109TH CONGRESS
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REPT. 109–315
Part 1

OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION ACT OF 2005

NOVEMBER 18, 2005.—Ordered to be printed

Mr. TOM DAVIS of Virginia, from the Committee on Government Reform, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2829]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 2829) to reauthorize the Office of National Drug Control Policy Act, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

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

TITLE I—REAUTHORIZATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY

SEC. 101. SHORT TITLE.

This title may be cited as the "Office of National Drug Control Policy Reauthorization Act of 2005".

SEC. 102. AMENDMENT OF OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION ACT OF 1998.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Office of National Drug Control Policy Reauthorization Act of 1998 (Public Law 105–277; 21 U.S.C. 1701 et seq.).

SEC. 103. REPEAL OF TERMINATION PROVISION.

Section 715 (21 U.S.C. 1712) is repealed, and the law shall read as if such section was never in effect.

SEC. 104. AMENDMENTS TO DEFINITIONS.

(a) AMENDMENTS TO DEFINITIONS.—Section 702 (21 U.S.C. 1701) is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting ", including the testing of employees;"; and

(C) by adding at the end the following:

"(H) interventions for drug abuse and dependence; and

"(I) international drug control coordination and cooperation with respect to activities described in this paragraph.";

(2) in paragraph (6), by adding before the period at the end: ", including any activities involving supply reduction, demand reduction, or State and local affairs";

(3) in paragraph (7)—

(A) by striking "Agency" and inserting "agency";

(B) by striking "National Foreign Intelligence Program," and inserting "National Intelligence Program,"; and

(C) by inserting a comma before "or Tactical";

(4) in paragraph (9), by striking "implicates" and inserting "indicates";

(5) in paragraph (10)—

(A) by adding "National Drug Control Program agencies and" after "among" in subparagraph (B);

(B) by striking "and" at the end of subparagraph (B);

(C) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(D) by adding at the end the following:

"(D) domestic drug law enforcement, including domestic drug interdiction and law enforcement directed at drug users; and

"(E) coordination and enhancement of Federal, State, and local law enforcement initiatives to gather, analyze, and disseminate information and intelligence relating to drug control among domestic law enforcement agencies.";

(6) in paragraph (11)—

(A) by inserting before the semicolon in subparagraph (A) the following: ", including—

"(i) law enforcement outside the United States; and

"(ii) source country programs, including economic development programs primarily intended to reduce the production or trafficking of illicit drugs";

(B) by striking subparagraph (B) and inserting the following:

"(B) facilitating and enhancing the sharing of foreign and domestic information and law enforcement intelligence relating to drug production and trafficking among National Drug Control Program agencies, and between those agencies and foreign law enforcement agencies; and";

(C) by striking "; and" at the end of subparagraph (C) and inserting a period; and

(D) by striking subparagraph (D); and

(7) by adding at the end the following:

"(12) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except where otherwise provided, the term 'appropriate congressional committees' means the Committee on the Judiciary, the Committee on Appropriations, and the Caucus on International Narcotics Control of the Senate and the Committee on Government Reform, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

"(13) LAW ENFORCEMENT.—The term 'law enforcement' or 'drug law enforcement' means all efforts by a Federal, State, or local government agency to enforce the drug laws of the United States or any State, including investigation, arrest, prosecution, and incarceration or other punishments or penalties.".

(b) CONFORMING AMENDMENTS.—Section 703(b)(3) (21 U.S.C. 1702(b)(3)) is amended—

(1) in subparagraph (A), by striking "(G)" and inserting "(I)"; and

(2) in subparagraph (C)—

(A) by striking "through (C)" and inserting "through (E)";

(B) by striking "and subparagraph (D) of section 702(11)"; and

(C) by adding before the period at the end the following: ", and sections 707 and 708 of this Act".

SEC. 105. AMENDMENTS RELATING TO ESTABLISHMENT OF OFFICE OF NATIONAL DRUG CONTROL POLICY AND DESIGNATION OF OFFICERS.

(a) RESPONSIBILITIES.—Paragraph (4) of section 703(a) (21 U.S.C. 1702(a)) is amended to read as follows:

"(4) evaluate the effectiveness of the national drug control policy and the National Drug Control Program agencies' programs, by developing and applying specific goals and performance measurements.".

(b) RANK OF DIRECTOR.—Section 703(b) (21 U.S.C. 1702(b)) is amended in paragraph (1) by adding before the period the following: ", who shall hold the same rank and status as the head of an executive department listed in section 101 of title 5, United States Code".

(c) DEPUTY DIRECTORS.—Section 703(b) (21 U.S.C. 1702(b)) is amended in paragraph (3)—

(1) by striking "Office—" and inserting "Office the following additional Deputy Directors—"; and

(2) in subparagraph (B), by striking "who shall" and inserting the following: "who shall have substantial experience and expertise in drug interdiction operations and other supply reduction activities, and who shall serve as the United States Interdiction Coordinator and".

SEC. 106. AMENDMENTS RELATING TO APPOINTMENT AND DUTIES OF DIRECTOR AND DEPUTY DIRECTOR.

(a) DESIGNATION OF OTHER OFFICERS.—Section 704(a)(3) (21 U.S.C. 1703(a)(3)) is amended—

(1) by striking "permanent employee" and inserting "officer or employee"; and

(2) by striking "serve as the Director" and inserting "serve as the acting Director".

(b) RESPONSIBILITIES OF DIRECTOR.—Section 704(b) (21 U.S.C. 1703(b)) is amended—

(1) in paragraph (4), by striking "Federal departments and agencies engaged in drug enforcement," and inserting "National Drug Control Program agencies,";

(2) in paragraph (7), by inserting after "President" the following: "and the appropriate congressional committees";

(3) in paragraph (13), by striking "(beginning in 1999)";

(4) in paragraph (14)—

(A) by striking "Appropriations" and all that follows through "Senate" and inserting "appropriate congressional committees"; and

(B) by striking "and" after the semicolon at the end;

(5) in paragraph (15), by striking subparagraph (C) and inserting the following:

"(C) supporting the substance abuse information clearinghouse administered by the Administrator of the Substance Abuse and Mental Health Services Administration and established in section 501(d)(16) of the Public Health Service Act by—

"(i) encouraging all National Drug Control Program agencies to provide all appropriate and relevant information; and

"(ii) supporting the dissemination of information to all interested entities;"; and

(6) by inserting at the end the following:

"(16) shall coordinate with the private sector to promote private research and development of medications to treat addiction;

"(17) shall seek the support and commitment of State and local officials in the formulation and implementation of the National Drug Control Strategy;

"(18) shall monitor and evaluate the allocation of resources among Federal law enforcement agencies in response to significant local and regional drug trafficking and production threats; and

"(19) shall submit an annual report to Congress detailing how the Office of National Drug Control Policy has consulted with and assisted State and local governments with respect to the formulation and implementation of the National Drug Control Strategy and other relevant issues.".

(c) SUBMISSION OF DRUG CONTROL BUDGET REQUESTS.—Section 704(c)(1) is amended by adding at the end the following:

"(C) CONTENT OF DRUG CONTROL BUDGET REQUESTS.—A drug control budget request submitted by a department, agency, or program under this paragraph shall include all requests for funds for any drug control activity undertaken by that department, agency, or program, including demand reduction, supply reduction, and State and local affairs, including any drug law enforcement activities. If an activity has both drug control and nondrug control purposes or applications, the department, agency, or program shall estimate by a documented calculation the total funds requested for that activity that would be used for drug control, and shall set forth in its request the basis and method for making the estimate.".

(d) NATIONAL DRUG CONTROL BUDGET PROPOSAL.—Section 704(c)(2) is amended in subparagraph (A) by inserting before the semicolon: "and to inform Congress and the public about the total amount proposed to be spent on all supply reduction, demand reduction, State and local affairs, including any drug law enforcement, and other drug control activities by the Federal Government, which shall conform to the content requirements set forth in subparagraph (C) of paragraph (1) of this subsection".

(e) REVIEW AND CERTIFICATION OF NATIONAL DRUG CONTROL PROGRAM BUDGET.—Section 704(c)(3) (21 U.S.C. 1703(c)(3)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIFIC REQUESTS.—The Director shall not confirm the adequacy of any budget request that—

"(i) requests funding for Federal law enforcement activities that do not adequately compensate for transfers of drug enforcement resources and personnel to law enforcement and investigation activities not related to drug enforcement as determined by the Director;

"(ii) requests funding for law enforcement activities on the borders of the United States that do not adequately direct resources to drug interdiction and enforcement as determined by the Director;

"(iii) requests funding for drug treatment activities that do not provide adequate result and accountability measures as determined by the Director;

"(iv) requests funding for any activities of the Safe and Drug Free Schools Program that do not include a clear antidrug message or purpose intended to reduce drug use;

"(v) requests funding to enforce section 484(r)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(r)(1)) with respect to convictions for drug-related offenses not occurring during a period of enrollment for which the student was receiving any Federal grant, loan, or work assistance;

"(vi) requests funding for drug treatment activities that do not adequately support and enhance Federal drug treatment programs and capacity, as determined by the Director;

"(vii) requests funding for fiscal year 2007 for activities of the Department of Education, unless it is accompanied by a report setting forth a plan for providing expedited consideration of student loan applications for all individuals who submitted an application for any Federal grant, loan, or work assistance that was rejected or denied pursuant to 484(r)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(r)(1)) by reason of a conviction for a drug-related offense not occurring during a period of enrollment for which the individual was receiving any Federal grant, loan, or work assistance;

"(viii) requests funding for the operations and management of the Department of Homeland Security that does not include a specific request for funds for the Office of Counternarcotics Enforcement to carry out its responsibilities under section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458).";

(3) in subparagraph (D)(iii), as so redesignated, by inserting "and the appropriate congressional committees" after "House of Representatives"; and

(4) in subparagraph (E)(ii)(II)(bb), as so redesignated, by inserting "and the appropriate congressional committees" after "House of Representatives".

(f) REPROGRAMMING AND TRANSFER REQUESTS.—Section 704(c)(4)(A) (21 U.S.C. 1703(c)(4)(A)) is amended by striking "$5,000,000" and inserting "$1,000,000".

(g) POWERS OF DIRECTOR.—Section 704(d) (21 U.S.C. 1703(d)) is amended—

(1) in paragraph (8)(D), by striking "have been authorized by Congress;" and inserting "authorized by law;";

(2) in paragraph (9)—

(A) by inserting "notwithstanding any other provision of law," after "(9)"; and

(B) by striking "Strategy; and" and inserting "Strategy and notify the appropriate congressional committees of any fund control notice issued;";

(3) in paragraph (10), by striking "(22 U.S.C. 2291j)." and inserting "(22 U.S.C. 2291j) and section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2291j–1); and"; and

(4) by adding at the end the following new paragraph:

"(11) not later than August 1 of each year, submit to the President a report, and transmit copies of the report to the Secretary of State and the appropriate congressional committees, that—

"(A) provides the Director's assessment of which countries are major drug transit countries or major illicit drug producing countries as defined in section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e));

"(B) provides the Director's assessment of whether each country identified under subparagraph (A) has cooperated fully with the United States or has taken adequate steps on its own to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and otherwise has assisted in reducing the supply of illicit drugs to the United States; and

"(C) provides the Director's assessment of whether application of procedures set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), as provided in section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2291j–1), is warranted with respect to countries the Director assesses have not cooperated fully.".

(g) FUND CONTROL NOTICES.—Section 704(f) (21 U.S.C. 1703(f)) is amended by adding at the end the following:

"(4) CONGRESSIONAL NOTICE.—A copy of each fund control notice shall be transmitted to the appropriate congressional committees.

"(5) RESTRICTIONS.—The Director shall not issue a fund control notice to direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated, modified, or altered in any manner contrary, in whole or in part, to a specific appropriation or statute.".

(h) TECHNICAL AMENDMENTS.—Section 704 (21 U.S.C. 1703) is amended—

(1) in subsection (g)—

(A) by striking "National Foreign Intelligence Program" and inserting "National Intelligence Program"; and

(B) by inserting a comma before "and Tactical"; and

(2) in subsection (h), by striking "Director of Central Intelligence" and inserting "Director of National Intelligence or the Director of the Central Intelligence Agency".

(i) REQUIREMENT FOR SOUTH AMERICAN HEROIN STRATEGY.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of National Drug Control Policy shall submit to the Congress a comprehensive strategy that addresses the increased threat from South American heroin, and in particular Colombian heroin and the emerging threat from opium poppy grown in Peru and often intended for transit to Columbia for processing into heroin.

(2) CONTENTS.—The strategy shall include—

(A) opium eradication efforts to eliminate the problem at the source to prevent heroin from entering the stream of commerce;

(B) interdiction and precursor chemical controls;

(C) demand reduction and treatment;

(D) alternative development programs, including direct assistance to regional governments to demobilize and provide alternative livelihoods to former members of insurgent or other groups engaged in heroin, coca, or other illicit drug production or trafficking;

(E) efforts to inform and involve local citizens in the programs described in subparagraphs (A) through (D), such as through leaflets advertising rewards for information;

(F) provisions that ensure the maintenance at current levels of efforts to eradicate coca in Colombia; and

(G) assessment of the specific level of funding and resources necessary to simultaneously address the threat from South American heroin and the threat from Colombian and Peruvian coca.

(3) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the strategy that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Director or the head of any relevant Federal agency, would be detrimental to the law enforcement or national security activities of any Federal, foreign, or international agency, shall be presented to Congress separately from the rest of the strategy.

(j) REQUIREMENT FOR AFGHAN HEROIN STRATEGY.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of National Drug Control Policy shall submit to the Congress a comprehensive strategy that addresses the increased threat from Afghan heroin.

(2) CONTENTS.—The strategy shall include—

(A) opium crop eradication efforts to eliminate the problem at the source to prevent heroin from entering the stream of commerce;

(B) destruction or other direct elimination of stockpiles of heroin and raw opium, and heroin production and storage facilities;

(C) interdiction and precursor chemical controls;

(D) demand reduction and treatment;

(E) alternative development programs;

(F) measures to improve cooperation and coordination between Federal Government agencies, and between such agencies, agencies of foreign governments, and international organizations with responsibility for the prevention of heroin production in, or trafficking out of, Afghanistan; and

(G) an assessment of the specific level of funding and resources necessary significantly to reduce the production and trafficking of heroin.

