

114TH CONGRESS
2D SESSION

S. _____

To authorize appropriations for the Department of State for fiscal year 2017, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CORKER (for himself and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To authorize appropriations for the Department of State for fiscal year 2017, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Department of State Authorization Act, Fiscal Year
6 2017”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

TITLE I—INTERNATIONAL ORGANIZATIONS

2

- Sec. 101. Oversight of and accountability for peacekeeper abuses.
- Sec. 102. Designation and reporting.
- Sec. 103. Withholding of assistance or sales.
- Sec. 104. Report on Federal Government contributions to the United Nations.
- Sec. 105. Reimbursement or application of credits.
- Sec. 106. Reimbursement of contributing countries.
- Sec. 107. United Nations peacekeeping assessment formula.
- Sec. 108. Strategic Heritage Plan.
- Sec. 109. Whistleblower protections.
- Sec. 110. United Nations Human Rights Council.
- Sec. 111. Comparative report on peacekeeping operations.

TITLE II—PERSONNEL AND ORGANIZATIONAL ISSUES

- Sec. 201. Market data for cost-of-living adjustments.
- Sec. 202. Overseas housing.
- Sec. 203. Locally-employed staff wages.
- Sec. 204. Allowances.
- Sec. 205. Expansion of civil service opportunities.
- Sec. 206. Promotion to the Senior Foreign Service.
- Sec. 207. Lateral entry into the Foreign Service.
- Sec. 208. Reemployment of annuitants.
- Sec. 209. Defense trade controls registration fees.
- Sec. 210. Authority to issue administrative subpoenas.
- Sec. 211. Extension of period for reimbursement of seized commercial fishermen.
- Sec. 212. Codification of enhanced consular immunities.
- Sec. 213. Accountability Review Board recommendations related to unsatisfactory leadership.
- Sec. 214. Personal services contractors.
- Sec. 215. Technical amendment to the Federal Workforce Flexibility Act.
- Sec. 216. Training support services.
- Sec. 217. Special agents.
- Sec. 218. Limited appointments in the Foreign Service.
- Sec. 219. Enhanced Department of State authority for uniformed guards.
- Sec. 220. Home leave amendment.

TITLE III—CONSULAR AUTHORITIES

- Sec. 301. Information on passports, expedited passports, and visas issued by Consular Affairs.
- Sec. 302. Consular fee restructuring.
- Sec. 303. Protections for foreign employees of diplomatic missions and international organizations.
- Sec. 304. Border crossing card fee for minors.
- Sec. 305. Signed photograph requirement for visa applications.
- Sec. 306. Electronic transmission of domestic violence information to visa applicants.
- Sec. 307. Amerasian immigration.
- Sec. 308. Technical amendment to the Immigration and Nationality Act.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Foreign Relations of
5 the Senate;

6 (B) the Committee on Appropriations of
7 the Senate;

8 (C) the Committee on Foreign Affairs of
9 the House of Representatives; and

10 (D) the Committee on Appropriations of
11 the House of Representatives.

12 (2) CAPITAL MASTER PLAN.—The term “Cap-
13 ital Master Plan” means the capital construction
14 project at the United Nations Headquarters in New
15 York City for which funding was approved by the
16 United Nations General Assembly on December 22,
17 2006 (A/RES/61/251).

18 (3) CONSULAR AFFAIRS.—The term “Consular
19 Affairs” means the Bureau of Consular Affairs of
20 the Department of State.

21 (4) DEPARTMENT.—Unless otherwise specified,
22 the term “Department” means the Department of
23 State.

24 (5) FOREIGN SERVICE.—The term “Foreign
25 Service” has the meaning given the term in section

1 102 of the Foreign Service Act of 1980 (22 U.S.C.
2 3902).

3 (6) GLOBAL AFFAIRS BUREAUS.—The term
4 “global affairs bureaus” means the following bu-
5 reaus of the Department:

6 (A) Bureaus reporting to the Under Sec-
7 retary for Economic Growth, Energy, and the
8 Environment.

9 (B) Bureaus reporting to the Under Sec-
10 retary for Arms Control and International Se-
11 curity.

12 (C) Bureaus reporting to the Under Sec-
13 retary for Public Diplomacy and Public Affairs.

14 (D) Bureaus reporting to the Under Sec-
15 retary for Civilian Security, Democracy, and
16 Human Rights.

17 (7) GLOBAL AFFAIRS POSITION.—The term
18 “global affairs position” means any position funded
19 with amounts appropriated to the Department under
20 the heading “Diplomatic Policy and Support”.

21 (8) INSPECTOR GENERAL.—Unless otherwise
22 specified, the term “Inspector General” means the
23 Office of Inspector General of the Department of
24 State.

1 (9) PEACEKEEPING ABUSE COUNTRY OF CON-
2 CERN.—The term “peacekeeping abuse country of
3 concern” means a country so designated by the Sec-
4 retary pursuant to section 102(a).

5 (10) PEACEKEEPING CREDITS.—The term
6 “peacekeeping credits” means the amounts by which
7 United States assessed peacekeeping contributions
8 exceed actual expenditures, apportioned to the
9 United States, of peacekeeping operations by the
10 United Nations during a United Nations peace-
11 keeping fiscal year.

12 (11) SECRETARY.—Unless otherwise specified,
13 the term “Secretary” means the Secretary of State.

14 (12) STRATEGIC HERITAGE PLAN.—The term
15 “Strategic Heritage Plan” means the capital con-
16 struction project at the United Nations’ Palais des
17 Nations building complex in Geneva, Switzerland, as
18 discussed in the Secretary–General’s “Second annual
19 progress report on the strategic heritage plan of the
20 United Nations Office at Geneva” (A/70/394), which
21 was published on September 25, 2015.

1 **TITLE I—INTERNATIONAL**
2 **ORGANIZATIONS**

3 **SEC. 101. OVERSIGHT OF AND ACCOUNTABILITY FOR**
4 **PEACEKEEPER ABUSES.**

5 (a) STRATEGY TO ENSURE REFORM AND ACCOUNT-
6 ABILITY.—Not later than 180 days after the date of the
7 enactment of this Act, the Secretary shall submit, in un-
8 classified form, to the appropriate congressional commit-
9 tees—

10 (1) a United States strategy for combating sex-
11 ual exploitation and abuse in United Nations peace-
12 keeping operations; and

13 (2) an implementation plan for achieving the
14 objectives set forth in the strategy described in para-
15 graph (1).

16 (b) OBJECTIVES.—The objectives of the strategy re-
17 quired under subsection (a) shall be—

18 (1) to ensure the introduction of improved
19 training, oversight, and accountability mechanisms
20 for United Nations peacekeeping operations and the
21 personnel involved with such operations;

22 (2) to dramatically reduce the incidence of sex-
23 ual exploitation and abuse committed by personnel
24 assigned to United Nations peacekeeping operations;

1 (3) to ensure strict accountability and swift jus-
2 tice for any such personnel who are found to have
3 committed sexual exploitation or abuse; and

4 (4) to assist the United Nations and troop- or
5 police-contributing countries to improve their ability
6 to prevent, identify, and prosecute sexual exploi-
7 tation or abuse by personnel involved in peace-
8 keeping operations.

9 (c) ELEMENTS.—The strategy required under sub-
10 section (a) shall include the following elements and objec-
11 tives:

12 (1) The United States shall use its vote and in-
13 fluence at the United Nations to seek—

14 (A) the establishment of onsite courts-mar-
15 tial, as appropriate, for the prosecution of
16 crimes committed by peacekeeping personnel,
17 which is consistent with each peacekeeping mis-
18 sion's status of forces agreement with its host
19 country; and

20 (B) the creation of a United Nations Secu-
21 rity Council ombudsman office that—

22 (i) is authorized to conduct ongoing
23 oversight of peacekeeping operations;

24 (ii) reports directly to the Security
25 Council on—

1 (I) offenses committed by peace-
2 keeping personnel or United Nations
3 civilian staff or volunteers; and

4 (II) the actions taken in response
5 to such offenses; and

6 (iii) provides reports to the Security
7 Council on the conduct of personnel in
8 each peacekeeping operation not less fre-
9 quently than annually and before the expi-
10 ration or renewal of the mandate of any
11 such peacekeeping operation;

12 (C) guidance from the United Nations on
13 the establishment of a standing claims commis-
14 sion for each peacekeeping operation—

15 (i) to address any grievances by a
16 host country's civilian population against
17 United Nations personnel in cases of al-
18 leged abuses by peacekeeping personnel;
19 and

20 (ii) to provide means for the govern-
21 ment of the country of which culpable
22 United Nations peacekeeping or civilian
23 personnel are nationals to compensate the
24 victims of such crimes;

1 (D) the adoption of a United Nations pol-
2 icy and plan that increases the number of
3 troop- or police-contributing countries that—

4 (i) obtain and maintain DNA samples
5 from each national of such country who is
6 a member of a United Nations military
7 contingent or formed police unit, consistent
8 with national laws, of such contingent or
9 unit; and

10 (ii) make such DNA samples available
11 to investigators from the troop- or police-
12 contributing country (but not to the
13 United Nations) if allegations of sexual ex-
14 ploitation or abuse arise;

15 (E) the adoption of a United Nations pol-
16 icy that—

17 (i) establishes benchmarks for the
18 identification of sexual exploitation or
19 abuse; and

20 (ii) ensures proper training of peace-
21 keeping personnel (including officers and
22 senior civilian personnel) in recognizing
23 and avoiding such offenses;

24 (F) the adoption of a United Nations pol-
25 icy that bars troop- or police-contributing coun-

1 tries that fail to fulfill their obligation to ensure
2 good order and discipline among their troops
3 from providing any further troops for peace op-
4 erations or restricts peacekeeper reimburse-
5 ments to such countries until training, institu-
6 tional reform, and oversight mechanisms have
7 been put in place that are adequate to prevent
8 such problems from reoccurring; and

9 (G) appropriate risk reduction policies, in-
10 cluding refusal by the United Nations to deploy
11 uniformed personnel from any troop- or police-
12 contributing country that does not adequately—

13 (i) investigate allegations of sexual ex-
14 ploitation or abuse involving nationals of
15 such country; and

16 (ii) ensure justice for those deter-
17 mined to have been responsible for such
18 sexual exploitation or abuse.

