

109TH CONGRESS  
1ST SESSION

# S. 3

To strengthen and protect America in the war on terror.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2005

Mr. GREGG (for himself, Mr. FRIST, Mr. SESSIONS, Mr. DEWINE, Mr. ALLEN, Mr. SANTORUM, Mr. MCCONNELL, and Mr. DEMINT) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To strengthen and protect America in the war on terror.

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

3 **SECTION 1. SHORT TITLE.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Protecting America in the War on Terror Act of 2005”.

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

Sec. 1. Short title.

### TITLE I—BIOPREPAREDNESS

Sec. 101. Short title.

Subtitle A—Product Development

## CHAPTER 1—PARTNERING WITH THE PRIVATE SECTOR

- Sec. 111. Expansion of countermeasures covered by BioShield.
- Sec. 112. Enhancing availability of private and international sector financing.
- Sec. 113. Restoration of patent term.
- Sec. 114. International harmonization of regulations.
- Sec. 115. Development of additional animal models.
- Sec. 116. Collaboration and coordination.

## CHAPTER 2—ENSURING REGULATORY EFFICIENCY

- Sec. 121. Commission on Countermeasure and Vaccine Regulation.
- Sec. 122. Technical assistance.
- Sec. 123. Requirement to fully inform.
- Sec. 125. Accelerated approval of countermeasures or vaccines.
- Sec. 126. National uniformity for approved products.

## Subtitle B—Litigation Reform

CHAPTER 1—PROTECTION FOR COUNTERMEASURES AND PRODUCTS  
PROTECTING AGAINST PANDEMICS, EPIDEMICS, AND BIOTERRORISM

- Sec. 131. Liability protections for pandemics, epidemics, and countermeasures.

## CHAPTER 2—VACCINE INJURY COMPENSATION PROGRAM

- Sec. 141. Vaccine injury compensation and vaccine litigation reform.
- Sec. 142. Modifications to vaccines for children program.

CHAPTER 3—ENCOURAGING VACCINE AND COUNTERMEASURE PRODUCTION  
CAPACITY

- Sec. 151. Incentives for the construction of vaccine and countermeasure manufacturing facilities.
- Sec. 152. Credit for medical research related to developing vaccines or countermeasures.
- Sec. 153. Grants to construct and improve research and development and manufacturing of countermeasures or vaccines.
- Sec. 154. Revenue recognition for adult and pediatric vaccines and other countermeasures against potential acts of terrorism.

## Subtitle C—Public Health Preparedness

## CHAPTER 1—CAPACITY TO RESPOND

- Sec. 171. Pandemic influenza preparedness and response plan.
- Sec. 172. National Notifiable Disease Surveillance Program.
- Sec. 173. Enhancing critical capacity for illness detection.
- Sec. 174. Evaluation of public health capacity outcomes.
- Sec. 175. Nonimmigrant health screening.
- Sec. 176. Inspection, screening, and quarantining of live animals.
- Sec. 177. Authority to procure aircraft.

## CHAPTER 2—PUBLIC HEALTH WORKFORCE

- Sec. 181. Public health workforce scholarship and loan repayment program.

## CHAPTER 3—PREPAREDNESS UPDATES

- Sec. 191. Report on preparedness.  
 Sec. 192. Enhancing global response capabilities.

TITLE II—INCREASED BENEFITS FOR FAMILIES OF DECEASED  
MEMBERS OF THE ARMED FORCES.

- Sec. 201. Increase in death gratuity payable with respect to deaths of members of the armed forces from combat-related causes or from service in operation Enduring Freedom or Iraqi Freedom.  
 Sec. 202. Increase in automatic maximum coverage under servicemembers' group life insurance and veterans' group life insurance.  
 Sec. 203. Increased period of continued Tricare coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.

TITLE III—HOMELAND SECURITY TECHNOLOGY IMPROVEMENT

- Sec. 301. Short title.  
 Sec. 302. Homeland security transfer program.

TITLE IV—ANTITERRORISM IMPROVEMENTS

Subtitle A—Denial of Federal Benefits to Convicted Terrorists

- Sec. 401. Denial of Federal benefits to convicted terrorists.

Subtitle B—Streamlined Information Sharing

- Sec. 411. Uniform standards for information sharing across Federal agencies.  
 Sec. 412. Authorization to share national-security information with State and local governments.

Subtitle C—Protecting Critical Infrastructure

- Sec. 421. Attacks against railroad carriers, passenger vessels, and mass transportation systems.  
 Sec. 422. Entry by false pretenses to any seaport.  
 Sec. 423. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.  
 Sec. 424. Criminal sanctions for violence against maritime navigation, placement of destructive devices, and malicious dumping.  
 Sec. 425. Transportation of dangerous materials and terrorists.  
 Sec. 426. Destruction or interference with vessels or maritime facilities.  
 Sec. 427. Theft of interstate or foreign shipments or vessels.  
 Sec. 428. Increased penalties for noncompliance with manifest requirements.  
 Sec. 429. Stowaways on vessels or aircraft.  
 Sec. 430. Bribery affecting port security.

**1      TITLE I—BIOPREPAREDNESS**

**2      SEC. 101. SHORT TITLE.**

**3            This title may be cited as the “Biopreparedness Act**  
**4 of 2005”.**

1 **Subtitle A—Product Development**

2 **CHAPTER 1—PARTNERING WITH THE**

3 **PRIVATE SECTOR**

4 **SEC. 111. EXPANSION OF COUNTERMEASURES COVERED BY**  
5 **BIOSHIELD.**

6 Section 319F–1(a) of the Public Health Service Act  
7 (42 U.S.C. 247d–6a(a)) is amended by striking paragraph  
8 (2) and inserting the following:

9 “(2) DEFINITIONS.—In this section:

10 “(A) QUALIFIED COUNTERMEASURE.—The  
11 term ‘qualified countermeasure’ means a drug  
12 (as that term is defined by section 201(g)(1) of  
13 the Federal Food, Drug, and Cosmetic Act (21  
14 U.S.C. 321(g)(1))), biological product (as that  
15 term is defined by section 351(i) of this Act (42  
16 U.S.C. 262(i))), device (as that term is defined  
17 by section 201(h) of the Federal Food, Drug,  
18 and Cosmetic Act (21 U.S.C. 321(h))), detec-  
19 tion technology, or research tool that the Sec-  
20 retary determines to be a priority (consistent  
21 with sections 302(2) and 304(a) of the Home-  
22 land Security Act of 2002) to—

23 “(i) treat, identify, detect or prevent  
24 harm from any biological (including an in-  
25 fectious disease), chemical, radiological, or

1 nuclear agent that may cause a public  
2 health emergency affecting national secu-  
3 rity; or

4 “(ii) treat, identify, detect or prevent  
5 harm from a condition that may result in  
6 adverse health consequences or death and  
7 may be caused by administering a drug, bi-  
8 ological product, device, detection tech-  
9 nology or research tool that is used as de-  
10 scribed in this subparagraph.

11 “(B) DETECTION TECHNOLOGY.—The  
12 term ‘detection technology’ means a technology  
13 device and its use for the detection of the pres-  
14 ence, concentration, or characteristics of a bio-  
15 logical (including an infectious disease), chem-  
16 ical, or radiological agent in environmental or  
17 field samples.

18 “(C) RESEARCH TOOL.—The term ‘re-  
19 search tool’ includes the full range of tools that  
20 scientists may use in the laboratory to enable  
21 the rapid and effective development of counter-  
22 measures, including diagnostics, vaccines, and  
23 drugs.

24 “(D) INFECTIOUS DISEASE.—

1                   “(i) IN GENERAL.—The term ‘infec-  
2                   tious disease’ means a disease in humans  
3                   caused by a pathogenic organism (includ-  
4                   ing a bacteria, virus, fungus, or parasite)  
5                   that is acquired by a person and that re-  
6                   produces in that person.

7                   (ii) CLARIFICATION.—The term ‘infec-  
8                   tious disease’ includes a pathogenic orga-  
9                   nism whether or not such pathogenic orga-  
10                  nism is acquired by an individual through  
11                  human-to-human contact or if the indi-  
12                  vidual is initially symptomatic of the dis-  
13                  ease.”.

14 **SEC. 112. ENHANCING AVAILABILITY OF PRIVATE AND**  
15 **INTERNATIONAL SECTOR FINANCING.**

16                  Not later than 12 months after the date of enactment  
17 of this Act, the Secretary of Health and Human Services  
18 shall submit to the appropriate committees of Congress  
19 recommendations concerning the necessity and feasibility  
20 of establishing mechanisms through which the United  
21 States may accept contributions or guarantees from pri-  
22 vate organizations, international health agencies, and non-  
23 governmental organizations to enhance the procurement  
24 or development of qualified countermeasures (as such

1 term is defined in section 319F–1 of the Public Health  
2 Service Act (42 U.S.C. 247d–6a(a)).

3 **SEC. 113. RESTORATION OF PATENT TERM.**

4 (a) PURPOSE.—The purpose of this section is to pro-  
5 vide patent incentives to certain entities to protect inven-  
6 tions from expropriation by competitors and to provide an  
7 incentive for capital formation to fund countermeasures  
8 and vaccine research.

9 (b) LIMITATION.—A private entity may utilize the  
10 patent term protection and exclusive marketing provisions  
11 described in this title for countermeasures if such private  
12 entity is an entity certified under section 1812(d) of the  
13 Homeland Security Act of 2002.

14 (c) RESTORATION OF PATENT TERMS RELATING TO  
15 COUNTERMEASURES AND VACCINES.—

16 (1) IN GENERAL.—Chapter 14 of title 35,  
17 United States Code, is amended by inserting after  
18 section 156 the following:

19 **“§ 156a. Restoration of patent terms relating to coun-  
20 termeasures and vaccines**

21 **“(a) DEFINITIONS.—**In this section, the term—

22 **“(1) ‘countermeasure product’** means a counter-  
23 measure, as that term is defined in section 319F–  
24 1 of the Public Health Service Act, that is also a  
25 new drug, antibiotic drug, human biological product

1 or medical device, as those terms are used in the  
2 Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
3 301 et seq.) and the Public Health Service Act (42  
4 U.S.C. 201 et seq.);

5 “(2) ‘regulatory review period’ means the period  
6 of time that—

7 “(A) starts on the date that is the later  
8 of—

9 “(i) the date that an eligible patent  
10 sought to be extended under this section is  
11 issued;

12 “(ii) the date that an exemption under  
13 section 505(i) of the Federal Food, Drug,  
14 and Cosmetic Act (21 U.S.C. 355(i)) be-  
15 came effective for the product; or

16 “(iii) the date on which an investiga-  
17 tional device exemption is approved pursu-  
18 ant to section 501 of the Federal Food,  
19 Drug and Cosmetic Act;

20 “(B) ends on the date that is—

21 “(i) in the case of a drug or antibiotic  
22 drug, the date on which an application  
23 submitted for such drug or antibiotic  
24 under section 505(b) of the Federal Food,

1 Drug, and Cosmetic Act (21 U.S.C.  
2 355(b)) is approved;

3 “(ii) in the case of a biologic, the date  
4 on which an application submitted under  
5 section 351 of the Public Health Service  
6 Act (42 U.S.C. 262) is approved; or

7 “(iii) in the case of a medical device,  
8 the date on which an application submitted  
9 for such device under section 513 of the  
10 Federal Food, Drug, and Cosmetic Act (21  
11 U.S.C. 360c) is approved; and

12 “(3) ‘eligible patent’ means a patent that—

13 “(A)(i) claims a countermeasure product  
14 that has been successfully developed as specified  
15 by section 1812(e) of the Homeland Security  
16 Act of 2002, or claims an active ingredient of  
17 such countermeasure product, or a process of  
18 making or using the countermeasure product or  
19 an active ingredient of such countermeasure  
20 product, and

21 “(ii) is owned by or licensed to an entity  
22 that has successfully developed the counter-  
23 measure and has been certified under section  
24 1812(d) of the Homeland Security Act of 2002,  
25 or

1           “(B) claims a vaccine that has been suc-  
2           cessfully developed.

3           “(b) PATENT TERM EXTENSION.—The term of an el-  
4           igible patent shall be extended by a period equal to the  
5           number of days in the regulatory review period if:

6           “(1) An application in conformance with the re-  
7           quirements of section (c) is submitted to the Direc-  
8           tor by either the owner of record of the patent or  
9           its agent on or before the date specified in sub-  
10          section (c)(3), or within 45 days from the date of  
11          issuance of the patent, whichever date is later.

12          “(2) The patent that is the basis of the applica-  
13          tion has not been previously extended under this sec-  
14          tion, or under sections 156 or 158 of this title.

15          “(3) The term of the patent that is the basis  
16          of the application has not expired before the date  
17          that the application is submitted under section (c).

18          “(4) The regulatory review period for the coun-  
19          termeasure product or vaccine has not been relied  
20          upon to support an application to extend the term  
21          of another patent under this section or under section  
22          156 of this title.

23          “(c) ADMINISTRATIVE PROVISIONS.—

24          “(1) IN GENERAL.—To obtain an extension of  
25          the term of a patent under this section, the assigner

1 of record and licensee of record of the patent or the  
2 agent of the assigner of record and licensee shall  
3 submit an application to the Director.

4 “(2) CONTENT.—The application shall con-  
5 tain—

6 “(A) a description of the approved counter-  
7 measure product or vaccine and the Federal  
8 statute under which regulatory review occurred;

9 “(B) the identity of the patent for which  
10 an extension is sought under this section; and

11 “(C) such other information as the Direc-  
12 tor may require including to establish that the  
13 applicant meets the requirements of this sec-  
14 tion.

15 “(3) SUBMISSION OF APPLICATION FOR A  
16 COUNTERMEASURE.—An application for a counter-  
17 measure under this section shall be submitted to the  
18 Director within the 60-day period beginning on the  
19 date the product became eligible for purchase under  
20 a contract for procurement under section 319F–1 or  
21 319F–2 of the Public Health Service Act.

22 “(4) IRREVOCABLE ELECTION.—The submis-  
23 sion of an application under this section is an irrev-  
24 ocable election of the application of this section to  
25 the patent that is the basis of the application. A pat-

1 ent that has been the basis of an application made  
2 under this section may not be the subject of an ap-  
3 plication made under sections 156 or 158 of this  
4 title.

5 “(5) RULE OF CONSTRUCTION.—Nothing in  
6 this section shall be construed to prohibit an exten-  
7 sion of the term of a patent relating to a counter-  
8 measure product that, before the effective date of  
9 this section was approved for commercial marketing  
10 for non-countermeasure uses.

11 “(d) LIMITATION.—A patent may not be extended  
12 under this section where—

13 “(1) the regulatory review period for the coun-  
14 termeasure product was concluded before the date of  
15 enactment of the Biological, Chemical, and Radio-  
16 logical Weapons Countermeasures Research Act; or

17 “(2) the patent that is the basis of the applica-  
18 tion under this section expired before the date of en-  
19 actment of the Biological, Chemical, and Radio-  
20 logical Weapons Countermeasures Research Act.”.

21 (2) TECHNICAL AND CONFORMING AMEND-  
22 MENT.—The table of sections for chapter 14 of title  
23 35, United States Code, is amended by inserting  
24 after the item relating to section 156 the following:

“156a. Restoration of patent terms relating to countermeasures for certain bio-  
logical or chemical agents or toxins.”.

1 (d) GENERAL EXTENSION OF CERTAIN PATENT  
2 TERMS FOR PATENTS HELD BY ENTITIES THAT HAVE  
3 SUCCESSFULLY DEVELOPED COUNTERMEASURES.—

4 (1) IN GENERAL.—Chapter 14 of title 35,  
5 United States Code, is amended by adding at the  
6 end the following:

7 **“§ 158. Patent term for patents held by entities with**  
8 **certain research certifications**

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

10 “(1) ‘countermeasure product’ means a counter-  
11 measure, as that term is defined in section 319F-  
12 1 of the Public Health Service Act, that is also a  
13 new drug, antibiotic drug, human biological product  
14 or medical device, as those terms are used in the  
15 Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
16 301 et seq.) and the Public Health Service Act (42  
17 U.S.C. 201 et seq.);

18 “(2) ‘eligible patent’ means an issued patent  
19 that, at least 1 year before the date on which an eli-  
20 gible entity was certified under section 1812(d) of  
21 the Homeland Security Act of 2002, was owned by  
22 or licensed to that eligible entity; and

23 “(3) ‘eligible entity’ means a natural or legal  
24 person that has—

1           “(A) alone or with others, successfully de-  
2           veloped a countermeasure product;

3           “(B) been certified under section 1812(d)  
4           of the Homeland Security Act of 2002;

5           “(C) entered into a contract for the sale of  
6           the countermeasure product under section  
7           319F–1 or section 319F–2 of the Public Health  
8           Service Act;

9           “(4) ‘Research Act’ means the Biological,  
10          Chemical, and Radiological Weapons Counter-  
11          measures Research Act.

12          “(b) SPECIAL PATENT TERM EXTENSION.—The  
13          term of a eligible patent shall be extended for a period  
14          as specified by regulations to be promulgated by the Sec-  
15          retary of Health and Human Services, in addition to the  
16          term which would otherwise apply except for this section,  
17          if:

18                 “(1) An application in conformance with the re-  
19                 quirements of subsection (c) is submitted to the Di-  
20                 rector by either the owner of record of the patent or  
21                 its agent on or before the date specified in sub-  
22                 section (c)(3).

23                 “(2) The patent that is the basis of the applica-  
24                 tion has not been previously extended under this sec-  
25                 tion, or under sections 156 or 156a of this title.

1           “(3) The term of the patent that is the basis  
2 of the application has not expired before the date  
3 that the application is submitted under subsection  
4 (c).

5           “(4) The term of no other patent has been ex-  
6 tended based on the certification under section  
7 1812(d) of the Homeland Security Act of 2002 of  
8 the eligible entity.

9           “(c) ADMINISTRATIVE PROVISIONS.—

10           “(1) IN GENERAL.—To obtain an extension of  
11 the term of a patent under this section, the owner  
12 of record of the patent or the agent of the owner  
13 shall submit an application to the Director.

14           “(2) CONTENT.—An application under this sec-  
15 tion shall contain—

16           “(A) a description of the approved counter-  
17 measure product and the Federal statute under  
18 which regulatory review occurred;

19           “(B) the identity of the patent for which  
20 an extension is sought under this section;

21           “(C) the identity of the eligible entity and  
22 the applicant; and

23           “(D) such other information as the Direc-  
24 tor may require including to establish that the

1 applicant meets the requirements of this sec-  
2 tion.

3 “(3) SUBMISSION OF APPLICATION.—An appli-  
4 cation under this section shall be submitted to the  
5 Director within the 60-day period beginning on the  
6 date the countermeasure product became eligible for  
7 purchase under a contract for procurement under  
8 section 319F–1 or 3199F–2 of the Public Health  
9 Service Act.

10 “(d) LIMITATIONS AND CONDITIONS.—

11 “(1) PERIOD OF EXTENSION.—The Secretary of  
12 Health and Human Services shall promulgate regu-  
13 lations specifying the duration of extensions to be  
14 granted under the authority of this section. The ex-  
15 tension to be granted to an application shall be that  
16 specified by such regulations in effect on the date  
17 that an application for certification under section  
18 1812(d) of the Homeland Security Act of 2005 is  
19 made by the eligible entity. In no case, shall any ex-  
20 tension granted under this section exceed 2 years, or  
21 be less than 6 months.

