROHIBITIONS OR CONDITIONS ON OPEN-  
2           ING OR MAINTAINING CERTAIN CORRESPONDENT OR  
3           PAYABLE-THROUGH ACCOUNTS.—If the Secretary  
4           finds a jurisdiction outside of the United States, 1  
5           or more financial institutions operating outside of  
6           the United States, or 1 or more classes of trans-  
7           actions within, or involving, a jurisdiction outside of  
8           the United States to be of primary money laun-  
9           dering concern, the Secretary, in consultation with  
10          the Secretary of State, the Attorney General, and  
11          the Chairman of the Board of Governors of the Fed-  
12          eral Reserve System, may prohibit, or impose condi-  
13          tions upon, the opening or maintaining in the United  
14          States of a correspondent account or payable-  
15          through account by any domestic financial institu-  
16          tion or domestic financial agency for or on behalf of  
17          a foreign banking institution if such correspondent  
18          account or payable-through account involves any  
19          such jurisdiction or institution, or if any such trans-  
20          action may be conducted through such cor-  
21          respondent account or payable-through account.

22          “(c) CONSULTATIONS AND INFORMATION TO BE  
23          CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,  
24          OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUN-  
25          DERING CONCERN.—

1           “(1) IN GENERAL.—In making a finding that  
2 reasonable grounds exist for concluding that a juris-  
3 diction outside of the United States, 1 or more fi-  
4 nancial institutions operating outside of the United  
5 States, or 1 or more classes of transactions within,  
6 or involving, a jurisdiction outside of the United  
7 States is of primary money laundering concern so as  
8 to authorize the Secretary to invoke 1 or more of the  
9 special measures described in subsection (b), the  
10 Secretary shall consult with the Secretary of State,  
11 the Attorney General, the Secretary of Commerce,  
12 and the United States Trade Representative.

13           “(2) INFORMATION.—The Secretary also shall  
14 consider such information as the Secretary considers  
15 to be relevant, including the following potentially rel-  
16 evant factors:

17                   “(A) In the case of a particular  
18 jurisdiction—

19                           “(i) the extent to which that jurisdic-  
20 tion or financial institutions operating  
21 therein offer bank secrecy or special tax or  
22 regulatory advantages to nonresidents or  
23 nondomiciliaries of such jurisdiction;

24                           “(ii) the substance and quality of ad-  
25 ministration of that jurisdiction’s bank su-

1                   pervisory and counter-money laundering  
2                   laws;

3                   “(iii) the relationship between the vol-  
4                   ume of financial transactions occurring in  
5                   that jurisdiction and the size of the juris-  
6                   diction’s economy;

7                   “(iv) the extent to which that jurisdic-  
8                   tion is characterized as a tax haven or off-  
9                   shore banking or secrecy haven by credible  
10                  international organizations or multilateral  
11                  expert groups;

12                  “(v) 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, regulatory  
16                  officials, and tax administrators in obtain-  
17                  ing information about transactions origi-  
18                  nating in or routed through or to such ju-  
19                  risdiction; and

20                  “(vi) the extent to which that jurisdic-  
21                  tion is characterized by high levels of offi-  
22                  cial or institutional corruption.

23                  “(B) In the case of a decision to apply 1  
24                  or more of the special measures described in  
25                  subsection (b) only to a financial institution or

1 institutions, or to a transaction or class of  
2 transactions, or to both, within, or involving, a  
3 particular jurisdiction—

4 “(i) the extent to which such financial  
5 institutions or transactions are used to fa-  
6 cilitate or promote money laundering in or  
7 through the jurisdiction;

8 “(ii) the extent to which such institu-  
9 tions or transactions are used for legiti-  
10 mate business purposes in such jurisdic-  
11 tion; and

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

20 “(d) NOTIFICATION OF SPECIAL MEASURES IN-  
21 VOKED BY THE SECRETARY.—Not later than 10 days  
22 after the date of any action taken by the Secretary under  
23 subsection (a)(1), the Secretary shall notify, in writing,  
24 the Committee on Financial Services of the House of Rep-

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

3 “(e) DEFINITIONS.—Notwithstanding any other pro-  
4 vision of this subchapter, for purposes of this section, the  
5 following definitions shall apply:

6 “(1) DEFINED TERMS.—

7 “(A) BANK DEFINITIONS.—The following  
8 definitions shall apply with respect to a bank:

9 “(i) ACCOUNTS.—The terms ‘account’  
10 and ‘correspondent account’ have the same  
11 meanings as in section 5318A.

12 “(ii) PAYABLE-THROUGH ACCOUNT.—  
13 The term ‘payable-through account’ means  
14 an account, including a transaction ac-  
15 count (as defined in section 19(b)(1)(C) of  
16 the Federal Reserve Act), opened at a de-  
17 pository institution by a foreign financial  
18 institution by means of which the foreign  
19 financial institution permits its customers  
20 to engage, either directly or through a sub-  
21 account, in banking activities usual in con-  
22 nection with the business of banking in the  
23 United States.

24 “(B) DEFINITIONS APPLICABLE TO INSTI-  
25 TUTIONS OTHER THAN BANKS.—With respect

1 to any financial institution other than a bank,  
2 the Secretary shall define, by regulation, order,  
3 or otherwise as permitted by law, the term ‘ac-  
4 count’ and shall include within the meaning of  
5 such term arrangements similar to payable-  
6 through and correspondent accounts.

7 “(2) OTHER TERMS.—The Secretary may, by  
8 regulation, order, or otherwise as permitted by law,  
9 further define the terms in paragraph (1) and define  
10 other terms for the purposes of this section, as the  
11 Secretary deems appropriate.”.

12 (b) CLERICAL AMENDMENT.—The table of sections  
13 for subchapter II of chapter 53 of title 31, United States  
14 Code, is amended by inserting after the item relating to  
15 section 5318A, as added by this Act, the following new  
16 item:

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

17 **CHAPTER 2—CURRENCY TRANSACTION**  
18 **REPORTING AMENDMENTS AND RE-**  
19 **LATED IMPROVEMENTS**

20 **SEC. 341. AMENDMENTS RELATING TO REPORTING OF SUS-**  
21 **PICIOUS ACTIVITIES.**

22 (a) AMENDMENT RELATING TO CIVIL LIABILITY IM-  
23 MUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title  
24 31, United States Code, is amended to read as follows:

1 “(3) LIABILITY FOR DISCLOSURES.—

2 “(A) IN GENERAL.—Any financial institu-  
3 tion that makes a voluntary disclosure of any  
4 possible violation of law or regulation to a gov-  
5 ernment agency or to Congress, or makes a dis-  
6 closure pursuant to this subsection or any other  
7 authority, and any director, officer, employee,  
8 or agent of such institution who makes, or re-  
9 quires another to make any such disclosure,  
10 shall not be liable to any person under any law  
11 or regulation of the United States, any con-  
12 stitution, law, or regulation of any State or po-  
13 litical subdivision of any State, or under any  
14 contract or other legally enforceable agreement  
15 (including any arbitration agreement), for such  
16 disclosure or for any failure to provide notice of  
17 such disclosure to the person who is the subject  
18 of such disclosure or any other person identified  
19 in the disclosure.

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

22 “(i) any inference that the term ‘per-  
23 son’, as used in such subparagraph, may  
24 be construed more broadly than its ordi-

1 nary usage so to include any government  
2 or agency of government; or

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

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

12 “(2) NOTIFICATION PROHIBITED.—

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

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

23 “(ii) no officer or employee of the  
24 Federal Government or of any State, local,  
25 tribal, or territorial government within the

1 United States, who has any knowledge that  
2 such report was made may disclose to any  
3 person involved in the transaction that the  
4 transaction has been reported, other than  
5 as necessary to fulfill the official duties of  
6 such officer or employee.

7 “(B) DISCLOSURES IN CERTAIN EMPLOY-  
8 MENT REFERENCES.—Notwithstanding the ap-  
9 plication of subparagraph (A) in any other con-  
10 text, subparagraph (A) shall not be construed  
11 as prohibiting any financial institution, or any  
12 director, officer, employee, or agent of such in-  
13 stitution, from including, in a written employ-  
14 ment reference that is provided in accordance  
15 with section 18(v) of the Federal Deposit Insur-  
16 ance Act in response to a request from another  
17 financial institution or a written termination  
18 notice or employment reference that is provided  
19 in accordance with the rules of the self-regu-  
20 latory organizations registered with the Securi-  
21 ties and Exchange Commission, information  
22 that was included in a report to which subpara-  
23 graph (A) applies, but such written employment  
24 reference may not disclose that such informa-

1           tion was also included in any such report or  
2           that such report was made.”.

3 **SEC. 342. 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 “section 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 “60” after  
20          “shall be effective for more than” and inserting “180”.

1 **SEC. 343. AUTHORIZATION TO INCLUDE SUSPICIONS OF IL-**  
2 **LEGAL ACTIVITY IN WRITTEN EMPLOYMENT**  
3 **REFERENCES.**

4 Section 18 of the Federal Deposit Insurance Act (12  
5 U.S.C. 1828) is amended by adding at the end the fol-  
6 lowing new subsection:

7 “(w) WRITTEN EMPLOYMENT REFERENCES MAY  
8 CONTAIN SUSPICIONS OF INVOLVEMENT IN ILLEGAL AC-  
9 TIVITY.—

10 “(1) IN GENERAL.—Notwithstanding any other  
11 provision of law, any insured depository institution,  
12 and any director, officer, employee, or agent of such  
13 institution, may disclose in any written employment  
14 reference relating to a current or former institution-  
15 affiliated party of such institution which is provided  
16 to another insured depository institution in response  
17 to a request from such other institution, information  
18 concerning the possible involvement of such institu-  
19 tion-affiliated party in potentially unlawful activity.

20 “(2) DEFINITION.—For purposes of this sub-  
21 section, the term ‘insured depository institution’ in-  
22 cludes any uninsured branch or agency of a foreign  
23 bank.”.

1 **SEC. 344. AGENCY REPORTS ON RECONCILING PENALTY**  
2 **AMOUNTS.**

3 Before the end of the 1-year period beginning on the  
4 date of enactment of this chapter, the Secretary of the  
5 Treasury and the Federal banking agencies (as defined in  
6 section 3 of the Federal Deposit Insurance Act) shall each  
7 submit their respective reports to Congress containing rec-  
8 ommendations on possible legislation to conform the pen-  
9 alties imposed on depository institutions (as defined in  
10 section 3 of the Federal Deposit Insurance Act) for viola-  
11 tions of subchapter II of chapter 53 of title 31, United  
12 States Code, to the penalties imposed on such institutions  
13 under section 8 of the Federal Deposit Insurance Act.

14 **CHAPTER 3—ANTICORRUPTION**  
15 **MEASURES**

16 **SEC. 351. CORRUPTION OF FOREIGN GOVERNMENTS AND**  
17 **RULING ELITES.**

18 **SENSE OF THE CONGRESS.**—It is the sense of the  
19 Congress that, in deliberations between the United States  
20 Government and any other country on money laundering  
21 and corruption issues, the United States Government  
22 should—

23 (1) emphasize an approach that addresses not  
24 only the laundering of the proceeds of traditional  
25 criminal activity but also the increasingly endemic

1 problem of governmental corruption and the corrup-  
2 tion of ruling elites;

3 (2) encourage the enactment and enforcement  
4 of laws in such country to prevent money laundering  
5 and systemic corruption;

6 (3) make clear that the United States will take  
7 all steps necessary to identify the proceeds of foreign  
8 government corruption which have been deposited in  
9 United States financial institutions and return such  
10 proceeds to the citizens of the country to whom such  
11 assets belong; and

12 (4) advance policies and measures to promote  
13 good government and to prevent and reduce corrup-  
14 tion and money laundering, including through in-  
15 structions to the United States Executive Director of  
16 each international financial institution (as defined in  
17 section 1701(c) of the International Financial Insti-  
18 tutions Act) to advocate such policies as a system-  
19 atic element of economic reform programs and ad-  
20 vice to member governments.