(3) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the strategy that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Director or the head of any relevant Federal agency, would be detrimental to the law enforcement or national security activities of any Federal, foreign, or international agency, shall be presented to Congress separately from the rest of the strategy.

(k) REQUIREMENT FOR GENERAL COUNTERDRUG INTELLIGENCE PLAN.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, and not later than every two years thereafter, the Director of the Office of National Drug Control Policy, with the concurrence of the Director of National Intelligence, shall submit to the appropriate congressional committees, a

general counterdrug intelligence plan to improve coordination, and eliminate unnecessary duplication, among the counterdrug intelligence centers and information sharing systems, and counterdrug activities of the Federal Government, including the centers, systems, and activities of the following departments and agencies:

(A) The Department of Defense, including the Defense Intelligence Agency, and the joint interagency task forces.

(B) The Department of the Treasury, including the Financial Crimes Enforcement Network (FinCEN).

(C) The Central Intelligence Agency.

(D) The National Security Agency.

(E) The Department of Homeland Security, including the United States Coast Guard, the bureau of Customs and Border Protection, and the bureau of Immigration and Customs Enforcement.

(F) The Department of Justice, including the National Drug Intelligence Center (NDIC); the Drug Enforcement Administration, including the El Paso Intelligence Center (EPIC); the Federal Bureau of Investigation; the Organized Crime Drug Enforcement Task Force; and the Regional Information Sharing System.

(G) The Office of National Drug Control Policy, including the High Intensity Drug Trafficking Areas Program.

(H) The Counterdrug Intelligence Executive Secretariat.

(2) PURPOSE.—The purpose of the plan under paragraph (1) is to maximize the effectiveness of the centers and activities referred to in that paragraph in achieving the objectives of the National Drug Control Strategy promulgated under 21 U.S.C. 1705. In order to maximize such effectiveness, the plan shall—

(A) articulate clear and specific mission statements (including purpose and scope of activity) for each counterdrug intelligence center, system, and activity, including the manner in which responsibility for counterdrug intelligence activities will be allocated among the counterdrug intelligence centers and systems;

(B) specify each government agency (whether Federal, State, or local) that participates in each such center, system, and activity, including a description of the extent and nature of that participation;

(C) specify the relationship between such centers, systems, and activities;

(D) specify the means by which proper oversight of such centers, systems, and activities will be assured;

(E) specify the means by which counterdrug intelligence and information will be forwarded effectively to all levels of officials responsible for United States counterdrug policy; and

(F) specify mechanisms to ensure that State and local law enforcement agencies are apprised of counterdrug intelligence and information acquired by Federal law enforcement agencies in a manner which—

(i) facilitates effective counterdrug activities by State and local law enforcement agencies; and

(ii) provides such State and local law enforcement agencies with the information relating to the safety of officials involved in their counterdrug activities.

(3) DEFINITIONS.—As used in this subsection—

(A) the term "center" refers to any center, office, task force, or other coordinating organization engaged in counterdrug intelligence or information analyzing or sharing activities;

(B) the term "system" refers to any computerized database or other electronic system used for counterdrug intelligence or information analyzing or sharing activities; and

(C) the term "appropriate congressional committees" means the following:

(i) The Committee on Appropriations, the Committee on Foreign Relations, the Committee on the Judiciary, the Committee on Homeland Security and Governmental Affairs, the Caucus on International Narcotics Control, and the Select Committee on Intelligence of the Senate.

(ii) The Committee on Appropriations, the Committee on International Relations, the Committee on the Judiciary, the Committee on Government Reform, the Committee on Homeland Security, and the Permanent Select Committee on Intelligence of the House of Representatives.

(4) LIMITATION.—The general counterdrug intelligence plan shall not—

(A) change existing agency authorities or the laws governing interagency relationships, but may include recommendations about changes to such authorities or laws; or

(B) include any information about specific methods of obtaining, or sources of, intelligence or information, or any information about specific individuals, cases, investigations, or operations.

(5) CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the general counterdrug intelligence plan that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Director of the Office of National Drug Control Policy, the Director of National Intelligence, or the head of any Federal Government agency whose activities are described in the plan, would be detrimental to the law enforcement or national security activities of any Federal, State, or local agency, shall be presented to Congress separately from the rest of the report.

(l) REQUIREMENT FOR SOUTHWEST BORDER COUNTERNARCOTICS STRATEGY.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, and every two years thereafter, the Director of National Drug Control Policy shall submit to the Congress a Southwest Border Counternarcotics Strategy.

(2) PURPOSES.—The Southwest Border Counternarcotics Strategy shall—

(A) set forth the Government's strategy for preventing the illegal trafficking of drugs across the international border between the United States and Mexico, including through ports of entry and between ports of entry on that border;

(B) state the specific roles and responsibilities of the relevant National Drug Control Program agencies (as defined in section 702 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701)) for implementing that strategy; and

(C) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement that strategy.

(3) CONSULTATION WITH OTHER AGENCIES.—The Director shall issue the Southwest Border Counternarcotics Strategy in consultation with the heads of the relevant National Drug Control Program agencies.

(4) LIMITATION.—The Southwest Border Counternarcotics Strategy shall not change existing agency authorities or the laws governing interagency relationships, but may include recommendations about changes to such authorities or laws.

(5) REPORT TO CONGRESS.—The Director shall provide a copy of the Southwest Border Counternarcotics Strategy to the appropriate congressional committees (as defined in section 702 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701)), and to the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate.

(6) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the Southwest Border Counternarcotics Strategy that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Director or the head of any relevant National Drug Control Program agency, would be detrimental to the law enforcement or national security activities of any Federal, State, or local agency, shall be presented to Congress separately from the rest of the strategy.

(m) REQUIREMENT FOR SCIENTIFIC STUDY OF MYCOHERBICIDE IN ILLICIT DRUG CROP ERADICATION.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of National Drug Control Policy shall submit to the Congress a report that includes a plan to conduct, on an expedited basis, a scientific study of the use of mycoherbicide as a means of illicit drug crop elimination by an appropriate Government scientific research entity, including a complete and thorough scientific peer review. The study shall include an evaluation of the likely human health and environmental impacts of such use. The report shall also include a plan to conduct controlled scientific testing in a major drug producing nation of mycoherbicide naturally existing in the producing nation.

SEC. 107. AMENDMENTS RELATING TO COORDINATION WITH OTHER AGENCIES.

Section 705 (21 U.S.C. 1704) is amended—

(1) in subsection (a)(1)(A), by striking "abuse";

(2) in subsection (a)(2)(A), by striking "Director of Central Intelligence" and inserting "Director of National Intelligence";

(3) in subsection (a)(2)(B), by striking "Director of Central Intelligence" and inserting "Director of National Intelligence and the Director of the Central Intelligence Agency";

(4) by amending paragraph (3) of subsection (a) to read as follows:

"(3) REQUIRED REPORTS.—

"(A) SECRETARIES OF THE INTERIOR AND AGRICULTURE.—The Secretaries of Agriculture and Interior shall, by July 1 of each year, jointly submit to the Director, the appropriate congressional committees, the Committee on Agriculture and the Committee on Resources of the House of Representatives, and the Committee on Agriculture and the Committee on Energy and Natural Resources of the Senate, an assessment of the quantity of illegal drug cultivation and manufacturing in the United States on lands owned or under the jurisdiction of the Federal Government for the preceding year.

"(B) ATTORNEY GENERAL.—The Attorney General shall, by July 1 of each year, submit to the Director and the appropriate congressional committees information for the preceding year regarding the number and type of—

"(i) arrests for drug violations;

"(ii) prosecutions for drug violations by United States Attorneys; and

"(iii) seizures of drugs by each component of the Department of Justice seizing drugs, as well as statistical information on the geographic areas of such seizures.

"(C) SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall, by July 1 of each year, submit to the Director, the appropriate congressional committees, and the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate, information for the preceding year regarding—

"(i) the number and type of seizures of drugs by each component of the Department of Homeland Security seizing drugs, as well as statistical information on the geographic areas of such seizures; and

"(ii) the number of air and maritime patrol hours undertaken by each component of that Department primarily dedicated to drug supply reduction missions.

"(D) SECRETARY OF DEFENSE.—The Secretary of Defense shall, by July 1 of each year, submit to the Director, the appropriate congressional committees, the Committee on Armed Services of the House of Representatives, and the Committee on Armed Services of the Senate, information for the preceding year regarding the number of air and maritime patrol hours primarily dedicated to drug supply reduction missions undertaken by each component of the Department of Defense.";

(5) in subsection (b)(2)(B), by striking "Program." and inserting "Strategy."; and

(6) in subsection (c), by striking "in" and inserting "on".

SEC. 108. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.

Section 706 (21 U.S.C. 1705) is amended to read as follows:

"SEC. 706. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.

"(a) TIMING, CONTENTS, AND PROCESS FOR DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.—

"(1) IN GENERAL.—Not later than February 1 of each year, the President shall submit to Congress a National Drug Control Strategy, which shall set forth a comprehensive plan for reducing illicit drug use and the consequences of illicit drug use in the United States by reducing the demand for illegal drugs, limiting the availability of illegal drugs, and conducting law enforcement activities with respect to illegal drugs.

"(2) CONTENTS.—

"(A) IN GENERAL.—The National Drug Control Strategy submitted under paragraph (1) shall include the following:

"(i) Comprehensive, research-based, long-range, and quantifiable goals for reducing illicit drug use and the consequences of illicit drug use in the United States.

"(ii) Annual quantifiable objectives for demand reduction, supply reduction, and law enforcement activities, specific targets to accomplish long-range quantifiable reduction in illicit drug use as determined by the Director, and specific measurements to evaluate progress toward the targets and strategic goals.

"(iii) A strategy to reduce the availability and purity of illegal drugs and the level of drug-related crime in the United States.

"(iv) An assessment of Federal effectiveness in achieving the National Drug Control Strategy for the previous year, including a specific evaluation of whether the objectives and targets for reducing illicit drug use

for the previous year were met and reasons for the success or failure of the previous year's Strategy.

"(v) A general review of the status of, and trends in, international, State, and local drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.

"(vi) A general review of the status of, and trends in, demand reduction activities by private sector entities and community-based organizations, including faith-based organizations, to determine their effectiveness and the extent of cooperation, coordination, and mutual support between such entities and organizations and Federal, State, and local government agencies.

"(vii) An assessment of current illicit drug use (including inhalants and steroids) and availability, impact of illicit drug use, and treatment availability, which assessment shall include—

"(I) estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of nondependent and dependent illicit drug use;

"(II) illicit drug use in the workplace and the productivity lost by such use; and

"(III) illicit drug use by arrestees, probationers, and parolees.

"(viii) An assessment of the reduction of illicit drug availability, as measured by—

"(I) the quantities of cocaine, heroin, marijuana, methamphetamine, ecstasy, and other drugs available for consumption in the United States;

"(II) the amount of marijuana, cocaine, heroin, methamphetamine, ecstasy, and precursor chemicals and other drugs entering the United States;

"(III) the number of illicit drug manufacturing laboratories seized and destroyed and the number of hectares of marijuana, poppy, and coca cultivated and destroyed domestically and in other countries;

"(IV) the number of metric tons of marijuana, heroin, cocaine, and methamphetamine seized and other drugs; and

"(V) changes in the price and purity of heroin, methamphetamine, and cocaine, changes in the price of ecstasy, and changes in tetrahydrocannabinol level of marijuana and other drugs.

"(ix) An assessment of the reduction of the consequences of illicit drug use and availability, which shall include—

"(I) the burden illicit drug users place on hospital emergency departments in the United States, such as the quantity of illicit drug-related services provided;

"(II) the annual national health care cost of illicit drug use; and

"(III) the extent of illicit drug-related crime and criminal activity.

"(x) A general review of the status of, and trends in, of drug treatment in the United States, by assessing—

"(I) public and private treatment utilization; and

"(II) the number of illicit drug users the Director estimates meet diagnostic criteria for treatment.

"(xi) A review of the research agenda of the Counterdrug Technology Assessment Center to reduce the availability and abuse of drugs.

"(xii) A summary of the efforts made by Federal agencies to coordinate with private sector entities to conduct private research and development of medications to treat addiction by—

"(I) screening chemicals for potential therapeutic value;

"(II) developing promising compounds;

"(III) conducting clinical trials;

"(IV) seeking, where appropriate, Food and Drug Administration approval for drugs to treat addiction;

"(V) marketing, where appropriate, the drug for the treatment of addiction;

"(VI) urging physicians, where appropriate, to use the drug in the treatment of addiction; and

"(VII) encouraging, where appropriate, insurance companies to reimburse the cost of the drug for the treatment of addiction.

"(xiii) Such additional statistical data and information as the Director considers appropriate to demonstrate and assess trends relating to il-

licit drug use, the effects and consequences of illicit drug use, supply reduction, demand reduction, drug-related law enforcement, and the implementation of the National Drug Control Strategy.

"(xiv) A supplement reviewing the activities of each individual National Drug Control Program agency during the previous year with respect to the National Drug Control Strategy and the Director's assessment of the progress of each National Drug Control Program agency in meeting its responsibilities under the National Drug Control Strategy.

"(B) CLASSIFIED INFORMATION.—Any contents of the National Drug Control Strategy that involve information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the National Drug Control Strategy.

"(C) SELECTION OF DATA AND INFORMATION.—In selecting data and information for inclusion under subparagraph (A), the Director shall ensure—

"(i) the inclusion of data and information that will permit analysis of current trends against previously compiled data and information where the Director believes such analysis enhances long-term assessment of the National Drug Control Strategy; and

"(ii) the inclusion of data and information to permit a standardized and uniform assessment of the effectiveness of drug treatment programs in the United States.