22 “(2) CRITERIA FOR EXTENSION.—The Sec-  
23 retary of Health and Human Services, in deter-  
24 mining the period of extensions to be granted under  
25 the authority of this section, shall consider—

1           “(A) the nature of the threat to be coun-  
2           tered and the importance of developing counter-  
3           measures to respond to such threat;

4           “(B) the difficulty, risk, and expense likely  
5           to be associated with the development of such  
6           countermeasure; and

7           “(C) the impact of the patent extension on  
8           consumers and healthcare providers.

9           “(3) LIMITATION.—No patent may be extended  
10          under the authority of this subsection more than  
11          once.

12          “(4) IRREVOCABLE ELECTION.—The submis-  
13          sion of an application under this section is an irrev-  
14          ocable election of the application of this section to  
15          the patent that is the basis of the application. A pat-  
16          ent that has been the basis of an application made  
17          under this section may not be the subject of an ap-  
18          plication made under sections 156 or 156a of this  
19          title.”

20          (2) TECHNICAL AND CONFORMING AMEND-  
21          MENT.—The table of sections for chapter 14 of title  
22          35, United States Code, is amended by adding at  
23          the end the following:

“158. Patent term for patents held by entities with certain research certifi-  
cations.”.

24          (e) LICENSING.—

1           (1) DISCRETION TO WAIVE MARCH-IN  
2 RIGHTS.—Notwithstanding sections 200, 203, and  
3 209 of title 35, United States Code, an entity that  
4 holds a certification under section 1812(d) of the  
5 Homeland Security Act of 2002 with respect to a  
6 product that is a countermeasure, detection equip-  
7 ment, diagnostic, research tool, or drug intended to  
8 prevent or treat an infectious disease may license  
9 such patented product.

10           (2) FEDERALLY OWNED INVENTIONS.—Section  
11 209 of title 35, United States Code, is amended—

12                   (A) by redesignating subsections (e) and  
13                   (f) as subsections (f) and (g), respectively; and

14                   (B) by inserting after subsection (d) the  
15 following:

16           “(e) TERMS AND CONDITIONS OF LICENSE.—Each  
17 license granted under section 207(a)(2) shall include a  
18 provision that, at the discretion of the licensee, the li-  
19 censee may act as the agent for the licensor with respect  
20 to any patent for the licensed invention for purposes of  
21 extending a patent under section 156a or 158.”.

22           (3) COOPERATIVE RESEARCH AND DEVELOP-  
23 MENT AGREEMENTS.—Section 12(b) of the Steven-  
24 son-Wydler Technology Innovation Act of 1980 (15

1 U.S.C. 3710a(b)) is amended by adding at the end  
2 the following:

3 “(7) Each license for a patent granted under an  
4 agreement entered into under subsection (a)(1) shall  
5 include a provision that, at the discretion of the li-  
6 censee, the licensee may act as the agent for the li-  
7 censor with respect to that patent for purposes of  
8 extending a patent under section 156a or 158 of  
9 title 35, United States Code.”.

10 (4) APPLICABLE LICENSES.—The amendments  
11 made by paragraphs (2) and (3) shall apply only to  
12 licenses granted on or after 60 days after the date  
13 of enactment of this Act.

14 (f) ADDITIONAL INTELLECTUAL PROPERTY PROTEC-  
15 TIONS.—Not later than 12 months after the date of enact-  
16 ment of this Act, the Secretary of Commerce in consulta-  
17 tion with the Secretary of Health and Human Services  
18 shall submit to the appropriate committees of Congress  
19 recommendations concerning additional intellectual prop-  
20 erty incentives and protections that may be necessary to  
21 accelerate efforts to develop or enhance qualified counter-  
22 measures (as defined in section 319F–1 of the Public  
23 Health Service Act (42 U.S.C. 247d–6a(a)) or prepared-  
24 ness pools.

1 **SEC. 114. INTERNATIONAL HARMONIZATION OF REGULA-**  
2 **TIONS.**

3 The Secretary of Health and Human Services shall  
4 provide an annual report to the appropriate committees  
5 of Congress describing the activities undertaken, progress  
6 made, and barriers to the implementation by the Depart-  
7 ment of Health and Human Services with respect to the  
8 international harmonization of regulations, including the  
9 International Conference on Harmonization, the Global  
10 Harmonization Task Force, and efforts to establish inter-  
11 national standards for data exclusivity.

12 **SEC. 115. DEVELOPMENT OF ADDITIONAL ANIMAL MODELS.**

13 Part B of title III of the Public Health Service Act  
14 (42 U.S.C. 243 et seq.) is amended by inserting after sec-  
15 tion 319J the following:

16 **“SEC. 319K. ANIMAL MODELS FOR CERTAIN DISEASES.**

17 “(a) IN GENERAL.—The Secretary, in coordination  
18 with the Director of the National Institute on Allergy and  
19 Infectious Diseases and the Director of the Centers for  
20 Disease Control and Prevention, shall establish and award  
21 grants under this section to eligible entities to study the  
22 physiological responses of certain animal species to bioter-  
23 rorism agents and other infectious agents.

24 “(b) ELIGIBILITY.—To be eligible to receive a grant  
25 under this section, an entity shall—

1           “(1) provide assurances to the Secretary that  
2           the entity has access to a biosafety level 3 or 4 facil-  
3           ity;

4           “(2) submit to the Secretary an application at  
5           such time, in such manner, and containing such in-  
6           formation as the Secretary may require; and

7           “(3) agree to submit the results of the research  
8           funded under the grant to the Director of the Na-  
9           tional Institute on Allergy and Infectious Diseases.”.

10 **SEC. 116. COLLABORATION AND COORDINATION.**

11           Section 2 of the Clayton Act (15 U.S.C. 13) is  
12 amended by adding at the end the following:

13           “(g) LIMITED ANTITRUST EXEMPTION.—

14           “(1) COUNTERMEASURES DEVELOPMENT MEET-  
15           INGS AND CONSULTATIONS.—

16           “(A) COUNTERMEASURES DEVELOPMENT  
17           MEETING AND CONSULTATIONS.—The Sec-  
18           retary may conduct meetings and consultations  
19           with parties involved in the development of pri-  
20           ority countermeasures for the purpose of the  
21           development, manufacture, distribution, pur-  
22           chase, or sale of priority countermeasures con-  
23           sistent with the purposes of this title. The Sec-  
24           retary shall give notice of such meetings and  
25           consultations to the Attorney General and the

1 Chairperson of the Federal Trade Commission  
2 (referred to in this subsection as the ‘Chair-  
3 person’).

4 “(B) MEETING AND CONSULTATION CON-  
5 DITIONS.—A meeting or consultation conducted  
6 under subparagraph (A) shall—

7 “(i) be chaired or, in the case of a  
8 consultation, facilitated by the Secretary;

9 “(ii) be open to parties involved in the  
10 development, manufacture, distribution,  
11 purchase, or sale of priority counter-  
12 measures, as determined by the Secretary;

13 “(iii) be open to the Attorney General  
14 and the Chairperson;

15 “(iv) be limited to discussions involv-  
16 ing the development, manufacture, dis-  
17 tribution, or sale of priority counter-  
18 measures, consistent with the purposes of  
19 this title; and

20 “(v) be conducted in such manner as  
21 to ensure that national security, confiden-  
22 tial, and proprietary information is not dis-  
23 closed outside the meeting or consultation.

24 “(C) MINUTES.—The Secretary shall  
25 maintain minutes of meetings and consultations

1 under this subsection, which shall not be dis-  
2 closed under section 552 of title 5, United  
3 States Code.

4 “(D) EXEMPTION.—The antitrust laws  
5 shall not apply to meetings and consultations  
6 under this paragraph, except that any agree-  
7 ment or conduct that results from a meeting or  
8 consultation and that does not receive an ex-  
9 emption pursuant to this subsection shall be  
10 subject to the antitrust laws.

11 “(2) WRITTEN AGREEMENTS.—The Secretary  
12 shall file a written agreement regarding covered ac-  
13 tivities, made pursuant to meetings or consultations  
14 conducted under paragraph (1) and that is con-  
15 sistent with this paragraph, with the Attorney Gen-  
16 eral and the Chairperson for a determination of the  
17 compliance of such agreement with antitrust laws.  
18 In addition to the proposed agreement itself, any  
19 such filing shall include—

20 “(A) an explanation of the intended pur-  
21 pose of the agreement;

22 “(B) a specific statement of the substance  
23 of the agreement;

1           “(C) a description of the methods that will  
2           be utilized to achieve the objectives of the  
3           agreement;

4           “(D) an explanation of the necessity of a  
5           cooperative effort among the particular partici-  
6           pating parties to achieve the objectives of the  
7           agreement; and

8           “(E) any other relevant information deter-  
9           mined necessary by the Secretary in consulta-  
10          tion with the Attorney General and the Chair-  
11          person.

12          “(3) DETERMINATION.—The Attorney General,  
13          in consultation with the Chairperson, shall determine  
14          whether an agreement regarding covered activities  
15          referred to in paragraph (2) would likely—

16                 “(A) be in compliance with the antitrust  
17                 laws, and so inform the Secretary and the par-  
18                 ticipating parties; or

19                 “(B) violate the antitrust laws, in which  
20                 case, the filing shall be deemed to be a request  
21                 for an exemption from the antitrust laws, lim-  
22                 ited to the performance of the agreement con-  
23                 sistent with the purposes of this title.

24          “(4) ACTION ON REQUEST FOR EXEMPTION.—

1           “(A) IN GENERAL.—The Attorney General,  
2           in consultation with the Chairperson, shall  
3           grant, deny, grant in part and deny in part, or  
4           propose modifications to a request for exemp-  
5           tion from the antitrust laws under paragraph  
6           (3) within 15 days of the receipt of such re-  
7           quest.

8           “(B) EXTENSION.—The Attorney General  
9           may extend the 15-day period referred to in  
10          subparagraph (A) for an additional period of  
11          not to exceed 10 days. Such additional period  
12          may be further extended only by the United  
13          States district court, upon an application by the  
14          Attorney General after notice to the Secretary  
15          and the parties involved.

16          “(C) DETERMINATION.—In granting an  
17          exemption under this paragraph, the Attorney  
18          General, in consultation with the Chairperson  
19          and the Secretary—

20                 “(i) must find—

21                         “(I) that the agreement involved  
22                         is necessary to ensure the availability  
23                         of priority countermeasures;

1                   “(II) that the exemption from  
2                   the antitrust laws would promote the  
3                   public interest; and

4                   “(III) that there is no substantial  
5                   competitive impact to areas not di-  
6                   rectly related to the purposes of the  
7                   agreement; and

8                   “(ii) may consider any other factors  
9                   determined relevant by the Attorney Gen-  
10                  eral and the Chairperson.

11                  “(5) LIMITATION ON AND RENEWAL OF EXEMP-  
12                  TIONS.—An exemption granted under paragraph (4)  
13                  shall be limited to covered activities, and shall expire  
14                  on the date that is 3 years after the date on which  
15                  the exemption becomes effective (and at 3 year in-  
16                  tervals thereafter, if renewed) unless the Attorney  
17                  General in consultation with the Chairperson deter-  
18                  mines that the exemption should be renewed (with  
19                  modifications, as appropriate) considering the fac-  
20                  tors described in paragraph (4).

21                  “(6) LIMITATION ON PARTIES.—The use of any  
22                  information acquired under an exempted agreement  
23                  by the parties to such an agreement for any pur-  
24                  poses other than those specified in the antitrust ex-  
25                  emption granted by the Attorney General shall be

1 subject to the antitrust laws and any other applica-  
2 ble laws.

3 “(7) GUIDELINES.—The Attorney General and  
4 the Chairperson may develop and issue guidelines to  
5 implement this subsection.

6 “(8) REPORT.—Not later than 1 year after the  
7 date of enactment of the Biopreparedness Act of  
8 2005, and annually thereafter, the Attorney General  
9 and the Chairperson shall report to Congress on the  
10 use and continuing need for the exemption from the  
11 antitrust laws provided by this subsection.

12 “(9) SUNSET.—The authority of the Attorney  
13 General to grant or renew a limited antitrust exemp-  
14 tion under this subsection shall expire at the end of  
15 the 6-year period that begins on the date of enact-  
16 ment of the Biopreparedness Act of 2005.

17 “(h) DEFINITIONS.—In this section and title XXVIII  
18 of the Public Health Service Act:

19 “(1) ANTITRUST LAWS.—The term ‘antitrust  
20 laws’—

21 “(A) has the meaning given such term in  
22 subsection (a) of the first section of the Clayton  
23 Act (15 U.S.C. 12(a)), except that such term  
24 includes the Act of June 19, 1936 (15 U.S.C.  
25 13 et seq.) commonly known as the Robinson-

1 Patman Act), and section 5 of the Federal  
2 Trade Commission Act (15 U.S.C. 45) to the  
3 extent such section 5 applies to unfair methods  
4 of competition; and

5 “(B) includes any State law similar to the  
6 laws referred to in subparagraph (A).

7 “(2) COVERED ACTIVITIES.—

8 “(A) IN GENERAL.—Except as provided in  
9 subparagraph (B), the term ‘covered activities’  
10 means any group of activities or conduct, in-  
11 cluding attempting to make, making, or per-  
12 forming a contract or agreement or engaging in  
13 other conduct, for the purpose of—

14 “(i) theoretical analysis, experimen-  
15 tation, or the systematic study of phe-  
16 nomena or observable facts necessary to  
17 the development of priority counter-  
18 measures;

19 “(ii) the development or testing of  
20 basic engineering techniques necessary to  
21 the development of priority counter-  
22 measures;

23 “(iii) the extension of investigative  
24 findings or theory of a scientific or tech-  
25 nical nature into practical application for

1 experimental and demonstration purposes,  
2 including the experimental production and  
3 testing of models, prototypes, equipment,  
4 materials, and processes necessary to the  
5 development of priority countermeasures;

6 “(iv) the production, distribution, or  
7 marketing of a product, process, or service  
8 that is a priority countermeasures;

9 “(v) the testing in connection with the  
10 production of a product, process, or serv-  
11 ices necessary to the development of pri-  
12 ority countermeasures;

13 “(vi) the collection, exchange, and  
14 analysis of research or production informa-  
15 tion necessary to the development of pri-  
16 ority countermeasures; or

17 “(vii) any combination of the purposes  
18 described in clauses (i) through (vi);

19 and such term may include the establishment  
20 and operation of facilities for the conduct of  
21 covered activities described in clauses (i)  
22 through (vi), the conduct of such covered activi-  
23 ties on a protracted and proprietary basis, and  
24 the processing of applications for patents and

1 the granting of licenses for the results of such  
2 covered activities.

3 “(B) EXCEPTION.—The term ‘covered ac-  
4 tivities’ shall not include the following activities  
5 involving 2 or more persons:

6 “(i) Exchanging information among  
7 competitors relating to costs, sales, profit-  
8 ability, prices, marketing, or distribution of  
9 any product, process, or service if such in-  
10 formation is not reasonably necessary to  
11 carry out the purposes of covered activi-  
12 ties.

13 “(ii) Entering into any agreement or  
14 engaging in any other conduct—

15 “(I) to restrict or require the  
16 sale, licensing, or sharing of inven-  
17 tions, developments, products, proc-  
18 esses, or services not developed  
19 through, produced by, or distributed  
20 or sold through such covered activi-  
21 ties; or

22 “(II) to restrict or require par-  
23 ticipation by any person who is a  
24 party to such covered activities in  
25 other research and development activi-

1                   ties, that is not reasonably necessary  
2                   to prevent the misappropriation of  
3                   proprietary information contributed  
4                   by any person who is a party to such  
5                   covered activities or of the results of  
6                   such covered activities.

7                   “(iii) Entering into any agreement or  
8                   engaging in any other conduct allocating a  
9                   market with a competitor that is not ex-  
10                  pressly exempted from the antitrust laws  
11                  by a determination under subsection (i)(4).

12                  “(iv) Exchanging information among  
13                  competitors relating to production (other  
14                  than production by such covered activities)  
15                  of a product, process, or service if such in-  
16                  formation is not reasonably necessary to  
17                  carry out the purpose of such covered ac-  
18                  tivities.

19                  “(v) Entering into any agreement or  
20                  engaging in any other conduct restricting,  
21                  requiring, or otherwise involving the pro-  
22                  duction of a product, process, or service  
23                  that is not so expressly exempted from the  
24                  antitrust laws by a determination under  
25                  subsection (i)(4).

1           “(vi) Except as otherwise provided in  
2           this subsection, entering into any agree-  
3           ment or engaging in any other conduct to  
4           restrict or require participation by any per-  
5           son who is a party to such activities, in  
6           any unilateral or joint activity that is not  
7           reasonably necessary to carry out the pur-  
8           pose of such covered activities.

9           “(3) DEVELOPMENT.—The term ‘development’  
10          includes the identification of suitable compounds or  
11          biological materials, the conduct of preclinical and  
12          clinical studies, the preparation of an application for  
13          marketing approval, and any other actions related to  
14          preparation of a countermeasure.

15          “(4) PERSON.—The term ‘person’ has the  
16          meaning given such term in subsection (a) of the  
17          first section of the Clayton Act (15 U.S.C. 12(a)).

18          “(5) PRIORITY COUNTERMEASURES.—The term  
19          ‘priority countermeasure’ means a countermeasure,  
20          including a drug, medical device, biological product,  
21          or diagnostic test to treat, identify, or prevent infec-  
22          tion by a biological agent or toxin on the list devel-  
23          oped under section 351A(a)(1) of the Public Health  
24          Service Act and prioritized under subsection  
25          (a)(1).”.

1       **CHAPTER 2—ENSURING REGULATORY**  
2                                   **EFFICIENCY**

3       **SEC. 121. COMMISSION ON COUNTERMEASURE AND VAC-**  
4                                   **CINE REGULATION.**

5           (a) **ESTABLISHMENT.**—There shall be established a  
6 commission to be known as the Commission on Counter-  
7 measure and Vaccine Regulation (referred to in this sec-  
8 tion referred to as the “Commission”).

9           (b) **MEMBERSHIP.**—

10           (1) **COMPOSITION.**—The Commission shall be  
11 composed of 7 members to be appointed by the Sec-  
12 retary of Health and Human Services in accordance  
13 with this subsection.

14           (2) **EXPERTISE REQUIREMENT.**—The members  
15 of the Commission shall consist of individuals with  
16 expertise and experience in the manufacture, regula-  
17 tion, distribution, and use of vaccines, of which—

18           (A) at least 2 members of the Commission  
19 shall have experience qualified by training and  
20 experience to inspect vaccine manufacturing fa-  
21 cilities and may be employees of the Depart-  
22 ment of Health and Human Services;

23           (B) at least 2 members of the Commission  
24 shall represent manufacturers of vaccine prod-  
25 ucts; and

1 (C) at least 1 member of the Commission  
2 shall be a representative of vaccine consumers.

3 (3) CHAIRPERSON.—The Secretary shall ap-  
4 point an individual to serve as the Chairperson of  
5 the Commission. Such individual shall not be an em-  
6 ployee of the Department of Health and Human  
7 Services.

8 (c) FUNCTIONS.—The Commission shall conduct a  
9 study of the statutes, regulations, guidelines, and compli-  
10 ance, inspection, and enforcement practices and policies  
11 of the Department of Health and Human Services and of  
12 the Food and Drug Administration that are applicable to  
13 vaccines intended for human use that are in periodic short  
14 supply in the United States.

15 (d) REQUIREMENTS.—The study under subsection  
16 (c) shall include a review of the regulatory requirements,  
17 guidelines, practices, and policies—

18 (1) for the development and licensing of vac-  
19 cines and the licensing of vaccine manufacturing fa-  
20 cilities;

21 (2) for inspections and other activities for main-  
22 taining compliance and enforcement of the require-  
23 ments applicable to such vaccines and facilities: and

24 (3) that may have contributed to temporary or  
25 long-term shortages of vaccines.