19 (2) The United States shall deny further
20 United States peacekeeper training or related assist-
21 ance, except for training specifically designed to re-
22 duce the incidence of sexual exploitation or abuse, or
23 to assist in its identification or prosecution, to any
24 troop- or police-contributing country that does not—

1 (A) implement and maintain effective
2 measures to ensure the discovery of sexual ex-
3 ploitation and abuse offenses committed by
4 peacekeeping personnel who are nationals of
5 such country;

6 (B) adequately respond to complaints
7 about such offenses by carrying out swift and
8 effective disciplinary action against the per-
9 sonnel who are found to have committed such
10 offenses; and

11 (C) provide detailed reporting to the om-
12 budsman described in paragraph (1)(B) (or
13 other appropriate United Nations official) that
14 describes the offenses committed by its nation-
15 als and its responses to such offenses.

16 (3) The United States shall develop support
17 mechanisms to assist troop- or police-contributing
18 countries—

19 (A) to improve their capacity to investigate
20 allegations of sexual exploitation and abuse of-
21 fenses committed by their nationals while par-
22 ticipating in a United Nations peacekeeping op-
23 eration; and

1 (B) to appropriately hold accountable any
2 individual who commits an acts of sexual exploi-
3 tation or abuse.

4 (4) In coordination with the ombudsman de-
5 scribed in paragraph (1)(B) (or other appropriate
6 United Nations official), the Secretary shall identify,
7 in the Department's annual country reports on
8 human rights practices, the countries of origin of
9 any peacekeeping personnel or units that—

10 (A) are characterized by noteworthy pat-
11 terns of sexual exploitation or abuse; or

12 (B) have failed to institute appropriate in-
13 stitutional and procedural reforms after being
14 made aware of any such patterns.]

15 **SEC. 102. DESIGNATION AND REPORTING.**

16 (a) DESIGNATION OF COUNTRIES WITH RECORDS OF
17 PEACEKEEPING ABUSE.—If credible information indicates
18 that personnel from any United Nations peacekeeping
19 troop- or police-contributing country have engaged in sex-
20 ual exploitation or abuse and credible allegations of such
21 misconduct indicate a pattern of significant and habitual
22 sexual exploitation or abuse, the Secretary shall—

23 (1) designate the country in question as a
24 “peacekeeping abuse country of concern”; and

1 (2) promptly notify the country in question of
2 its designation under this subsection.

3 (b) DURATION.—A designation under subsection
4 (a)(1) shall remain in effect until the Secretary determines
5 that—

6 (1) the pattern of significant and habitual sex-
7 ual exploitation or abuse that led to such designation
8 has ceased; and

9 (2) the country in question has taken appro-
10 priate steps—

11 (A) to prevent a pattern of significant and
12 habitual sexual exploitation or abuse in the fu-
13 ture; and

14 (B) to bring to justice the perpetrators of
15 any such sexual exploitation or abuse.

16 (c) PUBLIC LIST.—The Secretary shall maintain a
17 publicly-accessible list of all countries that are designated
18 as a peacekeeping abuse country of concern.

19 (d) INFORMATION.—The Secretary shall promptly in-
20 form the appropriate congressional committees whenever
21 the Secretary—

22 (1) designates a country as a peacekeeping
23 abuse country of concern; or

24 (2) determines that a country no longer quali-
25 fies as a peacekeeping abuse country of concern as

1 a result of meeting the criteria set forth in sub-
2 section (b).

3 (e) CREDIBLE INFORMATION.—In assessing whether
4 credible information indicates a pattern of significant and
5 habitual sexual exploitation or abuse, the Secretary should
6 consider all credible information, including—

7 (1) the contents of the annual United Nations
8 Secretary General’s Bulletin entitled “Special meas-
9 ures for protection from sexual exploitation and sex-
10 ual abuse”;

11 (2) classified and unclassified information resid-
12 ing in Federal Government databases or other rel-
13 evant records;

14 (3) open-source records, including media ac-
15 counts and information available on the Internet;
16 and

17 (4) information available from international or-
18 ganizations, foreign governments, and civil society
19 organizations.

20 **SEC. 103. WITHHOLDING OF ASSISTANCE OR SALES.**

21 (a) STATEMENT OF UNITED STATES POLICY.—It is
22 the policy of the United States that bilateral military as-
23 sistance to security forces should not be provided to any
24 unit of the security forces of a foreign country that has
25 engaged in a gross violation of human rights or in a pat-

1 tern of sexual exploitation or abuse while serving in a
2 United Nations peacekeeping operation.

3 (b) CLARIFICATION.—A gross violation of human
4 rights referred to in section 620M of the Foreign Assist-
5 ance Act of 1961 (22 U.S.C. 2378d) shall include any
6 gross violation of human rights committed by a unit serv-
7 ing in a United Nations peacekeeping operation.

8 (c) WITHHOLDING OF ASSISTANCE OR SALES.—The
9 Secretary is authorized—

10 (1) to withhold any or all of the military assist-
11 ance to security forces described in subsection (d)
12 from any unit of the security forces of a foreign
13 country for which the Secretary has determined that
14 credible evidence exists that the unit has engaged in
15 a pattern of sexual exploitation or abuse, including
16 while serving on a United Nations peacekeeping op-
17 eration; and

18 (2) to continue to withhold such assistance or
19 sales until effective steps have been taken—

20 (A) to investigate, identify, and punish
21 such exploitation or abuse; and

22 (B) to prevent similar incidents from oc-
23 ccurring in the future.

1 (d) ASSISTANCE SPECIFIED.—The military assist-
2 ance to security forces described in this subsection is the
3 assistance or sales authorized under—

4 (1) sections 516, 524, and 541 of the Foreign
5 Assistance Act of 1961 (22 U.S.C. 2321j, 2344, and
6 2347);

7 (2) chapter 6 of part II of the Foreign Assist-
8 ance Act of 1961 (22 U.S.C. 2348 et seq.); and

9 (3) section 23 of the Arms Export Control Act
10 (22 U.S.C. 2763).

11 (e) NOTIFICATION.—If the Secretary withholds mili-
12 tary assistance to security forces from a unit of the secu-
13 rity forces of a foreign country pursuant to subsection (c),
14 the Secretary shall—

15 (1) promptly notify the government of such
16 country that such unit is ineligible for certain mili-
17 tary assistance from the United States; and

18 (2) provide written notification of such with-
19 holding to the appropriate congressional committees
20 not later than 10 days after the Secretary has deter-
21 mined to withhold such assistance or sales from such
22 unit.

1 **SEC. 104. REPORT ON FEDERAL GOVERNMENT CONTRIBU-**
2 **TIONS TO THE UNITED NATIONS.**

3 (a) IN GENERAL.—Section 4(e)(1) of the United Na-
4 tions Participation Act of 1945 (22 U.S.C. 287b(c)) is
5 amended—

6 (1) by amending subparagraph (A) to read as
7 follows:

8 “(A) A description of all assistance from
9 the United States to the United Nations to sup-
10 port peacekeeping operations that—

11 “(i) was provided during the previous
12 calendar year;

13 “(ii) is expected to be provided during
14 the current fiscal year; or

15 “(iii) is included in the annual budget
16 request to Congress for the budget year.”;

17 (2) by amending subparagraph (D) to read as
18 follows:

19 “(D) For assessed or voluntary contribu-
20 tions described in subparagraph (B)(iii) or
21 (C)(iii) that exceed \$100,000 in value, including
22 in-kind contributions—

23 “(i) the total amount or estimated
24 value of all such contributions to the
25 United Nations and to each of its affiliated
26 agencies and related bodies;

1 “(ii) the nature and estimated total
2 value of all in-kind contributions in sup-
3 port of United Nations peacekeeping oper-
4 ations and other international peace-
5 keeping operations, including—

6 “(I) logistics;

7 “(II) airlift;

8 “(III) arms and materiel;

9 “(IV) nonmilitary technology and
10 equipment;

11 “(V) personnel; and

12 “(VI) training;

13 “(iii) the approximate percentage of
14 all such contributions to the United Na-
15 tions and to each such agency or body
16 when compared with all contributions to
17 the United Nations and to each such agen-
18 cy or body from any source; and

19 “(iv) for each such United States
20 Government contribution to the United
21 Nations and to each such agency or
22 body—

23 “(I) the amount or value of the
24 contribution;

1 “(II) a description of the con-
2 tribution, including whether it is an
3 assessed or voluntary contribution;

4 “(III) the purpose of the con-
5 tribution;

6 “(IV) the department or agency
7 of the United States Government re-
8 sponsible for the contribution; and

9 “(V) the United Nations or
10 United Nations affiliated agency or
11 related body that received the con-
12 tribution.”; and

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

14 “(E) The report required under this sub-
15 section shall be submitted in unclassified form,
16 but may include a classified annex.”.