21 **SEC. 352. SUPPORT FOR THE FINANCIAL ACTION TASK**

22 **FORCE ON MONEY LAUNDERING.**

23 It is the sense of the Congress that—

24 (1) the United States should continue to ac-  
25 tively and publicly support the objectives of the Fi-

1 nancial Action Task Force on Money Laundering  
2 (hereafter in this section referred to as the  
3 “FATF”) with regard to combating international  
4 money laundering;

5 (2) the FATF should identify noncooperative  
6 jurisdictions in as expeditious a manner as possible  
7 and publicly release a list directly naming those ju-  
8 risdictions identified;

9 (3) the United States should support the con-  
10 tinued public release of lists naming noncooperative  
11 jurisdictions identified by the FATF;

12 (4) the United States should encourage the  
13 adoption of the necessary international action to en-  
14 courage compliance by the identified noncooperative  
15 jurisdictions; and

16 (5) the United States should take the necessary  
17 countermeasures to protect the United States econ-  
18 omy against money of unlawful origin and encourage  
19 other nations to do the same.

## 20 **TITLE IV—PROTECTING THE** 21 **NORTHERN BORDER**

### 22 **SEC. 401. ENSURING ADEQUATE PERSONNEL ON THE** 23 **NORTHERN BORDER.**

24 The Attorney General is authorized to waive any  
25 FTE cap on personnel assigned to the Immigration and

1 Naturalization Service to address the national security  
2 needs of the United States on the Northern border.

3 **SEC. 402. NORTHERN BORDER PERSONNEL.**

4 There are authorized to be appropriated—

5 (1) such sums as may be necessary to triple the  
6 number of Border Patrol personnel (from the num-  
7 ber authorized under current law) in each State  
8 along the Northern Border;

9 (2) such sums as may be necessary to triple the  
10 number of Customs Service personnel (from the  
11 number authorized under current law) at ports of  
12 entry in each State along the Northern Border; and

13 (3) an additional \$50,000,000 each to the Im-  
14 migration and Naturalization Service and the United  
15 States Customs Service for purposes of making im-  
16 provements in technology for monitoring the North-  
17 ern Border and acquiring additional equipment at  
18 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) Upon the promulgation of final regulations  
16 under subsection (d), the Attorney General and the Direc-  
17 tor of the Federal Bureau of Investigation shall provide  
18 the Department of State and the Service access to the  
19 criminal history record information contained in the Na-  
20 tional Crime Information Center’s Interstate Identifica-  
21 tion Index (NCIC-III), Wanted Persons File, and to any  
22 other files maintained by the National Crime Information  
23 Center that may be mutually agreed upon by the Attorney  
24 General and the agency receiving the access, for the pur-  
25 pose of determining whether or not a visa applicant or

1 applicant for admission has a criminal history record in-  
2 dexed in any such file.

3       “(2) Such access shall be provided by means of ex-  
4 tracts of the records for placement in the automated visa  
5 lookout or other appropriate database, and shall be pro-  
6 vided without any fee or charge.

7       “(3) The Federal Bureau of Investigation shall pro-  
8 vide periodic updates of the extracts at intervals mutually  
9 agreed upon with the agency receiving the access. Upon  
10 receipt of such updated extracts, the receiving agency shall  
11 make corresponding updates to its database and destroy  
12 previously provided extracts.

13       “(4) Access to an extract does not entitle the Depart-  
14 ment of State or the Service to obtain the full content  
15 of the corresponding automated criminal history record.  
16 To obtain the full content of a criminal history record,  
17 the Department of State or the Service shall submit the  
18 applicant’s fingerprints and any appropriate fingerprint  
19 processing fee authorized by law to the Criminal Justice  
20 Information Services Division of the Federal Bureau of  
21 Investigation.

22       “(c) The provision of the extracts described in sub-  
23 section (b) may be reconsidered by the Attorney General  
24 and the receiving agency upon the development and de-

1 ployment of a more cost-effective and efficient means of  
2 sharing the information.

3 “(d) For purposes of administering this section, the  
4 Department of State and the Service shall, prior to receiv-  
5 ing access to NCIC data but not later than 18 months  
6 after the date of enactment of this subsection, promulgate  
7 final regulations—

8 “(1) to implement procedures for the taking of  
9 fingerprints; and

10 “(2) to establish the conditions for the use of  
11 the information received from the Federal Bureau of  
12 Investigation, in order—

13 “(A) to limit the redissemination of such  
14 information;

15 “(B) to ensure that such information is  
16 used solely to determine whether or not to issue  
17 a visa to an alien or to admit an alien to the  
18 United States;

19 “(C) to ensure the security, confidentiality,  
20 and destruction of such information; and

21 “(D) to protect any privacy rights of indi-  
22 viduals who are subjects of such information.”.

23 (b) REPORTING REQUIREMENT.—Not later than 2  
24 years after the date of enactment of this Act, the Attorney  
25 General and the Secretary of State jointly shall report to

1 Congress on the implementation of the amendments made  
2 by this section.

3 (c) STATUTORY CONSTRUCTION.—Nothing in this  
4 section, or in any other law, shall be construed to limit  
5 the authority of the Attorney General or the Director of  
6 the Federal Bureau of Investigation to provide access to  
7 the criminal history record information contained in the  
8 National Crime Information Center’s (NCIC) Interstate  
9 Identification Index (NCIC-III), or to any other informa-  
10 tion maintained by the NCIC, to any Federal agency or  
11 officer authorized to enforce or administer the immigra-  
12 tion laws of the United States, for the purpose of such  
13 enforcement or administration, upon terms that are con-  
14 sistent with the National Crime Prevention and Privacy  
15 Compact Act of 1998 (subtitle A of title II of Public Law  
16 105–251; 42 U.S.C. 14611–16) and section 552a of title  
17 5, United States Code.

18 **TITLE V—REMOVING OBSTA-**  
19 **CLES TO INVESTIGATING**  
20 **TERRORISM**

21 **SEC. 501. PROFESSIONAL STANDARDS FOR GOVERNMENT**  
22 **ATTORNEYS ACT OF 2001.**

23 (a) SHORT TITLE.—This title may be cited as the  
24 “Professional Standards for Government Attorneys Act of  
25 2001”.

1 (b) PROFESSIONAL STANDARDS FOR GOVERNMENT  
2 ATTORNEYS.—Section 530B of title 28, United States  
3 Code, is amended to read as follows:

4 **“§ 530B. Professional Standards for Government At-**  
5 **torneys**

6 “(a) DEFINITIONS.—In this section:

7 “(1) GOVERNMENT ATTORNEY.—The term  
8 ‘Government attorney’—

9 “(A) means the Attorney General; the  
10 Deputy Attorney General; the Solicitor General;  
11 the Associate Attorney General; the head of,  
12 and any attorney employed in, any division, of-  
13 fice, board, bureau, component, or agency of  
14 the Department of Justice; any United States  
15 Attorney; any Assistant United States Attorney;  
16 any Special Assistant to the Attorney General  
17 or Special Attorney appointed under section  
18 515; any Special Assistant United States Attor-  
19 ney appointed under section 543 who is author-  
20 ized to conduct criminal or civil law enforce-  
21 ment investigations or proceedings on behalf of  
22 the United States; any other attorney employed  
23 by the Department of Justice who is authorized  
24 to conduct criminal or civil law enforcement  
25 proceedings on behalf of the United States; any

1 independent counsel, or employee of such coun-  
2 sel, appointed under chapter 40; and any out-  
3 side special counsel, or employee of such coun-  
4 sel, as may be duly appointed by the Attorney  
5 General; and

6 “(B) does not include any attorney em-  
7 ployed as an investigator or other law enforce-  
8 ment agent by the Department of Justice who  
9 is not authorized to represent the United States  
10 in criminal or civil law enforcement litigation or  
11 to supervise such proceedings.

12 “(2) STATE.—The term ‘State’ includes a Ter-  
13 ritory and the District of Columbia.

14 “(b) CHOICE OF LAW.—Subject to any uniform na-  
15 tional rule prescribed by the Supreme Court under chapter  
16 131, the standards of professional responsibility that  
17 apply to a Government attorney with respect to the attor-  
18 ney’s work for the Government shall be—

19 “(1) for conduct in connection with a pro-  
20 ceeding in or before a court, the standards of profes-  
21 sional responsibility established by the rules and de-  
22 cisions of that court;

23 “(2) for conduct reasonably intended to lead to  
24 a proceeding in or before a court, the standards of  
25 professional responsibility established by the rules

1 and decisions of the court in or before which the  
2 proceeding is intended to be brought; and

3 “(3) for all other conduct, the standards of pro-  
4 fessional responsibility established by the rules and  
5 decisions of the Federal district court for the judicial  
6 district in which the attorney principally performs  
7 his or her official duties.

8 “(c) LICENSURE.—A Government attorney (except  
9 foreign counsel employed in special cases)—

10 “(1) shall be duly licensed and authorized to  
11 practice as an attorney under the laws of a State;  
12 and

13 “(2) shall not be required to be a member of  
14 the bar of any particular State.

15 “(d) COVERT ACTIVITIES.—Notwithstanding any  
16 provision of State law, including disciplinary rules, stat-  
17 utes, regulations, constitutional provisions, or case law, a  
18 Government attorney may, for the purpose of enforcing  
19 Federal law, provide legal advice, authorization, concur-  
20 rence, direction, or supervision on conducting covert activi-  
21 ties, and participate in such activities, even though such  
22 activities may require the use of deceit or misrepresenta-  
23 tion.

24 “(e) ADMISSIBILITY OF EVIDENCE.—No violation of  
25 any disciplinary, ethical, or professional conduct rule shall

1 be construed to permit the exclusion of otherwise admis-  
2 sible evidence in any Federal criminal proceedings.

3 “(f) RULEMAKING AUTHORITY.—The Attorney Gen-  
4 eral shall make and amend rules of the Department of  
5 Justice to ensure compliance with this section.”.

6 (c) TECHNICAL AND CONFORMING AMENDMENT.—  
7 The analysis for chapter 31 of title 28, United States  
8 Code, is amended, in the item relating to section 530B,  
9 by striking “Ethical standards for attorneys for the Gov-  
10 ernment” and inserting “Professional standards for Gov-  
11 ernment attorneys”.

12 (d) REPORTS.—

13 (1) UNIFORM RULE.—In order to encourage the  
14 Supreme Court to prescribe, under chapter 131 of  
15 title 28, United States Code, a uniform national rule  
16 for Government attorneys with respect to commu-  
17 nications with represented persons and parties, not  
18 later than 1 year after the date of enactment of this  
19 Act, the Judicial Conference of the United States  
20 shall submit to the Chief Justice of the United  
21 States a report, which shall include recommenda-  
22 tions with respect to amending the Federal Rules of  
23 Practice and Procedure to provide for such a uni-  
24 form national rule.

1           (2) ACTUAL OR POTENTIAL CONFLICTS.—Not  
2 later than 2 years after the date of enactment of  
3 this Act, the Judicial Conference of the United  
4 States shall submit to the Chairmen and Ranking  
5 Members of the Committees on the Judiciary of the  
6 House of Representatives and the Senate a report,  
7 which shall include—

8                   (A) a review of any areas of actual or po-  
9 tential conflict between specific Federal duties  
10 related to the investigation and prosecution of  
11 violations of Federal law and the regulation of  
12 Government attorneys (as that term is defined  
13 in section 530B of title 28, United States Code,  
14 as amended by this Act) by existing standards  
15 of professional responsibility; and

16                   (B) recommendations with respect to  
17 amending the Federal Rules of Practice and  
18 Procedure to provide for additional rules gov-  
19 erning attorney conduct to address any areas of  
20 actual or potential conflict identified pursuant  
21 to the review under subparagraph (A).

22           (3) REPORT CONSIDERATIONS.—In carrying out  
23 paragraphs (1) and (2), the Judicial Conference of  
24 the United States shall take into consideration—

1 (A) the needs and circumstances of  
2 multiform and multijurisdictional litigation;

3 (B) the special needs and interests of the  
4 United States in investigating and prosecuting  
5 violations of Federal criminal and civil law; and

6 (C) practices that are approved under Fed-  
7 eral statutory or case law or that are otherwise  
8 consistent with traditional Federal law enforce-  
9 ment techniques.

10 **SEC. 502. ELIMINATION OF LIMITATIONS PERIOD FOR CER-**  
11 **TAIN TERRORISM OFFENSES.**

12 Section 3286 of title 18, United States Code, is  
13 amended—

14 (1) by striking the existing section title and in-  
15 serting “**Certain terrorism offenses**”.