1 (e) REPORT AND RECOMMENDATIONS.—Not later  
2 than 6 months after the date of enactment of this Act,  
3 the Commission shall submit to the Secretary of Health  
4 and Human Services, the Committee on Health, Edu-  
5 cation, Labor and Pensions of the Senate and the Com-  
6 mittee on Energy and Commerce of the House of Rep-  
7 resentatives a report that contains—

8 (1) the results of the study conducted under  
9 subsection (a); and

10 (2) recommendations for modifications to the  
11 regulatory requirements, guidelines and practices,  
12 and policies described in subsection (b) to reduce  
13 waste, increase efficiency, and ensure the rapid  
14 availability of safe and effective products.

15 **SEC. 122. TECHNICAL ASSISTANCE.**

16 Subchapter E of chapter V of the Federal Food,  
17 Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is  
18 amended by adding at the end the following:

19 **“SEC. 565. TECHNICAL ASSISTANCE.**

20 “The Secretary, in consultation with the Commis-  
21 sioner of Food and Drugs, shall establish within the Food  
22 and Drug Administration a team of experts on manufac-  
23 turing and regulatory activities (including compliance with  
24 current Good Manufacturing Practices) to provide both  
25 off-site and on-site technical assistance, at the request of

1 the manufacturer, to the manufacturers of vaccines or  
2 other biological products regulated under this act or sec-  
3 tion 351 of the Public Health Service Act if the Secretary  
4 determines that a shortage or potential shortage may  
5 occur in the United States in the supply of such vaccines  
6 or products and that the provision of such assistance  
7 would be beneficial in helping alleviate or avert such short-  
8 age.”.

9 **SEC. 123. REQUIREMENT TO FULLY INFORM.**

10 (a) IN GENERAL.—Subchapter E of Chapter V of the  
11 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb  
12 et seq.), as amended by section 122, is further amended  
13 by adding at the end the following:

14 **“SEC. 566. REQUIREMENT TO FULLY INFORM.**

15 “Notwithstanding any other provision of law, a man-  
16 ufacturer of a drug that is subject to Food and Drug Ad-  
17 ministration regulation shall promptly submit to the Food  
18 and Drug Administration all communications between the  
19 manufacturer and the regulatory body of a foreign govern-  
20 ment if the content of such communications may impact  
21 the introduction of a drug into the interstate commerce  
22 of the United States.”.

23 (b) CONFORMING AMENDMENT.—Section 301 of the  
24 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331)  
25 is amended by adding at the end the following:

1 “(hh) The knowing failure or refusal by a manufac-  
2 turer of a drug or vaccine to provide any communication  
3 required by this chapter.”.

4 **SEC. 125. ACCELERATED APPROVAL OF COUNTER-**  
5 **MEASURES OR VACCINES.**

6 (a) IN GENERAL.—The Secretary of Health and  
7 Human Services may designate a countermeasure or vac-  
8 cine as a fast-track product pursuant to section 506 of  
9 the Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
10 356). Such a designation may be made for counter-  
11 measures or vaccines that demonstrate the potential to im-  
12 prove upon countermeasures or vaccines available at the  
13 time of such declaration. Such a designation may be made  
14 prior to the submission of—

15 (1) a request for designation by the sponsor or  
16 applicant; or

17 (2) an application for the investigation of the  
18 drug under section 505(i) of such Act or section  
19 351(a)(3) of the Public Health Service Act.

20 (b) RULE OF CONSTRUCTION.—Nothing in this sec-  
21 tion shall be construed to prohibit a sponsor or applicant  
22 from declining a designation under subsection (a).

1 **SEC. 126. NATIONAL UNIFORMITY FOR APPROVED PROD-**  
 2 **UCTS.**

3 (b) OTHER PRODUCTS.—Chapter VII of the Federal  
 4 Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.)  
 5 is amended by adding at the end the following:

6 **“Subchapter H—National Uniformity for**  
 7 **Approved Products**

8 **“SEC. 761. NATIONAL UNIFORMITY FOR DRUGS, VACCINES,**  
 9 **AND OTHER BIOLOGICAL PRODUCTS.**

10 “(a) IN GENERAL.—Except as provided in section  
 11 763, no State, political subdivision of a State, or judicial  
 12 system of a State may establish or continue in effect any  
 13 requirement—

14 “(1) that relates to the regulation of a drug in-  
 15 tended for use by humans (including a vaccine or  
 16 other biological product); and

17 “(2) that is different from or in addition to, or  
 18 that is otherwise not identical with, a requirement of  
 19 this Act, section 351 of the Public Health Service  
 20 Act (42 U.S.C. 262), the Fair Packaging and Label-  
 21 ing Act (15 U.S.C. 1451 et seq.), and the adminis-  
 22 trative implementation of such Acts.

23 “(b) REQUIREMENT RELATING TO REGULATIONS.—  
 24 For purposes of this section, a requirement relating to the  
 25 regulation of a drug, vaccine, or other biological product  
 26 shall be deemed to include any requirement relating to the

1 subject matter in any provision of this Act, section 351  
2 of the Public Health Service Act (42 U.S.C. 262), or the  
3 Fair Packaging and Labeling Act (15 U.S.C. 1451 et  
4 seq.), but shall not include any requirement relating to  
5 the practice of pharmacy or any requirement that a drug  
6 be dispensed only upon the prescription of a practitioner  
7 licensed by law to administer such drug.

8 **“SEC. 762. WARNING UNIFORMITY.**

9       “(a) IN GENERAL.—Except as provided in this sec-  
10 tion, no State or political subdivision of a State may, di-  
11 rectly or indirectly, establish or continue in effect under  
12 any authority any notification requirement for a drug, vac-  
13 cine, or other biological product intended for use by hu-  
14 mans that provides for a warning concerning the safety  
15 of the drug, vaccine, or biological product or any compo-  
16 nent or package thereof, unless such notification require-  
17 ment has been prescribed under the authority of this Act  
18 and the State or political subdivision notification require-  
19 ment is identical to the notification requirement prescribed  
20 under the authority of this Act.

21       “(b) DEFINITIONS.—In this section:

22               “(1) NOTIFICATION REQUIREMENT.—The term  
23       ‘notification requirement’ includes any mandatory  
24       disclosure requirement relating to the dissemination  
25       of information about a drug, vaccine, or biological

1 product in any manner, such as labels, labeling,  
2 posters, public notices, advertising, or any other  
3 means of communication.

4 “(2) WARNING.—The term ‘warning’ with re-  
5 spect to a drug, vaccine, or other biological product  
6 means any statement, vignette, or other representa-  
7 tion which indicates, directly or by implication, that  
8 the drug, vaccine or biological product presents or  
9 may present a hazard to human health or safety.

10 **“SEC. 763. EXEMPTIONS FROM UNIFORMITY.**

11 “Upon application of a State, the Secretary may by  
12 regulation, after notice and opportunity for written and  
13 oral presentation of views, exempt from section 761 or  
14 762, under such conditions as the Secretary may impose,  
15 a State requirement that—

16 “(1) is justified by compelling and unique local  
17 conditions;

18 “(2) protects an important public interest that  
19 would otherwise be unprotected;

20 “(3) would not cause any drug, vaccine, or  
21 other biological product to be in violation of any ap-  
22 plicable requirement or prohibition under Federal  
23 law; and

24 “(4) would not unduly burden interstate com-  
25 merce.”.

1           **Subtitle B—Litigation Reform**  
 2   **CHAPTER 1—PROTECTION FOR COUNTER-**  
 3           **MEASURES AND PRODUCTS PRO-**  
 4           **TECTING AGAINST PANDEMICS,**  
 5           **EPIDEMICS, AND BIOTERRORISM**

6   **SEC. 131. LIABILITY PROTECTIONS FOR PANDEMICS,**  
 7           **EPIDEMICS, AND COUNTERMEASURES.**

8           Part B of title III of the Public Health Service Act  
 9 is amended by inserting after section 319F–2 (42 U.S.C.  
 10 247d–6b) the following:

11   **“SEC. 319F–3. LIABILITY PROTECTIONS FOR PANDEMICS,**  
 12           **EPIDEMICS, AND COUNTERMEASURES.**

13           “(a) **AUTHORITY.**—The Secretary shall be respon-  
 14 sible for the administration of this section. This section  
 15 shall apply with respect to both Federal and non-Federal  
 16 sales and purchases of qualified countermeasures within  
 17 the meaning of section 319F–1 of the Public Health Serv-  
 18 ice Act, or qualified pandemic or epidemic technologies.

19           “(b) **LITIGATION MANAGEMENT.**—

20           “(1) **FEDERAL CAUSE OF ACTION.**—

21           “(A) **IN GENERAL.**—There shall exist an  
 22 exclusive Federal cause of action for claims  
 23 arising out of, relating to, or resulting from the  
 24 use of a qualified pandemic or epidemic tech-  
 25 nology or qualified countermeasure. The sub-

1           stantive law for decision in any such action  
2           shall be derived from the law, including choice  
3           of law principles, of the State in which such  
4           cases of pandemic occur, unless such law is in-  
5           consistent with or preempted by Federal law.  
6           Such Federal cause of action shall be brought  
7           only for claims for injuries that are proximately  
8           caused by manufacturers, distributors, or health  
9           care providers that provide qualified pandemic  
10          or epidemic technology or qualified counter-  
11          measure to Federal and non-Federal Govern-  
12          ment customers.

13                 “(B) JURISDICTION.—Such appropriate  
14          district court of the United States shall have  
15          original and exclusive jurisdiction over all ac-  
16          tions for any claim for loss of property, per-  
17          sonal injury, or death arising out of, relating to,  
18          or resulting from when a qualified pandemic  
19          technology has been deployed in defense against  
20          or response or recovery and such claims result  
21          or may result in loss to the manufacturer, dis-  
22          tributor, or health care provider.

23                 “(2) SPECIAL RULES.—In an action brought  
24          under this section for damages the following provi-  
25          sions shall apply:

1           “(A) PUNITIVE DAMAGES.—No punitive  
2 damages intended to punish or deter, exemplary  
3 damages, or other damages not intended to  
4 compensate a plaintiff for actual losses may be  
5 awarded, nor shall any party be liable for inter-  
6 est prior to the judgment.

7           “(B) NONECONOMIC DAMAGES.—

8           “(i) IN GENERAL.—Noneconomic  
9 damages may be awarded in an amount  
10 not to exceed \$250,000 against a defend-  
11 ant only in an amount directly proportional  
12 to the percentage of responsibility of such  
13 defendant for the harm to the plaintiff,  
14 and no plaintiff may recover noneconomic  
15 damages unless the plaintiff suffered phys-  
16 ical harm.

17           “(ii) DEFINITION.—For purposes of  
18 clause (i), the term ‘noneconomic damages’  
19 means damages for losses for physical and  
20 emotional pain, suffering, inconvenience,  
21 physical impairment, mental anguish, dis-  
22 figurement, loss of enjoyment of life, loss  
23 of society and companionship, loss of con-  
24 sortium, hedonic damages, injury to rep-

1                   utation, and any other nonpecuniary  
2                   losses.

3                   “(3) COLLATERAL SOURCES.—Any recovery by  
4                   a plaintiff in an action under this section shall be re-  
5                   duced by the amount of collateral source compensa-  
6                   tion, if any, that the plaintiff has received or is enti-  
7                   tled to receive that result or may result in loss to  
8                   the manufacturer, distributor, or health care pro-  
9                   vider.

10                   “(4) GOVERNMENT CONTRACTOR DEFENSE.—

11                   “(A) IN GENERAL.—Should a product li-  
12                   ability or other lawsuit be filed for claims aris-  
13                   ing out of, relating to, or resulting from the use  
14                   of a qualified countermeasure, or qualified pan-  
15                   demic or epidemic technology in anticipation of  
16                   and preparation for, in defense against or re-  
17                   sponse or recovery and such claims result or  
18                   may result in loss to the manufacturer, dis-  
19                   tributor, or health care provider there shall be  
20                   a rebuttable presumption that the government  
21                   contractor defense applies in such lawsuit. This  
22                   presumption shall only be overcome by evidence  
23                   showing that the manufacturer, distributor or  
24                   health care provider acted fraudulently or with  
25                   willful misconduct. This presumption of the

1 government contractor defense shall apply re-  
2 gardless of whether the claim against the manu-  
3 facturer, distributor or health care provider  
4 arises from a sale of the product to Federal  
5 Government or non-Federal Government cus-  
6 tomers.

7 “(B) PRODUCT APPROVAL.—A defendant  
8 may assert the defense under subparagraph  
9 (A), if the qualified countermeasure or qualified  
10 pandemic or epidemic technology involved—

11 “(i) is approved or cleared under  
12 chapter V of the Federal Food, Drug, and  
13 Cosmetic Act or licensed under section 351  
14 of this Act;

15 “(ii) is a countermeasure for which  
16 the Secretary determines that sufficient  
17 and satisfactory clinical experience or re-  
18 search data (including data, if available,  
19 from pre-clinical and clinical trials) sup-  
20 port a reasonable conclusion that the coun-  
21 termeasure will qualify for approval or li-  
22 censing within 8 years after the date of a  
23 determination under section 319F-2; or

1                   “(iii) is authorized for emergency use  
2                   under section 564 of the Federal Food,  
3                   Drug, and Cosmetic Act.

4                   “(c) DEFINITIONS.—In this section:

5                   “(1) QUALIFIED PANDEMIC OR EPIDEMIC  
6                   TECHNOLOGY.—The term ‘qualified pandemic or epi-  
7                   demic technology’ means any product (including  
8                   drugs, vaccines, and other biologics), equipment,  
9                   service (including support services), device, or tech-  
10                  nology (including information technology) designed,  
11                  developed, modified, or procured for the specific pur-  
12                  pose of preventing, detecting, identifying, or pre-  
13                  venting a pandemic or epidemic or limiting the harm  
14                  such pandemic or epidemic might otherwise cause,  
15                  that is designated as such by the Secretary after the  
16                  Secretary declares a public health emergency as de-  
17                  scribed in section 319.

18                  “(2) HEALTH CARE PROVIDER.—The term  
19                  ‘health care provider’ means a person who lawfully  
20                  prescribes, administers, or provide a facility to ad-  
21                  minister a qualified countermeasure or a qualified  
22                  pandemic or epidemic technology.

23                  “(3) LOSS.—The term ‘loss’ means death, bod-  
24                  ily injury, or loss of or damage to property, includ-  
25                  ing business interruption loss.

1           “(4) NON-FEDERAL GOVERNMENT CUS-  
 2 TOMERS.—The term ‘non-Federal Government cus-  
 3 tomers’ means any customer of a manufacturer that  
 4 is not an agency or instrumentality of the United  
 5 States Government with authority under Public Law  
 6 85–804 to provide for indemnification under certain  
 7 circumstances for third-party claims against its con-  
 8 tractors, including but not limited to State and local  
 9 authorities and private entities.”.

10           **CHAPTER 2—VACCINE INJURY**  
 11           **COMPENSATION PROGRAM**

12 **SEC. 141. VACCINE INJURY COMPENSATION AND VACCINE**  
 13 **LITIGATION REFORM.**

14           (a) FINDINGS.—Congress finds that—

15           (1) there are shortcomings in the Vaccine In-  
 16 jury Compensation Program and loopholes in that  
 17 program that have been exploited in a manner that  
 18 has contributed to a decline in the availability of  
 19 vaccines generally in the United States and a decline  
 20 in the number of manufacturers able to supply vac-  
 21 cines; and

22           (2) the condition described in paragraph (1)  
 23 presents a barrier to the development of vaccines  
 24 needed for bioterror countermeasures.

1 (b) RECOMMENDATIONS.—After considering recent  
2 changes in the litigation environment with respect to vac-  
3 cines as well as recent scientific evidence and reports by  
4 the Institute of Medicine and others with respect to the  
5 safety of vaccines and their components and ingredients,  
6 the Secretary of Health and Human Services and the At-  
7 torney General shall, not later than 6 months after the  
8 date of enactment of this Act, jointly submit recommenda-  
9 tions to the appropriate committees of Congress con-  
10 cerning necessary modifications to the Vaccine Injury  
11 Compensation Program and Federal rules regarding liti-  
12 gation involving vaccines.

13 **SEC. 142. MODIFICATIONS TO VACCINES FOR CHILDREN**  
14 **PROGRAM.**

15 (a) EXPANSION OF DEFINITION OF FEDERALLY VAC-  
16 CINE-ELIGIBLE CHILD.—Section 1928(b)(2)(A)(iii) of the  
17 Social Security Act (42 U.S.C.1396s(b)(2)(A)(iii)) is  
18 amended to read as follows:

19 “(iii) A child who (I) is administered  
20 a qualified pediatric vaccine by a federally-  
21 qualified health center (as defined in sec-  
22 tion 1905(l)(2)(B)), a rural health clinic  
23 (as defined in section 1905(l)(1)), or a  
24 State or local public health clinic, and (II)

1                   is not insured with respect to the vac-  
2                   cine.”.

3           (b) REPEAL OF PRICE CAP FOR PRE-1983 VAC-  
4 CINES.—

5           (1) IN GENERAL.—Section 1928(d)(3)(E) of  
6           such Act (42 U.S.C.1396s(d)(3)(B)) is repealed.

7           (2) CONFORMING AMENDMENT.—Section  
8           1928(d)(3) of such Act (42 U.S.C. 1396s(d)(3)) is  
9           amended by re-designating subparagraph (C) as sub-  
10          paragraph (B).

11          (c) SIMPLIFIED ADMINISTRATION OF VACCINE SUP-  
12 PLY.—Section 1928(d)(6) of such Act (42 U.S.C.  
13 1396s(d)(6)) is amended by inserting before the last sen-  
14 tence the following: “The Secretary may sell such quan-  
15 tities of vaccines from such supply as the Secretary deter-  
16 mines appropriate. Proceeds received from such sales shall  
17 be available to the Secretary only for the purposes of pro-  
18 curing pediatric vaccine stockpiles under this section and  
19 shall remain available until expended.”.

1 **CHAPTER 3—ENCOURAGING VACCINE**  
2 **AND COUNTERMEASURE PRODUCTION**  
3 **CAPACITY**

4 **SEC. 151. INCENTIVES FOR THE CONSTRUCTION OF VAC-**  
5 **CINE AND COUNTERMEASURE MANUFAC-**  
6 **TURING FACILITIES.**

7 (a) VACCINE AND COUNTERMEASURES MANUFAC-  
8 TURING FACILITIES INVESTMENT TAX CREDIT.—

9 (1) ALLOWANCE OF CREDIT.—Section 46 of the  
10 Internal Revenue Code of 1986 (relating to amount  
11 of investment credit) is amended by striking “and”  
12 at the end of paragraph (1), by striking the period  
13 at the end of paragraph (2) and inserting “, and”,  
14 and by adding at the end the following new para-  
15 graph:

16 “(3) the vaccine and countermeasures manufac-  
17 turing facilities investment credit.”.

18 (2) AMOUNT OF CREDIT.—Section 48 of such  
19 Code is amended by adding at the end the following  
20 new subsection:

21 “(c) VACCINE AND COUNTERMEASURES MANUFAC-  
22 TURING FACILITIES INVESTMENT CREDIT.—

23 “(1) IN GENERAL.—For purposes of section 46,  
24 the vaccine and countermeasures manufacturing fa-  
25 cilities investment credit for any taxable year is an

1 amount equal to 20 percent of the qualified invest-  
2 ment for such taxable year.

3 “(2) QUALIFIED INVESTMENT.—For purposes  
4 of paragraph (1), the qualified investment for any  
5 taxable year is the basis of each vaccine manufac-  
6 turing facilities property placed in service by the tax-  
7 payer during such taxable year.