17 (b) PUBLIC AVAILABILITY OF INFORMATION.—Not
18 later than 14 days after submitting each report under sec-
19 tion 4(c) of the United Nations Participation Act of 1945
20 (22 U.S.C. 287b(c)), the Director of the Office of Manage-
21 ment and Budget shall post a text-based, searchable
22 version of any unclassified information described in para-
23 graph (1)(D) of such section on a publicly available
24 website.

1 **SEC. 105. REIMBURSEMENT OR APPLICATION OF CREDITS.**

2 Notwithstanding any other provision of law, the
3 President shall direct the United States Permanent Rep-
4 resentative to the United Nations to use the voice, vote,
5 and influence of the United States at the United Nations
6 to seek and timely obtain a commitment from the United
7 Nations to make available to the United States any peace-
8 keeping credits that are generated from a closed peace-
9 keeping operation.

10 **SEC. 106. REIMBURSEMENT OF CONTRIBUTING COUN-**
11 **TRIES.**

12 It is the policy of the United States that—

13 (1) the present formula for determining the
14 troop reimbursement rate paid to troop- and police-
15 contributing countries for United Nations peace-
16 keeping should be clearly explained and made avail-
17 able to the public on the United Nations Depart-
18 ment of Peacekeeping Operations website;

19 (2) regular audits of the nationally-determined
20 pay and benefits given to personnel from troop- and
21 police-contributing countries participating in United
22 Nations peacekeeping operations should be con-
23 ducted to help inform the reimbursement rate; and

24 (3) the survey mechanism developed by the
25 United Nations Secretary-General's Senior Advisory
26 Group on Peacekeeping Operations for collecting

1 troop- and police-contributing country data on com-
2 mon and extraordinary expenses associated with de-
3 ploying personnel to peacekeeping missions should
4 be coordinated with the audits described in para-
5 graph (2) to ensure proper oversight and account-
6 ability.

7 **SEC. 107. UNITED NATIONS PEACEKEEPING ASSESSMENT**

8 **FORMULA.**

9 (a) INDEPENDENT ASSESSMENT.—Not later than 1
10 year after the date of the enactment of this Act, the Comp-
11 troller General of the United States shall—

12 (1) conduct a study of the formula and methods
13 by which the United Nations assesses member states
14 for financial support to peacekeeping operations to
15 determine an appropriate standard by which the
16 United Nations should assess such member states in
17 proportion to their capacity to contribute financially
18 to such operations; and

19 (2) submit the results of the study conducted
20 under paragraph (1) to the appropriate congres-
21 sional committees.

22 (b) ELEMENTS.—The study required under sub-
23 section (a) shall include—

24 (1) an explanation and analysis of the formula
25 and methods used by the United Nations to deter-

1 mine the peacekeeping assessments for each member
2 state, including—

3 (A) whether it is appropriate to use per
4 capita gross domestic product as the method of
5 calculation for determining a member country's
6 capacity to contribute;

7 (B) whether, and to what degree, member
8 countries should qualify for discounts through
9 the United Nations regular budget, the peace-
10 keeping budget, or both; and

11 (C) a survey and analysis of various meth-
12 ods of calculating capacity to contribute includ-
13 ing—

14 (i) the relative share of quota sub-
15 scription and voting shares at international
16 financial institutions such as the World
17 Bank Group and the International Mone-
18 tary Fund;

19 (ii) the size and nature of the coun-
20 try's reserves, including the size and com-
21 position of its other external assets; and

22 (iii) whether the country runs large
23 and prolonged current account surpluses;
24 and

1 (2) recommendations, based on the analysis
2 conducted under paragraph (1), for improving the
3 formula used by the United Nations to determine
4 the peacekeeping assessments for each member state
5 to better reflect each state’s capacity to contribute
6 and appropriate burden-sharing among member
7 states.

8 **SEC. 108. STRATEGIC HERITAGE PLAN.**

9 (a) REPORT.—Not later than 1 year after the date
10 of the enactment of this Act, and every 2 years thereafter
11 until the Strategic Heritage Plan is complete, the Comp-
12 troller General of the United States shall submit a report
13 to the appropriate congressional committees on the Stra-
14 tegic Heritage Plan that includes—

15 (1) an update on the status of the project’s
16 budget and schedule, including any changes to
17 scope, total project cost, or schedule;

18 (2) an update on financing plans for the
19 project, including the amount contributed by each
20 member state; and

21 (3) an assessment of the United Nation’s man-
22 agement of the project, including whether lessons
23 learned during the implementation of the Capital
24 Master Plan are used to develop documented guid-
25 ance for the Strategic Heritage Plan.

1 (b) AUTHORIZATION.—Not later than 30 days before
2 the adoption of a budget for the Strategic Heritage Plan
3 by the United Nations General Assembly, the Secretary
4 shall certify to the appropriate congressional committees
5 whether—

6 (1) the United Nations has updated its policies
7 and procedures for capital projects to incorporate
8 lessons learned from the Capital Master Plan;

9 (2) the Department—

10 (A) has conducted a cost-benefit analysis
11 of the United Nations financing options for the
12 Strategic Heritage Plan, including the possi-
13 bility of special assessments on member states
14 and a long-term loan from the Government of
15 Switzerland; and

16 (B) has determined which option is most
17 financially advantageous for the United States;
18 and

19 (3) the United Nations has reviewed viable op-
20 tions for securing alternative financing to offset the
21 total project cost.

22 **SEC. 109. WHISTLEBLOWER PROTECTIONS.**

23 (a) CERTIFICATION OF WHISTLEBLOWER PROTEC-
24 TIONS.—Not more than 85 percent of the annual contribu-
25 tions by the United States to the United Nations (includ-

1 ing contributions to the Department of Peacekeeping Op-
2 erations) for any United Nations agency, or for the Orga-
3 nization of American States, may be obligated for such
4 organization, department, or agency until the Secretary
5 certifies to the appropriate congressional committees that
6 the organization, department, or agency receiving such
7 contributions is—

8 (1) posting on a publicly available website, con-
9 sistent with applicable privacy regulations and due
10 process, regular financial and programmatic audits
11 of such organization, department, or agency;

12 (2) providing the United States Government
13 with necessary access to the financial and perform-
14 ance audits described in paragraph (1); and

15 (3) effectively implementing and enforcing poli-
16 cies and procedures that reflect best practices for
17 the protection of whistleblowers from retaliation, in-
18 cluding—

19 (A) protection against retaliation for inter-
20 nal and lawful public disclosures;

21 (B) the establishment of appropriate legal
22 burdens of proof in disciplinary or other actions
23 taken against employees and the maintenance
24 of due process protections for such employees;

1 (C) the establishment of clear statutes of
2 limitation for reporting retaliation against whis-
3 tleblowers;

4 (D) appropriate access to independent ad-
5 judicative bodies, including external arbitration;
6 and

7 (E) prompt disciplinary action, as appro-
8 priate, against any officials who have engaged
9 in retaliation against whistleblowers.

10 (b) RELEASE OF WITHHELD CONTRIBUTIONS.—The
11 Secretary may obligate the remaining 15 percent of the
12 applicable United States contributions to an organization,
13 department, or agency subject to the certification require-
14 ment described in subsection (a) after the Secretary sub-
15 mits such certification to the appropriate congressional
16 committees.

17 (c) WAIVER.—

18 (1) IN GENERAL.—The Secretary may waive
19 the requirements under subsection (a) with respect
20 to a particular agency, organization, or department,
21 if the Secretary determines and reports to the ap-
22 propriate congressional committees that such a waiv-
23 er is necessary for the particular agency, organiza-
24 tion, or department to avert or respond to a humani-
25 tarian crisis.

1 (2) RENEWAL.—A waiver under paragraph (1)
2 may be renewed if the Secretary determines and re-
3 ports to the appropriate congressional committees
4 that such waiver remains necessary for that par-
5 ticular agency, organization, or department to avert
6 or respond to a humanitarian crisis.

7 **SEC. 110. UNITED NATIONS HUMAN RIGHTS COUNCIL.**

8 (a) FUNDING PROHIBITION.—No funding from the
9 United States Government may be made available to sup-
10 port the United Nations Human Rights Council until after
11 the Secretary certifies to the appropriate congressional
12 committees that—

13 (1) participation in the United Nations Human
14 Rights Council is in the national interest of the
15 United States; and

16 (2) the United Nations Humans Rights Council
17 is taking steps to remove “Human rights situation
18 in Palestine and other occupied Arab territories”
19 and any other specific item targeted at Israel as per-
20 manent items on the United Nations Human Rights
21 Council’s agenda.