"(3) PROCESS FOR DEVELOPMENT AND SUBMISSION.—

"(A) CONSULTATION.—In developing and effectively implementing the National Drug Control Strategy, the Director—

"(i) shall consult with—

"(I) the heads of the National Drug Control Program agencies;

"(II) Congress;

"(III) State and local officials;

"(IV) private citizens and organizations, including community- and faith-based organizations, with experience and expertise in demand reduction;

"(V) private citizens and organizations with experience and expertise in supply reduction;

"(VI) private citizens and organizations with experience and expertise in law enforcement; and

"(VII) appropriate representatives of foreign governments;

"(ii) with the concurrence of the Attorney General, may require the El Paso Intelligence Center to undertake specific tasks or projects to implement the National Drug Control Strategy;

"(iii) with the concurrence of the Director of National Intelligence and the Attorney General, may request that the National Drug Intelligence Center undertake specific tasks or projects to implement the National Drug Control Strategy; and

"(iv) may make recommendations to the Secretary of Health and Human Services on research that supports or advances the National Drug Control Strategy.

"(B) COMMITMENT TO SUPPORT STRATEGY.—In satisfying the requirements of subparagraph (A)(i), the Director shall ensure, to the maximum extent possible, that State and local officials and relevant private organizations commit to support and take steps to achieve the goals and objectives of the National Drug Control Strategy.

"(C) RECOMMENDATIONS.—Recommendations under subparagraph (A)(iv) may include recommendations of research to be performed at the National Institutes of Health, including the National Institute on Drug Abuse, or any other appropriate agency within the Department of Health and Human Services.

"(D) INCLUSION IN STRATEGY.—The National Drug Control Strategy under this subsection shall include a list of each entity consulted under subparagraph (A)(i).

"(4) SUBMISSION OF REVISED STRATEGY.—The President may submit to Congress a revised National Drug Control Strategy that meets the requirements of this section—

"(A) at any time, upon a determination by the President, in consultation with the Director, that the National Drug Control Strategy in effect is not sufficiently effective; or

"(B) if a new President or Director takes office.

"(b) PERFORMANCE MEASUREMENT SYSTEM.—Not later than February 1 of each year, the Director shall submit to Congress, as part of the National Drug Control

Strategy, a description of a national drug control performance measurement system that—

"(1) develops 2-year and 5-year performance measures and targets for each National Drug Control Strategy goal and objective established for reducing drug use, drug availability, and the consequences of drug use;

"(2) describes the sources of information and data that will be used for each performance measure incorporated into the performance measurement system;

"(3) identifies major programs and activities of the National Drug Control Program agencies that support the goals and annual objectives of the National Drug Control Strategy;

"(4) evaluates the contribution of demand reduction and supply reduction activities implemented by each National Drug Control Program agency in support of the National Drug Control Strategy;

"(5) monitors consistency of drug-related goals and objectives among the National Drug Control Program agencies and ensures that each agency's goals, objectives, and budgets support and are fully consistent with the National Drug Control Strategy; and

"(6) coordinates the development and implementation of national drug control data collection and reporting systems to support policy formulation and performance measurement, including an assessment of—

"(A) the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

"(B) the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the illicit drug user population, and groups that are at risk for illicit drug use; and

"(C) the adequacy of the coverage of existing national treatment outcome monitoring systems to measure the effectiveness of drug abuse treatment in reducing illicit drug use and criminal behavior during and after the completion of substance abuse treatment; and

"(7) identifies the actions the Director shall take to correct any inadequacies, deficiencies, or limitations identified in the assessment described in paragraph (6).

"(c) MODIFICATIONS.—A description of any modifications made during the preceding year to the national drug performance measurement system described in subsection (b) shall be included in each report submitted under subsection (a).".

SEC. 109. HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.

Section 707 (21 U.S.C. 1706) is amended to read as follows:

"SEC. 707. HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established in the Office a program to be known as the High Intensity Drug Trafficking Areas Program (in this section referred to as the 'Program').

"(2) PURPOSE.—The purpose of the Program is to reduce drug trafficking and drug production in the United States by—

"(A) facilitating cooperation among Federal, State, and local law enforcement agencies to share information and implement coordinated enforcement activities;

"(B) enhancing intelligence sharing among Federal, State, and local law enforcement agencies;

"(C) providing reliable intelligence to law enforcement agencies needed to design effective enforcement strategies and operations; and

"(D) supporting coordinated law enforcement strategies which maximize use of available resources to reduce the supply of illegal drugs in designated areas and in the United States as a whole.

"(b) DESIGNATION.—The Director, upon consultation with the Attorney General, the Secretary of the Treasury, the Secretary of Homeland Security, heads of the National Drug Control Program agencies, and the Governor of each applicable State, may designate any specified area of the United States as a high intensity drug trafficking area. After making such a designation and in order to provide Federal assistance to the area so designated, the Director may—

"(1) obligate such sums as are appropriated for the Program;

"(2) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the head of the department or agency that employs such personnel;

"(3) take any other action authorized under section 704 to provide increased Federal assistance to those areas; and

"(4) coordinate activities under this section (specifically administrative, recordkeeping, and funds management activities) with State and local officials.

"(c) PETITIONS FOR DESIGNATION.—The Director shall establish regulations under which a coalition of interested law enforcement agencies from an area may petition for designation as a high intensity drug trafficking area. Such regulations shall provide for a regular review by the Director of the petition, including a recommendation regarding the merit of the petition to the Director by a panel of qualified, independent experts.

"(d) FACTORS FOR CONSIDERATION.—In considering whether to designate an area under this section as a high intensity drug trafficking area, the Director shall consider, in addition to such other criteria as the Director considers to be appropriate, the extent to which—

"(1) the area is a significant center of illegal drug production, manufacturing, importation, or distribution;

"(2) State and local law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

"(3) drug-related activities in the area are having a significant harmful impact in the area, and in other areas of the country; and

"(4) a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

"(e) ORGANIZATION OF HIGH INTENSITY DRUG TRAFFICKING AREAS.—

"(1) EXECUTIVE BOARD AND OFFICERS.—To be eligible for funds appropriated under this section, each high intensity drug trafficking area shall be governed by an Executive Board. The Executive Board shall designate a chairman, vice chairman, and any other officers to the Executive Board that it determines are necessary.

"(2) RESPONSIBILITIES.—The Executive Board of a high intensity drug trafficking area shall be responsible for—

"(A) providing direction and oversight in establishing and achieving the goals of the high intensity drug trafficking area;

"(B) managing the funds of the high intensity drug trafficking area;

"(C) reviewing and approving all funding proposals consistent with the overall objective of the high intensity drug trafficking area; and

"(D) reviewing and approving all reports to the Director on the activities of the high intensity drug trafficking area.

"(3) BOARD REPRESENTATION.—None of the funds appropriated under this section may be expended for any high intensity drug trafficking area, or for a partnership or region of a high intensity drug trafficking area, if that area's, region's or partnership's Executive Board does not apportion an equal number of votes between representatives of participating Federal agencies and representatives of participating State and local agencies. Where it is impractical for a equal number of representatives of Federal agencies and State and local agencies to attend a meeting of an Executive Board in person, the Executive Board may use a system of proxy votes or weighted votes to achieve the voting balance required by this paragraph.

"(4) NO AGENCY RELATIONSHIP.—The eligibility requirements of this section are intended to ensure the responsible use of Federal funds. Nothing in this section is intended to create an agency relationship between individual high intensity drug trafficking areas and the Federal Government.

"(f) USE OF FUNDS.—The Director shall ensure that no Federal funds appropriated for the Program are expended for the establishment or expansion of drug treatment or drug use prevention programs.

"(g) COUNTERTERRORISM ACTIVITIES.—

"(1) ASSISTANCE AUTHORIZED.—The Director may authorize use of resources available for the Program to assist Federal, State, and local law enforcement agencies in investigations and activities related to terrorism and prevention of terrorism, especially but not exclusively with respect to such investigations and activities that are also related to drug trafficking.

"(2) LIMITATION.—The Director shall ensure—

"(A) that assistance provided under paragraph (1) remains incidental to the purpose of the Program to reduce drug availability and carry out drug-related law enforcement activities; and

"(B) that significant resources of the Program are not redirected to activities exclusively related to terrorism, except on a temporary basis under extraordinary circumstances, as determined by the Director.

"(h) ROLE OF DRUG ENFORCEMENT ADMINISTRATION.—The Director, in consultation with the Attorney General, shall ensure that a representative of the Drug Enforcement Administration is included in the Intelligence Support Center for each high intensity drug trafficking area.

"(i) ANNUAL HIDTA PROGRAM BUDGET SUBMISSIONS.—As part of the documentation that supports the President's annual budget request for the Office, the Director shall submit to Congress a budget justification that includes the following:

"(1) The amount requested for each high intensity drug trafficking area with supporting narrative descriptions and rationale for each request.

"(2) A detailed justification for each funding request that explains the reasons for the requested funding level, how such funding level was determined based on a current assessment of the drug trafficking threat in each high intensity drug trafficking area, how such funding will ensure that the goals and objectives of each such area will be achieved, and how such funding supports the National Drug Control Strategy.

"(j) EMERGING THREAT RESPONSE FUND.—

"(1) IN GENERAL.—The Director may expend up to 10 percent of the amounts appropriated under this section on a discretionary basis, to respond to any emerging drug trafficking threat in an existing high intensity drug trafficking area, or to establish a new high intensity drug trafficking area or expand an existing high intensity drug trafficking area, in accordance with the criteria established under paragraph (2).

"(2) CONSIDERATION OF IMPACT.—In allocating funds under this subsection, the Director shall consider—

"(A) the impact of activities funded on reducing overall drug traffic in the United States, or minimizing the probability that an emerging drug trafficking threat will spread to other areas of the United States; and

"(B) such other criteria as the Director considers appropriate.

"(k) EVALUATION.—

"(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this subsection, the Director shall, after consulting with the Executive Boards of each designated high intensity drug trafficking area, submit a report to Congress that describes, for each designated high intensity drug trafficking area—

"(A) the specific purposes for the high intensity drug trafficking area;

"(B) the specific long-term and short-term goals and objectives for the high intensity drug trafficking area;

"(C) the measurements that will be used to evaluate the performance of the high intensity drug trafficking area in achieving the long-term and short-term goals; and

"(D) the reporting requirements needed to evaluate the performance of the high intensity drug trafficking area in achieving the long-term and short-term goals.

"(2) EVALUATION OF HIDTA PROGRAM AS PART OF NATIONAL DRUG CONTROL STRATEGY.—For each designated high intensity drug trafficking area, the Director shall submit, as part of the annual National Drug Control Strategy report, a report that—

"(A) describes—

"(i) the specific purposes for the high intensity drug trafficking area; and

"(ii) the specific long-term and short-term goals and objectives for the high intensity drug trafficking area; and

"(B) includes an evaluation of the performance of the high intensity drug trafficking area in accomplishing the specific long-term and short-term goals and objectives identified under paragraph (1)(B).

"(l) ASSESSMENT OF DRUG ENFORCEMENT TASK FORCES IN HIGH INTENSITY DRUG TRAFFICKING AREAS.—Not later than 180 days after the date of enactment of this subsection, and as part of each subsequent annual National Drug Control Strategy report, the Director shall submit to Congress a report—

"(1) assessing the number and operation of all federally funded drug enforcement task forces within each high intensity drug trafficking area; and

"(2) describing—

"(A) each Federal, State, and local drug enforcement task force operating in the high intensity drug trafficking area;

"(B) how such task forces coordinate with each other, with any high intensity drug trafficking area task force, and with investigations receiving funds from the Organized Crime and Drug Enforcement Task Force;

"(C) what steps, if any, each such task force takes to share information regarding drug trafficking and drug production with other federally funded drug enforcement task forces in the high intensity drug trafficking area;

"(D) the role of the high intensity drug trafficking area in coordinating the sharing of such information among task forces;

"(E) the nature and extent of cooperation by each Federal, State, and local participant in ensuring that such information is shared among law enforcement agencies and with the high intensity drug trafficking area;

"(F) the nature and extent to which information sharing and enforcement activities are coordinated with joint terrorism task forces in the high intensity drug trafficking area; and

"(G) any recommendations for measures needed to ensure that task force resources are utilized efficiently and effectively to reduce the availability of illegal drugs in the high intensity drug trafficking areas.

"(m) ASSESSMENT OF INTELLIGENCE SHARING IN HIGH INTENSITY DRUG TRAFFICKING AREAS—PROGRAM.—Not later than 180 days after the date of the enactment of this subsection, and as part of each subsequent annual National Drug Control Strategy report, the Director shall submit to Congress a report—

"(1) evaluating existing and planned intelligence systems supported by each high intensity drug trafficking area, or utilized by task forces receiving any funding under the Program, including the extent to which such systems ensure access and availability of intelligence to Federal, State, and local law enforcement agencies within the high intensity drug trafficking area and outside of it;

"(2) the extent to which Federal, State, and local law enforcement agencies participating in each high intensity drug trafficking area are sharing intelligence information to assess current drug trafficking threats and design appropriate enforcement strategies; and

"(3) the measures needed to improve effective sharing of information and intelligence regarding drug trafficking and drug production among Federal, State, and local law enforcement participating in a high intensity drug trafficking area, and between such agencies and similar agencies outside the high intensity drug trafficking area.

"(n) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Office of National Drug Control Policy to carry out this section—

"(1) $280,000,000 for fiscal year 2006;

"(2) $290,000,000 for each of fiscal years 2007 and 2008; and

"(3) $300,000,000 for each of fiscal years 2009 and 2010.".

SEC. 110. FUNDING FOR CERTAIN HIGH INTENSITY DRUG TRAFFICKING AREAS.

(a) SHORT TITLE.—This section may be cited as the "Dawson Family Community Protection Act".

(b) FINDINGS.—Congress finds the following:

(1) In the early morning hours of October 16, 2002, the home of Carnell and Angela Dawson was firebombed in apparent retaliation for Mrs. Dawson's notification of police about persistent drug distribution activity in their East Baltimore City neighborhood.

(2) The arson claimed the lives of Mr. and Mrs. Dawson and their 5 young children, aged 9 to 14.