8 “(3) VACCINE OR COUNTERMEASURES MANU-  
9 FACTURING FACILITIES PROPERTY.—For purposes  
10 of this subsection, the term ‘vaccine or counter-  
11 measures manufacturing facilities property’ means  
12 real and tangible personal property—

13 “(A)(i) the original use of which com-  
14 mences with the taxpayer, or

15 “(ii) which is acquired through purchase  
16 (as defined by section 179(d)(2)),

17 “(B) which is depreciable under section  
18 167,

19 “(C) which is used for the manufacture,  
20 distribution, or research and development of  
21 vaccines or qualified countermeasures (as such  
22 term is defined in section 319F–1 of the Public  
23 Health Service Act), and

24 “(D) which is in compliance with any  
25 standards and regulations which are promul-

1 gated by the Food and Drug Administration,  
2 the Occupational Safety and Health Adminis-  
3 tration, or the Environmental Protection Agen-  
4 cy and which are applicable to such property.

5 “(4) CERTAIN PROGRESS EXPENDITURE RULES  
6 MADE APPLICABLE.—Rules similar to rules of sub-  
7 sections (c)(4) and (d) of section 46 (as in effect on  
8 the day before the date of the enactment of the Rev-  
9 enue Reconciliation Act of 1990) shall apply for pur-  
10 poses of this subsection.

11 “(5) TERMINATION.—This subsection shall not  
12 apply to any property placed in service after Decem-  
13 ber 31, 2009.”.

14 (b) TECHNICAL AMENDMENTS.—

15 (1) Subparagraph (C) of section 49(a)(1) of  
16 such Code is amended by striking “and” at the end  
17 of clause (ii), by striking the period at the end of  
18 clause (iii) and inserting “, and”, and by adding at  
19 the end the following new clause:

20 “(iv) the basis of any vaccine or coun-  
21 termeasures manufacturing facilities prop-  
22 erty.”.

23 (2) Subparagraph (E) of section 50(a)(2) of  
24 such Code is amended by inserting “or 48(c)(4)” be-  
25 fore the period.

1           (3)(A) The section heading for section 48 of  
2           such Code is amended to read as follows:

3   **“SEC. 48. OTHER CREDITS.”.**

4           (B) The table of sections for subpart E of part  
5           IV of subchapter A of chapter 1 of such Code is  
6           amended by striking the item relating to section 48  
7           and inserting the following:

“Sec. 48. Other credits.”.

8           (c) **EFFECTIVE DATE.**—The amendments made by  
9           this section shall apply to property placed in service after  
10          December 31, 2004, under rules similar to the rules of  
11          section 48(m) of the Internal Revenue Code of 1986 (as  
12          in effect on the day before the date of enactment of the  
13          Revenue Reconciliation Act of 1990).

14   **SEC. 152. CREDIT FOR MEDICAL RESEARCH RELATED TO**  
15                   **DEVELOPING VACCINES OR COUNTER-**  
16                   **MEASURES.**

17          (a) **IN GENERAL.**—Subpart D of part IV of sub-  
18          chapter A of chapter 1 of the Internal Revenue Code of  
19          1986 (relating to business-related credits), as amended by  
20          this Act, is amended by adding at the end the following  
21          new section:

1 **“SEC. 45L. CREDIT FOR MEDICAL RESEARCH RELATED TO**  
2 **DEVELOPING VACCINES OR COUNTER-**  
3 **MEASURES.**

4 “(a) GENERAL RULE.—For purposes of section 38,  
5 the vaccine research credit determined under this section  
6 for the taxable year is an amount equal to 35 percent of  
7 the qualified vaccine or countermeasures research ex-  
8 penses for the taxable year.

9 “(b) QUALIFIED VACCINE OR COUNTERMEASURES  
10 RESEARCH EXPENSES.—For purposes of this section—

11 “(1) QUALIFIED VACCINE OR COUNTER-  
12 MEASURES RESEARCH EXPENSES.—Except as other-  
13 wise provided in this subsection, the term ‘qualified  
14 vaccine or countermeasures research expenses’  
15 means the amounts which are paid or incurred by  
16 the taxpayer during the taxable year with respect to  
17 any research and development of vaccines or quali-  
18 fied countermeasures (as such term is defined in sec-  
19 tion 319F–1 of the Public Health Service Act) which  
20 would be described in subsection (b) of section 41 if  
21 such subsection were applied with the modifications  
22 set forth in paragraph (2).

23 “(2) MODIFICATIONS; INCREASED INCENTIVE  
24 FOR CONTRACT RESEARCH PAYMENTS.—For pur-  
25 poses of paragraph (1), subsection (b) of section 41  
26 shall be applied—

1           “(A) by substituting ‘qualified vaccine re-  
2           search’ for ‘qualified research’ each place it ap-  
3           pears in paragraphs (2) and (3) of such sub-  
4           section,

5           “(B) by substituting ‘100 percent’ for ‘65  
6           percent’ in paragraph (3)(A) of such sub-  
7           section, and

8           “(C) in a manner so that qualified re-  
9           search and development expenses include ex-  
10          penses related to re-formulating existing vac-  
11          cines.

12          “(3) EXCLUSION FOR AMOUNTS FUNDED BY  
13          GRANTS, ETC.—The term ‘qualified vaccine research  
14          expenses’ shall not include any amount to the extent  
15          such amount is funded by any grant, contract, or  
16          otherwise by another person (or any governmental  
17          entity).

18          “(c) COORDINATION WITH CREDIT FOR INCREASING  
19          RESEARCH EXPENDITURES.—

20                 “(1) IN GENERAL.—Except as provided in para-  
21                 graph (2), any qualified vaccine or countermeasures  
22                 research expenses for a taxable year to which an  
23                 election under this section applies shall not be taken  
24                 into account for purposes of determining the credit  
25                 allowable under section 41 for such taxable year.

1           “(2) EXPENSES INCLUDED IN DETERMINING  
2           BASE PERIOD RESEARCH EXPENSES.—Any qualified  
3           vaccine or countermeasures research expenses for  
4           any taxable year which are qualified research ex-  
5           penses (within the meaning of section 41(b)) shall be  
6           taken into account in determining base period re-  
7           search expenses for purposes of applying section 41  
8           to subsequent taxable years.

9           “(d) SPECIAL RULES.—

10           “(1) CERTAIN RULES MADE APPLICABLE.—  
11           Rules similar to the rules of paragraphs (1) and (2)  
12           of section 41(f) shall apply for purposes of this sec-  
13           tion.

14           “(2) COORDINATION WITH CREDIT FOR CLIN-  
15           ICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR  
16           RARE DISEASES.—Any qualified vaccine or counter-  
17           measures research expense for a taxable year shall  
18           not be taken into account for purposes of deter-  
19           mining the credit allowable under section 45C for  
20           such taxable year.

21           “(3) COORDINATION WITH CREDIT FOR COUN-  
22           TERMEASURES RESEARCH.—Any qualified vaccine or  
23           countermeasures research expense for a taxable year  
24           shall not be taken into account for purposes of de-

1       termining the credit allowable under section 45K for  
2       such taxable year.”.

3       (b) INCLUSION IN GENERAL BUSINESS CREDIT.—

4       Section 38(b) of the Internal Revenue Code of 1986, as  
5       amended by this Act, is amended by striking “plus” at  
6       the end of paragraph (21), by striking the period at the  
7       end of paragraph (22) and inserting “, plus”, and by add-  
8       ing at the end the following new paragraph:

9               “(23) the vaccine or countermeasures research  
10       credit determined under section 45L.”.

11       (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of

12       the Internal Revenue Code of 1986 (relating to certain  
13       expenses for which credits are allowable), as amended by  
14       this Act, is amended by adding at the end the following  
15       new subsection:

16               “(g) CREDIT FOR QUALIFIED VACCINE OR COUNTER-  
17       MEASURES RESEARCH EXPENSES.—

18               “(1) IN GENERAL.—No deduction shall be al-  
19       lowed for that portion of the qualified vaccine or  
20       countermeasures research expenses (as defined in  
21       section 45L(b)) otherwise allowable as a deduction  
22       for the taxable year which is equal to the amount of  
23       the credit determined for such taxable year under  
24       section 45L(a).

1           “(2) CERTAIN RULES TO APPLY.—Rules similar  
2           to the rules of paragraphs (2), (3), and (4) of sub-  
3           section (c) shall apply for purposes of this sub-  
4           section.”.

5           (d) DEDUCTION FOR UNUSED PORTION OF CRED-  
6           IT.—Section 196(c) of the Internal Revenue Code of 1986  
7           (defining qualified business credits), as amended by this  
8           Act, is amended by striking “and” at the end of paragraph  
9           (14), by striking the period at the end of paragraph (15)  
10          and inserting “, and”, and by adding at the end the fol-  
11          lowing new paragraph:

12           “(16) the vaccine or countermeasures research  
13           credit determined under section 45L(a) (other than  
14           such credit determined under the rules of section  
15           280C(g)(2)).”.

16          (e) TECHNICAL AMENDMENT.—The table of sections  
17          for subpart D of part IV of subchapter A of chapter 1  
18          of the Internal Revenue Code of 1986, as amended by this  
19          Act, is amended by adding at the end the following new  
20          item:

                  “Sec. 45L. Credit for medical research related to developing vac-  
                  cines or countermeasures.”.

21          (f) EFFECTIVE DATE.—The amendments made by  
22          this section shall apply to taxable years beginning after  
23          December 31, 2004.

1 **SEC. 153. GRANTS TO CONSTRUCT AND IMPROVE RE-**  
2 **SEARCH AND DEVELOPMENT AND MANUFAC-**  
3 **TURING OF COUNTERMEASURES OR VAC-**  
4 **CINES.**

5 Part B of title III of the Public Health Service Act  
6 is amended by inserting after section 519K (as added by  
7 section 115) the following:

8 **“SEC. 319L. GRANTS TO CONSTRUCT AND IMPROVE RE-**  
9 **SEARCH AND DEVELOPMENT AND MANUFAC-**  
10 **TURING OF COUNTERMEASURES OR VAC-**  
11 **CINES.**

12 “(a) **IN GENERAL.**—The Secretary may award grants  
13 to a manufacturer to purchase or improve real property  
14 and tangible personal property used in the research and  
15 development, manufacture, or distribution of a counter-  
16 measure or vaccine.

17 “(b) **ELIGIBILITY.**—To be eligible to receive a grant  
18 under subsection (a), a manufacturer shall submit to the  
19 Secretary an application at such time, in such manner,  
20 and containing such information as the Secretary may re-  
21 quire, including—

22 “(1) a detailed description of the equipment, fa-  
23 cility, or property involved;

24 “(2) a detailed description of the counter-  
25 measure or vaccine involved;

1           “(3) a detailed description of the research and  
2           development, manufacturer, or distribution involved;

3           “(4) a description of how such equipment, facil-  
4           ity, or property is to be used;

5           “(5) a description of whether such equipment,  
6           facility, or property can be used for the research and  
7           development, manufacture, or distribution of a drug,  
8           biological product, vaccine, medical device or other  
9           countermeasure not described in paragraph (2); and

10          “(6) a certification that the equipment, facility,  
11          or property involved complies with all applicable  
12          Federal, State, and local laws.

13          “(c) RECAPTURE.—If, at any time prior to the expi-  
14          ration of the 20-year period beginning on the date on  
15          which a grant is awarded under this section, the equip-  
16          ment, facility, or property involved shall cease to be used  
17          for the purposes for which the grant was awarded, the  
18          United States shall be entitled to recover from the manu-  
19          facturer an amount bearing the same ratio to the current  
20          value of the facility (at the time of the determination) as  
21          the amount the grant bore to the total cost of the purchase  
22          or improvement involved. Such current value may be de-  
23          termined by agreement of the manufacturer and the Sec-  
24          retary or by order of the United States District Court for  
25          the district in which such facility is situated. The Sec-

1 retary may not recapture the equipment, facility, or prop-  
2 erty, in accordance with regulations, if the Secretary de-  
3 termines there is good cause for the failure of proper use.

4 “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
5 is authorized to be appropriated, such sums as may be  
6 necessary to carry out this section.”.

7 **SEC. 154. REVENUE RECOGNITION FOR ADULT AND PEDI-**  
8 **ATRIC VACCINES AND OTHER COUNTER-**  
9 **MEASURES AGAINST POTENTIAL ACTS OF**  
10 **TERRORISM.**

11 Notwithstanding any other Federal or State law (in-  
12 cluding general accounting guidelines of the Securities and  
13 Exchange Commission), the revenue derived under a Fed-  
14 eral Government contract from the stockpiling, holding,  
15 storing, rotating, or other management of an inventory of  
16 vaccines or countermeasures shall be deemed as income  
17 to the manufacturer or other legal entity at the time such  
18 manufacturer or entity receives such revenue, except for  
19 any revenue credited back or returned to such agency or  
20 for inventories subsequently sold by such manufacturer or  
21 entity to a third party.

1                   **Subtitle C—Public Health**  
2                   **Preparedness**

3                   **CHAPTER 1—CAPACITY TO RESPOND**

4   **SEC. 171. PANDEMIC INFLUENZA PREPAREDNESS AND RE-**  
5                   **SPONSE PLAN.**

6           (a) **IN GENERAL.**—In implementing out the Pan-  
7   demic Influenza Preparedness and Response Plan of the  
8   Centers for Disease Control and Prevention, the Secretary  
9   of Health and Human Services (referred to in this section  
10 as the “Secretary”) shall ensure funding for the following  
11 activities:

12           (1) **RESEARCH.**—The Secretary shall provide  
13   funding to carry out research to develop improved  
14   influenza vaccines.

15           (2) **EDUCATION AND OUTREACH.**—The Sec-  
16   retary shall carry out activities to increase public  
17   awareness on the need to be vaccinated, particularly  
18   in priority or high-risk populations.

19           (3) **SURVEILLANCE.**—The Secretary shall—

20           (A) carry out activities to improve inter-  
21   national and State influenza surveillance capac-  
22   ity;

23           (B) conduct influenza vaccine safety and  
24   efficacy data collection; and

1           (C) provide for the conduct of epidemiolog-  
2           ical studies and research concerning novel influ-  
3           enza viruses.

4           (4) IMPROVE COMMUNICATION.—In the case of  
5           a vaccine production delay or shortage or an influ-  
6           enza pandemic or epidemic, the Secretary shall—

7                   (A) identify those priority sub-groups that  
8                   should be vaccinated first;

9                   (B) provide the information determined  
10                  under subparagraph (A) to State and local  
11                  health department; and

12                  (C) identify which priority sub-group each  
13                  State or local health department should have  
14                  responsibility for vaccinating.

15          (b) DIRECT DISTRIBUTION.—Notwithstanding any  
16          other provision of law, if the Secretary determines that  
17          an influence pandemic or epidemic has occurred, or is im-  
18          minent, the Secretary shall have the authority to—

19                  (1) determine which health care providers  
20                  should receive priority in the allotment of influenza  
21                  vaccine; and

22                  (2) require manufactures or distributors of such  
23                  vaccine to provide such vaccine to the providers  
24                  identified under paragraph (1).

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated to carry out this section,  
3 \$100,000,000 for fiscal year 2006, and such sums as may  
4 be necessary for each of fiscal years 2007 through 2011.

5 **SEC. 172. NATIONAL NOTIFIABLE DISEASE SURVEILLANCE**  
6 **PROGRAM.**

7 Part B of title III of the Public Health Service Act  
8 (42 U.S.C. 243 et seq.) is amended—

9 (1) by striking section 314; and

10 (2) by inserting after section 311, the following:

11 **“SEC. 311A. NATIONAL NOTIFIABLE DISEASE SURVEIL-**  
12 **LANCE PROGRAM.**

13 “(a) IN GENERAL.—The Secretary is authorized to  
14 develop a real-time surveillance program for collecting and  
15 reporting information on notifiable diseases and condi-  
16 tions.

17 “(b) NOTIFIABLE DISEASES.—Not later than 180  
18 days after the date of enactment of the Public Health Se-  
19 curity Act of 2005, and annually thereafter, the Secretary,  
20 in consultation with State and local health authorities and  
21 appropriate private professional societies, shall certify a  
22 list of infectious diseases, environmental exposures or poi-  
23 sons, and other conditions, the real-time surveillance and  
24 control of which, in each State and territory of the United  
25 States, constitute a critical public health need. For pur-

1 poses of this part, the term ‘notifiable disease’ means a  
2 disease, exposures or poison, or other condition that ap-  
3 pears on the list under this section.

4 “(c) FEDERAL INFORMATICS ACTIVITIES.—

5 “(1) IN GENERAL.—In order to meet the urgent  
6 need for critical electronic surveillance of notifiable  
7 diseases, the Director of the Centers for Disease  
8 Control and Prevention, in consultation with State  
9 and local health authorities, shall, not later than 1  
10 year after the date of enactment of the Public  
11 Health Security Act of 2005, establish and maintain  
12 a national electronic surveillance program that in-  
13 cludes the following components:

14 “(A) Procedures to provide for the collec-  
15 tion (in a standardized form) and analysis of  
16 data on all notifiable diseases and on certain  
17 other conditions that States or regions elect to  
18 report to the program.

19 “(B) A procedure to enable all major pub-  
20 lic and private clinical laboratories to automati-  
21 cally report data, in compliance with the regula-  
22 tions promulgated under section 264(c) of the  
23 Health Insurance Portability and Accountability  
24 Act of 1996, to the program concerning  
25 notifiable diseases, antimicrobial resistance test-

1 ing, and other data determined appropriate by  
2 the Director.

3 “(C) A procedure to provide for syndromic  
4 and disease-specific surveillance by monitoring,  
5 in compliance with the regulations promulgated  
6 under section 264(c) of the Health Insurance  
7 Portability and Accountability Act of 1996, of  
8 private sector health-related electronic data  
9 (such as pharmaceutical purchase data and  
10 health insurance claims data).

11 “(D) A procedure to enable States to re-  
12 port data on suspicious cases of conditions that  
13 are not on the notifiable disease list but that  
14 may warrant further investigation.

15 “(E) A procedure to enable the program to  
16 automatically identify certain trends and sus-  
17 picious patterns with respect to data reported  
18 to the program.

19 “(F) A procedure to enable the program to  
20 provide regular reports to regional, State, and  
21 local government entities concerning disease  
22 trends, suspicious disease patterns, incidence  
23 and prevalence of diseases, laboratory data, and  
24 other information determined appropriate. Such

1 information shall include data on comparative  
2 national disease trends.

3 “(G) A procedure to enable the program to  
4 collect and analyze data from certain seminal  
5 veterinary and environmental sources where ap-  
6 propriate.

7 “(H) A procedure to enable the program to  
8 export data in a form appropriate for aggrega-  
9 tion, statistical analysis, and reporting.

10 “(I) A procedure to enable the program to  
11 receive and report data relating to non-  
12 notifiable diseases, including vital records, reg-  
13 istries, chronic disease, and maternal and child  
14 health data.

15 “(2) TIMELINESS OF REPORTING.—The proce-  
16 dures developed under paragraph (1) for the report-  
17 ing of data shall ensure that such data are reported  
18 in a timely manner.

19 “(3) PRIVATE SECTOR RESOURCES.—To meet  
20 the deadline described in paragraph (1), the Director  
21 of the Centers for Disease Control and Prevention  
22 may, on a temporary or permanent basis, implement  
23 systems or products developed by the private sector.