22 (b) REQUIREMENT.—The certification under sub-
23 section (a) shall include—

24 (1) an explanation of the reasoning behind the
25 certification; and

1 (2) the steps that have been taken to remove
2 “Human rights situation in Palestine and other oc-
3 cupied Arab territories” and any other specific item
4 targeted at Israel as permanent agenda items.

5 (c) ADDITIONAL INFORMATION.—Not later than 90
6 days after the date of the enactment of this Act, and annu-
7 ally thereafter, the Secretary shall submit a report to the
8 appropriate congressional committees that describes—

9 (1) the resolutions that were considered in the
10 United Nations Human Rights Council during the
11 previous 12 months; and

12 (2) steps that have been taken during that 12-
13 month period to remove “Human rights situation in
14 Palestine and other occupied Arab territories” and
15 any other specific item targeted at Israel as perma-
16 nent agenda items for the United Nations Human
17 Rights Council.

18 (d) WAIVER.—The Secretary may waive the restric-
19 tions imposed under subsection (a), on an annual basis,
20 if the Secretary—

21 (1) determines that such a waiver is in the for-
22 eign policy or national security interests of the
23 United States; and

1 (2) submits a written explanation to the appro-
2 priate congressional committees of the reasoning be-
3 hind such determination.

4 (e) **TERMINATION.**—The funding limitation under
5 subsection (a) shall terminate after the Secretary certifies
6 pursuant to that subsection that “Human rights situation
7 in Palestine and other occupied Arab territories” and any
8 other specific item targeted at Israel have been removed
9 as permanent items on the United Nations Human Rights
10 Council’s agenda.

11 **SEC. 111. COMPARATIVE REPORT ON PEACEKEEPING OP-**
12 **ERATIONS.**

13 Not later than 1 year after the date of the enactment
14 of this Act, the Comptroller General of the United State
15 shall submit a report to the appropriate congressional
16 committees on the costs, strengths, and limitations of
17 United States and United Nations peacekeeping oper-
18 ations, which shall include—

19 (1) a comparison of the costs of current United
20 Nations peacekeeping missions and the estimated
21 cost of comparable United States peacekeeping oper-
22 ations; and

23 (2) an analysis of the strengths and limitations
24 of—

1 (A) a peacekeeping operation led by the
2 United States; and

3 (B) a peacekeeping operation led by the
4 United Nations.

5 **TITLE II—PERSONNEL AND**
6 **ORGANIZATIONAL ISSUES**

7 **SEC. 201. MARKET DATA FOR COST-OF-LIVING ADJUST-**
8 **MENTS.**

9 (a) REPORT.—Not later than 180 days after the date
10 of the enactment of this Act, the Secretary shall submit
11 a report to the appropriate congressional committees that
12 examines the feasibility and cost effectiveness of using pri-
13 vate sector market data to determine cost of living adjust-
14 ments for foreign service officers and Federal Government
15 civilians who are stationed abroad.

16 (b) CONTENT.—The report required under subsection
17 (a) shall include—

18 (1) a list of at least 4 private sector providers
19 of international cost-of-living data that the Secretary
20 determines are qualified to provide such data;

21 (2) a list of cities in which the Department
22 maintains diplomatic posts for which private sector
23 cost-of-living data is not available;

24 (3) a comparison of—

1 (A) the cost of purchasing cost-of-living
2 data from each provider listed in paragraph (1);
3 and

4 (B) the cost (including Department labor
5 costs) of producing such rates internally; and

6 (4) for countries in which the Department pro-
7 vides a cost-of-living allowance greater than zero and
8 the World Bank estimates that the national price
9 level of the country is less than the national price
10 level of the United States, a comparison of cost-of-
11 living allowances, excluding housing costs, of the pri-
12 vate sector providers referred to in paragraph (1) to
13 rates constructed by the Department's Office of Al-
14 lowances.

15 (c) WAIVER.—If the Secretary determines that com-
16 pliance with subsection (b)(4) at a particular location is
17 cost-prohibitive, the Secretary may waive the requirement
18 under subsection (b)(4) for that location if the Secretary
19 submits written notice and an explanation of the reasons
20 for the waiver to the appropriate congressional commit-
21 tees.

22 **SEC. 202. OVERSEAS HOUSING.**

23 (a) REPORT.—Not later than 180 days after the date
24 of the enactment of this Act, the Comptroller General of

1 the United States shall submit a report to the appropriate
2 congressional committees that analyzes and compares—

3 (1) overseas housing policies and rates for civil-
4 ians, as set by the Department; and

5 (2) overseas housing policies and rates for mili-
6 tary personnel, as set by the Department of Defense.

7 (b) CONTENT.—The report required under subsection
8 (a) shall include—

9 (1) a comparison of overseas housing policies,
10 pertaining to the size and quality of government-pro-
11 vided housing and the rates for individually leased
12 housing, for Federal Government civilians and mili-
13 tary personnel;

14 (2) a comparison of rates for individually leased
15 overseas housing for civilians and military personnel
16 by comparable rank and family size;

17 (3) an analysis of any factors specific to the ci-
18 vilian population or military population that warrant
19 separate housing policies and rates;

20 (4) a recommendation on the feasibility and
21 cost-effectiveness of consolidating civilian and mili-
22 tary policies and rates for individually-leased hous-
23 ing into a single approach for all United States per-
24 sonnel who are stationed overseas; and

1 (5) additional policy recommendations based on
2 the Comptroller General's analysis.

3 **SEC. 203. LOCALLY-EMPLOYED STAFF WAGES.**

4 (a) MARKET-RESPONSIVE STAFF WAGES.—Not later
5 than 180 days after the date of enactment of this Act,
6 and periodically thereafter, the Secretary shall establish
7 and implement a prevailing wage rates goal for positions
8 in the local compensation plan, as described in section 408
9 of the Foreign Service Act of 1980 (22 U.S.C. 3968), at
10 each diplomatic post that—

11 (1) is based on the specific recruiting and re-
12 tention needs of the post and local labor market con-
13 ditions, as determined annually; and

14 (2) is not less than the 50th percentile of the
15 prevailing wage for comparable employment in the
16 labor market surrounding the post.

17 (b) EXCEPTION.—The prevailing wage rate goal es-
18 tablished under subsection (a) may differ from the re-
19 quirements under such subsection if required by law in
20 the locality of employment.

21 (c) RECORDKEEPING REQUIREMENT.—The analyt-
22 ical assumptions underlying the calculation of wage levels
23 at each diplomatic post under subsection (a), and the data
24 upon which such calculation is based—

1 (1) shall be filed electronically and retained for
2 not less than 5 years; and

3 (2) shall be made available to the appropriate
4 congressional committees upon request.

5 **SEC. 204. ALLOWANCES.**

6 (a) STATEMENT OF POLICY.—It is the policy of the
7 United States that—

8 (1) pay differentials for staffing overseas posts
9 should reflect the various factors affecting the desir-
10 ability of such posts, including the preference of em-
11 ployees bidding and the dangers or overall hardships
12 of serving in a particular location, as perceived by
13 the actual employees eligible to bid for positions in
14 such locations; and

15 (2) the Secretary should periodically analyze
16 fluctuations in such bidding patterns to ensure that
17 pay differentials reflect—

18 (A) the changing conditions in each post;

19 and

20 (B) the impact of staffing incentives
21 through pay differentials offered during the
22 previous year.

23 (b) STAFFING INCENTIVE.—

24 (1) IN GENERAL.—Chapter 59 of title 5, United
25 States Code, is amended—

1 (A) by striking sections 5925 and 5928;

2 and

3 (B) by inserting after section 5924 the fol-

4 lowing:

5 **“§ 5925. Staffing incentive**

6 “(a) AUTHORIZATION.—A staffing incentive, not to
7 exceed 70 percent of the basic pay of the employee, may
8 be granted to an employee serving at an overseas post
9 based on the recruitment and retention needs for filling
10 positions at that post if such incentive—

11 “(1) compensates the employee for conditions of
12 environment that are substantially and unfavorably
13 different than conditions of environment in the con-
14 tinental United States;

15 “(2) compensates the employee for exposure to
16 conditions of civil insurrection, civil war, terrorism,
17 or wartime conditions that threaten physical harm
18 or imminent danger to the health or well-being of
19 the employee; or

20 “(3) motivates the employee to serve at a post
21 that is in low demand despite compensation for
22 hardship and danger conditions.

23 “(b) EXTENDED DETAIL IN A FOREIGN AREA.—A
24 staffing incentive may be granted to an employee who is
25 officially stationed in the United States and is on extended

1 detail in a foreign area for as long as the employee con-
2 tinues to serve on such extended detail.

3 “(c) NOTIFICATION REQUIREMENT.—The Secretary
4 of State shall notify the appropriate congressional commit-
5 tees of—

6 “(1) the implementation of each staffing incen-
7 tive authorized under this section that applies to em-
8 ployees of the Department of State stationed at an
9 overseas post; and

10 “(2) each instance in which implementation of
11 a staffing incentive under this section for an over-
12 seas post results in an increase of 5 percent or more
13 or a decrease of 5 percent or more from the staffing
14 incentive offered for service at that post during the
15 previous year .