(3) The horrific murder of the Dawson family is a stark example of domestic narco-terrorism.

(4) In all phases of counter-narcotics law enforcement—from prevention to investigation to prosecution to reentry—the voluntary cooperation of ordinary citizens is a critical component.

(5) Voluntary cooperation is difficult for law enforcement officials to obtain when citizens feel that cooperation carries the risk of violent retaliation by illegal drug trafficking organizations and their affiliates.

(6) Public confidence that law enforcement is doing all it can to make communities safe is a prerequisite for voluntary cooperation among people who may be subject to intimidation or reprisal (or both).

(7) Witness protection programs are insufficient on their own to provide security because many individuals and families who strive every day to make distressed neighborhoods livable for their children, other relatives, and neighbors will resist or refuse offers of relocation by local, State, and Federal prosecutorial agencies and because, moreover, the continued presence of strong individuals and families is critical to preserving and strengthening the social fabric in such communities.

(8) Where (as in certain sections of Baltimore City) interstate trafficking of illegal drugs has severe ancillary local consequences within areas designated as high intensity drug trafficking areas, it is important that supplementary High Intensity Drug Trafficking Areas Program funds be committed to support initiatives aimed at making the affected communities safe for the residents of those communities and encouraging their cooperation with local, State, and Federal law enforcement efforts to combat illegal drug trafficking.

(c) FUNDING FOR CERTAIN HIGH INTENSITY DRUG TRAFFICKING AREAS.—Section 707 (21 U.S.C. 1706), as amended by section 109, is further amended by adding at the end the following new subsection:

"(o) SPECIFIC PURPOSES.—

"(1) IN GENERAL.—The Director shall ensure that, of the amounts appropriated for a fiscal year for the Program, at least $5,000,000 is used in high intensity drug trafficking areas with severe neighborhood safety and illegal drug distribution problems.

"(2) REQUIRED USES.—The funds used under paragraph (1) shall be used—

"(A) to ensure the safety of neighborhoods and the protection of communities, including the prevention of the intimidation of potential witnesses of illegal drug distribution and related activities; and

"(B) to combat illegal drug trafficking through such methods as the Director considers appropriate, such as establishing or operating (or both) a toll-free telephone hotline for use by the public to provide information about illegal drug-related activities.".

SEC. 111. AMENDMENTS RELATING TO COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) CHIEF SCIENTIST.—Section 708(b) (21 U.S.C. 1707(b)) is amended—

(1) in the heading by striking "DIRECTOR OF TECHNOLOGY.—" and inserting "CHIEF SCIENTIST.—"; and

(2) by striking "Director of Technology," and inserting "Chief Scientist,".

(b) ADDITIONAL RESPONSIBILITIES OF DIRECTOR.—Section 708(c) (21 U.S.C. 1707(c)) is amended to read as follows:

"(c) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—

"(1) IN GENERAL.—The Director, acting through the Chief Scientist shall—

"(A) identify and define the short-, medium-, and long-term scientific and technological needs of Federal, State, and local law enforcement agencies relating to drug enforcement, including—

"(i) advanced surveillance, tracking, and radar imaging;

"(ii) electronic support measures;

"(iii) communications;

"(iv) data fusion, advanced computer systems, and artificial intelligence; and

"(v) chemical, biological, radiological (including neutron, electron, and graviton), and other means of detection;

"(B) identify demand reduction (including drug prevention) basic and applied research needs and initiatives, in consultation with affected National Drug Control Program agencies, including—

"(i) improving treatment through neuroscientific advances;

"(ii) improving the transfer of biomedical research to the clinical setting; and

"(iii) in consultation with the National Institute on Drug Abuse and the Substance Abuse and Mental Health Services Administration, and through interagency agreements or grants, examining addiction and rehabilitation research and the application of technology to expanding the effectiveness or availability of drug treatment;

"(C) make a priority ranking of such needs identified in subparagraphs (A) and (B) according to fiscal and technological feasibility, as part of a National Counterdrug Research and Development Program;

"(D) oversee and coordinate counterdrug technology initiatives with related activities of other Federal civilian and military departments;

"(E) provide support to the development and implementation of the national drug control performance measurement system established under subsection (b) of section 706;

"(F) with the advice and counsel of experts from State and local law enforcement agencies, oversee and coordinate a technology transfer program for the transfer of technology to State and local law enforcement agencies; and

"(G) pursuant to the authority of the Director of National Drug Control Policy under section 704, submit requests to Congress for the reprogramming or transfer of funds appropriated for counterdrug technology research and development.

"(2) PRIORITIES IN TRANSFERRING TECHNOLOGY.—

"(A) IN GENERAL.—The Chief Scientist shall give priority, in transferring technology under paragraph (1)(F), based on the following criteria:

"(i) the need of potential recipients for such technology;

"(ii) the effectiveness of the technology to enhance current counterdrug activities of potential recipients; and

"(iii) the ability and willingness of potential recipients to evaluate transferred technology.

"(B) INTERDICTION AND BORDER DRUG LAW ENFORCEMENT TECHNOLOGIES.—The Chief Scientist shall give priority, in transferring technologies most likely to assist in drug interdiction and border drug law enforcement, to State, local, and tribal law enforcement agencies in southwest border areas and northern border areas with significant traffic in illicit drugs.

"(3) LIMITATION ON AUTHORITY.—The authority granted to the Director under this subsection shall not extend to the direct management of individual projects or other operational activities.

"(4) REPORT.—On or before July 1 of each year, the Director shall submit a report to the appropriate congressional committees that addresses the following:

"(A) The number of requests received during the previous 12 months, including the identity of each requesting agency and the type of technology requested.

"(B) The number of requests fulfilled during the previous 12 months, including the identity of each recipient agency and the type of technology transferred.

"(C) A summary of the criteria used in making the determination on what requests were funded and what requests were not funded, except that such summary shall not include specific information on any individual requests.

"(D) A general assessment of the future needs of the program, based on expected changes in threats, expected technologies, and likely need from potential recipients.

"(E) An assessment of the effectiveness of the technologies transferred, based in part on the evaluations provided by the recipients, with a recommendation whether the technology should continue to be offered through the program.".

(c) ASSISTANCE FROM SECRETARY OF HOMELAND SECURITY.—Section 708(d) (21 U.S.C. 1707(d)) is amended by inserting ", the Secretary of Homeland Security," after "The Secretary of Defense".

SEC. 112. NATIONAL YOUTH ANTIDRUG MEDIA CAMPAIGN.

(a) IN GENERAL.—Section 709 (21 U.S.C. 1708) is amended to read as follows:

"SEC. 709. NATIONAL YOUTH ANTIDRUG MEDIA CAMPAIGN.

"(a) IN GENERAL.—The Director shall conduct a national youth anti-drug media campaign (referred to in this subtitle as the 'national media campaign') in accordance with this section for the purposes of—

"(1) preventing drug abuse among young people in the United States;

"(2) increasing awareness of adults of the impact of drug abuse on young people; and

"(3) encouraging parents and other interested adults to discuss with young people the dangers of illegal drug use.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts made available to carry out this section for the national media campaign may only be used for the following:

"(A) The purchase of media time and space, including the strategic planning for, and accounting of, such purchases.

"(B) Creative and talent costs, consistent with paragraph (2)(A).

"(C) Advertising production costs.

"(D) Testing and evaluation of advertising.

"(E) Evaluation of the effectiveness of the national media campaign.

"(F) The negotiated fees for the winning bidder on requests for proposals issued either by the Office or its designee to enter into contracts to carry out activities authorized by this section.

"(G) Partnerships with professional and civic groups, community-based organizations, including faith-based organizations, and government organizations related to the national media campaign.

"(H) Entertainment industry outreach, interactive outreach, media projects and activities, public information, news media outreach, and corporate sponsorship and participation.

"(I) Operational and management expenses.

"(2) SPECIFIC REQUIREMENTS.—

"(A) CREATIVE SERVICES.—

"(i) In using amounts for creative and talent costs under paragraph (1)(B), the Director shall use creative services donated at no cost to the

Government (including creative services provided by the Partnership for a Drug-Free America) wherever feasible and may only procure creative services for advertising—

"(I) responding to high-priority or emergent campaign needs that cannot timely be obtained at no cost; or

"(II) intended to reach a minority, ethnic, or other special audience that cannot reasonably be obtained at no cost; or

"(III) the Director determines that the Partnership for a Drug-Free America is unable to provide, pursuant to subsection (d)(2)(B).

"(ii) No more than $1,500,000 may be expended under this section each fiscal year on creative services, except that the Director may expend up to $2,000,000 in a fiscal year on creative services to meet urgent needs of the national media campaign with advance approval from the Committee on Appropriations of the House of Representatives and of the Senate upon a showing of the circumstances causing such urgent needs of the national media campaign.

"(B) TESTING AND EVALUATION OF ADVERTISING.—In using amounts for testing and evaluation of advertising under paragraph (1)(D), the Director shall test all advertisements prior to use in the national media campaign to ensure that the advertisements are effective and meet industry-accepted standards. The Director may waive this requirement for advertisements using no more than 10 percent of the purchase of advertising time purchased under this section in a fiscal year and no more than 10 percent of the advertising space purchased under this section in a fiscal year, if the advertisements respond to emergent and time-sensitive campaign needs or the advertisements will not be widely utilized in the national media campaign.

"(C) EVALUATION OF EFFECTIVENESS OF MEDIA CAMPAIGN.—In using amounts for the evaluation of the effectiveness of the national media campaign under paragraph (1)(E), the Director shall—

"(i) designate an independent entity to evaluate annually the effectiveness of the national media campaign based on data from—

"(I) the Monitoring the Future Study published by the Department of Health and Human Services;

"(II) the Attitude Tracking Study published by the Partnership for a Drug Free America;

"(III) the National Household Survey on Drug Abuse; and

"(IV) other relevant studies or publications, as determined by the Director, including tracking and evaluation data collected according to marketing and advertising industry standards; and

"(ii) ensure that the effectiveness of the national media campaign is evaluated in a manner that enables consideration of whether the national media campaign has contributed to reduction of illicit drug use among youth and such other measures of evaluation as the Director determines are appropriate.

"(3) PURCHASE OF ADVERTISING TIME AND SPACE.—For each fiscal year, not less than 77 percent of the amounts appropriated under this section shall be used for the purchase of advertising time and space for the national media campaign, subject to the following exceptions:

"(A) In any fiscal year for which less than $125,000,000 is appropriated for the national media campaign, not less than 82 percent of the amounts appropriated under this section shall be used for the purchase of advertising time and space for the national media campaign.

"(B) In any fiscal year for which more than $195,000,000 is appropriated under this section, not less than 72 percent shall be used for advertising production costs and the purchase of advertising time and space for the national media campaign.

"(c) ADVERTISING.—In carrying out this section, the Director shall ensure that sufficient funds are allocated to meet the stated goals of the national media campaign.

"(d) DIVISION OF RESPONSIBILITIES AND FUNCTIONS UNDER THE PROGRAM.—

"(1) IN GENERAL.—The Director, in consultation with the Partnership for a Drug-Free America, shall determine the overall purposes and strategy of the national media campaign.

"(2) RESPONSIBILITIES.—

"(A) DIRECTOR.—The Director shall be responsible for implementing a focused national media campaign to meet the purposes set forth in subsection (a), and shall approve—

"(i) the strategy of the national media campaign;

"(ii) all advertising and promotional material used in the national media campaign; and

"(iii) the plan for the purchase of advertising time and space for the national media campaign.

"(B) THE PARTNERSHIP FOR A DRUG-FREE AMERICA.—The Director shall request that the Partnership for a Drug-Free America—

"(i) develop and recommend strategies to achieve the goals of the national media campaign, including addressing national and local drug threats in specific regions or States, such as methamphetamine and ecstasy;

"(ii) create all advertising to be used in the national media campaign, except advertisements that are—

"(I) provided by other nonprofit entities pursuant to subsection (f);

"(II) intended to respond to high-priority or emergent campaign needs that cannot timely be obtained at no cost (not including production costs and talent reuse payments), provided that any such advertising material is reviewed by the Partnership for a Drug-Free America;

"(III) intended to reach a minority, ethnic, or other special audience that cannot be obtained at no cost (not including production costs and talent reuse payments), provided that any such advertising material is reviewed by the Partnership for a Drug-Free America; or

"(IV) any other advertisements that the Director determines that the Partnership for a Drug-Free America is unable to provide.

"(C) MEDIA BUYING CONTRACTOR.—The Director shall enter into a contract with a media buying contractor to plan and purchase advertising time and space for the national media campaign. The media buying contractor shall not provide any other service or material, or conduct any other function or activity which the Director determines should be provided by the Partnership for a Drug-Free America.

"(e) PROHIBITIONS.—None of the amounts made available under subsection (b) may be obligated or expended for any of the following:

"(1) To supplant current antidrug community-based coalitions.

"(2) To supplant pro bono public service time donated by national and local broadcasting networks for other public service campaigns.

"(3) For partisan political purposes, or express advocacy in support of or to defeat any clearly identified candidate, clearly identified ballot initiative, or clearly identified legislative or regulatory proposal.

"(4) To fund advertising that features any elected officials, persons seeking elected office, cabinet level officials, or other Federal officials employed pursuant to section 213 of Schedule C of title 5, Code of Federal Regulations.

"(5) To fund advertising that does not contain a primary message intended to reduce or prevent illicit drug use.

"(6) To fund advertising containing a primary message intended to promote support for the media campaign or private sector contributions to the media campaign.

"(f) MATCHING REQUIREMENT.—

"(1) IN GENERAL.—Amounts made available under subsection (b) for media time and space shall be matched by an equal amount of non-Federal funds for the national media campaign, or be matched with in-kind contributions of the same value.

"(2) NO-COST MATCH ADVERTISING DIRECT RELATIONSHIP REQUIREMENT.—The Director shall ensure that at least 70 percent of no-cost match advertising provided directly relates to substance abuse prevention consistent with the specific purposes of the national media campaign, except that in any fiscal year in which less than $125,000,000 is appropriated to the national media campaign, the Director shall ensure that at least 85 percent of no-cost match advertising directly relates to substance abuse prevention consistent with the specific purposes of the national media campaign.