16 (2) by striking the phrase “no person shall be  
17 prosecuted, tried, or punished for any non-capital”,  
18 and inserting “an indictment or information for  
19 any”;

20 (3) by inserting after “transcending national  
21 boundaries),” the following: “section 2332d (finan-  
22 cial transactions with countries supporting inter-  
23 national terrorism), section 2339A (providing mate-  
24 rial support for terrorists), section 2339B (providing

1 material support to designated foreign terrorist or-  
2 ganizations),”]; and

3 (4) by striking “, unless the indictment is found  
4 or the information is instituted within 8 years after  
5 the offense was committed.” and inserting “may be  
6 found or instituted at any time without limitation.”.

7 **SEC. 503. REIMBURSEMENT OF PERSONNEL PERFORMING**  
8 **COUNTERTERRORISM DUTIES FOR PROFES-**  
9 **SIONAL LIABILITY INSURANCE.**

10 (a) REQUIREMENT FOR FULL REIMBURSEMENT.—

11 (1) IN GENERAL.—Notwithstanding any other  
12 provision of law and subject to paragraph (2), the  
13 head of an agency employing a qualified employee  
14 shall reimburse the qualified employee for the costs  
15 incurred by the employee for professional liability in-  
16 surance.

17 (2) EXCEPTION.—Reimbursement of a qualified  
18 employee under paragraph (1) shall be contingent on  
19 the submission by the qualified employee to the head  
20 of the agency concerned of such information or doc-  
21 umentation as the head of the agency concerned  
22 shall require. The submission shall include informa-  
23 tion and documentation on the provision, if any, of  
24 legal services by the Department of Justice, in ac-  
25 cordance with section 2679 of title 28, United States

1 Code, or a similar provision of law, and the reason  
2 for any declination of such services.

3 (3) SALARIES AND EXPENSES.—Amounts for  
4 reimbursements under paragraph (1) shall be de-  
5 rived from amounts available to the agency con-  
6 cerned for salaries and expenses.

7 (4) REPRESENTATION PROVIDED.—No profes-  
8 sional liability insurance subject to reimbursement  
9 under paragraph (1) may pay for the costs incurred  
10 by a qualified employee for an attorney when the  
11 Department of Justice is providing an attorney to  
12 defend such employee pursuant to section 2679 of  
13 title 28, United States Code, or a similar provision  
14 of law.

15 (c) DEFINITIONS.—In this section:

16 (1) AGENCY.—The term “agency” means any  
17 Executive agency, as that term is defined in section  
18 105 of title 5, United States Code, and includes any  
19 agency of the legislative branch of Government.

20 (2) ELEMENT OF THE INTELLIGENCE COMMU-  
21 NITY.—The term “element of the intelligence com-  
22 munity” means any element of the intelligence com-  
23 munity specified or designated under section 3(4) of  
24 the National Security Act of 1947 (50 U.S.C.  
25 401a(4)).

1           (3) LAW ENFORCEMENT OFFICER; PROFES-  
2           SIONAL LIABILITY INSURANCE.—The terms “law en-  
3           forcement officer” and “professional liability insur-  
4           ance” have the meanings given those terms in sec-  
5           tion 636(e) of the Treasury, Postal Service, and  
6           General Government Appropriations Act, 1997 (5  
7           U.S.C. prec. 5941 note).

8           (4) QUALIFIED EMPLOYEE.—The term “quali-  
9           fied employee” means an employee of an agency  
10          whose position is that of—

11                 (A) a law enforcement officer performing  
12                 official counterterrorism duties; or

13                 (B) an official of an element of the intel-  
14                 ligence community performing official  
15                 counterterrorism duties outside the United  
16                 States.

17 **SEC. 504. DANGER PAY FOR FBI AGENTS ON HAZARDOUS**  
18 **DUTY OUTSIDE UNITED STATES.**

19          Section 151 of the Foreign Relations Act, fiscal years  
20          1990 and 1991 (5 U.S.C. 5928 note) is amended by in-  
21          serting “or Federal Bureau of Investigation” after “Drug  
22          Enforcement Administration”.

1 **SEC. 505. FOREIGN REIMBURSEMENTS TO IMPROVE LAW**  
2 **ENFORCEMENT OR NATIONAL SECURITY OP-**  
3 **ERATIONS.**

4 Whenever the Department of Justice or any compo-  
5 nent participates in a cooperative project to improve law  
6 enforcement or national security operations or services  
7 with a friendly foreign country on a cost-sharing basis,  
8 any reimbursements or contributions received from that  
9 foreign country to meet its share of the project may be  
10 credited to appropriate current appropriations accounts of  
11 the Department of Justice or any component. The amount  
12 of a reimbursement or contribution credited shall be avail-  
13 able only for payment of the share of the project expenses  
14 allocated to the participating foreign country.

15 **SEC. 506. ATTORNEY GENERAL'S AUTHORITY TO PAY RE-**  
16 **WARDS TO COMBAT TERRORISM.**

17 (a) PAYMENT OF REWARDS TO COMBAT TER-  
18 RORISM.—Funds available to the Attorney General may  
19 be used for the payment of rewards pursuant to public  
20 advertisements for assistance to the Department of Jus-  
21 tice to combat terrorism and defend the Nation against  
22 terrorist acts, in accordance with procedures and regula-  
23 tions established or issued by the Attorney General.

24 (b) CONDITIONS.—In making rewards under this  
25 section—

1           (1) no such reward of \$250,000 or more may  
2 be made or offered without the personal approval of  
3 either the Attorney General or the President;

4           (2) the Attorney General shall give written no-  
5 tice to the Chairmen and ranking minority members  
6 of the Committees on Appropriations and the Judici-  
7 ary of the Senate and of the House of Representa-  
8 tives not later than 30 days after the approval of a  
9 reward under paragraph (1);

10           (3) any executive agency or military department  
11 (as defined, respectively, in sections 105 and 102 of  
12 title 5, United States Code) may provide the Attor-  
13 ney General with funds for the payment of rewards;  
14 and

15           (4) neither the failure of the Attorney General  
16 to authorize a payment nor the amount authorized  
17 shall be subject to judicial review.

18 **SEC. 507. DNA IDENTIFICATION OF TERRORISTS AND**

19 **OTHER VIOLENT OFFENDERS.**

20           Section 3(d)(1) of the DNA Analysis Backlog Elimini-  
21 nation Act of 2000 (42 U.S.C. 14135a(d)(1)) is  
22 amended—

23           (1) by redesignating subparagraph (G) as sub-  
24 paragraph (I); and

1           (2) by inserting after subparagraph (F) the fol-  
2       lowing:

3           “(G) An offense relating to biological  
4       weapons (as described in chapter 10 of such  
5       title, sections 175 through 178), to chemical  
6       weapons (as described in chapter 11B of such  
7       title, sections 229 through 229F), to espionage  
8       (as described in chapter 37 of such title, sec-  
9       tions 792 through 799); to nuclear materials  
10      (as described in section 831 of such title), to  
11      explosive materials (as described in section 842  
12      of such title), to protection of computers (as de-  
13      scribed in section 1030 of such title), or to ter-  
14      rorism (as described in chapter 113B of such  
15      title, sections 2331 to 2339B).

16           “(H) any other crime of violence (as de-  
17      fined in section 16 of such title).”.

1 **TITLE VI—PROVIDING FOR VIC-**  
2 **TIMS OF TERRORISM, PUBLIC**  
3 **SAFETY OFFICERS, AND**  
4 **THEIR FAMILIES**  
5 **Subtitle A—Aid to Families of**  
6 **Public Safety Officers**

7 **SEC. 601. EXPEDITED PAYMENT FOR PUBLIC SAFETY OFFI-**  
8 **CERS INVOLVED IN THE PREVENTION, INVES-**  
9 **TIGATION, RESCUE, OR RECOVERY EFFORTS**  
10 **RELATED TO A TERRORIST ATTACK.**

11 (a) IN GENERAL.—Notwithstanding the limitations  
12 of subsection (b) of section 1201 or the provisions of sub-  
13 sections (c), (d), and (e) of such section or section 1202  
14 of title I of the Omnibus Crime Control and Safe Streets  
15 Act of 1968 (42 U.S.C. 3796, 3796a), upon certification  
16 by a public agency that a public safety officer employed  
17 by such agency was killed or suffered a catastrophic injury  
18 as a direct and proximate result of a personal injury sus-  
19 tained in the line of duty as described in section 1201(a)  
20 of such Act in connection with prevention, investigation,  
21 rescue, or recovery efforts related to a terrorist attack, the  
22 Director of the Bureau of Justice Assistance shall author-  
23 ize payment to qualified beneficiaries, said payment to be  
24 made not later than 30 days after receipt of such certifi-

1 cation, benefits described under subpart 1 of part L of  
2 such Act (42 U.S.C. 3796 et seq.).

3 (b) DEFINITIONS.—For purposes of this section, the  
4 terms “catastrophic injury”, “public agency”, and “public  
5 safety officer” have the same meanings given such terms  
6 in section 1204 of title I of the Omnibus Crime Control  
7 and Safe Streets Act of 1968 (42 U.S.C. 3796b).

8 **Subtitle B—Benefits for Law En-**  
9 **forcement Officers and Federal**  
10 **Prosecutors**

11 **SEC. 611. SHORT TITLE.**

12 This subtitle may be cited as the “Law Enforcement  
13 Officers and Federal Prosecutors Retirement Benefit Eq-  
14 uity Act of 2001”.

15 **SEC. 612. EXPANSION OF THE DEFINITION OF A LAW EN-**  
16 **FORCEMENT OFFICER.**

17 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

18 (1) IN GENERAL.—Paragraph (20) of section  
19 8331 of title 5, United States Code, is amended by  
20 striking “position.” and inserting “position and a  
21 Federal prosecutor. For the purpose of this para-  
22 graph, the employees described in the preceding pro-  
23 vision of this paragraph (in the matter before “in-  
24 cluding”) shall be considered to include an employee  
25 (not otherwise covered by this paragraph) who satis-

1       fies clauses (i) and (ii) of section 8401(17)(F) and  
2       an employee of the Internal Revenue Service the du-  
3       ties of whose position are described in section  
4       8401(17)(G).”.

5               (2) FEDERAL PROSECUTOR DEFINED.—Section  
6       8331 of title 5, United States Code, is amended—

7               (A) in paragraph (27), by striking “and”  
8       at the end;

9               (B) in paragraph (28), by striking the pe-  
10       riod and inserting “; and”; and

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

12       “(29) ‘Federal prosecutor’ means—

13              “(A) an assistant United States attorney  
14       under section 542 of title 28; or

15              “(B) an attorney employed by the Depart-  
16       ment of Justice and designated by the Attorney  
17       General of the United States.”.

18       (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

19              (1) IN GENERAL.—

20              (A) APPLICABLE EMPLOYEES.—Paragraph  
21       (17) of section 8401 of title 5, United States  
22       Code, is amended—

23              (i) in subparagraph (C), by striking  
24       “and” at the end;

1 (ii) by adding at the end the fol-  
2 lowing:

3 “(E) a Federal prosecutor;

4 “(F) an employee (not otherwise covered  
5 by this paragraph)—

6 “(i) the duties of whose position in-  
7 clude the investigation or apprehension of  
8 individuals suspected or convicted of of-  
9 fenses against the criminal laws of the  
10 United States; and

11 “(ii) who is authorized to carry a fire-  
12 arm; and

13 “(G) an employee of the Internal Revenue  
14 Service, the duties of whose position are pri-  
15 marily the collection of delinquent taxes and the  
16 securing of delinquent returns;”.

17 (B) TECHNICAL AND CONFORMING AMEND-  
18 MENT.—Section 8401(17)(C) of title 5, United  
19 States Code, is amended by striking “(A) and  
20 (B)” and inserting “(A), (B), (F), and (G)”.

21 (2) FEDERAL PROSECUTOR DEFINED.—Section  
22 8401 of title 5, United States Code, is amended—

23 (A) in paragraph (33), by striking “and”  
24 at the end;

1 (B) in paragraph (34), by striking the pe-  
2 riod and inserting “; and”; and

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

4 “(35) ‘Federal prosecutor’ means—

5 “(A) an assistant United States attorney  
6 under section 542 of title 28; or

7 “(B) an attorney employed by the Depart-  
8 ment of Justice and designated by the Attorney  
9 General of the United States.”.

10 (c) TREATMENT UNDER CERTAIN PROVISIONS OF  
11 LAW (UNRELATED TO RETIREMENT) TO REMAIN UN-  
12 CHANGED.—

13 (1) ORIGINAL APPOINTMENTS OF FEDERAL  
14 PROSECUTORS.—Subsections (d) and (e) of section  
15 3307 of title 5, United States Code, are amended by  
16 adding at the end of each the following: “The pre-  
17 ceding sentence shall not apply in the case of an  
18 original appointment of a Federal prosecutor as de-  
19 fined under section 8331(29) or 8401(35).”.