16 “(d) HARDSHIP INDEX; DANGER LEVEL.—The Sec-
17 retary of State shall—

18 “(1) annually publish a hardship index for each
19 diplomatic post that is based on conditions of envi-
20 ronment at that post that differ substantially from
21 conditions of environment in the continental United
22 States; and

23 “(2) semiannually rate the danger level of each
24 post based on the Security Environment Threat
25 List.

1 “(e) NUMBER OF BIDS.—The Secretary of State
2 shall—

3 “(1) track the number of bids made and how
4 they are ranked for each open position at each over-
5 seas post within the Department of State and collect
6 both quantitative and qualitative survey data from
7 eligible bidders on their bid decision-making;

8 “(2) use the information described in paragraph
9 (1) to set appropriate staffing incentives at such
10 overseas posts; and

11 “(3) make the information described in para-
12 graph (1) available, upon request, to—

13 “(A) the Committee on Foreign Relations
14 of the Senate; and

15 “(B) the Committee on Foreign Affairs of
16 the House of Representatives.”.

17 (2) CLERICAL AMENDMENT.—The analysis for
18 chapter 59 of title 5, United States Code, is amend-
19 ed—

20 (A) by striking the items relating to sec-
21 tions 5925 and 5928; and

22 (B) by inserting after the item relating to
23 section 5924 the following new item:

“5925. Staffing incentive.”.

24 (c) IMPLEMENTATION.—Not later than 270 days
25 after the date of the enactment of this Act, the head of

1 each Federal agency subject to the amendment made by
2 subsection (b) shall submit a plan to the Speaker of the
3 House of Representatives and the Majority Leader of the
4 Senate that describes how the agency intends—

5 (1) to comply with the policy set forth in sub-
6 section (a); and

7 (2) to implement the staffing incentives set
8 forth in section 5925 of title 5, United States Code,
9 as added by subsection (b).

10 **SEC. 205. EXPANSION OF CIVIL SERVICE OPPORTUNITIES.**

11 It is the sense of Congress that the Department
12 should—

13 (1) expand the Overseas Development Program
14 from 20 positions to not fewer than 40 positions
15 within 1 year after the date of the enactment of this
16 Act;

17 (2) analyze the costs and benefits of expanding
18 the Overseas Development Program; and

19 (3) expand the Overseas Development Program
20 to more than 40 positions if the benefits identified
21 in paragraph (2) outweigh the costs identified in
22 such paragraph.

1 **SEC. 206. PROMOTION TO THE SENIOR FOREIGN SERVICE.**

2 Section 601(c) of the Foreign Service Act of 1980
3 (22 U.S.C. 4001(c)) is amended by adding at the end the
4 following:

5 “(6)(A) The promotion of any individual joining
6 the Service on or after January 1, 2017, to the Sen-
7 ior Foreign Service shall be contingent upon the in-
8 dividual completing at least 1 tour in—

9 “(i) a global affairs bureau; or

10 “(ii) a global affairs position.

11 “(B) In this paragraph—

12 “(i) the term ‘global affairs bureau’ means
13 any bureau of the Department of State that is
14 under the responsibility of—

15 “(I) the Under Secretary for Eco-
16 nomic Growth, Energy, and Environment;

17 “(II) the Under Secretary for Arms
18 Control and International Security Affairs;

19 “(III) the Under Secretary for Man-
20 agement;

21 “(IV) the Under Secretary for Public
22 Diplomacy and Public Affairs; or

23 “(V) the Under Secretary for Civilian,
24 Security, Democracy, and Human Rights;

25 and

1 “(ii) the term ‘global affairs position’
2 means any position funded with amounts appro-
3 priated to the Department of State under the
4 heading ‘Diplomatic Policy and Support’.

5 “(C) The requirements under subparagraph (A)
6 shall not apply if the Secretary of State certifies
7 that the individual proposed for promotion to the
8 Senior Foreign Service—

9 “(i) has met all other requirements appli-
10 cable to such promotion; and

11 “(ii) was unable to complete a tour in a
12 global affairs bureau or global affairs position
13 because there was not a reasonable opportunity
14 for the individual to be assigned to such a post-
15 ing.”.

16 **SEC. 207. LATERAL ENTRY INTO THE FOREIGN SERVICE.**

17 (a) **POLICY OF THE UNITED STATES.**—It is the pol-
18 icy of the United States to maximize the ability of the
19 Foreign Service to draw upon the talents of the American
20 people to most effectively promote the foreign policy inter-
21 ests of the United States.

22 (b) **FINDING.**—Congress finds that—

23 (1) the Foreign Service practice of grooming
24 generalists for careers in the Foreign Service, start-

1 ing with junior level directed assignments, is effective for most officers; and

2
3 (2) the practice described in paragraph (1) precludes the recruitment of many patriotic, highly-skilled, talented, and experienced mid-career professionals who wish to join public service and contribute to the work of the Foreign Service, but are not in a position to restart their careers as entry-level government employees.

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10 (c) SENSE OF CONGRESS.—It is the sense of Congress that the Foreign Service should create an alternative hiring mechanism to permit mid-career entry into the Foreign Service for qualified individuals who are willing to bring their outstanding talents and experiences to the work of the Foreign Service.

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16 (d) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a 3-year pilot program for lateral entry into the Foreign Service that—

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20 (1) targets mid-career individuals from the civil service and private sector who have skills and experience that would be extremely valuable to the Foreign Service;

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24 (2) offers participants in the pilot program placement in the Foreign Service at a grade level

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1 higher than FS-4 if such placement is warranted by
2 their education and qualifying experience;

3 (3) requires only 1 directed assignment in a po-
4 sition appropriate to the pilot program participant's
5 grade level;

6 (4) includes, as part of the required initial
7 training, a class or module that specifically prepares
8 participants in the pilot program for life in the For-
9 eign Service, including conveying to them essential
10 elements of the practical knowledge that is normally
11 acquired during a Foreign Service officer's initial as-
12 signments; and

13 (5) includes an annual assessment of the
14 progress of the pilot program by a review board con-
15 sisting of Department officials with appropriate ex-
16 pertise, including employees of the Foreign Service,
17 in order to evaluate the pilot program's success and
18 direction in advancing the policy set forth in sub-
19 section (a) in light of the findings set forth in sub-
20 section (b).

21 (e) ANNUAL REPORTING.—Not later than 1 year
22 after the date of the enactment of this Act, and annually
23 thereafter for the duration of the pilot program, the Sec-
24 retary shall submit a report to the appropriate congres-
25 sional committees that describes—

1 (1) the cumulative number of accepted and
2 unaccepted applicants to the pilot program estab-
3 lished under subsection (d);

4 (2) the cumulative number of pilot program
5 participants placed into each Foreign Service cone;

6 (3) the grade level at which each pilot program
7 participant entered the Foreign Service;

8 (4) information about the first assignment to
9 which each pilot program participant was directed;

10 (5) the structure and operation of the pilot pro-
11 gram, including—

12 (A) the operation of the pilot program to
13 date; and

14 (B) any observations and lessons learned
15 about the pilot program that the Secretary con-
16 siders relevant.

17 (f) LONGITUDINAL DATA.—The Secretary shall—

18 (1) collect and maintain data on the career pro-
19 gression of each pilot program participant for the
20 length of the participant's Foreign Service career;
21 and

22 (2) make the data described in paragraph (1)
23 available to the appropriate congressional commit-
24 tees upon request.

1 **SEC. 208. REEMPLOYMENT OF ANNUITANTS.**

2 (a) WAIVER OF ANNUITY LIMITATIONS.—Section
3 824(g) of the Foreign Service Act of 1980 (22 U.S.C.
4 4064(g)) is amended—

5 (1) in paragraph (1)(B), by striking “to facili-
6 tate the” and all that follows through “Afghani-
7 stan,”;

8 (2) by striking paragraph (2); and

9 (3) by redesignating paragraph (3) as para-
10 graph (2).

11 (b) REPEAL OF SUNSET PROVISION.—Section 61(a)
12 of the State Department Basic Authorities Act of 1956
13 (22 U.S.C. 2733(a)) is amended to read as follows:

14 “(a) AUTHORITY.—The Secretary of State may waive
15 the application of section 8344 or 8468 of title 5, United
16 States Code, on a case-by-case basis, for employment of
17 an annuitant in a position in the Department of State for
18 which there is exceptional difficulty in recruiting or retain-
19 ing a qualified employee, or when a temporary emergency
20 hiring need exists.”.

21 **SEC. 209. DEFENSE TRADE CONTROLS REGISTRATION**
22 **FEES.**

23 Section 45 of the State Department Basic Authorities
24 Act of 1956 (22 U.S.C. 2717) is amended—

25 (1) in the matter preceding paragraph (1)—

1 (A) by striking “Office” and inserting “Di-
2 rectorate”; and

3 (B) by inserting “management, licensing,
4 compliance, and policy activities in the defense
5 trade controls function, including” after “in-
6 curred for”;

7 (2) in paragraph (1), by striking “contract per-
8 sonnel to assist in”;

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

11 (4) in paragraph (3), by striking the period at
12 the end and inserting a semicolon; and

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

14 “(4) the facilitation of defense trade policy de-
15 velopment and implementation, review of commodity
16 jurisdiction determinations, public outreach to indus-
17 try and foreign parties, and analysis of scientific and
18 technological developments relating to the exercise of
19 defense trade control authorities; and

20 “(5) contract personnel to assist in the activi-
21 ties described in paragraphs (1) through (4).”.