"(3) NO-COST MATCH ADVERTISING NOT DIRECTLY RELATED.—The Director shall ensure that no-cost match advertising that does not directly relate to substance abuse prevention consistent with the purposes of the national media campaign includes a clear antidrug message. Such message is not required to be the primary message of the match advertising.

"(g) FINANCIAL AND PERFORMANCE ACCOUNTABILITY.—The Director shall cause to be performed—

"(1) audits and reviews of costs of the national media campaign pursuant to section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d); and

"(2) an audit to determine whether the costs of the national media campaign are allowable under section 306 of such Act (41 U.S.C. 256).

"(h) REPORT TO CONGRESS.—The Director shall submit on an annual basis a report to Congress that describes—

"(1) the strategy of the national media campaign and whether specific objectives of the media campaign were accomplished;

"(2) steps taken to ensure that the national media campaign operates in an effective and efficient manner consistent with the overall strategy and focus of the national media campaign;

"(3) plans to purchase advertising time and space;

"(4) policies and practices implemented to ensure that Federal funds are used responsibly to purchase advertising time and space and eliminate the potential for waste, fraud, and abuse; and

"(5) all contracts entered into with a corporation, partnership, or individual working on behalf of the national media campaign.

"(i) LOCAL TARGET REQUIREMENT.—The Director shall, to the maximum extent feasible, use amounts made available under this section for media that focuses on, or includes specific information on, prevention or treatment resources for consumers within specific local areas.

"(j) PREVENTION OF MARIJUANA USE.—

"(1) FINDINGS.—The Congress finds the following:

"(A) 60 percent of adolescent admissions for drug treatment are based on marijuana use.

"(B) Potency levels of contemporary marijuana, particularly hydroponically grown marijuana, are significantly higher than in the past, rising from under 1 percent of THC in the mid-1970s to as high as 30 percent today.

"(C) Contemporary research has demonstrated that youths smoking marijuana early in life may be up to five times more likely to use hard drugs.

"(D) Contemporary research has demonstrated clear detrimental effects in adolescent educational achievement resulting from marijuana use.

"(E) Contemporary research has demonstrated clear detrimental effects in adolescent brain development resulting from marijuana use.

"(F) An estimated 9,000,000 Americans a year drive while under the influence of illegal drugs, including marijuana.

"(G) Marijuana smoke contains 50 to 70 percent more of certain cancer causing chemicals than tobacco smoke.

"(H) Teens who use marijuana are up to four times more likely to have a teen pregnancy than teens who have not.

"(I) Federal law enforcement agencies have identified clear links suggesting that trade in hydroponic marijuana facilitates trade by criminal organizations in hard drugs, including heroin.

"(J) Federal law enforcement agencies have identified possible links between trade in cannabis products and financing for terrorist organizations.

"(2) EMPHASIS ON PREVENTION OF YOUTH MARIJUANA USE.—In conducting advertising and activities otherwise authorized under this section, the Director may emphasize prevention of youth marijuana use.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Office to carry out this section, $195,000,000 for each of fiscal years 2006 and 2007 and $210,000,000 for each of fiscal years 2008 through 2010.".

(b) REPEAL OF SUPERSEDED PROVISIONS.—The Drug-Free Media Campaign Act of 1998 (21 U.S.C. 1801 et seq.) is repealed.

SEC. 113. DRUG INTERDICTION.

(a) IN GENERAL.—Subsections (a) and (b) of section 711 (21 U.S.C. 1710) are amended to read as follows:

"(a) UNITED STATES INTERDICTION COORDINATOR.—

"(1) IN GENERAL.—The Deputy Director for Supply Reduction in the Office shall serve as the United States Interdiction Coordinator, and shall perform the duties of that position described in paragraph (2) and such other duties as may be determined by the Director with respect to coordination of efforts to interdict illicit drugs from entering the United States.

"(2) RESPONSIBILITIES.—The United States Interdiction Coordinator shall be responsible to the Director for—

"(A) coordinating the interdiction activities of the National Drug Control Program agencies to ensure consistency with the National Drug Control Strategy;

"(B) on behalf of the Director, developing and issuing, on or before March 1 of each year and in accordance with paragraph (3), a National Interdiction Command and Control Plan to ensure the coordination and consistency described in subparagraph (A);

"(C) assessing the sufficiency of assets committed to illicit drug interdiction by the relevant National Drug Control Program agencies; and

"(D) advising the Director on the efforts of each National Drug Control Program agency to implement the National Interdiction Command and Control Plan.

"(3) STAFF.—The Director shall assign such permanent staff of the Office as he considers appropriate to assist the United States Interdiction Coordinator to carry out the responsibilities described in paragraph (2), and may also, at his discretion, request that appropriate National Drug Control Program agencies detail or assign staff to the Office of Supply Reduction for that purpose.

"(4) NATIONAL INTERDICTION COMMAND AND CONTROL PLAN.—

"(A) PURPOSES.—The National Interdiction Command and Control Plan shall—

"(i) set forth the Government's strategy for drug interdiction;

"(ii) state the specific roles and responsibilities of the relevant National Drug Control Program agencies for implementing that strategy; and

"(iii) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement that strategy.

"(B) CONSULTATION WITH OTHER AGENCIES.—The United States Interdiction Coordinator shall issue the National Interdiction Command and Control Plan in consultation with the other members of the Interdiction Committee described in subsection (b).

"(C) LIMITATION.—The National Interdiction Command and Control Plan shall not change existing agency authorities or the laws governing interagency relationships, but may include recommendations about changes to such authorities or laws.

"(D) REPORT TO CONGRESS.—On or before March 1 of each year, the United States Interdiction Coordinator shall provide a report on behalf of the Director to the appropriate congressional committees, to the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives, and to the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate, which shall include—

"(i) a copy of that year's National Interdiction Command and Control Plan;

"(ii) information for the previous 10 years regarding the number and type of seizures of drugs by each National Drug Control Program agency conducting drug interdiction activities, as well as statistical information on the geographic areas of such seizures; and

"(iii) information for the previous 10 years regarding the number of air and maritime patrol hours undertaken by each National Drug Control Program agency conducting drug interdiction activities, as well as statistical information on the geographic areas in which such patrol hours took place.

"(E) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the report described in subparagraph (D) that involves information classified under criteria established by an Executive order, or the public disclosure of which, as determined by the United States Interdiction Coordinator or the head of any relevant National Drug Control Program agency, would be detrimental to the law enforcement or national security activities of any Federal, State, or local agency, shall be presented to Congress separately from the rest of the plan.

"(b) INTERDICTION COMMITTEE.—

"(1) IN GENERAL.—The Interdiction Committee shall meet to—

"(A) discuss and resolve issues related to the coordination, oversight and integration of international, border, and domestic drug interdiction efforts in support of the National Drug Control Strategy;

"(B) review the annual National Interdiction Command and Control Plan, and provide advice to the Director and the United States Interdiction Coordinator concerning that plan; and

"(C) provide such other advice to the Director concerning drug interdiction strategy and policies as the committee determines is appropriate.

"(2) MEMBERSHIP.—The membership of the Interdiction Committee shall consist of—

"(A) the Commissioner of the bureau of Customs and Border Protection at the Department of Homeland Security;

"(B) the Assistant Secretary of the bureau of Immigration and Customs Enforcement at the Department of Homeland Security;

"(C) the Commandant of the United States Coast Guard;

"(D) the Director of the Office of Counternarcotics Enforcement at the Department of Homeland Security;

"(E) the Administrator of the Drug Enforcement Administration;

"(F) the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs;

"(G) the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict;

"(H) the Deputy Director for Supply Reduction of the Office of National Drug Control Policy, acting in his role as the United States Interdiction Coordinator;

"(I) the director of the Crime and Narcotics Center of the Central Intelligence Agency;

"(J) the Deputy Director for State and Local Affairs of the Office of National Drug Control Policy;

"(K) the Chief of the National Guard Bureau's Counterdrug Program; and

"(L) such additional persons as may be determined by the Director.

"(3) CHAIRMAN.—The Director shall designate one of the members of the Interdiction Committee to serve as chairman.

"(4) MEETINGS.—The members of the Interdiction Committee shall meet, in person and not through any delegate or representative, at least once per calendar year, prior to March 1. At the call of either the Director or the current chairman, the Interdiction Committee may hold additional meetings, which shall be attended by the members either in person, or through such delegates or representatives as they may choose.

"(5) REPORT.—Not later than September 30 of each year, the chairman of the Interdiction Committee shall submit a report to the Director and to the appropriate congressional committees describing the results of the meetings and any significant findings of the Committee during the previous 12 months. Any content of such a report that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Director, the chairman, or any member, would be detrimental to the law enforcement or national security activities of any Federal, State, or local agency, shall be presented to Congress separately from the rest of the report.".

(b) CONFORMING AMENDMENT TO HOMELAND SECURITY ACT OF 2002.—Section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458) is amended—

(1) in subsection (c), by striking "Except as provided in subsection (d), the" and inserting "The"; and

(2) by striking subsection (d) and redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

Section 714 (21 U.S.C. 1711) is amended—

(1) by striking "title," and inserting "title, except activities for which amounts are otherwise specifically authorized by this title,"; and

(2) by striking "1999 through 2003" and inserting "2006 through 2010".

SEC. 115. TECHNICAL AMENDMENTS AND REPEAL.

(a) AMENDMENT TO PUBLIC HEALTH SERVICE ACT TO REPLACE OBSOLETE REFERENCES.—Section 464P(c) of the Public Health Service Act (42 U.S.C. 285o–4(c)) is amended—

(1) in paragraph (1), by striking "under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501)" and inserting "under section 703 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1702)"; and

(2) in paragraph (2), by striking "under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504)" and inserting "under section 706 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1705)".

(b) REPEAL OF SPECIAL FORFEITURE FUND.—Section 6073 of the Asset Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is repealed.

SEC. 116. REQUIREMENT FOR DISCLOSURE OF FEDERAL SPONSORSHIP OF ALL FEDERAL ADVERTISING OR OTHER COMMUNICATION MATERIALS.

Section 712 is amended to read as follows:

"SEC. 712. REQUIREMENT FOR DISCLOSURE OF FEDERAL SPONSORSHIP OF ALL FEDERAL ADVERTISING OR OTHER COMMUNICATION MATERIALS.

"(a) REQUIREMENT.—Each advertisement or other communication paid for by the Office, either directly or through a contract awarded by the Office, shall include a prominent notice informing the target audience that the advertisement or other communication is paid for by the Office.

"(b) ADVERTISEMENT OR OTHER COMMUNICATION.—In this section, the term 'advertisement or other communication' includes—

"(1) an advertisement disseminated in any form, including print or by any electronic means; and

"(2) a communication by an individual in any form, including speech, print, or by any electronic means.".

SEC. 117. POLICY RELATING TO SYRINGE EXCHANGE PROGRAMS.

Section 703(a) (21 U.S.C. 1702(a)) is amended by adding at the end the following: "When developing the national drug control policy, any policy of the Director relating to syringe exchange programs for intravenous drug users shall be based on the best available medical and scientific evidence regarding their effectiveness in promoting individual health and preventing the spread of infectious disease, and their impact on drug addiction and use. In making any policy relating to syringe exchange programs, the Director shall consult with the National Institutes of Health and the National Academy of Sciences.".

TITLE II—CLEAN SPORTS ACT OF 2005

SEC. 201. ADDITION OF MINIMUM DRUG TESTING STANDARDS TO OFFICE OF NATIONAL DRUG CONTROL POLICY ACT.

(a) AMENDMENT.—The Office of National Drug Control Policy Reauthorization Act of 1998 (Public Law 105–277; 21 U.S.C. 1701 et seq.) is amended—

(1) by inserting before section 701 the following:

"Subtitle A—Office of National Drug Control Policy"; and

(2) by adding at the end the following new subtitle:

"Subtitle B—Clean Sports Act of 2005

"SEC. 721. SHORT TITLE.

"This subtitle may be cited as the 'Clean Sports Act of 2005'.

"SEC. 722. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress finds the following:

"(1) The use of anabolic steroids and other performance-enhancing substances by minors is a public health problem of national significance.

"(2) Experts estimate that over 500,000 teenagers have used performance-enhancing substances, which medical experts warn can cause a litany of health problems for individuals who take them, in particular children and teenagers.

"(3) The adverse health effects caused by steroids and other performance-enhancing substances include stunted growth, scarring acne, hair loss, dramatic mood swings, hormonal and metabolic imbalances, liver damage, a higher risk of heart disease and stroke later in life, as well as an increased propensity to demonstrate aggressive behavior, commit suicide, and commit crimes.

"(4) Professional athletes are role models for young athletes and influence the behavior of children and teenagers.

"(5) Congressional testimony by parents of minors who used performance enhancing drugs, as well as medical and health experts, indicates that the actual or alleged use of performance-enhancing substances by professional athletes results in the increased use of these substances by children and teenagers.

"(6) Surveys and studies suggest a connection between the actual or alleged use of performance-enhancing substances by college and professional athletes and the increased use of these substances by children and teenagers.

"(7) The real or perceived tolerance of the use of performance-enhancing substances by professional athletes has resulted in both increased pressure on children and teenagers to use performance-enhancing drugs in order to advance their athletic careers and to professional sports loss of integrity.

"(8) The adoption by professional sports leagues of strong policies to eliminate the use of performance-enhancing substances would result in the reduced use of these substances by children and teenagers.

"(9) Minimum drug testing standards for professional sports established by Federal law would ensure the adoption of strong policies to eliminate the use of performance-enhancing substances in professional sports.

"(10) Minimum drug testing standards for professional sports established by Federal law would help return integrity to professional sports.

"(11) Congress has for several years expressed a strong interest in the problem of the role of performance-enhancing drugs in professional sports and other levels of sports.

"(12) Congress has for several years regulated the use of anabolic steroids and other performance-enhancing substances.

"(13) Recent Federal laws regulating the use of anabolic steroids and other performance-enhancing substances were enacted in large part to reduce the prevalence of these substances in sports.