20 (2) MANDATORY SEPARATION.—

21 (A) FEDERAL PROSECUTORS.—Sections  
22 8335(b) and 8425(b) of title 5, United States  
23 Code, are amended by adding at the end of  
24 each the following: “The preceding provisions  
25 shall not apply in the case of a Federal pros-

1           ecutor as defined under section 8331(29) or  
2           8401(35).”.

3           (B) LAW ENFORCEMENT OFFICERS.—  
4           Nothing in section 8335(b) or 8425(b) of title  
5           5, United States Code, shall cause the involun-  
6           tary separation of a law enforcement officer (as  
7           described in subsection (a)) before the end of  
8           the 3-year period beginning on the date of the  
9           enactment of this subtitle.

10          (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall take effect on the first day of the first  
12 applicable pay period beginning on or after 120 days after  
13 the date of enactment of this subtitle.

14 **SEC. 613. PROVISIONS RELATING TO INCUMBENTS.**

15          (a) DEFINITIONS.—In this section, the term—

16           (1) “Federal prosecutor” means—

17           (A) an assistant United States attorney  
18           under section 542 of title 28, United States  
19           Code; or

20           (B) an attorney employed by the Depart-  
21           ment of Justice and designated by the Attorney  
22           General of the United States;

23           (2) “incumbent” means an individual who is  
24           serving as a Federal prosecutor or a transitional law

1 enforcement officer on the effective date of this sec-  
2 tion; and

3 (3) “transitional law enforcement officer”  
4 means an employee who—

5 (A) on the date of enactment of this sub-  
6 title, is an employee defined under section  
7 8401(17) (F) or (G) of title 5, United States  
8 Code, (as added by this subtitle); and

9 (B) on the day preceding such date was  
10 not a law enforcement officer for purposes of  
11 chapter 83 or 84 of such title.

12 (b) DESIGNATED ATTORNEYS AS FEDERAL PROS-  
13 ECUTORS.—If the Attorney General of the United States  
14 makes any designation of an attorney to meet the defini-  
15 tion under subsection (a)(1)(B) for purposes of being an  
16 incumbent under this section—

17 (1) such designation shall be made before the  
18 effective date of this section; and

19 (2) the Attorney General shall submit to the  
20 Office of Personnel Management before that effec-  
21 tive date—

22 (A) the name of the individual designated;  
23 and

1 (B) the period of service performed by that  
2 individual as a Federal prosecutor before that  
3 effective date.

4 (c) NOTICE REQUIREMENT.—Not later than 9  
5 months after the date of enactment of this subtitle, the  
6 Office of Personnel Management shall take measures rea-  
7 sonably designed to provide notice to incumbents on—

8 (1) their election rights under this subtitle; and

9 (2) the effects of making or not making a time-  
10 ly election under this subtitle.

11 (d) ELECTION AVAILABLE TO INCUMBENTS.—

12 (1) IN GENERAL.—An incumbent may elect, for  
13 all purposes, to be treated—

14 (A) in accordance with the amendments  
15 made by this subtitle; or

16 (B) as if this subtitle had never been en-  
17 acted.

18 (2) FAILURE TO ELECT.—Failure to make a  
19 timely election under this subsection shall be treated  
20 in the same way as an election under paragraph  
21 (1)(A), made on the last day allowable under para-  
22 graph (3).

23 (3) TIME LIMITATION.—An election under this  
24 subsection shall not be effective unless the election  
25 is made not later than the earlier of—

1 (A) 120 days after the date on which the  
2 notice under subsection (c) is provided; or

3 (B) the date on which the incumbent in-  
4 volved separates from service.

5 (e) LIMITED RETROACTIVE EFFECT.—

6 (1) EFFECT ON RETIREMENT.—In the case of  
7 an incumbent who elects (or is deemed to have elect-  
8 ed) the option under subsection (d)(1)(A), all service  
9 performed by that individual as a Federal prosecutor  
10 or as an employee defined under section 8401(17)  
11 (F) or (G) of title 5, United States Code, as added  
12 by this subtitle, shall—

13 (A) to the extent performed on or after the  
14 effective date of that election, be treated in ac-  
15 cordance with applicable provisions of sub-  
16 chapter III of chapter 83 or chapter 84 of such  
17 title, as amended by this subtitle; and

18 (B) to the extent performed before the ef-  
19 fective date of that election, be treated in ac-  
20 cordance with applicable provisions of sub-  
21 chapter III of chapter 83 or chapter 84 of such  
22 title, as if the amendments made by this sub-  
23 title had then been in effect.

24 (2) NO OTHER RETROACTIVE EFFECT.—Noth-  
25 ing in this subtitle (including the amendments made

1 by this subtitle) shall affect any of the terms or con-  
2 ditions of an individual's employment (apart from  
3 those governed by subchapter III of chapter 83 or  
4 chapter 84 of title 5, United States Code) with re-  
5 spect to any period of service preceding the date on  
6 which such individual's election under subsection (d)  
7 is made (or is deemed to have been made).

8 (f) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERV-  
9 ICE.—

10 (1) IN GENERAL.—An individual who makes an  
11 election under subsection (d)(1)(A) may, with re-  
12 spect to prior service performed by such individual,  
13 contribute to the Civil Service Retirement and Dis-  
14 ability Fund the difference between the individual  
15 contributions that were actually made for such serv-  
16 ice and the individual contributions that should have  
17 been made for such service if the amendments made  
18 by section 612 had then been in effect.

19 (2) EFFECT OF NOT CONTRIBUTING.—If no  
20 part of or less than the full amount required under  
21 paragraph (1) is paid, all prior service of the incum-  
22 bent shall remain fully creditable as law enforcement  
23 officer service, but the resulting annuity shall be re-  
24 duced in a manner similar to that described in sec-

1       tion 8334(d)(2) of title 5, United States Code, to  
2       the extent necessary to make up the amount unpaid.

3           (3) PRIOR SERVICE DEFINED.—For purposes of  
4       this section, the term “prior service” means, with re-  
5       spect to any individual who makes an election under  
6       subsection (d)(1)(A), service performed by such indi-  
7       vidual before the date as of which appropriate retire-  
8       ment deductions begin to be made in accordance  
9       with such election.

10       (g) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERV-  
11       ICE.—

12           (1) IN GENERAL.—If an incumbent makes an  
13       election under subsection (d)(1)(A), the agency in or  
14       under which that individual was serving at the time  
15       of any prior service (referred to in subsection (f))  
16       shall remit to the Office of Personnel Management,  
17       for deposit in the Treasury of the United States to  
18       the credit of the Civil Service Retirement and Dis-  
19       ability Fund, the amount required under paragraph  
20       (2) with respect to such service.

21           (2) AMOUNT REQUIRED.—The amount an agen-  
22       cy is required to remit is, with respect to any prior  
23       service, the total amount of additional Government  
24       contributions to the Civil Service Retirement and  
25       Disability Fund (over and above those actually paid)

1 that would have been required if the amendments  
2 made by section 612 had then been in effect.

3 (3) CONTRIBUTIONS TO BE MADE RATABLY.—  
4 Government contributions under this subsection on  
5 behalf of an incumbent shall be made by the agency  
6 ratably (on at least an annual basis) over the 10-  
7 year period beginning on the date referred to in sub-  
8 section (f)(3).

9 (h) REGULATIONS.—Except as provided under sec-  
10 tion 614, the Office of Personnel Management shall pre-  
11 scribe regulations necessary to carry out this subtitle, in-  
12 cluding provisions under which any interest due on the  
13 amount described under subsections (f) and (g) shall be  
14 determined.

15 (i) EFFECTIVE DATE.—This section shall take effect  
16 120 days after the date of enactment of this subtitle.

17 **SEC. 614. DEPARTMENT OF JUSTICE ADMINISTRATIVE AC-**  
18 **TIONS.**

19 (a) DEFINITION.—In this section the term “Federal  
20 prosecutor” has the meaning given under section  
21 613(a)(1).

22 (b) REGULATIONS.—

23 (1) IN GENERAL.—Not later than 120 days  
24 after the date of enactment of this subtitle, the At-  
25 torney General of the United States shall—

1 (A) consult with the Office of Personnel  
2 Management on this Act (including the amend-  
3 ments made by this subtitle); and

4 (B) promulgate regulations for making  
5 designations of Federal prosecutors who are not  
6 assistant United States attorneys.

7 (2) CONTENTS.—Any regulations promulgated  
8 under paragraph (1) shall ensure that attorneys des-  
9 ignated as Federal prosecutors who are not assistant  
10 United States attorneys have routine employee re-  
11 sponsibilities that are substantially similar to those  
12 of assistant United States attorneys assigned to the  
13 litigation of criminal cases, such as the representa-  
14 tion of the United States before grand juries and in  
15 trials, appeals, and related court proceedings.

16 (c) DESIGNATIONS.—The designation of any Federal  
17 prosecutor who is not an assistant United States attorney  
18 for purposes of this subtitle (including the amendments  
19 made by this subtitle) shall be at the discretion of the At-  
20 torney General of the United States.

1       **Subtitle C—Amendments to the**  
2       **Victims of Crime Act of 1984**

3       **SEC. 621. CRIME VICTIMS FUND.**

4       (a) DEPOSIT OF GIFTS IN THE FUND.—Section  
5       1402(b) of the Victims of Crime Act of 1984 (42 U.S.C.  
6       10601(b)) is amended—

7               (1) in paragraph (3), by striking “and” at the  
8       end;

9               (2) in paragraph (4), by striking the period at  
10       the end and inserting “; and”; and

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

12              “(5) any gifts, bequests, or donations to the  
13       Fund from private entities or individuals.”.

14       (b) FORMULA FOR FUND DISTRIBUTIONS.—Section  
15       1402(c) of the Victims of Crime Act of 1984 (42 U.S.C.  
16       10601(c)) is amended to read as follows:

17              “(c) FUND DISTRIBUTION; RETENTION OF SUMS IN  
18       FUND; AVAILABILITY FOR EXPENDITURE WITHOUT FIS-  
19       CAL YEAR LIMITATION.—

20              “(1) Subject to the availability of money in the  
21       Fund, in each fiscal year the Director shall dis-  
22       tribute not less than 90 percent nor more than 110  
23       percent of the amount distributed from the Fund in  
24       the previous fiscal year, except the Director may dis-  
25       tribute up to 120 percent of the amount distributed

1 in the previous fiscal year in any fiscal year that the  
2 total amount available in the Fund is more than 2  
3 times the amount distributed in the previous fiscal  
4 year.

5 “(2) In each fiscal year, the Director shall dis-  
6 tribute amounts from the Fund in accordance with  
7 subsection (d). All sums not distributed during a fis-  
8 cal year shall remain in reserve in the Fund to be  
9 distributed during a subsequent fiscal year. Notwith-  
10 standing any other provision of law, all sums depos-  
11 ited in the Fund that are not distributed shall re-  
12 main in reserve in the Fund for obligation in future  
13 fiscal years, without fiscal year limitation.”.

14 (c) FUNDING FOR VICTIM ASSISTANCE PER-  
15 SONNEL.—

16 (1) REPEAL.—Section 1402(d)(3) of the Vic-  
17 tims of Crime Act of 1984 (42 U.S.C. 10601(d)(3))  
18 is repealed.

19 (2) ADDITIONAL PERSONNEL.—

20 (A) AUTHORIZATION.—There are author-  
21 ized to be appropriated such sums as may be  
22 necessary to enable the Attorney General,  
23 through the Director of the Office for Victims  
24 of Crime, to retain 400 full-time or full-time-  
25 equivalent employees to serve as victim witness

1 coordinators and victim witness advocates in  
2 Federal law enforcement agencies.

3 (B) DUTIES.—Employees retained pursu-  
4 ant to this paragraph shall provide assistance to  
5 victims of criminal offenses investigated or  
6 prosecuted by a Federal law enforcement agen-  
7 cy and otherwise improve services for the ben-  
8 efit of crime victims in the Federal system.