22 **SEC. 210. AUTHORITY TO ISSUE ADMINISTRATIVE SUB-**
23 **POENAS.**

24 Section 3486 of title 18, United States Code, is
25 amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1)(A)—

3 (i) in clause (ii), by striking “or” at
4 the end; and

5 (ii) in clause (iii), by striking the
6 comma at the end and inserting a semi-
7 colon; and

8 (iii) by inserting after clause (iii) the
9 following:

10 “(iv) an offense under section 878, or
11 a threat against a person, foreign mission,
12 or organization authorized to receive pro-
13 tection by special agents of the Depart-
14 ment of State and the Foreign Service
15 under section 37 of the State Department
16 Basic Authorities Act of 1956 (22 U.S.C.
17 2709(3)), if the Assistant Secretary for
18 Diplomatic Security or the Director of the
19 Diplomatic Security Service determines
20 that the threat constituting the offense or
21 threat against the person or place pro-
22 tected is imminent, the Secretary of State;
23 or

24 “(v) an offense under chapter 75, the
25 Secretary of State,”;

1 (B) in paragraph (9), by striking “para-
2 graph (1)(A)(i)(II) or (1)(A)(iii)” and inserting
3 “clause (i)(II), (iii), (iv), or (v) of paragraph
4 (1)(A)”;

5 (C) in paragraph (10), by adding at the
6 end the following: “As soon as practicable fol-
7 lowing the issuance of a subpoena under para-
8 graph (1)(A)(iv), the Secretary of State shall
9 notify the Attorney General of its issuance.”;
10 and

11 (2) in subsection (e)(1)—

12 (A) by striking “unless the action or inves-
13 tigation arises” and inserting the following:
14 “unless the action or investigation—
15 “(A) arises”;

16 (B) by striking “or if authorized” and in-
17 serting the following:

18 “(B) directly relates to the purpose for which
19 the subpoena was authorized under paragraph (1);
20 or

21 “(C) is authorized”.

1 **SEC. 211. EXTENSION OF PERIOD FOR REIMBURSEMENT OF**
2 **SEIZED COMMERCIAL FISHERMEN.**

3 Section 7(e) of the Fishermen’s Protective Act of
4 1967 (22 U.S.C. 1977(e)) is amended by striking “2008”
5 and inserting “2018”.

6 **SEC. 212. CODIFICATION OF ENHANCED CONSULAR IMMUN-**
7 **NITIES.**

8 Section 4 of the Diplomatic Relations Act (22 U.S.C.
9 254c) is amended—

10 (1) by striking “The President” and inserting
11 the following:

12 “(a) IN GENERAL.—The President”; and

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

14 “(b) CONSULAR IMMUNITY.—

15 “(1) IN GENERAL.—The Secretary of State,
16 with the concurrence of the Attorney General, may,
17 on the basis of reciprocity and under such terms and
18 conditions as the Secretary may determine, specify
19 privileges and immunities for a consular post, the
20 members of a consular post, and their families which
21 result in more favorable or less favorable treatment
22 than is provided in the Vienna Convention.

23 “(2) CONSULTATION.—Before exercising the
24 authority under paragraph (1), the Secretary shall
25 consult with the appropriate congressional commit-
26 tees on the circumstances that may warrant the

1 need for privileges and immunities providing more
2 favorable or less favorable treatment than is pro-
3 vided in the Vienna Convention.”.

4 **SEC. 213. ACCOUNTABILITY REVIEW BOARD RECOMMENDA-**
5 **TIONS RELATED TO UNSATISFACTORY LEAD-**
6 **ERSHIP.**

7 Section 304(e) of the Diplomatic Security Act (22
8 U.S.C. 4834(c)) is amended—

9 (1) by redesignating paragraphs (1), (2), and
10 (3) as subparagraphs (A), (B), and (C), respectively;

11 (2) by striking “Whenever” and inserting the
12 following:

13 “(1) BREACH OF DUTY.—Whenever”;

14 (3) by striking “In determining” and inserting
15 the following:

16 “(2) FACTORS.—In determining”; and

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

18 “(3) UNSATISFACTORY LEADERSHIP.—

19 “(A) GROUNDS FOR DISCIPLINARY AC-
20 TION.—Unsatisfactory leadership by a senior
21 official with respect to a security incident in-
22 volving loss of life, serious injury or significant
23 destruction of property at or related to a
24 United States Government mission abroad may
25 be grounds for disciplinary action.

1 “(B) RECOMMENDATION.—If a Board
2 finds reasonable cause to believe that a senior
3 official provided unsatisfactory leadership (as
4 described in subparagraph (A)), the Board may
5 recommend disciplinary action subject to the
6 procedures set forth in paragraphs (1) and
7 (2).”.

8 **SEC. 214. PERSONAL SERVICES CONTRACTORS.**

9 (a) IN GENERAL.—Subject to subsections (b) and (c),
10 the Secretary may establish a pilot program (referred to
11 in this section as the “Program”) for hiring United States
12 citizens or aliens as personal services contractors. Per-
13 sonal services contractors hired under this section may
14 provide services in the United States and outside of the
15 United States to respond to new or emerging needs or to
16 augment existing services.

17 (b) CONDITIONS.—The Secretary may hire personal
18 services contractors under the Program if—

19 (1) the Secretary determines that existing per-
20 sonnel resources are insufficient;

21 (2) the period in which services are provided by
22 a personal services contractor under the Program ,
23 including options, does not exceed 2 years, unless
24 the Secretary determines that exceptional cir-

1 cumstances justify an extension of up to 1 additional
2 year;

3 (3) not more than 200 United States citizens or
4 aliens are employed as personal services contractors
5 under the Program at any time; and

6 (4) the Program is only used to obtain special-
7 ized skills or experience or to respond to urgent
8 needs.

9 (c) STATUS OF PERSONAL SERVICE CONTRAC-
10 TORS.—

11 (1) NOT A GOVERNMENT EMPLOYEE.—Subject
12 to paragraph (2), an individual hired as a personal
13 services contractor under the Program shall not, by
14 virtue of such hiring, be considered to be an em-
15 ployee of the United States Government for pur-
16 poses of any law administered by the Office of Per-
17 sonnel Management.

18 (2) APPLICABLE LAW.—An individual hired as
19 a personal services contractor pursuant to this sec-
20 tion shall be covered, in the same manner as a simi-
21 larly-situated employee, by—

22 (A) the Ethics in Government Act of 1978
23 (5 U.S.C. App.);

24 (B) chapter 73 of title 5, United States
25 Code;

1 (C) sections 201, 203, 205, 207, 208, and
2 209 of title 18, United States Code;

3 (D) section 1346 and chapter 171 of title
4 28, United States Code; and

5 (E) chapter 21 of title 41, United States
6 Code.

7 (3) SAVINGS PROVISION.—Except as provided
8 in paragraphs (1) and (2), nothing in this section
9 may be construed to affect the determination of
10 whether an individual hired as a personal services
11 contractor under the Program is an employee of the
12 United States Government for purposes of any Fed-
13 eral law.

14 (d) TERMINATION OF AUTHORITY.—

15 (1) IN GENERAL.—The authority to award per-
16 sonal services contracts under the Program shall ter-
17minate on September 30, 2019.

18 (2) EFFECT ON EXISTING CONTRACTS.—A con-
19 tract entered into before the termination date set
20 forth in paragraph (1) may remain in effect until
21 the date on which it is scheduled to expire under the
22 terms of the contract.

1 **SEC. 215. TECHNICAL AMENDMENT TO FEDERAL WORK-**
2 **FORCE FLEXIBILITY ACT.**

3 Chapter 57 of title 5, United States Code, is amend-
4 ed—

5 (1) in section 5753(a)(2)(A), by inserting “, ex-
6 cluding members of the Foreign Service other than
7 chiefs of mission and ambassadors at large” before
8 the semicolon at the end; and

9 (2) in section 5754(a)(2)(A), by inserting “, ex-
10 cluding members of the Foreign Service other than
11 chiefs of mission and ambassadors at large” before
12 the semicolon at the end.

13 **SEC. 216. TRAINING SUPPORT SERVICES.**

14 Section 704(a)(4)(B) of the Foreign Service Act of
15 1980 (22 U.S.C. 4024(a)(4)(B)) is amended by striking
16 “language instructors, linguists, and other academic and
17 training specialists” and inserting “education and training
18 specialists, including language instructors and linguists,
19 and other specialists who perform work directly relating
20 to the design, delivery, oversight, or coordination of train-
21 ing delivered by the institution”.

22 **SEC. 217. SPECIAL AGENTS.**

23 (a) IN GENERAL.—Section 37(a)(1) of the State De-
24 partment Basic Authorities Act of 1956 (22 U.S.C.
25 2709(a)(1)) is amended to read as follows:

26 “(1) conduct investigations concerning—

1 “(A) illegal passport or visa issuance or
2 use;

3 “(B) identity theft or document fraud af-
4 fecting or relating to the programs, functions,
5 and authorities of the Department of State; or

6 “(C) Federal offenses committed within
7 the special maritime and territorial jurisdiction
8 of the United States (as defined in section 7(9)
9 of title 18, United States Code), except as that
10 jurisdiction relates to the premises of United
11 States military missions and related resi-
12 dences;”.