"(14) Congress has for several years regulated both professional and amateur sports.

"(b) PURPOSE.—The purpose of this subtitle is to protect the integrity of professional sports and the health and safety of athletes generally by establishing minimum standards for the testing of steroids and other performance-enhancing substances by professional sports leagues.

"SEC. 723. DEFINITIONS.

"In this subtitle:

"(1) ANTI-DOPING CODE.—The term 'anti-doping code' means the doping control standards established in the United States Anti-Doping Agency Protocol for Olympic Movement Testing (excluding substances or methods prohibited in a particular sport, as defined in such protocol).

"(2) COMMISSION.—The term 'Commission' means the Federal Trade Commission.

"(3) DIRECTOR.—The term 'Director' means the Director of the Office of National Drug Control Policy.

"(4) MAJOR PROFESSIONAL LEAGUE.—The term 'major professional league' means Major League Baseball, the National Basketball Association, the National Football League, and the National Hockey League or any successor organization to those leagues.

"(5) OFF-SEASON.—The term 'off-season' means the period of time in each calendar year outside of the season of play for each major professional league.

"(6) PROFESSIONAL ATHLETE.—The term 'professional athlete' means an individual who competes in a major professional league.

"(7) PROFESSIONAL GAME.—The term 'professional game' means any game held in the United States between any professional teams of a major professional league.

"(8) PROHIBITED METHOD OR SUBSTANCE.—

"(A) PROHIBITED METHOD.—The term 'prohibited method' means a method listed and described in the Anti-Doping Code.

"(B) PROHIBITED SUBSTANCE.—The term 'prohibited substance' means a substance listed and described in the Anti-Doping Code.

"(C) PERIOD OF PROHIBITION.—A substance prohibited in-competition by the Anti-Doping Code shall be a prohibited substance only during the season of play. Only a substance or method prohibited out-of-competition by the Anti-Doping Code shall be a prohibited substance or method during the off-season.

"(9) SEASON OF PLAY.—

"(A) IN GENERAL.—The term 'season of play' for each major professional league means the period of time in each calendar year beginning with the date on which professional athletes of that major professional league are collectively obligated to report to their teams in preparation for play and ending with the last game of the major professional league's regular season.

"(B) POST-SEASON.—The season of play shall include post-season play for an athlete who is a member of a team that remains active in post-season play.

"SEC. 724. MINIMUM UNIFORM TESTING STANDARDS.

"(a) CONDUCT PROHIBITED.—It shall be unlawful for a major professional league to arrange, promote, organize, or produce a professional game without meeting the requirements in subsection (b).

"(b) MINIMUM TESTING REQUIREMENTS.—Each major professional league shall implement policies and procedures for the testing of the use of prohibited substances by professional athletes who compete in each respective major professional league which shall be independently administered and shall be consistent with and as stringent as the doping control standard established by the United States Anti-Doping Agency, and which shall, at minimum, include the following:

"(1) TIMING AND FREQUENCY OF TESTING.—

"(A) IN GENERAL.—Each professional athlete shall be tested a minimum of 5 times each calendar year that such athlete is competing in games organized by the major professional league.

"(B) TIMING.—Each athlete shall be tested—

"(i) at least 3 times, each with no advance notice, during each season of play; and

"(ii) at least 2 times, each with no advance notice, during the off-season.

"(2) TEST DISTRIBUTION PLANNING.—Each major professional league shall certify to the Director on or prior to December 31 of each year that it has consulted with the United States Anti-Doping Agency in the development of its test distribution plan for both season of play and off-season testing.

"(3) METHOD OF TESTING.—Each major professional league shall certify to the Director on or prior to December 31 of each year that it has consulted with the United States Anti-Doping Agency in the development of its drug testing protocols for both season of play and off-season testing.

"(4) APPLICABLE SUBSTANCES.—Each professional athlete shall be tested for all prohibited substances at the time of each test. A major professional league may make exceptions for any prohibited substances that have been properly prescribed by a doctor of medicine licensed in the United States for legitimate and documented therapeutic purposes.

"(5) ANALYSIS OF SAMPLE.—Each sample provided shall be analyzed by a laboratory approved by the United States Anti-Doping Agency.

"(6) POSITIVE TESTS.—

"(A) IN GENERAL.—A positive test shall consist of the presence in the sample of any prohibited substance or its metabolites or markers, or evidence of the use of a prohibited method, unless that substance was prescribed to the athlete in accordance with paragraph (4).

"(B) REFUSAL.—A refusal by a professional athlete to submit to a test or a failure of a professional athlete to submit to a test without compelling justification shall also be considered a positive test.

"(7) PENALTIES.—

"(A) GENERAL RULE.—

"(i) FIRST VIOLATION.—Except as provided in subparagraph (B), a professional athlete who tests positive shall be immediately suspended for a minimum of 2 years for a first violation. All suspensions shall include a loss of pay for the period of the suspension.

"(ii) SECOND VIOLATION.—A second violation shall result in a lifetime ban of the professional athlete from all major professional leagues.

"(B) EXCEPTIONS.—

"(i) KNOWLEDGE OF THE ATHLETE.—A major professional league may impose a lesser penalty than provided in subparagraph (A) or no penalty if the professional athlete establishes that he did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he had used the prohibited substance.

"(ii) ASSISTANCE IN IDENTIFYING VIOLATIONS.—A major professional league may impose a lesser penalty than provided in subparagraph (A) if the professional athlete provides substantial assistance to the major professional league in identifying violations of the league's drug testing policy by other professional athletes or assistance in violations of the league's drug testing policy by any coach, trainer, manager, agent, team staff, official, medical, or other personnel working with or treating professional athletes participating in or preparing for sports competition.

"(8) ADJUDICATION.—

"(A) CONSULTATION.—Each major professional league shall certify to the Director on or prior to December 31 of each year that it has consulted with

the United States Anti-Doping Agency in the development of its adjudication process.

"(B) DUE PROCESS.—If a professional athlete tests positive, the professional athlete shall have the right to notice, a fair, timely, and expedited hearing, representation by counsel and appeal.

"(C) SUSPENSION.—During the pendency of any proceedings the professional athlete shall be suspended from participating in any professional game.

"(9) PUBLIC DISCLOSURE.—

"(A) TESTING.—A major professional league shall publicly disclose the identity of any professional player who has tested positive as well as the prohibited substance or prohibited method for which he tested positive not later than 30 days after receiving the test results.

"(B) PENALTY.—A major professional league shall publicly disclose the name of any penalized athlete, the penalty imposed, the substance for which the player tested positive, and the reason for the penalty not later than 15 days after the final disposition of the player's case.

"SEC. 725. PROMULGATION OF STANDARDS BY THE DIRECTOR OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

"(a) IN GENERAL.—The Director shall have the authority to promulgate standards that would modify the provisions of section 724 as they apply to an individual major professional league for exceptional circumstances or for other good cause.

"(b) EFFECTIVENESS MAINTAINED.—A modification under subsection (a) shall not—

"(1) reduce the effectiveness of the standards in eliminating the use of steroids or other performance-enhancing substances in any major professional league; or

"(2) diminish the leadership role of the United States in eliminating the use of steroids or other performance-enhancing substances in sports.

"(c) INCLUSION OF ADDITIONAL LEAGUES.—The Director may include an additional professional sporting league or the colleges and athletes participating in Division I or Division II of the NCAA as a major professional league if the Director determines that such additions would prevent the use of performance-enhancing substances by high school, college, or professional athletes.

"(d) DELEGATION.—The Director may delegate the administration of this subtitle to any other appropriate agency of the Federal Government.

"SEC. 726. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.

"(a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of section 724 shall be treated as a violation of section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

"(b) POWERS OF COMMISSION.—

"(1) IN GENERAL.—The Commission shall issue and enforce the regulations for the enforcement of section 724 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this subtitle. Any person who violates such regulations shall be subject to the penalties and entitled to the privileges and immunities provided in that Act.

"(2) ENHANCED PENALTY FOR VIOLATIONS.—Notwithstanding subsection (a) and the Federal Trade Commission Act, in the case of a person who violates section 724, the Commission may, in its discretion, seek a civil penalty for such violation in an amount, as determined by the Commission, of not more than $1,000,000 for each violation of section 724.

"(3) GENERAL AUTHORITY.—Nothing in this subtitle shall be construed to limit the authority of the Commission under any other provision of law.

"SEC. 727. REPORTS TO CONGRESS.

"(a) FIRST LEAGUE REPORT.—

"(1) IN GENERAL.—Not later than 6 months after completion of a professional sports league's first season of play after the effective date of this subtitle, each major professional league shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce and the Committee on Government Reform of the House of Representatives, a report on its testing policies and procedures.

"(2) CONTENTS.—The report required by this subsection shall contain—

"(A) a comparison of the major professional league's testing policy (including its adjudication procedures) to that of the United States Anti-Doping Agency, emphasizing the differences between the policies and the rationales for the differences; and

"(B) aggregate data on the number of professional players tested by the major professional league and the prohibited substances detected in samples or prohibited methods, including the number of tests conducted during the season of play and during the off-season.

"(b) BIENNIAL LEAGUE REPORTS.—Each major professional league shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce and the Committee on Government Reform of the House of Representatives, on a biennial basis, a report containing the data and analysis required in subsection (a) for each of the 2 prior years.

"(c) ONDCP REPORT.—Not later than 1 year after the date of enactment of this subtitle, and subsequently thereafter as determined appropriate by the Director, the Director shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce and the Committee on Government Reform of the House of Representatives, recommendations for improving any Federal law governing controlled substances as may be necessary for reducing the use of steroids and other performance-enhancing substances.

"SEC. 728. PROMULGATION OF STANDARDS BY UNITED STATES BOXING COMMISSION.

"Upon the later of 12 months after enactment of this subtitle or 12 months after the establishment of the United States Boxing Commission pursuant to Federal law, that commission shall, in consultation with the Association of Boxing Commissions and the United States Anti-Doping Agency, promulgate uniform performance-enhancing substance testing standards for professional boxing that are consistent with section 724.

"SEC. 729. STUDY ON COLLEGE TESTING POLICIES AND PROCEDURES.

"(a) STUDY.—The Government Accountability Office shall conduct a study on the use of performance-enhancing substances by college athletes which shall examine the prohibited substance policies and testing procedures of intercollegiate athletic associations and college and university athletic departments.

"(b) REPORT.—

"(1) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this subtitle, the Government Accountability Office shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce and the Committee on Government Reform of the House of Representatives.

"(2) CONTENTS.—The report required by this subsection shall—

"(A) assess the adequacy of the testing policies and procedures described in subsection (a) in detecting and preventing the use of performance-enhancing substances; and

"(B) include recommendations to Congress regarding expanding the application of the regulations issued pursuant to this subtitle to such intercollegiate and interscholastic athletic associations.

"SEC. 730. COMMISSION ON HIGH SCHOOL AND COLLEGIATE ATHLETICS.

"(a) COMMISSION.—The Director shall establish a commission on high school and collegiate athletics.

"(b) REPORT.—Not later than 1 year after the date of enactment of this subtitle, the commission shall report to Congress—

"(1) findings on the use of steroids and other performance-enhancing substances in high school and collegiate sports; and

"(2) recommendations for reducing their use.

"SEC. 731. SENSE OF CONGRESS.

"It is the sense of Congress that—

"(1) professional sports leagues not regulated by this subtitle should adhere to the drug testing standards established in this subtitle;

"(2) all professional sports should implement policies and procedures for the testing of the use of prohibited substances or the detection of prohibited methods by professional athletes that ensure that American professional sports leagues are world leaders in the effort to keep steroids and other performance-enhancing drugs out of sports;

"(3) all professional sports should implement policies and procedures that address the development of designer steroids and emerging methods for doping, including gene doping, that enhance sports performance, are potential or actual health risks, and are contrary to the spirit of the sport; and

"(4) each major professional league should produce and publicize public service announcements regarding the health and safety consequences of steroids and other similar performance-enhancing substances on children and teenagers.

"SEC. 732. EFFECTIVE DATE.

"This subtitle shall take effect 1 year after the date of enactment of this subtitle.".

(b) CONFORMING AMENDMENTS.—The Office of National Drug Control Policy Reauthorization Act of 1998 (Public Law 105–277; 21 U.S.C. 1701 et seq.) is further amended by striking "title" each place it appears and inserting "subtitle"—

(1) in section 701;
(2) in section 702;
(3) in section 703(b)(2);
(4) in section 704(d)(1); and
(5) in the first and second sentences of section 705(a)(2)(A).

COMMITTEE STATEMENT AND VIEWS

PURPOSE

The purpose of Title I of H.R. 2829, the "Office of National Drug Control Policy Reauthorization Act of 2005" is to reauthorize the Office of National Drug Control Policy (ONDCP) within the Executive Office of the President for five years, through the end of FY 2010. It also renews congressional authorization for national programs administered by ONDCP, including the National Youth Anti-Drug Media Campaign and the High Intensity Drug Trafficking Areas (HIDTA) program.

Title II of H.R. 2829 enacts a new program to eliminate the use of illegal steroids in professional sports, the "Clean Sports Act of 2005." Because of concerns about the societal impact of steroid use, the Committee launched an investigation into the steroid policies of professional, amateur, collegiate, and high school athletics. The Committee held several hearings on the topic of steroids and performance-enhancing drug use by professional athletes and young children and teenagers. Throughout the Committee's investigation it became clear that the use of those drugs by adolescents is a public health problem of national significance. Experts estimate that over half a million high school students have tried steroids and abused performance-enhancing drugs. The use of these drugs can have significant health impacts, especially in young children and teenagers.

The Committee also found that professional athletes are role models for young athletes and influence the behavior of children and young teenagers. The real or perceived tolerance of the use of performance-enhancing substances by collegiate and professional athletes has resulted in increased acceptance of these drugs, and has increased pressure on children and teenagers to use performance-enhancing drugs in order to advance their athletic careers.