9 (C) ASSIGNMENT.—Full-time and full-  
10 time-equivalent employees retained pursuant to  
11 this paragraph shall be assigned by the Director  
12 of the Office for Victims of Crime, as needed,  
13 in Federal law enforcement agencies,  
14 including—

15 (i) 170 to the United States Attorneys  
16 Offices; and

17 (ii) 120 to the Federal Bureau of In-  
18 vestigation in field offices in Indian coun-  
19 try (as defined in section 1151 of title 18,  
20 United States Code) and other field offices  
21 that handle investigations involving large  
22 numbers of victims, and in the Head-  
23 quarters Divisions.

1 (d) ALLOCATION OF FUNDS FOR COSTS AND  
2 GRANTS.—Section 1402(d)(4) of the Victims of Crime Act  
3 of 1984 (42 U.S.C. 10601(d)(4)) is amended—

4 (1) by striking “deposited in” and inserting “to  
5 be distributed from”;

6 (2) in subparagraph (A), by striking “48.5”  
7 and inserting “47.5”;

8 (3) in subparagraph (B), by striking “48.5”  
9 and inserting “47.5”; and

10 (4) in subparagraph (C), by striking “3” and  
11 inserting “5”.

12 (e) ANTITERRORISM EMERGENCY RESERVE.—Sec-  
13 tion 1402(d)(5)(A) of the Victims of Crime Act of 1984  
14 (42 U.S.C. 10601(d)(5)(A)) is amended by striking “If  
15 the sums available” and inserting “Notwithstanding any  
16 other provision of law, if the sums available”.

17 (f) VICTIMS OF SEPTEMBER 11 ATTACKS.—Section  
18 1402(d) of the Victims of Crime Act of 1984 (42 U.S.C.  
19 10601(d)) is amended by adding at the end the following:

20 “(6) Notwithstanding any other provision of  
21 law, the Director may use up to 50 percent of the  
22 amounts remaining in the Fund after distribution of  
23 fiscal year 2002 funds to make supplemental grants  
24 under section 1404B (42 U.S.C. 10603b) for the  
25 benefit of the victims of the terrorist attacks of Sep-

1       tember 11, 2001. In addition, the Director may re-  
2       plenish the emergency reserve referred to in para-  
3       graph (5) by setting aside up to \$50,000,000 of the  
4       amounts remaining in the Fund in fiscal year  
5       2002.”.

6       **SEC. 622. CRIME VICTIM COMPENSATION.**

7       (a) ALLOCATION OF FUNDS FOR COMPENSATION  
8       AND ASSISTANCE.—Section 1403(a) of the Victims of  
9       Crime Act of 1984 (42 U.S.C. 10602(a)) is amended—

10               (1) in each of paragraphs (1) and (2), by strik-  
11               ing “40” and inserting “60”; and

12               (2) in paragraph (3), by striking “5” and in-  
13               serting “10”.

14       (b) LOCATION OF COMPENSABLE CRIME.—Section  
15       1403(b)(6)(B) of the Victims of Crime Act of 1984 (42  
16       U.S.C. 10602(b)(6)(B)) is amended by striking “are out-  
17       side the United States (if the compensable crime is ter-  
18       rorism, as defined in section 2331 of title 18), or”.

19       (c) RELATIONSHIP OF CRIME VICTIM COMPENSA-  
20       TION TO MEANS-TESTED FEDERAL BENEFIT PRO-  
21       GRAMS.—Section 1403 of the Victims of Crime Act of  
22       1984 (42 U.S.C. 10602) is amended by striking subsection  
23       (c) and inserting the following:

24               “(c) EXCLUSION FROM INCOME, RESOURCES, AND  
25       ASSETS FOR PURPOSES OF MEANS TESTS.—Notwith-

1 standing any other law, for the purpose of any maximum  
2 allowed income, resource, or asset eligibility requirement  
3 in any Federal, State, or local government program using  
4 Federal funds that provides medical or other assistance  
5 (or payment or reimbursement of the cost of such assist-  
6 ance), any amount of crime victim compensation that the  
7 applicant receives through a crime victim compensation  
8 program under this section shall not be included in the  
9 income, resources, or assets of the applicant, nor shall that  
10 amount reduce the amount of the assistance available to  
11 the applicant from Federal, State, or local government  
12 programs using Federal funds, unless the total amount of  
13 assistance that the applicant receives from all such pro-  
14 grams is sufficient to fully compensate the applicant for  
15 losses suffered as a result of the crime.”.

16 (d) DEFINITIONS OF “COMPENSABLE CRIME” AND  
17 “STATE”.—Section 1403(d) of the Victims of Crime Act  
18 of 1984 (42 U.S.C. 10602(d)) is amended—

19 (1) in paragraph (3), by striking “crimes in-  
20 volving terrorism,”; and

21 (2) in paragraph (4), by inserting “the United  
22 States Virgin Islands,” after “the Commonwealth of  
23 Puerto Rico,”.

1 **SEC. 623. CRIME VICTIM ASSISTANCE.**

2 (a) ASSISTANCE FOR VICTIMS IN THE DISTRICT OF  
3 COLUMBIA, PUERTO RICO, AND OTHER TERRITORIES  
4 AND POSSESSIONS.—Section 1404(a) of the Victims of  
5 Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by  
6 adding at the end the following:

7 “(6) An agency of the Federal Government per-  
8 forming local law enforcement functions in and on  
9 behalf of the District of Columbia, the Common-  
10 wealth of Puerto Rico, the United States Virgin Is-  
11 lands, or any other territory or possession of the  
12 United States may qualify as an eligible crime victim  
13 assistance program for the purpose of grants under  
14 this subsection, or for the purpose of grants under  
15 subsection (c)(1).”.

16 (b) PROHIBITION ON DISCRIMINATION AGAINST CER-  
17 TAIN VICTIMS.—Section 1404(b)(1) of the Victims of  
18 Crime Act of 1984 (42 U.S.C. 10603(b)(1)) is amended—

19 (1) in subparagraph (D), by striking “and” at  
20 the end;

21 (2) in subparagraph (E), by striking the period  
22 at the end and inserting “; and”; and

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

24 “(F) does not discriminate against victims  
25 because they oppose the death penalty or dis-

1           agree with the way the State is prosecuting the  
2           criminal case.”.

3           (c) ADMINISTRATIVE COSTS FOR CRIME VICTIM AS-  
4           SISTANCE.—Section 1404(b)(3) of the Victims of Crime  
5           Act of 1984 (42 U.S.C. 10603(b)(3)) is amended by strik-  
6           ing “5” and inserting “10”.

7           (d) GRANTS FOR PROGRAM EVALUATION AND COM-  
8           PLIANCE EFFORTS.—Section 1404(c)(1)(A) of the Vic-  
9           tims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A))  
10          is amended by inserting “, program evaluation, compliance  
11          efforts,” after “demonstration projects”.

12          (e) ALLOCATION OF DISCRETIONARY GRANTS.—Sec-  
13          tion 1404(c)(2) of the Victims of Crime Act of 1984 (42  
14          U.S.C. 10603(c)(2)) is amended—

15                 (1) in subparagraph (A), by striking “not more  
16                 than” and inserting “not less than”; and

17                 (2) in subparagraph (B), by striking “not less  
18                 than” and inserting “not more than”.

19          (f) FELLOWSHIPS AND CLINICAL INTERNSHIPS.—  
20          Section 1404(c)(3) of the Victims of Crime Act of 1984  
21          (42 U.S.C. 10603(c)(3)) is amended—

22                 (1) in subparagraph (C), by striking “and” at  
23                 the end;

24                 (2) in subparagraph (D), by striking the period  
25                 at the end and inserting “; and”; and

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

2 “(E) use funds made available to the Di-  
3 rector under this subsection—

4 “(i) for fellowships and clinical intern-  
5 ships; and

6 “(ii) to carry out programs of training  
7 and special workshops for the presentation  
8 and dissemination of information resulting  
9 from demonstrations, surveys, and special  
10 projects.”.

11 **SEC. 624. VICTIMS OF TERRORISM.**

12 (a) COMPENSATION AND ASSISTANCE TO VICTIMS OF  
13 DOMESTIC TERRORISM.—Section 1404B(b) of the Victims  
14 of Crime Act of 1984 (42 U.S.C. 10603(b)) is amended  
15 as follows:

16 “(a) VICTIMS OF TERRORISM WITHIN THE UNITED  
17 STATES.—The Director may make supplemental grants as  
18 provided in sections 1402(d)(5) and 1402(e) to States for  
19 eligible crime victim compensation and assistance pro-  
20 grams, and to victim service organizations, public agencies  
21 (including Federal, State, or local governments) and non-  
22 governmental organizations that provide assistance to vic-  
23 tims of crime, which shall be used to provide emergency  
24 relief, including crisis response efforts, assistance, com-  
25 pensation, training and technical assistance, and ongoing

1 assistance, including during any investigation or prosecu-  
2 tion, to victims of terrorist acts or mass violence occurring  
3 within the United States.”.

4 (b) ASSISTANCE TO VICTIMS OF INTERNATIONAL  
5 TERRORISM.—Section 1404B(a)(1) of the Victims of  
6 Crime Act of 1984 (42 U.S.C. 10603b(a)(1)) is amended  
7 by striking “who are not persons eligible for compensation  
8 under title VIII of the Omnibus Diplomatic Security and  
9 Antiterrorism Act of 1986”.

10 (c) COMPENSATION TO VICTIMS OF INTERNATIONAL  
11 TERRORISM.—Section 1404C(b) of the Victims of Crime  
12 of 1984 (42 U.S.C. 10603c(b)) is amended by adding at  
13 the end the following: “The amount of compensation  
14 awarded to a victim under this subsection shall be reduced  
15 by any amount that the victim received in connection with  
16 the same act of international terrorism under title VIII  
17 of the Omnibus Diplomatic Security and Antiterrorism  
18 Act of 1986.”.

1 **TITLE VII—INCREASED INFOR-**  
2 **MATION SHARING FOR CRIT-**  
3 **ICAL INFRASTRUCTURE PRO-**  
4 **TECTION**

5 **Subtitle A—Information Sharing**  
6 **Among Law Enforcement Agencies**

7 **SEC. 711. EXPANSION OF REGIONAL INFORMATION SHAR-**  
8 **ING SYSTEM TO FACILITATE FEDERAL-STATE-**  
9 **LOCAL LAW ENFORCEMENT RESPONSE RE-**  
10 **LATED TO TERRORIST ATTACKS.**

11 Section 1301 of title I of the Omnibus Crime Control  
12 and Safe Streets Act of 1968 (42 U.S.C. 3796h) is amend-  
13 ed as follows:

14 (1) in subsection (a), after “activities” insert  
15 “and terrorist conspiracies and activities”;

16 (2) in subsection (b), strike the “and (4)” at  
17 the end of paragraph (3) and insert: “(4) estab-  
18 lishing and operating secure information sharing  
19 systems to enhance the investigation and prosecution  
20 abilities of participating enforcement agencies in ad-  
21 dressing multi-jurisdictional terrorist conspiracies  
22 and activities; and (5)”;

23 (3) after subsection (c), insert the following the  
24 subsection:

1           “(d) AUTHORIZATION OF APPROPRIATION TO THE  
2 BUREAU OF JUSTICE ASSISTANCE.—There are authorized  
3 to be appropriated to the Bureau of Justice Assistance  
4 to carry out this section \$50,000,000 for fiscal year 2002  
5 and \$100,000,000 for fiscal year 2003.”.

6 **SEC. 712. SHARING OF GRAND JURY INFORMATION WITH**  
7                           **MEMBERS OF THE INTELLIGENCE COMMU-**  
8                           **NITY.**

9           Rule 6(e)(3)(C) of the Federal Rules of Criminal Pro-  
10 cedure is amended—

11                   (1) in clause (iii), by striking “or” at the end;

12                   (2) in clause (iv), by striking the period at the  
13 end and inserting “; or”; and

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

15                           “(v) when permitted by a court at the  
16 request of an attorney for the government,  
17 upon a showing that such matters may be  
18 relevant to the investigation of inter-  
19 national terrorism or a Federal crime of  
20 terrorism, as defined in sections 2331(1)  
21 and 2332b(g)(5) of this title, to the na-  
22 tional security or foreign intelligence, to an  
23 appropriate official of the intelligence com-  
24 munity as defined under section 3(4) of

1                   the National Security Act of 1947 (50  
2                   U.S.C. 401(a)(4)).”.

3     **Subtitle B—Critical Infrastructure**  
4     **Information Security Act of 2001**

5     **SEC. 721. SHORT TITLE; FINDINGS AND PURPOSE.**

6           (a) SHORT TITLE.—This subtitle may be cited as the  
7     “Critical Infrastructure Information Security Act of  
8     2001”.