13 (b) CONSTRUCTION.—Nothing in the amendment
14 made by subsection (a) may be construed to limit the in-
15 vestigative authority of any Federal department or agency
16 other than the Department of State.

17 **SEC. 218. LIMITED APPOINTMENTS IN THE FOREIGN SERV-
18 ICE.**

19 Section 309 of the Foreign Service Act (22 U.S.C.
20 3949), is amended—

21 (1) in subsection (a) by striking “subsection
22 (b)” and inserting “subsections (b) and (c)”;

23 (2) in subsection (b)—

24 (A) in paragraph (3)—

- 1 (i) by striking “if continued service”
2 and inserting the following: “if—
3 “(A) continued service”; and
4 (B) by adding at the end the following: “or
5 “(B) the individual is serving in the uni-
6 formed services (as defined in section 4303 of
7 title 38, United States Code) and the limited
8 appointment expires in the course of such serv-
9 ice”;
10 (C) in paragraph (4), by striking “and” at
11 the end;
12 (D) in paragraph (5), by striking the pe-
13 riod at the end and inserting a semicolon; and
14 (E) by adding at the end the following:
15 “(6) in exceptional circumstances if the Sec-
16 retary determines the needs of the Service require
17 the extension of—
18 “(A) a limited noncareer appointment for a
19 period not to exceed 1 year; or
20 “(B) a limited appointment of a career
21 candidate for the minimum time needed to re-
22 solve a grievance, claim, investigation, or com-
23 plaint not otherwise provided for in this sec-
24 tion.”; and
25 (3) by adding at the end the following:

1 “(c)(1) Noncareer employees who have served for 5
2 consecutive years under a limited appointment may be re-
3 appointed to a subsequent noncareer limited appointment
4 if there is at least a 1-year break in service before such
5 new appointment.

6 “(2) The Secretary may waive the 1-year break re-
7 quirement under paragraph (1) in cases of special need.”.

8 **SEC. 219. ENHANCED DEPARTMENT OF STATE AUTHORITY**
9 **FOR UNIFORMED GUARDS.**

10 The State Department Basic Authorities Act of 1956
11 is amended by inserting after section 37 (22 U.S.C. 2709)
12 the following:

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

15 “(a) ENFORCEMENT AUTHORITIES FOR UNIFORMED
16 GUARDS.—The Secretary of State may authorize uni-
17 formed guards of the Department of State to protect
18 buildings and areas within the United States for which
19 the Department of State provides protective services, in-
20 cluding duty in areas outside the property to the extent
21 necessary to protect the property and persons in that area.

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

1 “(1) enforce Federal laws and regulations for
2 the protection of persons and property;

3 “(2) carry firearms; and

4 “(3) make arrests without warrant for any of-
5 fense against the United States committed in the
6 guard’s presence, or for any felony cognizable under
7 the laws of the United States, to the extent nec-
8 essary to protect the property and persons in that
9 area, if the guard has reasonable grounds to believe
10 that the person to be arrested has committed or is
11 committing such felony in connection with the build-
12 ings and areas, or persons, for which the Depart-
13 ment of State is providing protective services.

14 “(c) RULEMAKING.—

15 “(1) IN GENERAL.—The Secretary of State, in
16 consultation with the Secretary of Homeland Secu-
17 rity, may prescribe regulations necessary for the ad-
18 ministration of buildings and areas within the
19 United States for which the Department of State
20 provides protective services.

21 “(2) PENALTIES.—Subject to subsection (d),
22 the regulations prescribed under paragraph (1) may
23 include reasonable penalties for violations of the reg-
24 ulations.

1 “(3) POSTING.—The regulations prescribed
2 under paragraph (1) shall be posted and shall re-
3 main posted in a conspicuous place on each property
4 described in paragraph (1).

5 “(d) PENALTIES.—A person violating a regulation
6 prescribed under subsection (c) shall be fined under title
7 18, United States Code, imprisoned for not more than 6
8 months, or both.

9 “(e) ATTORNEY GENERAL APPROVAL.—The powers
10 granted to uniformed guards under this section shall be
11 exercised in accordance with guidelines approved by the
12 Attorney General.

13 “(f) RELATIONSHIP TO OTHER AUTHORITY.—Noth-
14 ing in this section may be construed to affect the authority
15 of the Secretary of Homeland Security, the Administrator
16 of General Services, or any Federal law enforcement agen-
17 cy.”.

18 **SEC. 220. HOME LEAVE AMENDMENT.**

19 (a) LENGTH OF CONTINUOUS SERVICE ABROAD.—
20 Section 903(a) of the Foreign Service Act of 1980 (22
21 U.S.C. 4083) is amended by inserting “(or after a shorter
22 period of such service if the member’s assignment is termi-
23 nated for the convenience of the Service)” after “12
24 months of continuous service abroad”.

1 (b) REPORT.—Not later than 90 days after the date
2 of the enactment of this Act, the Secretary shall submit
3 a report to the appropriate congressional committees that
4 recounts the number of instances during the 3-year period
5 ending on such date of enactment that the Foreign Service
6 permitted home leave for a member after fewer than 12
7 months of continuous service abroad.

8 **TITLE III—CONSULAR**
9 **AUTHORITIES**

10 **SEC. 301. INFORMATION ON PASSPORTS, EXPEDITED PASS-**
11 **PORTS, AND VISAS ISSUED BY CONSULAR AF-**
12 **FAIRS.**

13 The President's annual budget submitted under sec-
14 tion 1105(a) of title 31, United States Code, shall iden-
15 tify—

16 (1) the number of passports, expedited pass-
17 ports, and visas issued by Consular Affairs during
18 the 3 most recent fiscal years; and

19 (2) the number of passports, expedited pass-
20 ports, and visas that Consular Affairs estimates, for
21 purposes of such annual budget, will be issued dur-
22 ing the next fiscal year.

23 **SEC. 302. CONSULAR FEE RESTRUCTURING.**

24 (a) SENSE OF CONGRESS.—It is the sense of Con-
25 gress that—

1 (1) Consular Affairs, as a wholly fee-funded op-
2 eration, should have a fee structure that allows it to
3 be self-sufficient, efficient, and transparent;

4 (2) the current fee structure for Consular Af-
5 fairs has significant flaws and should be reformed;
6 and

7 (3) fees charged for services provided by Con-
8 sular Affairs should generally cover the cost of the
9 services for which the fees are charged.

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

12 (1) Due to the existence of multiple cross-sub-
13 sidies—

14 (A) the fee charged for a service provided
15 by Consular Affairs bears little, if any, relation-
16 ship to the costs of that service; and

17 (B) it is difficult to track which fees are
18 being used to cover which costs.

19 (2) Fees from visa services in excess of esti-
20 mated amounts are available to Consular Affairs to
21 fund other operations, giving Consular Affairs an in-
22 centive to underestimate visa demand and resulting
23 in inefficiencies and a lack of transparency.

24 (c) PASSPORT FEES.—Not later than the beginning
25 of the first fiscal year after the date of the enactment of

1 this Act, the passport fee structure, including authorities
2 used by Consular Affairs, shall be modified so that—

3 (1) all fees collected for the issuing of passports
4 are retained by the Department;

5 (2) except as permitted under subsection (j),
6 the fees retained by the Department under para-
7 graph (1) are only used to cover the cost of passport
8 operations and the consular protection of United
9 States citizens and their interests in foreign coun-
10 tries for which no fee is collected; and

11 (3) not later than 12 months after the end of
12 each fiscal year, all fees retained by the Department
13 under paragraph (1) during such fiscal year that
14 were not used to cover the costs described in para-
15 graph (2) (other than such amounts, which shall re-
16 main available until expended, that the Secretary de-
17 termines, and notifies the appropriate congressional
18 committees pursuant to section 34 of the State De-
19 partment Basic Authorities Act of 1956, are re-
20 quired for costs of services described in paragraph
21 (2) that extend beyond that fiscal year) are depos-
22 ited into the General Fund of the Treasury.

23 (d) VISA FEES.—Not later than the beginning of the
24 first fiscal year after the date of the enactment of this

1 Act, the visa fee structure used by Consular Affairs shall
2 be modified so that—

3 (1) all fees collected for nonimmigrant and im-
4 migrant visas operations are retained by the Depart-
5 ment, except for special surcharges authorized by
6 statute, which shall be returned to General Fund of
7 the Treasury;

8 (2) except as permitted under subsection (j),
9 any fees retained by the Department under para-
10 graph (1) are only used to offset the cost of visa op-
11 erations; and

12 (3) not later than 12 months after the end of
13 each fiscal year, all fees retained by the Department
14 under paragraph (1) that were not used to offset the
15 costs described in paragraph (2) (other than such
16 amounts, which shall remain available until ex-
17 pended, that the Secretary determines, and notifies
18 to the appropriate congressional committees pursu-
19 ant to section 34 of the State Department Basic Au-
20 thorities Act of 1956 (22 U.S.C. 2706), are required
21 for costs of support services related to visa oper-
22 ations that extend beyond that fiscal year) are de-
23 posited into the General Fund of the Treasury.