The purpose of the Clean Sports Act is to protect the integrity of professional sports and the health and safety of athletes generally by establishing minimum standards for the testing of steroids and other performance-enhancing substances by professional sports leagues. The legislation aims to eliminate the use of performance-enhancing drugs in professional sports, and send a message to the young people of America: steroids are illegal, dangerous, and can be deadly. There is no place for these drugs in sports or for any other reason.

The Committee believes that minimum drug testing standards should be part of a broader national drug control strategy. The Clean Sports Act of 2005 was placed directly within the Office of National Drug Control Policy Reauthorization Act because of the office's expertise in drug policy. The Act provides the Director with

the responsibility and authority to promulgate standards to eliminate the use of performance-enhancing drugs in professional sports. The legislation also gives the Director the additional responsibility of reporting to Congress recommendations for improving any federal law regarding controlled substances. Having the ONDCP Director's office take the lead role in establishing and certifying uniform drug-testing policies across sports is consistent with the Committee's investigative findings regarding public health education and national drug control policy.

BACKGROUND AND NEED FOR LEGISLATION

The last authorization for the Office of National Drug Control Policy (ONDCP) expired on September 30, 2003. ONDCP's statutory mission is to guide the Nation's efforts to both reduce the use, manufacturing, and trafficking of illicit drugs, and to reduce the associated crime, violence, and health consequences of illegal drug use. Its Director serves as the President's principal adviser with respect to drug control policy development and program oversight.

Congress established ONDCP through the Anti-Drug Abuse Act of 1988, and reauthorized it in 1993 and 1998. During the 108th Congress, the Committee approved, and the House subsequently passed, a reauthorization bill (H.R. 2086) in 2003. The Senate, however, did not act on its companion legislation, leaving the reauthorization process to be taken up again during the 109th Congress. Congress has, however, continued to appropriate funds for ONDCP and its programs.

Since its inception, ONDCP has been the principal shaper, coordinator, and exponent of U.S. drug policies aimed at reducing the impact of drugs and the consequences of their abuse in our society and communities. ONDCP's Director advises the President on national and international drug control policies and strategies, formulates the National Drug Control Strategy, reviews and certifies the budgets of National Drug Control Program Agencies, and works to ensure the effective coordination of drug programs by the National Drug Control Program agencies.

More popularly known as the "Drug Czar," the ONDCP Director is vested with extremely broad authority to influence overall policy for the vast array of supply reduction, demand reduction, and law enforcement programs relating to drug control within the Federal Government. The Director also serves as the primary spokesperson on drug policy issues for the President. His authority is most notably manifested on an annual basis in two ways: certification of budget requests for Federal drug control agencies, and the issuance of the annual National Drug Control Strategy, which is required by statute.

The Director reviews the annual budget requests for each Federal department and agency charged with implementing a Federal drug control program and is empowered to require funding levels and initiatives the Director believes are sufficient for those goals. Additionally, the National Drug Control Strategy is submitted to Congress annually to coordinate the Nation's anti-drug efforts and establish programs, budgets, and guidelines for cooperation among Federal, State, and local entities. The document contains a number of mandated statistics and assessments related to drug policy and

serves as a strategic review of Federal programs by evaluating their coordination and effectiveness.

ONDCP also administers approximately $500 million in programs, including the High Intensity Drug Trafficking Areas (HIDTA) program, which provides assistance for State and local law enforcement to work with Federal agencies to stop drug traffic in critical areas of the country impacting national drug traffic; the National Youth Anti-Drug Media Campaign that supports the airing of anti-drug television and print advertisements; the Drug-Free Communities grant program; and the Counter Drug Technology Assessment Center (CTAC).

To carry out these responsibilities at a senior level, in addition to the Director, ONDCP also employs a Deputy Director of National Drug Control Policy and Deputy Directors for Demand Reduction, Supply Reduction, and State and Local Affairs, all of whom are appointed by the President with the advice and consent of the Senate. ONDCP has a total staff of approximately 110 employees and an overall budget of approximately $523 million.

H.R. 2829 aims to provide the best possible support for the Administration and the ONDCP Director in implementing the Federal Government's anti-drug strategy. The bill authorizes the Office of National Drug Control Policy and related programs (including the High Intensity Drug Trafficking Areas Program, the National Youth Anti-Drug Media Campaign, and the Counterdrug Technology Assessment Center) for five years, through the end of fiscal year 2010.

In order to improve the efficiency and efficacy of ONDCP, the bill reforms the reporting and structural requirements of previous law. The bill retains each of the key powers and authorities of the Director and the Office, most notably including authorities to review and set Federal agency budgets for drug control matters, to develop and issue the National Drug Control Strategy, and to coordinate Federal activities related to drug control. Significant reforms are also made to the major programs administered by ONDCP, to ensure that they remain effective, accountable, and dedicated to their core purposes.

Fourteen years ago, anabolic steroids were added to the Controlled Substance Act as a Schedule III drug, making it illegal to possess or sell them without a valid prescription. Today, however, evidence strongly suggests that steroid use among teenagers—especially aspiring athletes—is a large and growing problem.

Findings from Centers for Disease Control and Prevention surveys indicate that more than 500,000 high school students have tried steroids, nearly triple the number just ten years ago. A second survey, conducted in 2004 by the National Institute on Drug Abuse and the University of Michigan, found that over 40 percent of 12th graders described steroids as "fairly easy" or "very easy" to get, and the perception among high school students that steroids are harmful has dropped from 71 percent in 1992 to 56 percent in 2004.

Against this alarming backdrop, the Committee launched an investigation into steroid use in professional, amateur, collegiate, and high school athletics. In March, the Committee held its first hearing, focused on Major League Baseball's current steroid testing policy and its past efforts to combat steroid use. The Committee fol-

lowed with a hearing, in April, on the National Football League's steroid policy. Immediately prior to this hearing, the League and the NFL Players Association agreed to several changes that strengthened its testing policy. In May, the Committee invited the National Basketball Association and its players union to testify on the league's drug testing policies. Following the Committee's three hearings on steroid use in men's professional sports, the Committee turned its focus to a growing and disturbing problem: the use of anabolic steroids by young girls, who appear to be turning to these drugs not only (or even primarily) to enhance their athletic ability, but as a means to improve their body image. In addition to the four hearings, the Committee received and reviewed detailed information on the drug testing policies for the National Hockey League, Major League Soccer, U.S. Soccer Federation, USA Cycling, USA Track & Field, and the Association of Tennis Professionals.

Throughout the Committee's investigation, we have found a familiar theme: A culture of steroid use among professional athletes that, while troubling by itself, is also worrisome for its "trickle down" effect. In the absence of strong testing regimes, pro athletes use performance-enhancing drugs to stay ahead of the competition. This use by professional athletes legitimizes the use of performance enhancing drugs. As a result, college athletes feel pressured to use steroids to have a chance at a professional career, while high school athletes believe steroids are the ticket to improved performances that will attract the attention of scouts and college coaches and lead to a scholarship. All of these elements contribute to a cycle of substance abuse.

The abuse of steroids and performance-enhancing drugs is a major public health crisis. Young lives continue to be destroyed or lost due to the illegal use of steroids. Legislation that requires tougher testing standards for performance-enhancing drugs will help slow the vicious cycle of steroid abuse and reduce this dangerous and deadly public health crisis.

Witness testimony has highlighted the potential health risks associated with illicit steroid use by males and females, the pervasiveness of this problem, and the need for prevention programs targeting middle and high school-aged students who might use steroids for purposes of athletic excellence and/or aesthetic enhancement. Various studies indicate that steroid use has increased over the past several years among adolescents, women, and recreational athletes. Young adults in particular suffer devastating health consequences from steroid abuse. Anabolic steroid abuse has been associated with a variety of adverse side effects, both physical and psychological. Adverse side effects include, but are not limited to: acne; breast development in men; excessive body hair growth in women; infertility; liver cancer; increased cardiovascular risk; premature arrest of bone development, resulting in stunted growth; irritability; delusion; and depression. In spite of such adverse physical and psychological effects, teenagers and professional athletes continue to use steroids in order to excel in sports and/or enhance physical attractiveness.

The Committee recognizes that legislation to guarantee minimum drug testing standards in professional sports is just one important component to a broad national drug control strategy. Adequate education and prevention programs are needed to address

the problem of steroid abuse and more research and scientific evidence are needed to more accurately quantify its pervasiveness. Excelling in sports is achievable without using steroids and performance-enhancing drugs. Proper diet and exercise, including cardio and weight training, along with good overall mental and physical health will help athletes excel in sports.

COMMITTEE HEARINGS AND TESTIMONY

June 15, 2005, "Office of National Drug Control Policy Reauthorization Act of 2005"

On June 15, 2005, the Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing to consider H.R. 2829, the "Office of National Drug Control Policy Reauthorization Act of 2005." The Subcommittee heard testimony from ONDCP Director John Walters; Tom Carr of the National HIDTA Directors Association, and director of the Washington/Baltimore High Intensity Drug Trafficking Area; and Stephen Pasierb, President of the Partnership for a Drug-Free America (which plays a major role in the work of the National Youth Anti-Drug Media Campaign). The hearing served as an opportunity for Members to discuss national drug control policy programs and the reauthorization legislation with the witnesses. In general, the witnesses were supportive of the bill and agreed with the improvements made to ensure that ONDCP programs are run in an efficient and effective manner. However, Director Walters did raise some concerns about certain changes made by H.R. 2829, due to policy differences.

February 10, 2005, "Fiscal Year 2006 Drug Budget"

The Subcommittee also held several hearings regarding ONDCP, its programs, and the national drug control strategy in general, prior to the introduction of H.R. 2829. On February 10, 2005, the Subcommittee held a hearing on the Administration's fiscal year 2006 drug budget proposal, at which Director Walters and Dr. Peter Reuter, a drug policy researcher at the University of Maryland, testified. Among other things, Dr. Reuter testified as to what he viewed as the inadequacies of the current formulation of ONDCP's annual drug budget proposal, which leaves out many key drug control activities.

March 10, 2005, "FY 2006 Drug Control Budget and the Byrne Grant, HIDTA, and Other Law Enforcement Programs: Are We Jeopardizing Federal, State and Local Cooperation?"

On March 10, 2005, the Subcommittee held a hearing on the drug budget proposal's impact on State and local drug enforcement, focusing on the Administration's proposal to transfer the High Intensity Drug Trafficking Areas (HIDTA) program from ONDCP to the Department of Justice's Organized Crime Drug Enforcement Task Force (OCDETF) program. The hearing featured testimony from John Horton of ONDCP; Tracy A. Henke, Deputy Associate Attorney General for the Office of Justice Programs (OJP) at the U.S. Department of Justice; Catherine M. O'Neil, Associate Deputy Attorney General and Director of OCDETF; Ron Brooks, President of the National Narcotics Officer's Associations Coalition and Director of the Northern California HIDTA; Tom Carr, Director of the

Washington-Baltimore HIDTA; Tom Donahue, Director of the Chicago HIDTA; Chief Jack Harris of the Phoenix Police Dept. & Vice-Chair of the Southwest Border HIDTA; Leonard Hamm, Acting Baltimore Police Commissioner; Mark Henry, President of the Illinois Drug Enforcement Officer's Association; and Sheriff Jack L. Merritt of Greene County, Missouri. The Administration's witnesses attempted to defend the proposed transfer of the HIDTA program, but were unable to describe how the transfer would take place, or to identify any problems with any specific HIDTAs that would require such a dramatic shift. The various HIDTA directors and local law enforcement representatives all criticized the proposed transfer and testified that the HIDTA program should remain at ONDCP.

April 26, 2005, "Drug Prevention Programs and the Fiscal Year 2006 Drug Control Budget: Is the Federal Government Neglecting Illegal Drug Use Prevention?"

On April 26, 2005, the Subcommittee held a hearing on the drug budget proposal's impact on drug use prevention programs. Much of the testimony and questioning focused on the role and functioning of the National Youth Anti-Drug Media Campaign. Though the Subcommittee invited ONDCP to send a representative to testify at the hearing, ONDCP declined to do so. The Subcommittee did hear testimony from, among others, Stephen Pasierb, President of the Partnership for a Drug-Free America, and General Arthur T. Dean (ret.), Chairman and CEO of Community Anti-Drug Coalitions of America (CADCA). Mr. Pasierb, in particular, testified as to the efficacy and necessity of the Media Campaign, but supported defining a clearer role for the Partnership for a Drug-Free America in the program's implementation.

During the 108th Congress, the Committee and the Subcommittee on Criminal Justice, Drug Policy and Human Resources held numerous hearings on H.R. 2086 (the "Office of National Drug Control Policy Reauthorization Act of 2003"), as well as the HIDTA, CTAC, and Media Campaign programs.

As a result of concerns about societal impact of steroid use, the Committee in early 2005 launched an investigation into the steroid policies of professional, amateur, collegiate, and high school athletics. On March 17, 2005, the Committee held its first hearing, entitled "Restoring Faith in America's Pastime: Evaluating Major League Baseball's Efforts to Eradicate Steroid Use." The Committee's second hearing, "Steroid Use in Sports, Part II: Examining the National Football League's Policy on Anabolic Steroids and Related Substances" was held on April 27, 2005. The third hearing, "Steroid Use in Sports, Part III: Examining the National Basketball Association's Steroid Testing Program" took place on May 19, 2005.

In addition to the three hearings, the Committee has sent letters to the National Hockey League, Major League Soccer, U.S. Soccer Federation, USA Cycling, USA Track & Field, and the Association of Tennis Professionals requesting information regarding their steroid policies. This information was reviewed in detail by the Committee. The Committee's most recent hearing, "Eradicating Steroid Use, Part IV: Examining the Use of Steroids by Young Women to Enhance Athletic Performance and Body Image," was held on June 15, 2005.

On May 24, 2005, Chairman Davis, Ranking Member Waxman and Senator McCain introduced the "Clean Sports Act of 2005," legislation, H.R. 2565, to strengthen testing procedures and toughen penalties for the use of performance-enhancing drugs in the four major American sports. This legislation followed Committee hearings held on Major League Baseball, the National Football League, and National Basketball Association policies. On May 26, 2005, the Committee met in open session to consider H.R. 2565 and favorably approved the bill by voice vote. Then on June 16, 2005, the Committee met in open session to consider H.R. 2829, the Office of National Drug Control Policy Reauthorization Act of 2005. Mr. Souder offered an amendment in the nature of a substitute to H.R 2829 which included the Clean Sports Act as a subtitle. The Committee approved the amendment by voice vote.