24 “(4) AUTHORITY FOR CONTRACTS.—In carrying  
25 out this subsection, the Director of the Centers for

1 Disease Control and Prevention may enter into con-  
2 tracts with public and private entities.

3 “(d) NATIONAL BIOINTELLIGENCE UNIT.—The Di-  
4 rector of the Centers for Disease Control and Prevention  
5 shall analyze data maintained by the national electronic  
6 surveillance program under subsection (b), and data from  
7 other sources, to report on the prevalence and incidence  
8 of notifiable diseases and conditions, trends and patterns  
9 in public health, emerging health problems, regional dif-  
10 ferences, and other analyses determined appropriate by  
11 the Director of the Centers for Disease Control and Pre-  
12 vention.

13 “(e) FEDERAL TECHNICAL ASSISTANCE, COMMU-  
14 NICATION, AND COORDINATION.—

15 “(1) IN GENERAL.—In carrying out this sec-  
16 tion, the Secretary shall provide technical assistance  
17 to, and provide for appropriate communications to  
18 the public, scientific, public health and medical com-  
19 munities, and other key stakeholders, and to provide  
20 for the coordination of the activities of—

21 “(A) State and local health authorities to  
22 integrate State and local surveillance activities  
23 and systems with the national notifiable disease  
24 surveillance program developed under this sec-  
25 tion and to generally improve State and local

1           notifiable disease reporting and communica-  
2           tions; and

3           “(B) private corporations, professional as-  
4           sociations, or other entities that may have  
5           sources of surveillance data or access to health  
6           care providers, health officials, or other individ-  
7           uals who would need to participate in a surveil-  
8           lance program.

9           “(2) FINANCIAL ASSISTANCE.—Assistance pro-  
10          vided under paragraph (1)(B) may include financial  
11          assistance for the purpose of formatting or trans-  
12          lating data into a form that is most compatible and  
13          appropriate for use in the national notifiable disease  
14          surveillance program developed under this section.

15          “(3) HEALTH ALERT REGISTRATION AND IN-  
16          FORMATION.—

17          “(A) REGISTRATION.—Each health care  
18          provider and facility that receives funds under  
19          title XVIII of the Social Security Act (42  
20          U.S.C. 1395 et seq.) or that receives funds  
21          under a State program under title XIX of such  
22          Act (42 U.S.C. 1396 et seq.) shall annually  
23          submit to the Secretary a registration that con-  
24          tains the e-mail address or fax number of the  
25          provider or facility for purposes of enabling the

1 Secretary to provide health alerts in the case of  
2 a public health emergency or other cir-  
3 cumstance requiring active surveillance.

4 “(B) ESTABLISHMENT OF SYSTEM.—The  
5 Secretary shall establish a system to maintain  
6 the information provided by providers and fa-  
7 cilities under subparagraph (A). Such system  
8 shall be designed—

9 “(i) to enable providers and facili-  
10 ties—

11 “(I) to provide and update infor-  
12 mation contained in the system; and

13 “(II) to request information or to  
14 elect to receive additional types of  
15 non-emergency health alerts or com-  
16 munications; and

17 “(ii) to enable the Director of the  
18 Centers for Disease Control and Preven-  
19 tion to provide updated contact informa-  
20 tion for providers and facilities to State  
21 and local health authorities for the purpose  
22 of emergency health communications.

23 “(f) GRANTS TO STATES FOR DISEASE REPORT-  
24 ING.—

1           “(1) GRANTS.—The Secretary shall award  
2 grants to States to enable such States to conduct  
3 passive, active, and when appropriate syndromic sur-  
4 veillance, and timely reporting activities with respect  
5 to notifiable diseases.

6           “(2) ELIGIBILITY.—To be eligible to receive a  
7 grant under paragraph (1), a State shall prepare  
8 and submit to the Secretary an application at such  
9 time, in such manner, and containing such informa-  
10 tion as the Secretary may require, including—

11                   “(A) a description of the manner in which  
12 grants funds will be used to enhance the timeli-  
13 ness and comprehensiveness of the State’s ef-  
14 fort to report notifiable diseases to the program  
15 under subsection (c); and

16                   “(B) a plan for identifying and reporting  
17 to the Secretary the identity of health care pro-  
18 viders and facilities that consistently fail to re-  
19 port to the State instances of notifiable diseases  
20 in a timely manner.

21           “(3) ENHANCED GRANT.—In the case of a  
22 State that submits a plan, as part of the application  
23 under paragraph (2), to transition State and local  
24 reporting of notifiable diseases to an electronic sys-  
25 tem that is compatible with the program under sub-

1 section (c), the amount of the grant awarded to a  
2 State under paragraph (1) shall be increased by an  
3 amount determined by the Secretary to be necessary  
4 to complete such transition.

5 “(4) SUPPLEMENT NOT SUPPLANT FUNDS FOR  
6 ACTIVITIES.—A State shall use amounts received  
7 under a grant under this subsection to supplement  
8 and not supplant other funds made available by the  
9 State for the conduct of reporting activities with re-  
10 spect to notifiable diseases.

11 “(5) REDUCTION IN BLOCK GRANT FUNDING.—  
12 For fiscal year beginning with fiscal year 2008, if  
13 the Secretary determines that a State is not report-  
14 ing all notifiable diseases to the program established  
15 under subsection (c) in a timely manner through the  
16 use of an electronic system that is compatible with  
17 the program, the State shall not be eligible to receive  
18 a grant under part A of title XIX for such fiscal  
19 year.

20 “(6) FAILURE TO REPORT.—A health care pro-  
21 vider or facility shall not be eligible to receive funds  
22 under title XVIII of the Social Security Act (42  
23 U.S.C. 1395 et seq.) or under a State program  
24 under title XIX of such Act (42 U.S.C. 1396 et  
25 seq.) if the Secretary determines, based on a State

1 notification received under the plan described in  
 2 paragraph (2)(B), that such provider or facility has  
 3 consistently failed to report, in a timely manner, in-  
 4 stances of notifiable diseases to the State for sub-  
 5 mission to the program under subsection (c).

6 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
 7 are authorized to be appropriated such sums as may be  
 8 necessary to carry out this section.”.

9 **SEC. 173. ENHANCING CRITICAL CAPACITY FOR ILLNESS**  
 10 **DETECTION.**

11 Section 319C(e) of the Public Health Service Act (42  
 12 U.S.C. 247d–3(c)) is amended—

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

15 (2) in paragraph (4), by striking the period and  
 16 inserting “; and”; and

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

18 “(5) develop benchmarks for meeting critical  
 19 capacity for food or water borne disease detection  
 20 and response.”.

21 **SEC. 174. EVALUATION OF PUBLIC HEALTH CAPACITY OUT-**  
 22 **COMES.**

23 Section 319C–1(b) of the Public Health Service Act  
 24 (42 U.S.C. 247d–3a(b)) is amended by adding at the end  
 25 the following:

1           “(3) EVALUATION OF PUBLIC HEALTH CAPAC-  
2           ITY OUTCOMES.—The Director of the Centers for  
3           Disease Control and Prevention shall enter into con-  
4           tracts with independent entities for the periodic eval-  
5           uation of the progress made by State and local gov-  
6           ernments in meeting the benchmarks established in  
7           the plan under paragraph (1)(A)(ii)(V).”.

8   **SEC. 175. NONIMMIGRANT HEALTH SCREENING.**

9           (a) PARITY IN SCREENING FOR NON-IMMIGRANTS.—  
10          Section 212(a)(1) of the Immigration and Nationality Act  
11          (8 U.S.C. 1182(a)(1)) is amended by adding at the end  
12          the following:

13                   “(D) APPLICATION OF REGULATIONS.—  
14                   Determinations under subparagraph (A) shall  
15                   be made based upon regulations promulgated by  
16                   the Secretary of Health and Human Services  
17                   under clause (i) of such subparagraph regard-  
18                   less of whether the alien involved is applying for  
19                   permanent admission or for a visa for a stay of  
20                   6 months or longer (including aliens seeking a  
21                   temporary work visa or student visa). The  
22                   health-related requirements under such regula-  
23                   tions shall be applied in the same manner to all  
24                   such aliens.”.

1 (b) PANEL PHYSICIAN QUALITY CONTROL.—Section  
2 361 of the Public Health Service Act (42 U.S.C. 264) is  
3 amended by adding at the end the following:

4 “(f) Where the United States enters into agreements  
5 or contracts (or other arrangements) with physicians or  
6 other health care providers and laboratories in foreign na-  
7 tions for the purpose of conducting health screening of  
8 aliens seeking temporary or permanent residence in the  
9 United States, the Secretary shall evaluate each such phy-  
10 sician or provider on an annual basis to determine (and  
11 certify) that the physician or provider adequately complies  
12 with applicable regulations governing the medical screen-  
13 ing of applicants for entry into the United States.”.

14 **SEC. 176. INSPECTION, SCREENING, AND QUARANTINING**  
15 **OF LIVE ANIMALS.**

16 Section 362 of the Public Health Service Act (42  
17 U.S.C. 265) is amended by adding at the end the fol-  
18 lowing: The Secretary shall establish procedures for the  
19 appropriate inspection, screening, and quarantine of live  
20 animals entering the United States for commercial pur-  
21 poses, including procedures to protect domestic animal  
22 and human populations from diseases carried by imported  
23 live animals.”.

1 **SEC. 177. AUTHORITY TO PROCURE AIRCRAFT.**

2 Section 301 of the Public Health Service Act (42  
3 U.S.C. 241 et seq.) is amended by adding at the end the  
4 following:

5 “(e) The Secretary may procure and maintain air-  
6 craft for the purpose of transporting personnel, equip-  
7 ment, biological or environmental specimens, or humans  
8 or animals requiring advanced biohazard protection in a  
9 timely fashion in the event of an outbreak of infectious  
10 disease or another public health emergency. In lieu of pro-  
11 curing an aircraft under the preceding sentence, the Sec-  
12 retary may enter into a contract for air transportation  
13 that achieves the purpose described in such sentence.”.

14 **CHAPTER 2—PUBLIC HEALTH**  
15 **WORKFORCE**

16 **SEC. 181. PUBLIC HEALTH WORKFORCE SCHOLARSHIP AND**  
17 **LOAN REPAYMENT PROGRAM.**

18 Part E of title VII of the Public Health Service Act  
19 (42 U.S.C. 294n et seq.) is amended by adding at the end  
20 the following:

21 **“Subpart 3—Public Health Workforce Scholarship**  
22 **and Loan Repayment Program**

23 **“SEC. 780. PUBLIC HEALTH WORKFORCE LOAN REPAYMENT**  
24 **PROGRAM.**

25 “(a) ESTABLISHMENT.—The Secretary shall estab-  
26 lish the Public Health Workforce Loan Repayment Pro-

1 gram (referred to in this section as the ‘Program’) to as-  
2 sure an adequate supply of public health professionals to  
3 eliminate critical public health preparedness workforce  
4 shortages in Federal, State, local, and tribal public health  
5 agencies.

6 “(b) ELIGIBILITY.—To be eligible to participate in  
7 the Program, an individual shall—

8 “(1)(A) be accepted for enrollment, or be en-  
9 rolled, as a full-time or part-time student in an ac-  
10 credited academic educational institution in a State  
11 or territory in the final year of a course of study or  
12 program offered by that institution leading to a  
13 health professions or medical degree or certificate,  
14 which may include a degree (graduate, under-  
15 graduate, or associate) or certificate relating to pub-  
16 lic health, laboratory sciences, or epidemiology; or

17 “(B) have graduated, within 5 years, from an  
18 accredited educational institution in a State or terri-  
19 tory and received a health professions or medical de-  
20 gree (graduate, undergraduate, or associate) or cer-  
21 tificate, which may include a degree (graduate, un-  
22 dergraduate, or associate) or certificate relating, but  
23 not limited, to public health laboratory sciences, or  
24 epidemiology;

1           “(2)(A) in the case of an individual described in  
2 paragraph (1)(A)—

3           “(i) maintain satisfactory academic  
4 progress, as determined by the Secretary; and

5           “(ii) have accepted employment with the  
6 National Institutes of Health, the Food and  
7 Drug Administration, the Centers for Disease  
8 Control and Prevention, or a State, local, or  
9 tribal public health agency, in a priority service  
10 area, as recognized by the Secretary, to com-  
11 mence upon graduation; or

12           “(B) in the case of an individual described in  
13 paragraph (1)(B), be employed by, or have accepted  
14 employment with, the National Institutes of Health,  
15 the Food and Drug Administration, the Centers for  
16 Disease Control and Prevention, or a State, local, or  
17 tribal public health agency, as recognized by the Sec-  
18 retary;

19           “(3) be a United States citizen;

20           “(4) submit an application to the Secretary to  
21 participate in the Program; and

22           “(5) sign and submit to the Secretary, at the  
23 time of the submittal of such application, a written  
24 contract (described in subsection (d)) to serve for  
25 the applicable period of obligated service in the full-

1 time employment of the National Institutes of  
2 Health, the Food and Drug Administration, the  
3 Centers for Disease Control and Prevention, or a  
4 State, local, or tribal public health agency.

5 “(c) DISSEMINATION OF INFORMATION.—

6 “(1) APPLICATION AND CONTRACT FORMS.—

7 The Secretary shall disseminate application forms  
8 and contract forms to individuals desiring to partici-  
9 pate in the Program. The Secretary shall include  
10 with such forms—

11 “(A) a summary of the rights and obliga-  
12 tions of an individual whose application is ap-  
13 proved (and whose contract is accepted) by the  
14 Secretary, including in the summary a clear ex-  
15 planation of the damages to which the United  
16 States is entitled to recover in the case of the  
17 individual’s breach of the contract; and

18 “(B) information relating to the service ob-  
19 ligation and such other information as may be  
20 necessary for the individual to understand the  
21 individual’s prospective participation in the Pro-  
22 gram.

23 “(2) INFORMATION FOR SCHOOLS.—The Sec-  
24 retary shall distribute to health professions and  
25 medical schools and the National Institutes of

1 Health, the Food and Drug Administration, the  
2 Centers for Disease Control and Prevention, and rel-  
3 evant State, local, and tribal public health agencies,  
4 materials providing information on the Program and  
5 shall encourage such schools, and agencies to dis-  
6 seminate such materials to potentially eligible stu-  
7 dents.

8 “(d) CONTRACT.—The written contract (referred to  
9 in this section) between the Secretary and an individual  
10 shall contain—

11 “(1) an agreement on the part of the Secretary  
12 that the Secretary will repay on behalf of the indi-  
13 vidual loans incurred by the individual in the pursuit  
14 of the relevant public health preparedness workforce  
15 educational degree or certificate in accordance with  
16 the terms of the contract;

17 “(2) an agreement on the part of the individual  
18 that the individual will serve, immediately upon  
19 graduation in the case of an individual described in  
20 subsection (b)(1)(A) service, or in the case of an in-  
21 dividual described in subsection (b)(1)(B) continue  
22 to serve, in the full-time employment of the National  
23 Institutes of Health, the Food and Drug Adminis-  
24 tration, the Centers for Disease Control and Preven-  
25 tion, or a State, local, or tribal public health agency

1 in a position related to the course of study or pro-  
2 gram for which the contract was awarded for a pe-  
3 riod of time (referred to in this section as the ‘period  
4 of obligated service’) equal to the greater of—

5 “(i) 3 years; or

6 “(ii) such longer period of time as de-  
7 termined appropriate by the Secretary and  
8 the individual;

9 “(3) in the case of an individual described in  
10 subsection (b)(1)(A) who is in the final year of study  
11 and who has accepted employment with the National  
12 Institutes of Health, the Food and Drug Adminis-  
13 tration, the Centers for Disease Control and Preven-  
14 tion, or a State, local, or tribal public health agency  
15 upon graduation, an agreement on the part of the  
16 individual to complete the education or training,  
17 maintain a satisfactory acceptable level of academic  
18 standing (as determined by the Secretary), and  
19 agree to the period of obligated service;

20 “(4) a provision that any financial obligation of  
21 the United States arising out of a contract entered  
22 into under this section and any obligation of the in-  
23 dividual that is conditioned thereon, is contingent on  
24 funds being appropriated for loan repayments under  
25 this section;

1           “(5) a statement of the damages to which the  
2           United States is entitled, under this section for the  
3           individual’s breach of the contract; and

4           “(6) such other statements of the rights and  
5           obligations of the Secretary and of the individual,  
6           not inconsistent with this section.

7           “(e) PAYMENTS.—

8           “(1) IN GENERAL.—A loan repayment provided  
9           for an individual under a written contract under the  
10          Program shall consist of payment, in accordance  
11          with paragraph (2), on behalf of the individual of  
12          the principal, interest, and related expenses on gov-  
13          ernment and commercial loans received by the indi-  
14          vidual regarding the undergraduate or graduate edu-  
15          cation of the individual (or both), which loans were  
16          made for—

17                  “(A) tuition expenses; or

18                  “(B) all other reasonable educational ex-  
19                  penses, including fees, books, and laboratory ex-  
20                  penses, incurred by the individual.

21          “(2) PAYMENTS FOR YEARS SERVED.—

22                  “(A) IN GENERAL.—For each year of obli-  
23                  gated service that an individual contracts to  
24                  serve under subsection (d) the Secretary may  
25                  pay up to \$35,000 on behalf of the individual

1 for loans described in paragraph (1). With re-  
2 spect to participants under the Program whose  
3 total eligible loans are less than \$105,000, the  
4 Secretary shall pay an amount that does not ex-  
5 ceed  $\frac{1}{3}$  of the eligible loan balance for each  
6 year of obligated service of the individual.

7 “(B) REPAYMENT SCHEDULE.—Any ar-  
8 rangement made by the Secretary for the mak-  
9 ing of loan repayments in accordance with this  
10 subsection shall provide that any repayments  
11 for a year of obligated service shall be made no  
12 later than the end of the fiscal year in which  
13 the individual completes such year of service.

14 “(3) TAX LIABILITY.—For the purpose of pro-  
15 viding reimbursements for tax liability resulting  
16 from payments under paragraph (2) on behalf of an  
17 individual—

18 “(A) the Secretary shall, in addition to  
19 such payments, make payments to the indi-  
20 vidual in an amount not to exceed 39 percent  
21 of the total amount of loan repayments made  
22 for the taxable year involved; and

23 “(B) may make such additional payments  
24 as the Secretary determines to be appropriate  
25 with respect to such purpose.

1           “(4) PAYMENT SCHEDULE.—The Secretary  
2           may enter into an agreement with the holder of any  
3           loan for which payments are made under the Pro-  
4           gram to establish a schedule for the making of such  
5           payments.

6           “(f) POSTPONING OBLIGATED SERVICE.—With re-  
7           spect to an individual receiving a degree or certificate that  
8           may require an internship, residency, or other relevant  
9           public health preparedness advance training program, the  
10          date of the initiation of the period of obligated service may  
11          be postponed, upon the submission by the individual of  
12          a petition for such postponement and approval by the Sec-  
13          retary, to the date on which the individual completes an  
14          approved internship, residency, or other relevant public  
15          health preparedness advanced training program.

16          “(g) ADMINISTRATIVE PROVISIONS.—

17                 “(1) HIRING PRIORITY.—Notwithstanding any  
18                 other provision of law, Federal, State, local, and  
19                 tribal public health agencies may give hiring priority  
20                 to any individual who has qualified for and is willing  
21                 to execute a contract to participate in the Program.

22                 “(2) EMPLOYMENT CEILINGS.—Notwith-  
23                 standing any other provision of law, individuals who  
24                 have entered into written contracts with the Sec-  
25                 retary under this section, who are serving as full-

1 time employees of a State or local public health  
 2 agency, or who are in the last year of public health  
 3 workforce academic preparation, shall not be count-  
 4 ed against any employment ceiling affecting the De-  
 5 partment or any other Federal agency.