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

11           (1) Critical infrastructures underpin our soci-  
12    ety, national defense, economic prosperity, and qual-  
13    ity of life—including energy, banking, and finance,  
14    transportation, vital human services, and tele-  
15    communications.

16           (2) The rapid proliferation and integration of  
17    telecommunications and computer systems have con-  
18    nected infrastructures to one another in a complex  
19    global network of interconnectivity and interdepend-  
20    ence. As a result, new vulnerabilities to such systems  
21    and infrastructures have emerged, such as the threat  
22    of physical and cyber attacks from terrorists or hos-  
23    tile states. These attacks could disrupt the economy  
24    and endanger the security of the United States.

1           (3) The private sector, which owns and operates  
2 the majority of these critical infrastructures, and the  
3 Federal Government could both greatly benefit from  
4 cooperating in response to threats, vulnerabilities,  
5 and actual attacks to critical infrastructures by  
6 sharing information and analysis.

7           (c) PURPOSE.—The purpose of this subtitle is to fos-  
8 ter improved security of critical infrastructure by—

9           (1) promoting the increased sharing of critical  
10 infrastructure security and protection information  
11 both between private sector entities and between the  
12 Federal Government and the private sector; and

13           (2) encouraging the private sector and the Fed-  
14 eral Government to conduct better analysis of crit-  
15 ical infrastructure information in order to prevent,  
16 detect, warn of, and respond to incidents involving  
17 critical infrastructure.

18 **SEC. 722. DEFINITIONS.**

19 In this subtitle:

20           (1) CRITICAL INFRASTRUCTURE.—The term  
21 “critical infrastructure” means facilities or services  
22 so vital to the Nation or its economy that their dis-  
23 ruption, incapacity, or destruction would have a de-  
24 bilitating impact on the defense, security, long-term

1 economic prosperity, or public health or safety of the  
2 United States.

3 (2) CYBER SECURITY INFORMATION.—

4 (A) IN GENERAL.—The term “cyber secu-  
5 rity information” means information that—

6 (i) concerns—

7 (I) the vulnerability of any com-  
8 puter system, hardware, or software  
9 program to intentional interference,  
10 compromise, or incapacitation by un-  
11 authorized access through the Inter-  
12 net or any public or private tele-  
13 communications system or by other  
14 similar conduct that violates Federal  
15 or State law; or

16 (II) any immediate threat involv-  
17 ing the interference with, or the com-  
18 promise or incapacitation of, a com-  
19 puter system, hardware, or software  
20 program;

21 (ii) if publicly disclosed could be used  
22 to interfere with or disrupt the operations  
23 of, or efforts to protect, a critical infra-  
24 structure in a way that will harm inter-  
25 state or foreign commerce of the United

1 States, or threaten national security, pub-  
2 lic health, or safety;

3 (iii) is not otherwise available to the  
4 public; and

5 (iv) is marked as cyber security infor-  
6 mation and accompanied by a statement  
7 showing that the information, if publicly  
8 disclosed, could be used to interfere with or  
9 disrupt the operations of, or frustrate ef-  
10 forts to protect, a critical infrastructure in  
11 a way that will harm interstate or foreign  
12 commerce of the United States, or threat-  
13 en national security or public health or  
14 safety.

15 (B) NOT INCLUDED.—For the purposes of  
16 any action brought under the securities laws, as  
17 that term is defined in section 3(a)(47) of the  
18 Securities Exchange Act of 1934 (15 U.S.C.  
19 78c(a)(47)), the term “cyber security informa-  
20 tion” does not include information or state-  
21 ments contained in any documents or materials  
22 filed with the Securities and Exchange Commis-  
23 sion, or with Federal banking regulators, pursu-  
24 ant to section 12(i) of the Securities Exchange  
25 Act of 1934 (15 U.S.C. 781(I)), or disclosures



1 (c) EXCEPTION.—Nothing in this section shall pre-  
2 clude a Federal agency or any third party from separately  
3 obtaining cyber security information through the use of  
4 independent legal authorities, and using or disclosing such  
5 separately obtained information.

6 (d) THIRD PARTY INFORMATION.—A Federal entity,  
7 agency, or authority receiving cyber security information  
8 from one private entity about another private entity’s  
9 cyber security shall notify and convey that information to  
10 the latter upon its initial receipt.

11 (e) DEFINITION.—In this section, the term “private  
12 sector information sharing organization” means any orga-  
13 nization composed primarily of private sector individuals  
14 and entities whose purpose includes the sharing of infor-  
15 mation about critical infrastructure protection and com-  
16 puter security.

17 **SEC. 724. CYBER SECURITY WORKING GROUPS.**

18 (a) IN GENERAL.—

19 (1) WORKING GROUPS.—The President may es-  
20 tablish and terminate working groups composed of  
21 Federal employees who will engage outside organiza-  
22 tions in discussions to address cyber security, to  
23 share information related to cyber security, and oth-  
24 erwise to serve the purposes of this subtitle.

1           (2) LIST OF GROUPS.—The President shall  
2 maintain and make available to the public a printed  
3 and electronic list of such working groups and a  
4 point of contact for each, together with an address,  
5 telephone number, and electronic mail address for  
6 such point of contact.

7           (3) BALANCE.—The President shall seek to  
8 achieve a balance of participation and representation  
9 among the working groups.

10          (4) MEETINGS.—Each meeting of a working  
11 group created under this section to which persons  
12 from outside the Federal Government are invited  
13 shall be announced in advance by notice in the Fed-  
14 eral Register.

15          (b) FEDERAL ADVISORY COMMITTEE ACT.—The  
16 Federal Advisory Committee Act (5 U.S.C. App.) shall not  
17 apply to any working group established under this section  
18 so long as the working group includes balanced participa-  
19 tion of persons or entities representing the individual citi-  
20 zens who use, or whose interests are affected by, the crit-  
21 ical infrastructure to which the group's work pertains and  
22 so long as the working group does not give consensus ad-  
23 vice or recommendations to an agency.

1 **TITLE VIII—STRENGTHENING**  
2 **THE CRIMINAL LAWS**  
3 **AGAINST TERRORISM AND**  
4 **ENHANCING REGULATION OF**  
5 **BIOLOGICAL AND CHEMICAL**  
6 **WEAPONS**

7 **SEC. 801. INCLUSION OF ACTS OF TERRORISM AS RACKET-**  
8 **EERING ACTIVITY.**

9 Section 1961(1) of title 18, United States Code, is  
10 amended by inserting “section 2332 (relating to terrorist  
11 acts abroad against United States nationals), section  
12 2332a (relating to use of weapons of mass destruction),  
13 section 2332b (relating to international terrorist acts tran-  
14 scending national boundaries), section 2332d (relating to  
15 financial transactions with countries supporting inter-  
16 national terrorism), section 2339A (relating to providing  
17 material support for terrorists), section 2339B (relating  
18 to providing material support to designated foreign ter-  
19 rorist organizations),” after “section 2321 (relating to  
20 trafficking in certain motor vehicles or motor vehicle  
21 parts),”.

1 **SEC. 802. TERRORIST ATTACKS AND OTHER ACTS OF VIO-**  
2 **LENCE AGAINST MASS TRANSPORTATION**  
3 **SYSTEMS.**

4 Chapter 97 of title 18, United States Code, is amend-  
5 ed by adding at the end thereof the following new section:

6 **“§ 1993. Terrorist attacks and other acts of violence**  
7 **against mass transportation systems**

8 “(a) GENERAL PROHIBITIONS.—Whoever willfully—

9 “(1) wrecks, derails, sets fire to, or disables a  
10 mass transportation vehicle or ferry;

11 “(2) places or causes to be placed any biological  
12 agent or toxin for use as a weapon, destructive sub-  
13 stance, or destructive device in, upon, or near a  
14 mass transportation vehicle or ferry, without pre-  
15 viously obtaining the permission of the mass trans-  
16 portation provider, and with intent to endanger the  
17 safety of any passenger or employee of the mass  
18 transportation provider, or with a reckless disregard  
19 for the safety of human life;

20 “(3) sets fire to, or places any biological agent  
21 or toxin for use as a weapon, destructive substance,  
22 or destructive device in, upon, or near any garage,  
23 terminal, structure, supply, or facility used in the  
24 operation of, or in support of the operation of, a  
25 mass transportation vehicle or ferry, without pre-  
26 viously obtaining the permission of the mass trans-

1 portation provider, and knowing or having reason to  
2 know such activity would likely derail, disable, or  
3 wreck a mass transportation vehicle or ferry used,  
4 operated, or employed by the mass transportation  
5 provider;

6 “(4) removes appurtenances from, damages, or  
7 otherwise impairs the operation of a mass transpor-  
8 tation signal system, including a train control sys-  
9 tem, centralized dispatching system, or rail grade  
10 crossing warning signal;

11 “(5) interferes with, disables, or incapacitates  
12 any dispatcher, driver, captain, or person while they  
13 are employed in dispatching, operating, or maintain-  
14 ing a mass transportation vehicle or ferry, with in-  
15 tent to endanger the safety of any passenger or em-  
16 ployee of the mass transportation provider, or with  
17 a reckless disregard for the safety of human life;

18 “(6) commits an act, including the use of a  
19 dangerous weapon, with the intent to cause death or  
20 serious bodily injury to an employee or passenger of  
21 a mass transportation provider or any other person  
22 while any of the foregoing are on the property of a  
23 mass transportation provider;

24 “(7) conveys or causes to be conveyed false in-  
25 formation, knowing the information to be false, con-

1 cerning an attempt or alleged attempt being made or  
2 to be made, to do any act which would be a crime  
3 prohibited by this subsection; or

4 “(8) attempts, threatens, or conspires to do any  
5 of the aforesaid acts,

6 shall be fined under this title or imprisoned not more than  
7 twenty years, or both, if such act is committed, or in the  
8 case of a threat or conspiracy such act would be com-  
9 mitted, on, against, or affecting a mass transportation  
10 provider engaged in or affecting interstate or foreign com-  
11 merce, or if in the course of committing such act, that  
12 person travels or communicates across a State line in  
13 order to commit such act, or transports materials across  
14 a State line in aid of the commission of such act. Whoever  
15 violates this subsection under the following circumstances  
16 shall be guilty of an aggravated form of the offense: if  
17 the mass transportation vehicle or ferry was carrying a  
18 passenger at the time of the offense or if the offense has  
19 resulted in the death of any person, then whoever com-  
20 mitted that offense shall be fined under this title or im-  
21 prisoned for a term of years or for life, or both.

22 “(b) PROHIBITION AGAINST PROPELLING OB-  
23 JECTS.—Whoever willfully or recklessly throws, shoots, or  
24 propels a rock, stone, brick, or piece of iron, steel, or other  
25 metal or any deadly or dangerous object, or biological

1 agent or toxin for use as a weapon, or destructive sub-  
2 stance, or destructive device at any mass transportation  
3 vehicle or ferry, knowing or having reason to know such  
4 activity would likely cause personal injury, shall be fined  
5 under this title or imprisoned for not more than five years,  
6 or both, if such act is committed on or against a mass  
7 transportation provider engaged in or affecting interstate  
8 or foreign commerce, or if in the course of committing  
9 such acts, that person travels or communicates across a  
10 State line in order to commit such acts, or transports ma-  
11 terials across a State line in aid of the commission of such  
12 acts. Whoever is convicted of any crime prohibited by this  
13 subsection shall also be subject to imprisonment for not  
14 more than twenty years if the offense has resulted in the  
15 death of any person.

16 “(c) DEFINITIONS.—In this section—

17 “(1) the term ‘biological agent’ has the meaning  
18 given to that term in section 178(1) of this title;

19 “(2) the term ‘dangerous weapon’ has the  
20 meaning given to that term in section 930 of this  
21 title;

22 “(3) the term ‘destructive device’ has the mean-  
23 ing given to that term in section 921(a)(4) of this  
24 title;

1           “(4) the term ‘destructive substance’ has the  
2 meaning given to that term in section 31 of this  
3 title, except that—

4           “(A) the term ‘radioactive device’ does not  
5 include any radioactive device or material used  
6 solely for medical, industrial, research, or other  
7 peaceful purposes; and

8           “(B) ‘destructive substance’ includes any  
9 radioactive device or material that can be used  
10 to cause a harm listed in subsection (a) and  
11 that is not in use solely for medical, industrial,  
12 research, or other peaceful purposes;

13           “(5) the term ‘for use as a weapon’ has the  
14 meaning given to that term in section 175 of this  
15 title;

16           “(6) the term ‘mass transportation’ has the  
17 meaning given to that term in section 5302(a)(7) of  
18 title 49, United States Code, except that the term  
19 shall include schoolbus, charter, and sightseeing  
20 transportation;

21           “(7) the term ‘serious bodily injury’ has the  
22 meaning given to that term in section 1365 of this  
23 title;

24           “(8) the term ‘State’ has the meaning given to  
25 that term in section 2266 of this title; and

1           “(9) the term ‘toxin’ has the meaning given to  
2           that term in section 178(2) of this title.”.