24 (e) OTHER CONSULAR FEES.—Not later than the be-
25 ginning of the first fiscal year after the date of the enact-

1 ment of this Act, the fee structure, including authorities
2 used by Consular Affairs for services other than services
3 related to passports and visas, shall be modified so that—

4 (1) all fees collected for the provision of docu-
5 mentary and authentication services, judicial assist-
6 ance services, services related to vessels and seamen,
7 administrative services, and any other consular serv-
8 ice provided for which a fee is collected are retained
9 by the Department;

10 (2) except as permitted under subsection (j),
11 the fees described in paragraph (1) are only used to
12 cover the cost of providing the services described in
13 paragraph (1);

14 (3) the fees described in paragraph (1) are au-
15 thorized to be set at a level that is sufficient to cover
16 the cost of providing the services described in para-
17 graph (1), but may be set at a higher level, as ap-
18 propriate and documented through the rulemaking
19 process; and

20 (4) not later than 12 months after the end of
21 each fiscal year, all fees retained by the Department
22 under paragraph (1) during such fiscal year that
23 were not used to provide the services described in
24 paragraph (1) (other than such amounts, which shall
25 remain available until expended, that the Secretary

1 determines, and notifies the appropriate congres-
2 sional committees pursuant to section 34 of the
3 State Department Basic Authorities Act of 1956,
4 are required for costs of the services described in
5 paragraph (2) that extend beyond that fiscal year),
6 are deposited into the General Fund of the Treas-
7 ury.

8 (f) CONGRESSIONAL NOTIFICATION.—Not later than
9 November 1 of each year, the Assistant Secretary of State
10 for Consular Affairs shall submit a report to the appro-
11 priate congressional committees that identifies—

12 (1) the amounts expended and retained during
13 the previous fiscal year, in accordance with this sec-
14 tion, for each type of fee or service collected or pro-
15 vided by Consular Affairs; and

16 (2) the amounts deposited into the General
17 Fund of the Treasury under this section for each
18 type of fee or service for such fiscal year.

19 (g) AUDITS.—The fees collected pursuant to this sec-
20 tion are subject to audit by the Inspector General and by
21 the Comptroller General of the United States.

22 (h) IMPLEMENTATION PLAN.—Not later than 90
23 days after the date of the enactment of this Act, the As-
24 sistant Secretary of State for Consular Affairs shall sub-

1 mit a plan to the appropriate congressional committees for
2 implementing the requirements under this section.

3 (i) ADDITIONAL AUTHORITY.—Notwithstanding any
4 other provision of law, the Assistant Secretary of State
5 for Consular Affairs is authorized to implement and revise
6 the structure of the passport, visa, and other consular fees
7 as may be necessary to carry out the requirements under
8 this section.

9 (j) TRANSFER AUTHORITY.—

10 (1) SEPARATE ACCOUNT.—The Secretary shall
11 maintain the fees described in subsections (c)(1),
12 (d)(1), and (e)(1) in a separate consular fees ac-
13 count.

14 (2) REPROGRAMMING.—The Department shall
15 track funding within the consular fees account by
16 fee type to facilitate the reporting under subsection
17 (f). Such funds may be reprogrammed within and
18 between the different fees described in subsections
19 (c)(1), (d)(1), and (e)(1), subject to section 34 of
20 the State Department Basic Authorities Act of
21 1956.

22 (3) OBLIGATION OF FUNDS.—The Secretary
23 may obligate any funds within the account in sup-
24 port of activities, including information technology
25 initiatives, that support work by Consular Affairs

1 across the range of operations described in sub-
2 sections (c)(1), (d)(1), and (e)(1).

3 (4) TRANSFERS AUTHORIZED.—Not earlier
4 than 15 days after giving written notice to the ap-
5 propriate congressional committees, the Secretary
6 may transfer and merge funds from the consular
7 fees account to other Department appropriations for
8 the purpose of funding consular support activities
9 funded out of other Department appropriations.

10 (k) CERTIFICATION.—Not later than the beginning of
11 the first fiscal year after the date of the enactment of this
12 Act, the Secretary shall submit a written certification to
13 the appropriate congressional committees confirming that
14 the fee structure used by Consular Affairs meets the re-
15 quirements set forth in this section.

16 **SEC. 303. PROTECTIONS FOR FOREIGN EMPLOYEES OF DIP-**
17 **LOMATIC MISSIONS AND INTERNATIONAL OR-**
18 **GANIZATIONS.**

19 Section 203(a)(2) of the William Wilberforce Traf-
20 ficking Victims Protection Reauthorization Act of 2008 (8
21 U.S.C. 1375c(a)(2)) is amended—

22 (1) by striking “Notwithstanding” and insert-
23 ing the following:

24 “(A) IN GENERAL.—Notwithstanding”;

25 and

1 (2) by adding at the end of the following:

2 “(B) CREDIBLE EVIDENCE OF ABUSE OR
3 EXPLOITATION.—For purposes of subparagraph
4 (A), credible evidence that 1 or more employees
5 of a mission or international organization have
6 abused or exploited 1 or more nonimmigrants
7 holding an A-3 visa or a G-5 visa should be
8 deemed to exist if—

9 “(i) a final court judgment, including
10 a default judgment, has been issued
11 against a current or former employee of
12 such mission or organization, and the time
13 period for appeal of such judgment has ex-
14 pired;

15 “(ii) a nonimmigrant visa has been
16 issued pursuant to section 101(a)(15)(T)
17 of the Immigration and Nationality Act (8
18 U.S.C. 1101(a)(15)(T)) to the victim of
19 such abuse or exploitation; or

20 “(iii) the Secretary has requested that
21 a country waive diplomatic immunity for a
22 diplomat or a family member of a diplomat
23 to permit criminal prosecution of the dip-
24 lomat or family member for the abuse or
25 exploitation.

1 “(C) TRAFFICKING IN PERSONS RE-
2 PORT.—If credible evidence is deemed to exist
3 pursuant to subparagraph (B) for a case of
4 trafficking in persons involving the holder of an
5 A–3 visa or a G–5 visa, the Secretary shall in-
6 clude a concise summary of such case in the
7 next annual report submitted under section
8 110(b) of the Trafficking Victims Protection
9 Act of 2000 (22 U.S.C. 7107(b)).

10 “(D) PAYMENT OF JUDGMENT.—If a hold-
11 er of an A–3 visa or a G–5 visa has obtained
12 a final court judgment finding such holder was
13 a victim of abuse or exploitation by an employee
14 of a diplomatic mission or international organi-
15 zation, the Secretary should assist such victim
16 in obtaining payment on such judgment, includ-
17 ing by encouraging the country that sent the
18 employee to such mission or organization to
19 provide compensation directly to such victim.”.

20 **SEC. 304. BORDER CROSSING FEE FOR MINORS.**

21 Section 410(a)(1)(A) of title IV of the Department
22 of State and Related Agencies Appropriations Act, 1999
23 (division A of Public Law 105–277) is amended by strik-
24 ing “a fee of \$13” and inserting “a fee equal to one-half
25 of the fee that would otherwise apply for processing a ma-

1 chine readable combined border crossing identification
2 card and nonimmigrant visa”.

3 **SEC. 305. SIGNED PHOTOGRAPH REQUIREMENT FOR VISA**
4 **APPLICATIONS.**

5 Section 221(b) of the Immigration and Nationality
6 Act (8 U.S.C. 1201(b)) is amended by striking “his appli-
7 cation, and shall furnish copies of his photograph signed
8 by him” and inserting “his or her application, and shall
9 furnish copies of his or her photograph”.

10 **SEC. 306. ELECTRONIC TRANSMISSION OF DOMESTIC VIO-**
11 **LENCE INFORMATION TO VISA APPLICANTS.**

12 Section 833(a)(5)(A) of the Violence Against Women
13 and Department of Justice Reauthorization Act of 2005
14 (8 U.S.C. 1375a(a)(5)(A)) is amended by adding at the
15 end the following:

16 “(vi) Subject to such regulations as
17 the Secretary of State may prescribe, mail-
18 ings under this subparagraph may be
19 transmitted by electronic means.”.

20 **SEC. 307. AMERASIAN IMMIGRATION.**

21 (a) **REPEAL.**—Section 584 of the Foreign Oper-
22 ations, Export Financing, and Related Programs Appro-
23 priations Act, 1988 (8 U.S.C. 1101 note) is repealed effec-
24 tive September 30, 2012.

25 (b) **EFFECT ON PENDING VISA APPLICATIONS.**—

1 (1) ADJUDICATION.—An application for a visa
2 under the provision of law repealed by subsection (a)
3 that was properly submitted before October 1, 2012,
4 by an alien described in subsection (b)(1)(A) of such
5 provision of law or an accompanying spouse or child
6 may be adjudicated in accordance with the terms of
7 such provision of law.

8 (2) ADMISSION.—If an application described in
9 paragraph (1) is approved, the applicant may be ad-
10 mitted to the United States during the 1-year period
11 beginning on the date on which such application was
12 approved.

13 **SEC. 308. TECHNICAL AMENDMENT TO THE IMMIGRATION**
14 **AND NATIONALITY ACT.**

15 Section 212(a)(3)(G) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1182(a)(3)(G)) is amended by striking
17 “in violation of section 2442 of title 18, United States
18 Code” and inserting “(as described in section 2442(a) of
19 title 18, United States Code)”.