6 “(h) BREACH OF CONTRACT.—An individual who  
 7 fails to comply with the contract entered into under sub-  
 8 section (d) shall be subject to the same financial penalties  
 9 as provided for under section 338E for breaches of loan  
 10 repayment contracts under section 338B.

11 **“SEC. 781. AUTHORIZATION OF APPROPRIATIONS.**

12 “For the purpose of carrying out section 780, there  
 13 is authorized to be appropriated such sums as may be nec-  
 14 essary for each of fiscal years 2006 through 2010.”.

15 **CHAPTER 3—PREPAREDNESS UPDATES**

16 **SEC. 191. REPORT ON PREPAREDNESS.**

17 (a) IN GENERAL.—Not later than 3 months after the  
 18 date of enactment of this Act, the Comptroller General  
 19 of the United States shall provide for the conduct of a  
 20 study to—

21 (1) review existing processes for determining  
 22 and purchasing the appropriate drugs, vaccines and  
 23 other biological products, medical devices, and other  
 24 supplies of the strategic national stockpile, the main-  
 25 tenance of such drugs, vaccines and other biological

1 products, medical devices, and other supplies, and  
2 the ability to deploy such drugs, vaccines and other  
3 biological products, medical devices, and other sup-  
4 plies (including the distribution of the drugs, vac-  
5 cines and other biological products, medical devices,  
6 and other supplies at the local level) in an emer-  
7 gency situation;

8 (2) review and assess the adequacy of existing  
9 State and local processes for disease monitoring and  
10 control (including activities related to monitoring  
11 diseases under BioWatch, BioSense, and other pro-  
12 grams that have been initiated or expanded within  
13 the last 3 years);

14 (3) review the existing ability of the health care  
15 community and its response to a mass casualty inci-  
16 dents and other public health emergencies, including  
17 interactions between public health, health care, and  
18 law enforcement, knowledge and training, surge ca-  
19 pacity, influence of the health care community in an  
20 urban versus rural setting, and other key compo-  
21 nents of readiness of the health care community;

22 (4) determine whether and to what extent ac-  
23 tivities undertaken within the 3-year period ending  
24 on the date of the study have enhanced supply chain  
25 management of drugs, vaccines and other biological

1 products, medical devices, and other supplies that  
2 are not included within the strategic national stock-  
3 pile, including a specific review of supply chain man-  
4 agement issues for the influenza vaccine as it relates  
5 to the 2004–2005 influenza season;

6 (5) evaluate Federal activities primarily re-  
7 lated—

8 (A) to research on, preparedness for, and  
9 the management of the public health and med-  
10 ical consequences of a bioterrorist attack  
11 against the civilian population; and

12 (B) the coordination of the activities de-  
13 scribed in paragraph (1);

14 (6) assess the progress of States in preparing  
15 for the public health and medical consequences of a  
16 potential bioterrorist attack against the civilian pop-  
17 ulation; and

18 (7) review the progress on the implementation  
19 of the National Preparedness Plan, as outlined in  
20 section 2801 of the Public Health Service Act, as  
21 well as the development of preparedness goals as  
22 outlined by such section.

23 (b) REPORT.—Not later than 1 year after the date  
24 of enactment of this Act, the Comptroller General of the  
25 United States shall prepare and submit to the appropriate

1 committees of Congress, a report concerning the results  
2 of the study conducted under subsection (a). Such report  
3 shall include recommendations—

4           (1) to improve the activities described in sub-  
5 section (a)(1);

6           (2) to improve the effectiveness of the activities  
7 described in subsection (a)(2);

8           (3) to improve the capacity of the health care  
9 community to respond under the circumstances de-  
10 scribed in subsection (a)(3) to enhance the protec-  
11 tion of the public health;

12           (4) to improve the ability of the Secretary of  
13 Health and Human Services to carry out the activi-  
14 ties described in subsection (a)(4) in the future.

15           (5) to improve the effectiveness of the activities  
16 described in subsection (a)(5);

17           (6) to improve the effectiveness of the activities  
18 described in subsection (a)(6), including potentials  
19 for and barriers to interstate collaborations; and

20           (7) to improve the activities described in sub-  
21 section (a)(7).

22 **SEC. 192. ENHANCING GLOBAL RESPONSE CAPABILITIES.**

23           It is the sense of the Senate that, in order to effec-  
24 tively combat bioterrorism and prevent against the spread  
25 of deadly infectious disease, the United States should en-

1 hance cooperation with global and regional organizations,  
2 as well as cooperation with other countries, and should  
3 establish, enhance, and intensify a wide range of global  
4 activities to help prevent, detect, and contain infectious  
5 disease outbreaks and bioterrorism attacks.

6 **TITLE II—INCREASED BENEFITS**  
7 **FOR FAMILIES OF DECEASED**  
8 **MEMBERS OF THE ARMED**  
9 **FORCES.**

10 **SEC. 201. INCREASE IN DEATH GRATUITY PAYABLE WITH**  
11 **RESPECT TO DEATHS OF MEMBERS OF THE**  
12 **ARMED FORCES FROM COMBAT-RELATED**  
13 **CAUSES OR FROM SERVICE IN OPERATION**  
14 **ENDURING FREEDOM OR IRAQI FREEDOM.**

15 (a) INCREASED AMOUNT.—Section 1478 of title 10,  
16 United States Code, is amended—

17 (1) in subsection (a), by inserting “, except as  
18 provided in subsection (c)” after “\$12,000”;

19 (2) by redesignating subsection (c) as sub-  
20 section (d); and

21 (3) by inserting after subsection (b) the fol-  
22 lowing new subsection (c):

23 “(c) The death gratuity payable under sections 1475  
24 through 1477 of this title is \$100,000 (as adjusted under

1 subsection (d)) in the case of a death resulting from  
2 wounds, injuries, or illnesses that are incurred—

3 “(1) as described in section 1413a(e)(2) of this  
4 title; or

5 “(2) in the theater of operations for Operation  
6 Enduring Freedom or Operation Iraqi Freedom.”.

7 (b) INCREASES CONSISTENT WITH INCREASES IN  
8 RATES OF BASIC PAY.—Subsection (d) of such section,  
9 as redesignated by paragraph (1)(B), is amended by strik-  
10 ing “amount of the death gratuity in effect under sub-  
11 section (a)” and inserting “amounts of the death gratu-  
12 ities in effect under subsections (a) and (c)”.

13 (c) CONFORMING AMENDMENT.—Subsection (a) of  
14 such section, as amended by subsection (a) of this section,  
15 is further amended by striking “(as adjusted under sub-  
16 section (c))” and inserting “(as adjusted under subsection  
17 (d))”.

18 (d) EFFECTIVE DATE.—This section and the amend-  
19 ments made by this section shall take effect as of October  
20 7, 2001, and shall apply with respect to deaths occurring  
21 on or after such date.

1 **SEC. 202. INCREASE IN AUTOMATIC MAXIMUM COVERAGE**  
2 **UNDER SERVICEMEMBERS' GROUP LIFE IN-**  
3 **SURANCE AND VETERANS' GROUP LIFE IN-**  
4 **SURANCE.**

5 (a) MAXIMUM UNDER SERVICEMEMBERS' GROUP  
6 LIFE INSURANCE.—Section 1967 of title 38, United  
7 States Code, is amended in subsections (a) and (d) by  
8 striking “\$250,000” each place it appears and inserting  
9 “\$300,000”.

10 (b) MAXIMUM UNDER VETERANS' GROUP LIFE IN-  
11 SURANCE.—Section 1977(a) of title 38, United States  
12 Code, is amended by striking “\$250,000” each place it  
13 appears and inserting “\$300,000”.

14 (c) EFFECTIVE DATE.—This section and the amend-  
15 ments made by this section shall take effect on the first  
16 day of the first month that begins on or after the date  
17 of the enactment of this Act.

18 **SEC. 203. INCREASED PERIOD OF CONTINUED TRICARE**  
19 **COVERAGE OF CHILDREN OF MEMBERS OF**  
20 **THE UNIFORMED SERVICES WHO DIE WHILE**  
21 **SERVING ON ACTIVE DUTY FOR A PERIOD OF**  
22 **MORE THAN 30 DAYS.**

23 (a) PERIOD OF ELIGIBILITY.—Section 1079(g) of  
24 title 10, United States Code, is amended—

25 (1) by inserting “(1)” after “(g)”;

1           (2) by striking the second sentence and insert-  
2           ing the following:

3           “(2) In addition to any continuation of eligibility for  
4           benefits under paragraph (1), when a member dies while  
5           on active duty for a period of more than 30 days, the  
6           member’s dependents who are receiving benefits under a  
7           plan covered by subsection (a) shall continue to be eligible  
8           for health benefits under TRICARE Prime for the fol-  
9           lowing period:

10           “(A) In the case of a dependent who is a child  
11           of the deceased described in subparagraph (D) of  
12           section 1072(2) of this title, for the period during  
13           which the dependent continues to qualify as a de-  
14           pendent under any of clauses (i), (ii), and (iii) of  
15           such subparagraph.

16           “(B) In the case of a person who, on the day  
17           before the date of the member’s death, is a depend-  
18           ent of the member described in subparagraph (I) of  
19           section 1072(2) of this title, for the period during  
20           which that person continues to meet the conditions  
21           set forth in any of subclauses (I), (II), and (III) of  
22           clause (ii) of such subparagraph.

23           “(C) In the case of other dependents, for the  
24           three-year period beginning on the date of the mem-  
25           ber’s death.

1       “(3) The terms and conditions under which health  
 2 benefits are provided under this chapter to a dependent  
 3 of a deceased member under paragraph (2)(A) shall be  
 4 the same as those that would apply to the dependent under  
 5 this chapter if the member were living and serving on ac-  
 6 tive duty for a period of more than 30 days.

7       “(4) In this subsection, the term ‘TRICARE Prime’  
 8 means the managed care option of the TRICARE pro-  
 9 gram.”.

10       (b) EFFECTIVE DATE.—This section and the amend-  
 11 ments made by this section shall take effect as of October  
 12 7, 2001, and shall apply with respect to deaths occurring  
 13 on or after such date.

14       **TITLE III—HOMELAND SECURITY TECHNOLOGY IMPROVE-**  
 15       **RITY TECHNOLOGY IMPROVE-**  
 16       **MENT**

17       **SEC. 301. SHORT TITLE.**

18       This title may be cited as the “Homeland Security  
 19 Technology Improvement Act of 2005”.

20       **SEC. 302. HOMELAND SECURITY TRANSFER PROGRAM.**

21       (a) IN GENERAL.—Section 430 of the Homeland Se-  
 22 curity Act of 2002 (6 U.S.C. 238) is amended—

23               (1) by redesignating subsection (d) as sub-  
 24               section (e);

25               (2) in subsection (c)—

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

3 (B) in paragraph (8), by striking the pe-  
4 riod and inserting “; and”; and

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

6 “(9) overseeing and coordinating a multi-agency  
7 homeland security technology, equipment, and infor-  
8 mation transfer program to allow for the transfer of  
9 technology, equipment, and information to State and  
10 local law enforcement agencies.”; and

11 (3) by inserting after subsection (c) the fol-  
12 lowing:

13 “(d) TECHNOLOGY, EQUIPMENT, AND INFORMATION  
14 TRANSFER PROGRAM.—

15 “(1) IN GENERAL.—The Director shall—

16 “(A) identify counterterrorism tech-  
17 nologies, equipment, and information developed  
18 or proven to be effective by—

19 “(i) consulting with the Undersecre-  
20 tary for Science and Technology;

21 “(ii) establishing an advisory com-  
22 mittee comprised of retired and active-duty  
23 law enforcement officials from geographi-  
24 cally diverse regions;

1           “(iii) consulting with State and local  
2           law enforcement agencies; and

3           “(iv) entering into agreements and co-  
4           ordinating with other Federal agencies to  
5           maximize the effectiveness of the tech-  
6           nologies, equipment, and information avail-  
7           able to law enforcement agencies;

8           “(B) make these technologies, equipment,  
9           and information available to State and local law  
10          enforcement agencies on an annual basis;

11          “(C) accept applications from the head of  
12          State and local law enforcement agencies that  
13          wish to acquire such technologies, equipment,  
14          and information to improve the homeland secu-  
15          rity capabilities of those agencies, and review  
16          such applications in coordination with the advi-  
17          sory committee established under subparagraph  
18          (A)(ii); and

19          “(D) transfer the approved technology,  
20          equipment, and information, and provide the  
21          appropriate training to the State or local law  
22          enforcement agency pending the approval of the  
23          application of the State or local law enforce-  
24          ment agency under subparagraph (C).

1           “(2) LIMITATION ON ADMINISTRATION EXPEND-  
 2           ITURE.—No more than 10 percent of the budget of  
 3           the technology, equipment, and information transfer  
 4           program under this subsection may be used for ad-  
 5           ministrative expenses.

6           “(3) AUTHORIZATION OF APPROPRIATIONS.—  
 7           There are authorized to be appropriated  
 8           \$50,000,000 for each of fiscal years 2006 through  
 9           2016 to carry out this subsection.”.

10           **TITLE IV—ANTITERRORISM**  
 11                   **IMPROVEMENTS**  
 12                   **Subtitle A—Denial of Federal**  
 13                   **Benefits to Convicted Terrorists**

14           **SEC. 401. DENIAL OF FEDERAL BENEFITS TO CONVICTED**  
 15                   **TERRORISTS.**

16           (a) IN GENERAL.—Chapter 113B of title 18, United  
 17           States Code, is amended by adding at the end the fol-  
 18           lowing:

19           **“§ 2339E. Denial of Federal benefits to terrorists**

20           “(a) IN GENERAL.—Any individual who is convicted  
 21           of a Federal crime of terrorism (as defined in section  
 22           2332b(g)) shall, as provided by the court on motion of  
 23           the Government, be ineligible for any or all Federal bene-  
 24           fits for any term of years or for life.

1       “(b) FEDERAL BENEFIT DEFINED.—As used in this  
2 section, the term ‘Federal benefit’ has the meaning given  
3 the term in section 421(d) of the Controlled Substances  
4 Act (21 U.S.C. 862(d)).”.

5       (b) CHAPTER ANALYSIS.—The table of sections of  
6 chapter 113B of title 18, United States Code, is amended  
7 by inserting at the end the following:

“2339E. Denial of Federal benefits to terrorists.”.

8                               **Subtitle B—Streamlined**  
9                               **Information Sharing**

10 **SEC. 411. UNIFORM STANDARDS FOR INFORMATION SHAR-**  
11 **ING ACROSS FEDERAL AGENCIES.**

12       (a) TELEPHONE RECORDS.—Section 2709(d) of title  
13 18, United States Code, is amended by striking “for for-  
14 eign” and all that follows through “such agency”.

15       (b) CONSUMER INFORMATION UNDER 15 U.S.C.  
16 1681u.—Section 625(f) of the Fair Credit Reporting Act  
17 (15 U.S.C. 1681u(f)) is amended to read as follows:

18       “(f) DISSEMINATION OF INFORMATION.—The Fed-  
19 eral Bureau of Investigation may disseminate information  
20 obtained pursuant to this section only as provided in  
21 guidelines approved by the Attorney General.”.

22       (c) CONSUMER INFORMATION UNDER 15 U.S.C.  
23 1681v.—Section 626 of the Fair Credit Reporting Act (15  
24 U.S.C. 1681v) is amended—

1           (1) by redesignating subsections (d) and (e) as  
2           subsections (e) and (f), respectively; and

3           (2) by inserting after subsection (c) the fol-  
4           lowing:

5           “(d) DISSEMINATION OF INFORMATION.—The Fed-  
6           eral Bureau of Investigation may disseminate information  
7           obtained pursuant to this section only as provided in  
8           guidelines approved by the Attorney General.”.

9           (d) FINANCIAL RECORDS.—Section 1114(a)(5)(B) of  
10          the Right to Financial Privacy Act (12 U.S.C.  
11          3414(a)(5)(B)) is amended by striking “for foreign” and  
12          all that follows through “such agency”.

13          (e) RECORDS CONCERNING CERTAIN GOVERNMENT  
14          EMPLOYEES.—Section 802(e) of the National Security  
15          Act of 1947 (50 U.S.C. 436(e)) is amended—

16                (1) by striking “An agency” and inserting the  
17                following: “The Federal Bureau of Investigation  
18                may disseminate records or information received  
19                pursuant to a request under this section only as pro-  
20                vided in guidelines approved by the Attorney Gen-  
21                eral. Any other agency”; and

22                (2) in paragraph (3), by striking “clearly”.

1 **SEC. 412. AUTHORIZATION TO SHARE NATIONAL-SECURITY**  
2 **INFORMATION WITH STATE AND LOCAL GOV-**  
3 **ERNMENTS.**

4 (a) INFORMATION OBTAINED IN NATIONAL SECUR-  
5 RITY INVESTIGATIONS.—Section 203(d) of the USA PA-  
6 TRIOT ACT (50 U.S.C. 403–5d) is amended—

7 (1) in paragraph (1), by striking “criminal in-  
8 vestigation” each place it appears and inserting  
9 “criminal or national security investigation”; and

10 (2) by amending paragraph (2) to read as fol-  
11 lows:

12 “(2) DEFINITIONS.—As used in this sub-  
13 section—

14 “(A) the term ‘foreign intelligence informa-  
15 tion’ means—

16 “(i) information, whether or not con-  
17 cerning a United States person, that re-  
18 lates to the ability of the United States to  
19 protect against—

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

23 “(II) sabotage or international  
24 terrorism by a foreign power or an  
25 agent of a foreign power; or

1 “(III) clandestine intelligence ac-  
2 tivities by an intelligence service or  
3 network of a foreign power or by an  
4 agent of a foreign power; or

5 “(ii) information, whether or not con-  
6 cerning a United States person, with re-  
7 spect to a foreign power or foreign terri-  
8 tory that relates to—

9 “(I) the national defense or the  
10 security of the United States; or

11 “(II) the conduct of the foreign  
12 affairs of the United States; and

13 “(B) the term ‘national security investiga-  
14 tion’—

15 “(i) means any investigative activity  
16 to protect the national security; and

17 “(ii) includes—

18 “(I) counterintelligence and the  
19 collection of intelligence (as defined in  
20 section 3 of the National Security Act  
21 of 1947 (50 U.S.C. 401a)); and

22 “(II) the collection of foreign in-  
23 telligence information.”.

24 (b) CONFORMING AMENDMENT.—Section 203(c) of  
25 the USA PATRIOT ACT (18 U.S.C. 2517 note) is

1 amended by striking “Rule 6(e)(3)(C)(i)(V) and (VI)” and  
 2 inserting “Rule 6(e)(3)(D)”.