3           (f) CONFORMING AMENDMENT.—The analysis of  
4 chapter 97 of title 18, United States Code, is amended  
5 by adding at the end:

“1993. Terrorist attacks and other acts of violence against mass transportation  
systems.”.

6 **SEC. 803. EXPANSION OF THE BIOLOGICAL WEAPONS STAT-**  
7 **UTE.**

8           (a) SHORT TITLE.—This section may be cited as the  
9 “Biological Weapon Removal Act of 2001”.

10          (b) FINDINGS AND PURPOSES.—

11           (1) FINDINGS.—Congress finds that—

12           (A) certain biological agents and toxins  
13           have the potential to pose a severe threat to the  
14           Nation’s public health and safety, and thereby  
15           affect interstate and foreign commerce;

16           (B) the Secretary of Health and Human  
17           Services has published a list of biological agents  
18           and toxins that pose a severe threat to the Na-  
19           tion’s public health and safety as an appendix  
20           to part 72 of title 42, Code of Federal Regula-  
21           tions;

22           (C) biological agents and toxins can be  
23           used as weapons by individuals or organizations

1 for the purpose of domestic or international ter-  
2 rorism or for other criminal purposes;

3 (D) terrorists and other criminals can also  
4 harm national security, drain the limited re-  
5 sources of all levels of government devoted to  
6 thwarting biological weapons, and damage  
7 interstate and foreign commerce by threatening  
8 to use, and by falsely reporting efforts to use,  
9 biological agents and toxins as weapons;

10 (E) the Biological Weapons Convention ob-  
11 ligates the United States to take necessary  
12 measures within the United States to prohibit  
13 and prevent the development, production, stock-  
14 piling, acquisition, or retention of biological  
15 agents and toxins of types and in quantities  
16 that have no justification for prophylactic, pro-  
17 tective, or other peaceful purposes;

18 (F) the mere possession of biological  
19 agents and toxins is a potential danger that af-  
20 fects the obligations of the United States under  
21 the Biological Weapons Convention and affects  
22 interstate and foreign commerce; and

23 (G) persons in possession of harmful bio-  
24 logical agents and toxins should handle them in  
25 a safe manner and, in the case of agents and

1 toxins listed by the Department of Health and  
2 Human Services as posing a severe threat to  
3 the Nation's public health and safety, report  
4 their possession and the purpose for their pos-  
5 session to the appropriate Federal agency in  
6 order to ensure that such possession is for  
7 peaceful scientific research or development.

8 (2) PURPOSES.—The purposes of this section  
9 are to—

10 (A) strengthen the implementation by the  
11 United States of the Biological Weapons Con-  
12 vention and to ensure that biological agents and  
13 toxins are possessed for only prophylactic, pro-  
14 tective, or other peaceful purposes;

15 (B) establish penalties for the false report-  
16 ing of violations of chapter 10 of title 18,  
17 United States Code (relating to biological weap-  
18 ons); and

19 (C) improve the statutory definitions relat-  
20 ing to biological weapons.

21 (c) ADDITIONAL MEASURES.—

22 (1) IN GENERAL.—Section 175 of title 18,  
23 United States Code, is amended by adding at the  
24 end the following:

25 “(c) FALSE INFORMATION.—

1           “(1) CRIMINAL VIOLATION.—Whoever commu-  
2           nicates information, knowing the information to be  
3           false and under circumstances in which such infor-  
4           mation may reasonably be believed, concerning the  
5           existence of activity that would constitute a violation  
6           of subsection (a) shall be fined under this title, im-  
7           prisoned not more than 5 years, or both.

8           “(2) CIVIL PENALTY.—Whoever communicates  
9           information, knowing the information to be false,  
10          concerning the existence of activity that would con-  
11          stitute a violation of subsection (a) is liable to the  
12          United States or any State for a civil penalty of the  
13          greater of \$10,000 or the amount of money ex-  
14          pended by the United States or the State in re-  
15          sponding to the false information.

16          “(d) REPORTING, TRANSFER, AND POSSESSION OF  
17          SELECT AGENTS.—

18                 “(1) OBLIGATION TO REPORT.—Any person  
19                 who possesses a select agent shall report such pos-  
20                 session to the designated agency, in the manner pre-  
21                 scribed by the designated agency, within 72 hours of  
22                 the effective date of the regulation issued by that  
23                 agency pursuant to this paragraph or within 72  
24                 hours of subsequently obtaining possession of the  
25                 agent or toxin, except that, if such person is a reg-

1       istered entity, the reporting, if any, shall be in the  
2       manner as otherwise directed by regulation by the  
3       designated agency. If a person complies with this  
4       paragraph, there is no obligation for any employee  
5       of such person to file a separate report concerning  
6       the employee's possession of a select agent in the  
7       workplace of such person.

8               “(2) CRIMINAL PENALTY FOR WILLFUL FAIL-  
9       URE TO REPORT.—Any person who willfully fails to  
10      make the report required by paragraph (1) within  
11      the prescribed period shall be fined under this title,  
12      imprisoned not more than 3 years, or both. In this  
13      paragraph, the term ‘willfully’ means an intentional  
14      violation of a known duty to report.

15              “(3) CIVIL PENALTY FOR FAILURE TO RE-  
16      PORT.—Any person who fails to make the report re-  
17      quired by paragraph (1) within the prescribed period  
18      is liable to the United States for a civil penalty of  
19      \$5,000.

20              “(4) PENALTY FOR POSSESSION OF UNRE-  
21      PORTED SELECT AGENTS.—Any person who know-  
22      ingly possesses a biological agent or toxin that is a  
23      select agent for which a report required by para-  
24      graph (1) has not been made shall be fined under  
25      this title, imprisoned not more than 1 year, or both.

1           “(5) UNAUTHORIZED TRANSFER OF SELECT  
2 AGENTS.—Whoever knowingly transfers a select  
3 agent to any person who is not a registered entity  
4 shall be fined under this title, imprisoned not more  
5 than 5 years, or both. For purposes of this para-  
6 graph, the term ‘transfers’ does not encompass the  
7 transfer of a select agent within the workplace be-  
8 tween employees of the same registered entity, or be-  
9 tween employees of any person who has filed the re-  
10 port required by paragraph (1), if the transfer is au-  
11 thORIZED by such entity or person.

12           “(6) POSSESSION OF SELECT AGENTS BY RE-  
13 STRICTED INDIVIDUALS.—

14           “(A) PROHIBITION ON POSSESSION.—Ex-  
15 cept as otherwise provided in this section or in  
16 section 2(b)(3)(G) of the Dangerous Biological  
17 Agent and Toxin Control Act of 2000, no re-  
18 stricted individual shall knowingly possess or  
19 attempt to possess any biological agent or toxin  
20 if that biological agent or toxin is a select  
21 agent.

22           “(B) PENALTY.—Whoever knowingly and  
23 intentionally violates subparagraph (A) shall be  
24 fined under this title, imprisoned not more than  
25 5 years, or both.

1           “(C) EMPLOYERS OF INDIVIDUALS WHO  
2           POSSESS SELECT AGENTS.—Employers of indi-  
3           viduals who will possess select agents in the  
4           course of their employment shall require such  
5           individuals, prior to being given access to select  
6           agents, to complete a form in which the indi-  
7           vidual affirms or denies the existence of each of  
8           the restrictions set forth in section 178(8) of  
9           this title. In the case of individuals already em-  
10          ployed as of the date of enactment of this sub-  
11          section who possess select agents in the course  
12          of their employment, employers shall, not later  
13          than 90 days after the date of enactment of  
14          this subsection, require those individuals to  
15          complete such a form. Such form shall be re-  
16          tained by the employer for not less than 5 years  
17          after the individual terminates his employment  
18          with that employer.

19           “(D) EMPLOYEES.—

20           “(i) PENALTIES.—Whoever willfully  
21           and knowingly falsifies or conceals a mate-  
22           rial fact or makes any materially false, fic-  
23           titious, or fraudulent statement or rep-  
24           resentation in completing the form re-  
25           quired under subparagraph (C) shall be

1            fined under this title, imprisoned not more  
2            than 5 years, or both.

3            “(ii) LIMIT RELATING TO CERTAIN IN-  
4            DICTMENTS AND CONVICTIONS.—The pro-  
5            hibition of subparagraph (A) does not  
6            apply to possession by a restricted indi-  
7            vidual of a select agent in the workplace of  
8            his employer if the basis for the prohibition  
9            relates solely to subparagraph (A) or (B)(i)  
10          of section 178(8) of this title and a deter-  
11          mination is made to waive the prohibition  
12          in accordance with the rules and proce-  
13          dures established pursuant to subsection  
14          (e).

15          “(iii) LIMIT RELATING TO OTHER  
16          PENALTIES.—The prohibition of subpara-  
17          graph (A) does not apply to possession by  
18          a restricted individual of a select agent in  
19          the workplace of his employer if the basis  
20          for the prohibition relates solely to sub-  
21          paragraph (B)(ii) or (G) of section 178(8)  
22          of this title and is more than 5 years old  
23          (not counting time served while in cus-  
24          tody), and a determination is made to  
25          waive the prohibition in accordance with

1 the rules and procedures established pursu-  
2 ant to subsection (e).

3 “(iv) DEFINITION.—For purposes of  
4 this subparagraph, the term ‘employer’  
5 means any person who is a registered enti-  
6 ty or has filed the report required by para-  
7 graph (1) and employs a restricted indi-  
8 vidual.

9 “(E) CERTAIN NONPERMANENT RESIDENT  
10 ALIENS.—The prohibition of subparagraph (A)  
11 does not apply to possession by a restricted in-  
12 dividual of a select agent if the basis for the  
13 prohibition relates solely to subparagraph (F)  
14 of section 178(8) of this title, and the restricted  
15 individual has received a waiver from the agen-  
16 cy designated to carry out the functions of this  
17 subparagraph. The designated agency may issue  
18 a waiver if it determines, in consultation with  
19 the Attorney General, that a waiver is in the  
20 public interest.

21 “(e) WAIVERS OF RESTRICTIONS ON POSSESSION OF  
22 SELECT AGENTS IN COURSE OF EMPLOYMENT.—The  
23 agency designated to carry out this subsection, after con-  
24 sultation with appropriate agencies, with representatives  
25 of the scientific and medical community, and with other

1 appropriate public and private entities and organizations  
2 (including consultation concerning employment practices  
3 in working with select agents), shall establish the rules  
4 and procedures governing waivers of the provisions of sub-  
5 section (d)(6)(A) with respect to possession of select  
6 agents by restricted individuals in the course of employ-  
7 ment. Such rules and procedures shall address, among  
8 other matters as found appropriate by the designated  
9 agency, whether (or the circumstances under or the extent  
10 to which) the determination to grant a waiver shall be re-  
11 served to the Government, or may be made by the em-  
12 ployer (either with or without consultation with the Gov-  
13 ernment).

14 “(f) REIMBURSEMENT OF COSTS.—

15 “(1) CONVICTED DEFENDANT.—

16 “(A) SUBSECTION (A) OR (D).—The court  
17 shall order any person convicted of an offense  
18 under subsection (a) or (d) to reimburse the  
19 United States or any State for any expenses in-  
20 curred by the United States or the State inci-  
21 dent to the seizure, storage, handling, transpor-  
22 tation, and destruction or other disposal of any  
23 property that was seized in connection with an  
24 investigation of the commission of such offense  
25 by that person.

1           “(B) SUBSECTION (C)(1).—The court shall  
2           order any person convicted of an offense under  
3           subsection (c)(1) to reimburse the United  
4           States for any expenses incurred by the United  
5           States incident to the investigation of the com-  
6           mission by that person of such offense, includ-  
7           ing the cost of any response made by any Fed-  
8           eral military or civilian agency to protect public  
9           health or safety.