### 3 **Subtitle C—Protecting Critical** 4 **Infrastructure**

5 **SEC. 421. ATTACKS AGAINST RAILROAD CARRIERS, PAS-**  
 6 **SENGER VESSELS, AND MASS TRANSPOR-**  
 7 **TATION SYSTEMS.**

8 (a) IN GENERAL.—Chapter 97 of title 18, United  
 9 States Code, is amended by striking sections 1992 through  
 10 1993 and inserting the following:

11 **“§ 1992. Terrorist attacks and other violence against**  
 12 **railroad carriers, passenger vessels, and**  
 13 **against mass transportation systems on**  
 14 **land, on water, or through the air**

15 “(a) GENERAL PROHIBITIONS.—Whoever, in a cir-  
 16 cumstance described in subsection (c), knowingly—

17 “(1) wrecks, derails, sets fire to, or disables  
 18 railroad on-track equipment, a passenger vessel, or  
 19 a mass transportation vehicle;

20 “(2) with intent to endanger the safety of any  
 21 passenger or employee of a railroad carrier, pas-  
 22 senger vessel, or mass transportation provider, or  
 23 with a reckless disregard for the safety of human  
 24 life, and without previously obtaining the permission

1 of the railroad carrier, mass transportation provider,  
2 or owner of the passenger vessel—

3 “(A) places any biological agent or toxin,  
4 destructive substance, or destructive device in,  
5 upon, or near railroad on-track equipment, a  
6 passenger vessel, or a mass transportation vehi-  
7 cle; or

8 “(B) releases a hazardous material or a bi-  
9 ological agent or toxin on or near the property  
10 of a railroad carrier, owner of a passenger ves-  
11 sel, or mass transportation provider;

12 “(3) sets fire to, undermines, makes unwork-  
13 able, unusable, or hazardous to work on or use, or  
14 places any biological agent or toxin, destructive sub-  
15 stance, or destructive device in, upon, or near any—

16 “(A) tunnel, bridge, viaduct, trestle, track,  
17 electromagnetic guideway, signal, station, depot,  
18 warehouse, terminal, or any other way, struc-  
19 ture, property, or appurtenance used in the op-  
20 eration of, or in support of the operation of, a  
21 railroad carrier, without previously obtaining  
22 the permission of the railroad carrier, and with  
23 intent to, or knowing or having reason to know  
24 such activity would likely, derail, disable, or  
25 wreck railroad on-track equipment;

1           “(B) garage, terminal, structure, track,  
2           electromagnetic guideway, supply, or facility  
3           used in the operation of, or in support of the  
4           operation of, a mass transportation vehicle,  
5           without previously obtaining the permission of  
6           the mass transportation provider, and with in-  
7           tent to, or knowing or having reason to know  
8           such activity would likely, derail, disable, or  
9           wreck a mass transportation vehicle used, oper-  
10          ated, or employed by a mass transportation pro-  
11          vider; or

12           “(C) structure, supply, or facility used in  
13          the operation of, or in the support of the oper-  
14          ation of, a passenger vessel, without previously  
15          obtaining the permission of the owner of the  
16          passenger vessel, and with intent to, or knowing  
17          or having reason to know that such activity  
18          would likely disable or wreck a passenger vessel;

19           “(4) removes an appurtenance from, damages,  
20          or otherwise impairs the operation of a railroad sig-  
21          nal system or mass transportation signal or dis-  
22          patching system, including a train control system,  
23          centralized dispatching system, or highway-railroad  
24          grade crossing warning signal, without authorization

1 from the rail carrier or mass transportation pro-  
2 vider;

3 “(5) with intent to endanger the safety of any  
4 passenger or employee of a railroad carrier, owner of  
5 a passenger vessel, or mass transportation provider  
6 or with a reckless disregard for the safety of human  
7 life, interferes with, disables, or incapacitates any  
8 dispatcher, driver, captain, locomotive engineer, rail-  
9 road conductor, or other person while the person is  
10 employed in dispatching, operating, or maintaining  
11 railroad on-track equipment, a passenger vessel, or  
12 a mass transportation vehicle;

13 “(6) engages in conduct, including the use of a  
14 dangerous weapon, with the intent to cause death or  
15 serious bodily injury to any person who is on the  
16 property of a railroad carrier, owner of a passenger  
17 vessel, or mass transportation provider that is used  
18 for railroad or mass transportation purposes;

19 “(7) conveys false information, knowing the in-  
20 formation to be false, concerning an attempt or al-  
21 leged attempt that was made, is being made, or is  
22 to be made, to engage in a violation of this sub-  
23 section; or

1           “(8) attempts, threatens, or conspires to engage  
2           in any violation of any of paragraphs (1) through  
3           (7),  
4 shall be fined under this title, imprisoned not more than  
5 20 years, or both.

6           “(b) AGGRAVATED OFFENSE.—Whoever commits an  
7 offense under subsection (a) in a circumstance in which—

8           “(1) the railroad on-track equipment, passenger  
9           vessel, or mass transportation vehicle was carrying a  
10          passenger or employee at the time of the offense;

11          “(2) the railroad on-track equipment, passenger  
12          vessel, or mass transportation vehicle was carrying  
13          high-level radioactive waste or spent nuclear fuel at  
14          the time of the offense;

15          “(3) the railroad on-track equipment, passenger  
16          vessel, or mass transportation vehicle was carrying a  
17          hazardous material at the time of the offense that—

18                  “(A) was required to be placarded under  
19                  subpart F of part 172 of title 49, Code of Fed-  
20                  eral Regulations; and

21                  “(B) is identified as class number 3, 4, 5,  
22                  6.1, or 8 and packing group I or packing group  
23                  II, or class number 1, 2, or 7 under the haz-  
24                  ardous materials table of section 172.101 of  
25                  title 49, Code of Federal Regulations; or

1           “(4) the offense results in the death of any per-  
2           son,  
3 shall be fined under this title, imprisoned for any term  
4 of years or life, or both. The term of imprisonment for  
5 a violation described in paragraph (2) shall be not less  
6 than 30 years. In the case of a violation described in para-  
7 graph (4), the offender shall be fined under this title and  
8 imprisoned for life and be subject to the death penalty.

9           “(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A  
10 circumstance described in this subsection is any of the fol-  
11 lowing:

12           “(1) Any of the conduct required for the offense  
13 is, or, in the case of an attempt, threat, or con-  
14 spiracy to engage in conduct, the conduct required  
15 for the completed offense would be, engaged in, on,  
16 against, or affecting a mass transportation provider,  
17 owner of a passenger vessel, or railroad carrier en-  
18 gaged in or affecting interstate or foreign commerce.

19           “(2) Any person who travels or communicates  
20 across a State line in order to commit the offense,  
21 or transports materials across a State line in aid of  
22 the commission of the offense.

23           “(d) NONAPPLICABILITY.—Subsection (a) does not  
24 apply to the conduct with respect to a destructive sub-  
25 stance or destructive device that is also classified under

1 chapter 51 of title 49 as a hazardous material in com-  
2 merce if the conduct—

3 “(1) complies with chapter 51 of title 49 and  
4 regulations, exemptions, approvals, and orders  
5 issued under that chapter; or

6 “(2) constitutes a violation, other than a crimi-  
7 nal violation, of chapter 51 of title 49 or a regula-  
8 tion or order issued under that chapter.

9 “(e) DEFINITIONS.—In this section—

10 “(1) the term ‘biological agent’ has the meaning  
11 given the term in section 178(1);

12 “(2) the term ‘dangerous weapon’ means a  
13 weapon, device, instrument, material, or substance,  
14 animate or inanimate, that is used for, or is readily  
15 capable of, causing death or serious bodily injury, in-  
16 cluding a pocket knife with a blade of less than 2½  
17 inches in length and a box cutter;

18 “(3) the term ‘destructive device’ has the mean-  
19 ing given the term in section 921(a)(4);

20 “(4) the term ‘destructive substance’ means an  
21 explosive substance, flammable material, infernal  
22 machine, or other chemical, mechanical, or radio-  
23 active device or material, or matter of a combustible,  
24 contaminative, corrosive, or explosive nature, except  
25 that the term ‘radioactive device’ does not include

1 any radioactive device or material used solely for  
2 medical, industrial, research, or other peaceful pur-  
3 poses;

4 “(5) the term ‘hazardous material’ has the  
5 meaning given the term in section 5102(2) of title  
6 49;

7 “(6) the term ‘high-level radioactive waste’ has  
8 the meaning given the term in section 2(12) of the  
9 Nuclear Waste Policy Act of 1982 (42 U.S.C.  
10 10101(12));

11 “(7) the term ‘mass transportation’ has the  
12 meaning given the term in section 5302(a)(7) of title  
13 49, except that the term includes school bus, char-  
14 ter, and sightseeing transportation;

15 “(8) the term ‘on-track equipment’ means a  
16 carriage or other contrivance that runs on rails or  
17 electromagnetic guideways;

18 “(9) the term ‘railroad on-track equipment’  
19 means a train, locomotive, tender, motor unit,  
20 freight or passenger car, or other on-track equip-  
21 ment used, operated, or employed by a railroad car-  
22 rier;

23 “(10) the term ‘railroad’ has the meaning given  
24 the term in section 20102(1) of title 49;

1           “(11) the term ‘railroad carrier’ has the mean-  
2           ing given the term in section 20102(2) of title 49;

3           “(12) the term ‘serious bodily injury’ has the  
4           meaning given the term in section 1365(h)(3);

5           “(13) the term ‘spent nuclear fuel’ has the  
6           meaning given the term in section 2(23) of the Nu-  
7           clear Waste Policy Act of 1982 (42 U.S.C.  
8           10101(23));

9           “(14) the term ‘State’ has the meaning given  
10          the term in section 2266(8);

11          “(15) the term ‘toxin’ has the meaning given  
12          the term in section 178(2);

13          “(16) the term ‘vehicle’ means any carriage or  
14          other contrivance used, or capable of being used, as  
15          a means of transportation on land, on water, or  
16          through the air; and

17          “(17) the term ‘passenger vessel’ has the mean-  
18          ing given the term in section 2101(22) of title 46,  
19          United States Code, and includes a small passenger  
20          vessel (as defined under section 2101(35) of that  
21          title).”.

22          (b) CONFORMING AMENDMENTS.—

23                 (1) TABLE OF SECTIONS.—The table of sections  
24                 at the beginning of chapter 97 of title 18, United  
25                 States Code, is amended—

1 (A) by striking “**RAILROADS**” in the  
 2 chapter heading and inserting “**RAILROAD**  
 3 **CARRIERS AND MASS TRANSPOR-**  
 4 **TATION SYSTEMS ON LAND, ON**  
 5 **WATER, OR THROUGH THE AIR”;**

6 (B) by striking the items relating to sec-  
 7 tions 1992 and 1993; and

8 (C) by inserting after the item relating to  
 9 section 1991 the following:

“1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air.”.

10 (2) TABLE OF CHAPTERS.—The table of chap-  
 11 ters at the beginning of part I of title 18, United  
 12 States Code, is amended by striking the item relat-  
 13 ing to chapter 97 and inserting the following:

**“97. Railroad carriers and mass transportation systems  
 on land, on water, or through the air ..... 1991”.**

14 (3) CONFORMING AMENDMENTS.—Title 18,  
 15 United States Code, is amended—

16 (A) in section 2332b(g)(5)(B)(i), by strik-  
 17 ing “1992 (relating to wrecking trains), 1993  
 18 (relating to terrorist attacks and other acts of  
 19 violence against mass transportation systems),”  
 20 and inserting “1992 (relating to terrorist at-  
 21 tacks and other acts of violence against railroad

1 carriers and against mass transportation sys-  
2 tems on land, on water, or through the air),”;

3 (B) in section 2339A, by striking “1993,”;  
4 and

5 (C) in section 2516(1)(e) by striking  
6 “1992 (relating to wrecking trains),” and in-  
7 serting “1992 (relating to terrorist attacks and  
8 other acts of violence against railroad carriers  
9 and against mass transportation systems on  
10 land, on water, or through the air),”.

11 **SEC. 422. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.**

12 (a) IN GENERAL.—Section 1036 of title 18, United  
13 States Code, is amended—

14 (1) in subsection (a)—

15 (A) in paragraph (2), by striking “or” at  
16 the end;

17 (B) by redesignating paragraph (3) as  
18 paragraph (4); and

19 (C) by inserting after paragraph (2) the  
20 following:

21 “(3) any secure or restricted area (as that term  
22 is defined under section 2285(e)) of any seaport;  
23 or”;

24 (2) in subsection (b)(1), by striking “5” and in-  
25 serting “10”;

1           (3) in subsection (c)(1), by inserting “, captain  
2           of the seaport,” after “airport authority”; and

3           (4) in the section heading, by inserting “or sea-  
4           port” after “airport”.

5           (b) TECHNICAL AND CONFORMING AMENDMENT.—

6 The table of sections for chapter 47 of title 18 is amended  
7 by striking the matter relating to section 1036 and insert-  
8 ing the following:

“1036. Entry by false pretenses to any real property, vessel, or aircraft of the  
United States or secure area of any airport or seaport.”.

9           (c) DEFINITION OF SEAPORT.—Chapter 1 of title 18,  
10 United States Code, is amended by adding at the end the  
11 following:

12 **“§ 26. Definition of seaport**

13           “As used in this title, the term ‘seaport’ means all  
14 piers, wharves, docks, and similar structures to which a  
15 vessel may be secured, areas of land, water, or land and  
16 water under and in immediate proximity to such struc-  
17 tures, and buildings on or contiguous to such structures,  
18 and the equipment and materials on such structures or  
19 in such buildings.”.

20           (d) TECHNICAL AND CONFORMING AMENDMENT.—

21 The table of sections for chapter 1 of title 18 is amended  
22 by inserting after the matter relating to section 25 the  
23 following:

“26. Definition of seaport.”.

1 **SEC. 423. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE**  
2 **TO, OBSTRUCTION OF BOARDING, OR PRO-**  
3 **VIDING FALSE INFORMATION.**

4 (a) OFFENSE.—Chapter 109 of title 18, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 **“§ 2237. Criminal sanctions for failure to heave to, ob-**  
8 **struction of boarding, or providing false**  
9 **information**

10 “(a)(1) It shall be unlawful for the master, operator,  
11 or person in charge of a vessel of the United States, or  
12 a vessel subject to the jurisdiction of the United States,  
13 to knowingly fail to obey an order by an authorized Fed-  
14 eral law enforcement officer to heave to that vessel.

15 “(2) It shall be unlawful for any person on board a  
16 vessel of the United States, or a vessel subject to the juris-  
17 diction of the United States, to—

18 “(A) forcibly resist, oppose, prevent, impede, in-  
19 timidate, or interfere with a boarding or other law  
20 enforcement action authorized by any Federal law,  
21 or to resist a lawful arrest; or

22 “(B) provide information to a Federal law en-  
23 forcement officer during a boarding of a vessel re-  
24 garding the vessel’s destination, origin, ownership,  
25 registration, nationality, cargo, or crew, which that  
26 person knows is false.

1       “(b) This section does not limit the authority of a  
2 customs officer under section 581 of the Tariff Act of  
3 1930 (19 U.S.C. 1581), or any other provision of law en-  
4 forced or administered by the Secretary of the Treasury  
5 or the Undersecretary for Border and Transportation Se-  
6 curity of the Department of Homeland Security, or the  
7 authority of any Federal law enforcement officer under  
8 any law of the United States, to order a vessel to stop  
9 or heave to.

10       “(c) A foreign nation may consent or waive objection  
11 to the enforcement of United States law by the United  
12 States under this section by radio, telephone, or similar  
13 oral or electronic means. Consent or waiver may be proven  
14 by certification of the Secretary of State or the designee  
15 of the Secretary of State.

16       “(d) In this section—

17               “(1) the term ‘Federal law enforcement officer’  
18 has the meaning given the term in section 115(c);

19               “(2) the term ‘heave to’ means to cause a vessel  
20 to slow, come to a stop, or adjust its course or speed  
21 to account for the weather conditions and sea state  
22 to facilitate a law enforcement boarding;

23               “(3) the term ‘vessel subject to the jurisdiction  
24 of the United States’ has the meaning given the

1 term in section 2(c) of the Maritime Drug Law En-  
 2 forcement Act (46 App. U.S.C. 1903(b)); and

3 “(4) the term ‘vessel of the United States’ has  
 4 the meaning given the term in section 2(c) of the  
 5 Maritime Drug Law Enforcement Act (46 App.  
 6 U.S.C. 1903(b)).

7 “(e) Any person who intentionally violates the provi-  
 8 sions of this section shall be fined under this title, impris-  
 9 oned for not more than 5 years, or both.”.

10 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—  
 11 The table of sections for chapter 109, title 18, United  
 12 States Code, is amended by inserting after the item for  
 13 section 2236 the following:

“2237. Criminal sanctions for failure to heave to, obstruction of boarding, or  
 providing false information.”.

14 **SEC. 424. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST**  
 15 **MARITIME NAVIGATION, PLACEMENT OF DE-**  
 16 **STRUCTIVE DEVICES, AND MALICIOUS DUMP-**  
 17 **ING.**

18 (a) **VIOLENCE AGAINST MARITIME NAVIGATION.**—  
 19 Section 2280(a) of title 18, United States Code, is amend-  
 20 ed—

21 (1) in paragraph (1)—

22 (A) in subparagraph (H), by striking  
 23 “(G)” and inserting “(H)”;

1 (B) by redesignating subparagraphs (F),  
2 (G), and (H) as subparagraphs (G), (H), and  
3 (I), respectively; and

4 (C) by inserting after subparagraph (E)  
5 the following:

6 “(F) destroys, seriously damages, alters,  
7 moves, or tampers with any aid to maritime  
8 navigation maintained by the Saint Lawrence  
9 Seaway Development Corporation under the au-  
10 thority of section 4 of the Act of May 13, 1954  
11 (33 U.S.C. 984), by the Coast Guard pursuant  
12 to section 81 of title 14, United States Code, or  
13 lawfully maintained under authority granted by  
14 the Coast Guard pursuant to section 83 of title  
15 14, United States Code, if such act endangers  
16 or is likely to endanger the safe navigation of  
17 a ship;” and

18 (2) in paragraph (2), by striking “(C) or (E)”  
19 and inserting “(C), (E), or (F)”.

20 (b) PLACEMENT OF DESTRUCTIVE DEVICES.—

21 (1) IN GENERAL.—Chapter 111 of title 18,  
22 United States Code, is amended by adding after sec-  
23 tion 2280 the following:

1 **“§ 2280A. Devices or substances in waters of the**  
2 **United States likely to destroy or damage**  
3 **ships or to interfere with maritime com-**  
4 **merce**

5 “(a) A person who knowingly places, or causes to be  
6 placed, in navigable waters of the United States, by any  
7 means, a device or substance which is likely to destroy or  
8 cause damage to a vessel or its cargo, or cause interference  
9 with the safe navigation of vessels, or interference with  
10 maritime commerce, such as by damaging or destroying  
11 marine terminals, facilities, and any other marine struc-  
12 ture or entity used in maritime commerce, with the intent  
13 of causing such destruction or damage, or interference  
14 with the safe navigation of vessels or with maritime com-  
15 merce, shall be fined under this title, imprisoned for any  
16 term of years or for life, or both; and if the death of any  
17 person results from conduct prohibited under this sub-  
18 section, may be punished by death.

19 “(b) Nothing in this section shall be construed to  
20 apply to otherwise lawfully authorized and conducted ac-  
21 tivities of the United States Government.”.

22 (2) TECHNICAL AND CONFORMING AMEND-  
23 MENT.—The table of sections for chapter 111 of  
24 title 18, United States Code, is amended by adding  
25 after the item related to section 2280 the following:

“2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.”.

1 (c) MALICIOUS DUMPING.—

2 (1) IN GENERAL.—Chapter 111 of title 18,  
3 United States Code, is amended by adding at the  
4 end the following:

5 **“§ 2282. Knowing discharge or release**

6 “(a) ENDANGERMENT OF HUMAN LIFE.—Any per-  
7 son who knowingly discharges or releases oil, a hazardous  
8 material, a noxious liquid substance, or any other dan-  
9 gerous substance into the navigable waters of the United  
10 States or the adjoining shoreline with the intent to endan-  
11 ger human life, health, or welfare shall be fined under this  
12 title and imprisoned for any term of years or for life.

13 “(b) ENDANGERMENT OF MARINE ENVIRONMENT.—  
14 Any person who knowingly discharges or releases oil, a  
15 hazardous material, a noxious liquid substance, or any  
16 other dangerous substance into the navigable waters of the  
17 United States or the adjacent shoreline with the intent  
18 to endanger the marine environment shall be fined under  
19 this title, imprisoned not more than 30 years, or both.

20 “(c) DEFINITIONS.—In this section:

21 “(1) DISCHARGE.—The term ‘discharge’ means  
22 any spilling, leaking, pumping, pouring, emitting,  
23 emptying, or dumping.

1           “(2) HAZARDOUS MATERIAL.—The term ‘haz-  
2           ardous material’ has the meaning given the term in  
3           section 2101(14) of title 46, United States Code.

4           “(3) MARINE ENVIRONMENT.—The term ‘ma-  
5           rine environment’ has the meaning given the term in  
6           section 2101(15) of title 46, United States Code.

7           “(4) NAVIGABLE WATERS.—The term ‘navi-  
8           gable waters’ has the meaning given the term in sec-  
9           tion 1362(7) of title 33, and also includes the terri-  
10          torial sea of the United States as described in Presi-  
11          dential Proclamation 5928 of December 27, 1988.

12          “(5) NOXIOUS LIQUID SUBSTANCE.—The term  
13          ‘noxious liquid substance’ has the meaning given the  
14          term in the MARPOL Protocol defined in section  
15          2(1) of the Act to Prevent Pollution from Ships (33  
16          U.S.C. 1901(a)(3)).”.

17          (2) TECHNICAL AND CONFORMING AMEND-  
18          MENT.—The table of sections for chapter 111 of  
19          title 18, United States Code, is amended by adding  
20          at the end the following:

“2282. Knowing discharge or release.”.

21   **SEC. 425. TRANSPORTATION OF DANGEROUS MATERIALS**  
22                                   **AND TERRORISTS.**

23          (a) TRANSPORTATION OF DANGEROUS MATERIALS  
24   AND TERRORISTS.—Chapter 111 of title 18, as amended  
25   by this Act, is amended by adding at the end the following:

1 **“§ 2283. Transportation of explosive, biological, chem-**  
2 **ical, or radioactive or nuclear materials**

3 “(a) IN GENERAL.—Any person who knowingly and  
4 willfully transports aboard any vessel within the United  
5 States, on the high seas, or having United States nation-  
6 ality, an explosive or incendiary device, biological agent,  
7 chemical weapon, or radioactive or nuclear material, know-  
8 ing that any such item is intended to be used to commit  
9 an offense listed under section 2332b(g)(5)(B), shall be  
10 fined under this title, imprisoned for any term of years  
11 or for life, or both; and if the death of any person results  
12 from conduct prohibited by this subsection, may be pun-  
13 ished by death.

14 “(b) DEFINITIONS.—In this section:

15 “(1) BIOLOGICAL AGENT.—The term ‘biological  
16 agent’ means any biological agent, toxin, or vector  
17 (as those terms are defined in section 178).

18 “(2) BY-PRODUCT MATERIAL.—The term ‘by-  
19 product material’ has the meaning given that term  
20 in section 11(e) of the Atomic Energy Act of 1954  
21 (42 U.S.C. 2014(e)).

22 “(3) CHEMICAL WEAPON.—The term ‘chemical  
23 weapon’ has the meaning given that term in section  
24 229F.

1           “(4) EXPLOSIVE OR INCENDIARY DEVICE.—The  
2 term ‘explosive or incendiary device’ has the mean-  
3 ing given the term in section 232(5).

4           “(5) NUCLEAR MATERIAL.—The term ‘nuclear  
5 material’ has the meaning given that term in section  
6 831(f)(1).

7           “(6) RADIOACTIVE MATERIAL.—The term ‘ra-  
8 dioactive material’ means—

9                   “(A) source material and special nuclear  
10 material, but does not include natural or de-  
11pleted uranium;

12                   “(B) nuclear by-product material;

13                   “(C) material made radioactive by bom-  
14 bardment in an accelerator; or

15                   “(D) all refined isotopes of radium.

16           “(7) SOURCE MATERIAL.—The term ‘source  
17 material’ has the meaning given that term in section  
18 11(z) of the Atomic Energy Act of 1954 (42 U.S.C.  
19 2014(z)).

20           “(8) SPECIAL NUCLEAR MATERIAL.—The term  
21 ‘special nuclear material’ has the meaning given that  
22 term in section 11(aa) of the Atomic Energy Act of  
23 1954 (42 U.S.C. 2014(aa)).

1 **“§ 2284. Transportation of terrorists**

2       “(a) IN GENERAL.—Any person who knowingly and  
3 willfully transports any terrorist aboard any vessel within  
4 the United States, on the high seas, or having United  
5 States nationality, knowing that the transported person  
6 is a terrorist, shall be fined under this title, imprisoned  
7 for any term of years or for life, or both.

8       “(b) DEFINED TERM.—In this section, the term ‘ter-  
9 rorist’ means any person who intends to commit, or is  
10 avoiding apprehension after having committed, an offense  
11 listed under section 2332b(g)(5)(B).”.

12       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
13 The table of sections for chapter 111 of title 18, United  
14 States Code, as amended by this Act, is amended by add-  
15 ing at the end the following:

“2283. Transportation of explosive, biological, chemical, or radioactive or nu-  
clear materials.

“2284. Transportation of terrorists.”.

16 **SEC. 426. DESTRUCTION OR INTERFERENCE WITH VESSELS**  
17 **OR MARITIME FACILITIES.**

18       (a) IN GENERAL.—Part 1 of title 18, United States  
19 Code, is amended by inserting after chapter 111 the fol-  
20 lowing:

1 **“CHAPTER 111A—DESTRUCTION OF, OR**  
2 **INTERFERENCE WITH, VESSELS OR**  
3 **MARITIME FACILITIES**

“Sec.

“2291. Jurisdiction and scope.

“2292. Destruction of vessel or maritime facility.

“2293. Imparting or conveying false information.

“2294. Bar to prosecution.

4 **“§ 2291. Jurisdiction and scope**

5 “(a) JURISDICTION.—There is jurisdiction over an of-  
6 fense under this chapter if the prohibited activity takes  
7 place—

8 “(1) within the United States or within waters  
9 subject to the jurisdiction of the United States; or

10 “(2) outside United States and—

11 “(A) an offender or a victim is a national  
12 of the United States (as that term is defined  
13 under section 101(a)(22) of the Immigration  
14 and Nationality Act (8 U.S.C. 1101(a)(22));

15 “(B) the activity involves a vessel in which  
16 a national of the United States was on board;  
17 or

18 “(C) the activity involves a vessel of the  
19 United States (as that term is defined under  
20 section 2(c) of the Maritime Drug Law En-  
21 forcement Act (42 App. U.S.C. 1903(c)).

1       “(b) SCOPE.—Nothing in this chapter shall apply to  
2 otherwise lawful activities carried out by or at the direc-  
3 tion of the United States Government.

4       **“§ 2292. Destruction of vessel or maritime facility**

5       “(a) OFFENSE.—Whoever willfully—

6               “(1) sets fire to, damages, destroys, disables, or  
7 wrecks any vessel;

8               “(2) places or causes to be placed a destructive  
9 device (as defined in section 921(a)(4)) or destruc-  
10 tive substance (as defined in section 13) in, upon, or  
11 in proximity to, or otherwise makes or causes to be  
12 made unworkable or unusable or hazardous to work  
13 or use, any vessel, or any part or other materials  
14 used or intended to be used in connection with the  
15 operation of a vessel;

16               “(3) sets fire to, damages, destroys, or disables  
17 or places a destructive device or substance in, upon,  
18 or in proximity to, any maritime facility, including  
19 but not limited to, any aid to navigation, lock, canal,  
20 or vessel traffic service facility or equipment, or  
21 interferes by force or violence with the operation of  
22 such facility, if such action is likely to endanger the  
23 safety of any vessel in navigation;

24               “(4) sets fire to, damages, destroys, or disables  
25 or places a destructive device or substance in, upon,

1 or in proximity to any appliance, structure, property,  
2 machine, or apparatus, or any facility or other mate-  
3 rial used, or intended to be used, in connection with  
4 the operation, maintenance, loading, unloading, or  
5 storage of any vessel or any passenger or cargo car-  
6 ried or intended to be carried on any vessel;

7 “(5) performs an act of violence against or in-  
8 capacitates any individual on any vessel, if such act  
9 of violence or incapacitation is likely to endanger the  
10 safety of the vessel or those on board;

11 “(6) performs an act of violence against a per-  
12 son that causes or is likely to cause serious bodily  
13 injury (as defined in section 1365) in, upon, or in  
14 proximity to any appliance, structure, property, ma-  
15 chine, or apparatus, or any facility or other material  
16 used, or intended to be used, in connection with the  
17 operation, maintenance, loading, unloading, or stor-  
18 age of any vessel or any passenger or cargo carried  
19 or intended to be carried on any vessel;

20 “(7) communicates information, knowing the  
21 information to be false and under circumstances in  
22 which such information may reasonably be believed,  
23 thereby endangering the safety of any vessel in navi-  
24 gation; or

1           “(8) attempts or conspires to do anything pro-  
2           hibited under paragraphs (1) through (7),  
3 shall be fined under this title, imprisoned not more than  
4 20 years, or both.

5           “(b) LIMITATION.—Subsection (a) shall not apply to  
6 any person that is engaging in otherwise lawful activity,  
7 such as normal repair and salvage activities, and the law-  
8 ful transportation of hazardous materials.

9           “(c) PENALTY.—Whoever is fined or imprisoned  
10 under subsection (a) as a result of an act involving a vessel  
11 that, at the time of the violation, carried high-level radio-  
12 active waste (as that term is defined in section 2(12) of  
13 the Nuclear Waste Policy Act of 1982 (42 U.S.C.  
14 10101(12)) or spent nuclear fuel (as that term is defined  
15 in section 2(23) of the Nuclear Waste Policy Act of 1982  
16 (42 U.S.C. 10101(23)), shall be fined under title 18, im-  
17 prisoned for a term up to life, or both.

18           “(d) PENALTY WHEN DEATH RESULTS.—Whoever is  
19 convicted of any crime prohibited by subsection (a), which  
20 has resulted in the death of any person, shall be subject  
21 also to the death penalty or to imprisonment for life.

22           “(e) THREATS.—Whoever willfully imparts or con-  
23 veys any threat to do an act which would violate this chap-  
24 ter, with an apparent determination and will to carry the  
25 threat into execution, shall be fined under this title, im-

1  prisoned not more than 5 years, or both, and is liable for  
2  all costs incurred as a result of such threat.

3  **“§ 2293. Imparting or conveying false information**

4       “(a) IN GENERAL.—Whoever imparts or conveys or  
5  causes to be imparted or conveyed false information,  
6  knowing the information to be false, concerning an at-  
7  tempt or alleged attempt being made or to be made, to  
8  do any act which would be a crime prohibited by this chap-  
9  ter or by chapter 111, shall be subject to a civil penalty  
10 of not more than \$5,000, which shall be recoverable in  
11 a civil action brought in the name of the United States.

12       “(b) MALICIOUS CONDUCT.—Whoever willfully and  
13 maliciously, or with reckless disregard for the safety of  
14 human life, imparts or conveys or causes to be imparted  
15 or conveyed false information, knowing the information to  
16 be false, concerning an attempt or alleged attempt to do  
17 any act which would be a crime prohibited by this chapter  
18 or by chapter 111 of this title, shall be fined under this  
19 title, imprisoned not more than 5 years, or both.

20       “(c) JURISDICTION.—

21               “(1) IN GENERAL.—Except as provided under  
22 paragraph (2), section 2291(a) shall not apply to  
23 any offense under this section.

24               “(2) JURISDICTION.—Jurisdiction over an of-  
25 fense under this section shall be determined in ac-

1 cordance with the provisions applicable to the crime  
 2 prohibited by this chapter, or by chapter 2, 97, or  
 3 111 of this title, to which the imparted or conveyed  
 4 false information relates, as applicable.

5 **“§ 2294. Bar to prosecution**

6 “(a) IN GENERAL.—It is a bar to prosecution under  
 7 this chapter if—

8 “(1) the conduct in question occurred within  
 9 the United States in relation to a labor dispute, and  
 10 such conduct is prohibited as a felony under the law  
 11 of the State in which it was committed; or

12 “(2) such conduct is prohibited as a mis-  
 13 demeanor under the law of the State in which it was  
 14 committed.

15 “(b) DEFINITIONS.—In this section:

16 “(1) LABOR DISPUTE.—The term ‘labor dis-  
 17 pute’ has the same meaning given that term in sec-  
 18 tion 113(c) of the Norris-LaGuardia Act (29 U.S.C.  
 19 113(c)).

20 “(2) STATE.—The term ‘State’ means a State  
 21 of the United States, the District of Columbia, and  
 22 any commonwealth, territory, or possession of the  
 23 United States.”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 25 The table of chapters at the beginning of title 18, United

1 States Code, is amended by inserting after the item for  
 2 chapter 111 the following:

“111A. Destruction of, or interference with, vessels or maritime facilities ..... 2290”.

3 **SEC. 427. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS**  
 4 **OR VESSELS.**

5 (a) THEFT OF INTERSTATE OR FOREIGN SHIP-  
 6 MENTS.—Section 659 of title 18, United States Code, is  
 7 amended—

8 (1) in the first undesignated paragraph—

9 (A) by inserting “trailer,” after  
 10 “motortruck,”;

11 (B) by inserting “air cargo container,”  
 12 after “aircraft,”; and

13 (C) by inserting “, or from any intermodal  
 14 container, trailer, container freight station,  
 15 warehouse, or freight consolidation facility,”  
 16 after “air navigation facility”;

17 (2) in the fifth undesignated paragraph, by  
 18 striking “one year” and inserting “3 years”; and

19 (3) by inserting after the first sentence in the  
 20 eighth undesignated paragraph the following: “For  
 21 purposes of this section, goods and chattel shall be  
 22 construed to be moving as an interstate or foreign  
 23 shipment at all points between the point of origin  
 24 and the final destination (as evidenced by the waybill

1 or other shipping document of the shipment), re-  
2 gardless of any temporary stop while awaiting trans-  
3 shipment or otherwise.”.

4 (b) STOLEN VESSELS.—

5 (1) IN GENERAL.—Section 2311 of title 18,  
6 United States Code, is amended by adding at the  
7 end the following:

8 “‘Vessel’ means any watercraft or other contrivance  
9 used or designed for transportation or navigation on,  
10 under, or immediately above, water.”.

11 (2) TRANSPORTATION AND SALE OF STOLEN  
12 VESSELS.—Sections 2312 and 2313 of title 18,  
13 United States Code, are each amended by striking  
14 “motor vehicle or aircraft” and inserting “motor ve-  
15 hicle, vessel, or aircraft”.

16 (c) REVIEW OF SENTENCING GUIDELINES.—Pursu-  
17 ant to section 994 of title 28, United States Code, the  
18 United States Sentencing Commission shall review the  
19 Federal Sentencing Guidelines to determine whether sen-  
20 tencing enhancement is appropriate for any offense under  
21 section 659 or 2311 of title 18, United States Code.

22 (d) ANNUAL REPORT OF LAW ENFORCEMENT AC-  
23 TIVITIES.—The Attorney General shall annually submit to  
24 Congress a report, which shall include an evaluation of  
25 law enforcement activities relating to the investigation and

1 prosecution of offenses under section 659 of title 18,  
2 United States Code.

3 (e) REPORTING OF CARGO THEFT.—The Attorney  
4 General shall take the steps necessary to ensure that re-  
5 ports of cargo theft collected by Federal, State, and local  
6 officials are reflected as a separate category in the Uni-  
7 form Crime Reporting System, or any successor system,  
8 by not later than December 31, 2005.

9 **SEC. 428. INCREASED PENALTIES FOR NONCOMPLIANCE**  
10 **WITH MANIFEST REQUIREMENTS.**

11 (a) REPORTING, ENTRY, CLEARANCE REQUIRE-  
12 MENTS.—Section 436(b) of the Tariff Act of 1930 (19  
13 U.S.C. 1436(b)) is amended by—

14 (1) striking “or aircraft pilot” and inserting “,  
15 aircraft pilot, operator, owner of such vessel, vehicle  
16 or aircraft or any other responsible party (including  
17 non-vessel operating common carriers)”;

18 (2) striking “\$5,000” and inserting “\$10,000”;

19 and

20 (3) striking “\$10,000” and inserting  
21 “\$25,000”.

22 (b) CRIMINAL PENALTY.—Section 436(c) of the Tar-  
23 iff Act of 1930 (19 U.S.C. 1436(c)) is amended by strik-  
24 ing “\$2,000” and inserting “\$10,000”.

1 (c) FALSITY OR LACK OF MANIFEST.—Section  
2 584(a)(1) of the Tariff Act of 1930 (19 U.S.C.  
3 1584(a)(1)) is amended by striking “\$1,000” each place  
4 it occurs and inserting “\$10,000”.

5 **SEC. 429. STOWAWAYS ON VESSELS OR AIRCRAFT.**

6 Section 2199 of title 18, United States Code, is  
7 amended by striking “Shall be fined under this title or  
8 imprisoned not more than one year, or both.” and insert-  
9 ing the following:

10 “(1) shall be fined under this title, imprisoned  
11 not more than 5 years, or both;

12 “(2) if the person commits an act proscribed by  
13 this section, with the intent to commit serious bodily  
14 injury, and serious bodily injury occurs (as defined  
15 in section 1365, including any conduct that, if the  
16 conduct occurred in the special maritime and terri-  
17 torial jurisdiction of the United States, would violate  
18 section 2241 or 2242) to any person other than a  
19 participant as a result of a violation of this section,  
20 shall be fined under this title, imprisoned not more  
21 than 20 years, or both; and

22 “(3) if an individual commits an act proscribed  
23 by this section, with the intent to cause death, and  
24 if the death of any person other than a participant  
25 occurs as a result of a violation of this section, shall

1 be fined under this title, imprisoned for any number  
2 of years or for life, or both.”.

3 **SEC. 430. BRIBERY AFFECTING PORT SECURITY.**

4 (a) IN GENERAL.—Chapter 11 of title 18, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 **“§ 226. Bribery affecting port security**

8 “(a) IN GENERAL.—Any person who knowingly—

9 “(1) directly or indirectly, corruptly gives, of-  
10 fers, or promises anything of value to any public or  
11 private person, with intent—

12 “(A) to commit international or domestic  
13 terrorism (as that term is defined under section  
14 2331);

15 “(B) to influence any action or any person  
16 to commit or aid in committing, or collude in,  
17 or allow, any fraud, or make opportunity for  
18 the commission of any fraud affecting any se-  
19 cure or restricted area or seaport; or

20 “(C) to induce any official or person to do  
21 or omit to do any act in violation of the fidu-  
22 ciary duty of such official or person which af-  
23 fects any secure or restricted area or seaport;  
24 or

1           “(2) directly or indirectly, corruptly demands,  
 2           seeks, receives, accepts, or agrees to receive or ac-  
 3           cept anything of value personally or for any other  
 4           person or entity in return for—

5                   “(A) being influenced in the performance  
 6                   of any official act affecting any secure or re-  
 7                   stricted area or seaport; and

8                   “(B) knowing that such influence will be  
 9                   used to commit, or plan to commit, inter-  
 10                  national or domestic terrorism,

11 shall be fined under this title, imprisoned not more than  
 12 15 years, or both.

13           “(b) DEFINITION.—In this section, the term ‘secure  
 14 or restricted area’ has the meaning given that term in sec-  
 15 tion 2285(c).”.

16           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 17 The table of sections for chapter 11 of title 18, United  
 18 States Code, is amended by adding at the end the fol-  
 19 lowing:

“226. Bribery affecting port security.”.

○