10           “(2) OWNER LIABILITY.—The owner or pos-  
11           sessor of any property seized and forfeited under  
12           this chapter shall be liable to the United States for  
13           any expenses incurred incident to the seizure and  
14           forfeiture, including any expenses relating to the  
15           handling, storage, transportation, and destruction or  
16           other disposition of the seized and forfeited property.

17           “(3) JOINTLY AND SEVERALLY LIABLE.—A  
18           person ordered to reimburse the United States for  
19           expenses under this chapter shall be jointly and sev-  
20           erally liable for such expenses with each other per-  
21           son, if any, who is ordered under this subsection to  
22           reimburse the United States for the same ex-  
23           penses.”.

24           (2) TECHNICAL CLARIFICATIONS.—

1 (A) SECTION 175.—Section 175(a) of title  
2 18, United States Code, is amended by striking  
3 “section” and inserting “subsection”.

4 (B) SECTION 176.—Section 176(a)(1)(A)  
5 of title 18, United States Code, is amended by  
6 striking “exists by reason of” and inserting  
7 “pertains to”.

8 (3) DESIGNATION OF RESPONSIBLE AGEN-  
9 CIES.—

10 (A) IN GENERAL.—Not later than 60 days  
11 after the date of enactment of this Act, the  
12 President shall designate—

13 (i) the agency responsible for pre-  
14 scribing the regulation required by section  
15 175(d)(1) of title 18, United States Code,  
16 as added by this Act;

17 (ii) the agency responsible for grant-  
18 ing the waivers under section 175(d)(6)(E)  
19 of title 18, United States Code, as added  
20 by this Act; and

21 (iii) the agency responsible for imple-  
22 menting the waiver provisions of section  
23 175(e) of title 18, United States Code, as  
24 added by this Act.

1 (B) REGULATIONS.—The agencies des-  
2 ignated pursuant to subparagraph (A)—

3 (i) shall issue proposed rules not later  
4 than 90 days after the date of the Presi-  
5 dent's designation; and

6 (ii) shall issue final rules not later  
7 than 270 days after the date of enactment  
8 of this Act.

9 (C) INSPECTIONS.—The agency designated  
10 pursuant to subparagraph (A)(i) may inspect  
11 the facilities of any person who files a report re-  
12 quired by section 175(d)(1) of title 18, United  
13 States Code, to determine whether the person is  
14 handling the select agent in a safe manner,  
15 whether he is holding such agent for a prophyl-  
16 lactic, protective, or other peaceful purpose, and  
17 whether the type and quantity being held are  
18 reasonable for that purpose. Any agency des-  
19 ignated pursuant to subparagraph (A) may in-  
20 spect any form required by section  
21 175(d)(6)(C) of title 18, United States Code,  
22 and any documentation relating to a determina-  
23 tion made pursuant to section 175(d)(6)(D) of  
24 that title. The designated agency shall endeavor

1 to not interfere with the normal business oper-  
2 ations of any such facility.

3 (D) FREEDOM OF INFORMATION ACT EX-  
4 EMPTION.—Any information provided to the  
5 Secretary of Health and Human Services pur-  
6 suant to regulations issued under section 511(f)  
7 of the Antiterrorism and Effective Death Pen-  
8 alty Act of 1996 (42 C.F.R. 72.6) or to the  
9 designated agency under section 175(d)(1) of  
10 title 18, United States Code, shall not be dis-  
11 closed under section 552 of title 5, United  
12 States Code. The Secretary or the designated  
13 agency may use and disclose such information  
14 to protect the public health, and shall also dis-  
15 close any such relevant information to the At-  
16 torney General for use in any investigation or  
17 other proceeding to enforce any law relating to  
18 select agents or any other law. Any such infor-  
19 mation shall be made available to any com-  
20 mittee or subcommittee of Congress with appro-  
21 priate jurisdiction upon the written request of  
22 the Chairman or Ranking Member of such com-  
23 mittee or subcommittee, except that no such  
24 committee or subcommittee, and no member  
25 and no staff member of such committee or sub-

1 committee, shall disclose such information ex-  
2 cept as otherwise required or authorized by law.

3 (E) CLARIFICATION OF THE SCOPE OF  
4 THE SELECT AGENT RULE.—Section 511 of the  
5 Antiterrorism and Effective Death Penalty Act  
6 of 1996 (Public Law 104–132; 110 Stat. 1284)  
7 is amended—

8 (i) in each of subsections (a), (d), and  
9 (e)—

10 (I) by inserting “and toxins”  
11 after “agents” each place it appears;  
12 and

13 (II) by inserting “or toxin” after  
14 “agent” each place it appears; and

15 (ii) in subsection (g)(1), by striking  
16 “the term ‘biological agent’ has” and in-  
17 serting “the terms ‘biological agent’ and  
18 ‘toxin’ have”.

19 (F) EFFECTIVE DATES.—

20 (i) Subparagraph (D) shall take effect  
21 on the effective date for the final rule  
22 issued pursuant to section 511(d)(1) of the  
23 Antiterrorism and Effective Death Penalty  
24 Act of 1996 (Public Law 104–132; 110  
25 Stat. 1284).

1           (ii) The amendments made by sub-  
2 paragraph (E) shall take effect as if in-  
3 cluded in the enactment of section 511 of  
4 the Antiterrorism and Effective Death  
5 Penalty Act of 1996 (Public Law 104–132;  
6 110 Stat. 1284).

7 (G) TRANSITIONAL EXEMPTIONS.—

8           (i) The prohibition created by section  
9 175(d)(6)(A) of title 18, United States  
10 Code, shall not apply to the possession of  
11 a select agent in the workplace of an em-  
12 ployer (as defined in section  
13 175(d)(6)(D)(iv) of title 18, United States  
14 Code) by a restricted individual (as defined  
15 in subparagraph (A), (B), or (G) of section  
16 178(8) of title 18, United States Code),  
17 until the effective date of the regulations  
18 issued to implement section 175(e) of title  
19 18, United States Code, or 270 days after  
20 the date of enactment of this Act, which-  
21 ever occurs earlier.

22           (ii) The prohibition created by section  
23 175(d)(6)(A) of title 18, United States  
24 Code, shall not apply to the possession of  
25 a select agent by a restricted individual (as

1 defined in section 178(8)(F) of title 18,  
2 United States Code), until the effective  
3 date of the regulations issued to implement  
4 section 175(d)(6)(E) of title 18, United  
5 States Code, or 270 days after the enact-  
6 ment of this Act, whichever occurs earlier.

7 (d) DEFINITIONAL AMENDMENTS.—

8 (1) SECTION 178.—Section 178 of title 18,  
9 United States Code, is amended—

10 (A) in paragraph (1), by striking “means  
11 any microorganism, virus, or infectious sub-  
12 stance, or biological product that may be engi-  
13 neered as a result of biotechnology, or any nat-  
14 urally occurring or bioengineered component of  
15 any such microorganism, virus, infectious sub-  
16 stance, or biological product” and inserting the  
17 following: “means any microorganism (includ-  
18 ing, but not limited to, bacteria, viruses, fungi,  
19 rickettsiae, or protozoa), or infectious sub-  
20 stance, or any naturally occurring, bioengi-  
21 neered or synthesized component of any such  
22 microorganism or infectious substance”;

23 (B) in paragraph (2), by striking “means  
24 the toxic material of plants, animals, microorga-  
25 nisms, viruses, fungi, or infectious substances,

1 or a recombinant molecule, whatever its origin  
2 or method of production, including” and insert-  
3 ing the following: “means the toxic material or  
4 product of plants, animals, microorganisms (in-  
5 cluding, but not limited to, bacteria, viruses,  
6 fungi, rickettsiae, or protozoa), or infectious  
7 substances, or a recombinant or synthesized  
8 molecule, whatever their origin and method of  
9 production, and includes”;

10 (C) in paragraph (4)—

11 (i) by striking “recombinant molecule,  
12 or biological product that may be engi-  
13 neered as a result of biotechnology” and  
14 inserting “recombinant or synthesized mol-  
15 ecule”; and

16 (ii) by striking “and” at the end;

17 (D) in paragraph (5), by striking the pe-  
18 riod at the end and inserting a semicolon; and

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

20 “(6) the term ‘select agent’ means a biological  
21 agent or toxin that is on the list established by the  
22 Secretary of Health and Human Services pursuant  
23 to section 511(d)(1) of the Antiterrorism and Effec-  
24 tive Death Penalty Act of 1996 (Public Law 104-  
25 132; 110 Stat. 1284) that is not exempted under

1 part 72.6(h) of title 42, Code of Federal Regulations  
2 or appendix A to such part (or any successor to ei-  
3 ther such provision), except that the term does not  
4 include any such biological agent or toxin that is in  
5 its naturally occurring environment, if the biological  
6 agent or toxin has not been cultivated, collected, or  
7 otherwise extracted from its natural source;

8 “(7) the term ‘registered entity’ means a reg-  
9 istered facility, or a certified laboratory exempted  
10 from registration, pursuant to the regulations pro-  
11 mulgated by the Secretary of Health and Human  
12 Services under section 511(f) of the Antiterrorism  
13 and Effective Death Penalty Act of 1996 (42 C.F.R.  
14 72.6(a), 72.6(h));

15 “(8) the term ‘restricted individual’ means an  
16 individual who—

17 “(A) is under indictment for a crime pun-  
18 ishable by imprisonment for a term exceeding 1  
19 year;

20 “(B) has been convicted in any court of a  
21 crime—

22 “(i) punishable by imprisonment for a  
23 term exceeding 1 year but not more than  
24 5 years; or

1                   “(ii) punishable by imprisonment for  
2                   a term exceeding 5 years;

3                   “(C) is a fugitive from justice;

4                   “(D) is an unlawful user of any controlled  
5                   substance (as defined in section 102 of the Con-  
6                   trolled Substances Act (21 U.S.C. 802));

7                   “(E) is an alien illegally or unlawfully in  
8                   the United States;

9                   “(F) is an alien (other than an alien law-  
10                  fully admitted for permanent residence) who is  
11                  a national of a country as to which the Sec-  
12                  retary of State, pursuant to section 6(j) of the  
13                  Export Administration Act of 1979 (50 U.S.C.  
14                  App. 2405(j)) (or its successor law), section  
15                  620A of the Foreign Assistance Act of 1961  
16                  (22 U.S.C. 2371), or section 40(d) of the Arms  
17                  Export Control Act (22 U.S.C. 2780(d)), has  
18                  made a determination, which remains in effect,  
19                  that such country has repeatedly provided sup-  
20                  port for acts of international terrorism; or

21                  “(G) has been discharged from the Armed  
22                  Forces of the United States under dishonorable  
23                  conditions;

1           “(9) the term ‘alien’ has the same meaning as  
2           in section 101(a)(3) of the Immigration and Nation-  
3           ality Act (8 U.S.C. 1101(a)(3));

4           “(10) the term ‘lawfully admitted for perma-  
5           nent residence’ has the same meaning as in section  
6           101(a)(20) of the Immigration and Nationality Act  
7           (8 U.S.C. 1101(a)(20));

8           “(11) the term ‘designated agency’ means—

9                   “(A) except as provided in subparagraphs  
10                  (B) and (C) of this paragraph, the agency des-  
11                  ignated by the President under section  
12                  2(b)(3)(A)(i) of the Dangerous Biological Agent  
13                  and Toxin Control Act of 2000;

14                   “(B) for purposes of section 175(d)(6)(E)  
15                  of this title, the agency designated by the Presi-  
16                  dent under section 2(b)(3)(A)(ii) of the Dan-  
17                  gerous Biological Agent and Toxin Control Act  
18                  of 2000; and

19                   “(C) for purposes of section 175(e) of this  
20                  title, the agency designated by the President  
21                  under section 2(b)(3)(A)(iii) of the Dangerous  
22                  Biological Agent and Toxin Control Act of  
23                  2000; and

24           “(12) the term ‘State’ includes a State of the  
25           United States, the District of Columbia, and any

1 commonwealth, territory, or possession of the United  
2 States, including any political subdivision thereof.”.

3 (2) SECTION 2332a.—Section 2332a of title 18,  
4 United States Code, is amended—

5 (A) in subsection (a), by striking “, includ-  
6 ing any biological agent, toxin, or vector (as  
7 those terms are defined in section 178)”;

8 (B) in subsection (c)(2)(C), by striking “a  
9 disease organism” and inserting “any biological  
10 agent, toxin, or vector (as those terms are de-  
11 fined in section 178 of this title)”.