March 17, 2005, "Restoring Faith in America's Pastime: Evaluating Major League Baseball's Efforts to Eradicate Steroid Use"

This hearing was the first in a series of hearings regarding steroid use in professional sports. The purpose of this hearing was to consider the extent of steroid use in Major League Baseball, the reason why this use occurred, and why baseball did little to eliminate it. The hearing also examined the new drug policy recently negotiated between the league and the MLB Players Association (MLBPA); how the testing policy would be implemented; and how it would effectively address the use of prohibited drugs by players. On March 16, 2005, the day before the hearing, the Committee sent a letter to MLB and MLBPA outlining numerous significant problems with the existing policy: weak penalties for violations; inadequate coverage of many performance-enhancing drugs; lack of independence; an "anti-oversight" clause that called for testing to be stopped in the event of a government investigation, and protocols that allowed players to leave the room unsupervised during the testing process. The Committee heard testimony from current and former players, MLB and the MLBPA, parents of teenagers who abused steroids, and medical experts.

Witnesses included: The Honorable Jim Bunning, Senator from the State of Kentucky; Mr. Raymond and Dr. Denise Garibaldi, Parents of former USC baseball player, Rob Garibaldi, who committed suicide after steroid use; Mr. Donald Hooton, Director, Chairman, and President of Taylor Hooton Foundation, and father of high school baseball player, Taylor Hooton, who committed suicide after steroid use; Dr. Nora D. Volkow, Director, National Institute on Drug Abuse, National Institutes of Health; Dr. Gary Wadler, Associate Professor of Clinical Medicine, New York University School of Medicine; Dr. Kirk Brower, Associate Professor of Psychiatry, University of Michigan Medical School, and Executive Director, Chelsea Arbor Addiction Treatment Center; Dr. Elliott Pellman, Medical Advisor to MLB; Mr. Jose Conseco, former Oakland Athletic and Texas Ranger; Mr. Sammy Sosa, current Baltimore Oriole and former Chicago Cub; Mr. Mark McGwire, former Oakland Athletic and St. Louis Cardinal; Mr. Rafael Palmeiro, current Baltimore Oriole and former Texas Ranger; Mr. Curt Schilling, current Boston Red Sox; Mr. Frank Thomas, current Chicago White Sox; Mr. Allan H. Selig, MLB Commissioner; Mr. Robert Dr. Manfred, Jr., Executive Vice President of Labor and Human Re-

sources, MLB; Mr. Donald Fehr, Executive Director and General Counsel, MLBPA; Mr. Sandy Alderson, Executive Vice President of Baseball Operations, MLB and former General Manager, Oakland Athletics; and Mr. Kevin Towers, General Manager, San Diego Padres.

The hearing examined the reality of steroid use in MLB from the 1980s until the present, and analyzed MLB's new drug testing policy, examining its strengths, weaknesses, and implementation.

Additionally, testimony from witnesses shed light on the sometimes tragic results of steroid use by high school and college athletes, and provided the Committee with direction for its investigation, the Zero Tolerance round tables, and future hearings.

Following the March 17 hearing, Mr. Palmeiro, who had testified that he had "never" used steroids, was suspended under the MLB policy for testing positive for a banned steroid. As a result of this positive test, the Committee opened an investigation into whether Mr. Palmeiro's testimony should be referred to the Department of Justice for a possible perjury investigation. The investigation concluded that there was insufficient evidence to merit a perjury referral. (Committee on Government Reform, Report on Investigation into Rafael Palmeiro's March 17, 2005 Testimony Before the Committee on Government Reform, November 10, 2005, at www.house.gov/reform).

On April 25, 2005, Commissioner Bud Selig sent a letter to MLBPA Executive Director, Don Fehr, proposing more stringent steroid and amphetamine testing standards and punishments for Major League baseball players. After months of negotiations, MLB and MLBPA reached an agreement that significantly improved baseball's performance-enhancing drug policy. The agreement strengthened penalties to 50 games for a first steroid offense, 100 games for a second steroid offense, and a lifetime ban for a third steroid offense. The agreement also turns the administration of the program over to an independent entity and, for the first time, bans performance-enhancing amphetamines from Major League Baseball. This new policy addresses a number of the Committee's concerns about the weaknesses identified in the March 17 hearing.

April 27, 2005, "Steroid Use in Sports Part II: Examining the National Football League's Policy on Anabolic Steroids and Related Substances"

This hearing examined the use of performance enhancing drugs in the National Football League (NFL) and the league's testing program for steroids and other drugs. NFL Commissioner Paul Tagliabue and the NFL Players Association (NFLPA) Executive Director, Gene Upshaw, who testified at the hearing, announced improvements to their policy—more frequent testing, and improved coverage of "designer steroids"—immediately prior to the hearing. The Committee also heard from several experts regarding flaws in the NFL policy, such as the failure to cover most amphetamines, and from high school football coaches and medical experts who developed education programs for teenagers to teach the importance of good personal health, nutrition, and strength training as tools to enhance athleticism.

Witnesses included: Mr. Willie Stewart, Head Football Coach, Anacostia High School; Mr. Bobby Barnes, Head Football Coach,

Buckeye Union High School; Mr. Steve Courson, former Pittsburgh Steeler and Tampa Bay Buccaneer; Dr. Linn Goldberg, Professor of Medicine, Oregon Health Sciences University; Dr. Gary Wadler, Associate Professor of Clinical Medicine, New York University School of Medicine; Dr. John Lombardo, NFL Advisor on Anabolic Steroids and Related Substances; Dr. Bryan S. Finkle, NFL Consulting Toxicologist on Anabolic Steroids and Related Substances; Mr. Paul Tagliabue, NFL Commissioner; Mr. Harold Henderson, Executive Vice President for Labor Relations, NFL; and Mr. Gene Upshaw, Executive Director, NFLPA.

May 19, 2005, "Steroid Use in Sports Part III: Examining the National Basketball Association's Steroid Testing Program"

The focus of this hearing was on the National Basketball Association (NBA) and the use of performance-enhancing drugs. After reviewing the NBA's drug policy, the Committee was compelled to evaluate how the testing policy is implemented and how effectively it addressed the use of prohibited drugs by players. Witnesses at the hearing included Mr. David Stern, NBA Commissioner; Mr. Richard Buchanan, Senior Vice President and General Counsel, NBA; Mr. William Hunter, Executive Director, National Basketball Players Association; Mr. Keith Jones, Athletic Trainer, Houston Rockets; and Juan Dixon, current Washington Wizard. The hearing examined the weaknesses in the NBA policy, and the extent to which the use of steroids or other performance-enhancing drugs was a potential problem in the NBA. Soon after the hearing, the NBA and NBPA announced that a new collective bargaining agreement had been reached. The new agreement contains a stricter performance-enhancing drug policy that includes, for the first time, random testing for all players, and tougher penalties for drug use.

June 15, 2005, "Eradicating Steroid Use, Part IV: Examining the Use of Steroids by Young Women to Enhance Athletic Performance and Body Image"

This important hearing considered steroid use by female athletes and young women who use steroids and other performing-enhancing substances to improve athletic performance or because of concerns about their body image. The Committee heard testimony from several medical experts, most of whom believe steroid use by young women is a significant problem, and all of whom agreed that more research and scientific evidence are needed to quantify the extent of the problem, and to understand the reasons why young women take steroids and how to prevent this use.

One witness, Dr. Diane Elliot, Professor of Medicine at Oregon Health and Science University, discussed her success with a prevention program called ATHENA—Athletes Targeting Healthy Exercise and Nutrition Alternatives—which is specifically designed for middle- and high-school-aged girls. Additional witnesses were female athletes, Kelli White, a former World Champion sprinter who has come clean about her decision to use steroids, and about her subsequent regrets, and Mari Holden, a world class cyclist, who discussed the pressures clean athletes face in competing in an environment where their rivals may be taking performance-enhancing drugs. Panel two witnesses included: Dr. Todd Schlifstein, Clinical Instructor, New York University School of Medicine; Dr. Harrison

Pope, Professor of Psychiatry, McLean Hospital; Dr. Charles Yesalis, Professor of Health Policy and Administration, Penn State University; and Dr. Avery Faigenbaum, Professor of Health and Exercise Science, The College of New Jersey.

DESCRIPTION OF TITLE I OF H.R. 2829

I. Office of National Drug Control Policy Act of 2005

A. Short title; Amendment of Office of National Drug Control Policy Act of 1998 (sections 101 and 102)

The bill may be cited as the "Office of National Drug Control Policy Reauthorization Act of 2005," and (unless otherwise indicated) it amends the Office of National Drug Control Policy Reauthorization Act of 1998 (Public Law 105–277; 21 U.S.C. 1701 et seq).

B. Repeal of termination provision (section 103)

The 1998 Act contained a complete "sunset provision" that caused the Office and its programs technically to expire on September 30, 2003. In practice, however, the Office and its programs have continued to exist and function, as Congress appropriated funds for them for fiscal years 2004 and 2005. The Committee believes that, like other agencies and departments within the Federal Government, ONDCP should continue to be controlled by an existing statute even after its authorized appropriations have expired. This will ensure that, should Congress continue to fund the Office and its programs while deliberating about a new authorization bill, those appropriations will continue to be expended in accordance with the most recent Congressionally enacted statutes. The bill still limits authorized appropriations to five more fiscal years, from 2006 through 2010 (see Section 114).

C. Amendments to definitions (section 104)

The bill modifies definitions in current law of the terms "demand reduction," "State and local affairs," and "supply reduction" as they relate to the Office of National Drug Control Policy. The definition of these terms also applies by extension to the defined duties of the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Deputy Director for State and Local Affairs under 21 U.S.C. 1702(b)(3).

"Demand Reduction" is defined to specifically include "interventions for drug abuse and dependence" as well as "international drug control coordination and cooperation" with respect to activities otherwise defined as related to demand reduction. This provision is intended to be strictly limited to matters otherwise defined as demand reduction and is not intended to modify the existing and primary responsibility of the Office of Supply Reduction for international matters. The Committee further notes its view that international coordination activities with respect to demand reduction should be primarily directed to assisting in reduction in demand within the United States.

The current definition of "National Drug Control Program" is clarified to encompass any activities involving supply reduction, demand reduction, or State and local affairs (as such terms are defined in the statute). The Committee believes that this change is needed to make clear Congress' original intent that all such activi-

ties must be considered part of the National Drug Control Strategy, and as such are subject to the oversight and coordination responsibilities of the Director. Those responsibilities extend even to activities that also have non-drug control aspects or purposes, but only to the extent that they involve drug control.

"State and local affairs" is amended to include domestic law enforcement, including law enforcement directed at drug users. Such activities previously were defined as part of "supply reduction" and are removed from that area in the bill. The Committee believes it is important to clarify that domestic law enforcement activities serve purposes and fulfill policy goals not limited to supply reduction. Moreover, the Office of State and Local Affairs by focus and the general experience of its staff is better suited to handle law enforcement matters than the Office of Supply Reduction. The Committee was informed by ONDCP that, in practice, such matters already are handled primarily by the Office of State and Local Affairs. At the request of ONDCP, the bill was amended to define "domestic drug interdiction," i.e. the prevention of drug trafficking within the U.S., as a domestic law enforcement function.

The newly added definition of "law enforcement" or "drug law enforcement" clarifies that drug law enforcement includes not simply investigation and arrest, but prosecution and incarceration or other punishment of drug offenders. Currently, the National Drug Control Strategy and the accompanying drug budget proposal do not address prosecution or punishment of drug traffickers. The Committee believes that these aspects of law enforcement are crucial, however, if the drug laws are to serve as a credible deterrent. The drug laws will not be effective if potential traffickers do not believe that they will face punishment for violating them. As such, it is vital that ONDCP oversee these aspects of drug control, and ensure that adequate resources are devoted to them.

D. Amendments relating to establishment of Office of National Drug Control Policy and Designation of Officers (section 105)

This section includes a requirement that the Director have the same "rank and status" as the heads of the executive departments. This is consistent with the 1998 Act, which assigned the Director to the same pay scale as the executive department heads. Although the Administration has raised concerns about whether this provision interferes with the authority of the President to define the membership of his Cabinet, the bill deliberately does not mention the Cabinet for that very reason. The Committee agrees that only the President can establish his Cabinet. Rather, this provision is designed to ensure that, if the Director were not part of a future President's Cabinet, the Director would still have a Congressional mandate enabling him to interact with the executive department heads as an equal. This is particularly important, as the Director is responsible for coordinating and overseeing the anti-drug policies of all the departments.

Subsection (c) provides that the Deputy Director for Supply Reduction shall have substantial experience in actual drug interdiction operations (and not simply interdiction policy). This provision was added in response to concerns raised by ONDCP about the bill's direct assignment of the role of United States Interdiction Co-

ordinator (USIC) to this Deputy. Although the Committee does not concur with ONDCP's suggestion that the USIC position be reassigned to the Commandant of the U.S. Coast Guard (as this would interfere with the authority and function of the Director of Counternarcotics Enforcement at the Department of Homeland Security), the Committee agrees with ONDCP that the USIC should have sufficient knowledge of, and direct, personal experience in, interdiction operations to enable him to understand those operations and advise the Director about them. Moreover, the Committee believes that the stature and effectiveness of this Deputy position could only be enhanced by such experience and knowledge.

E. Amendments relating to appointment and duties of Director and Deputy Director (section 106)

The existing authorities and duties of the Director of the Office of National Drug Control Policy have generally served as an effective tool in promoting interagency coordination of drug control policy and spending within the Executive Branch. The Committee accordingly has attempted to retain the current structure with only limited modifications intended to strengthen the authority of the Director. In particular, the Committee believes that the Director's authority to review and certify the budgets of national drug control program agencies is critical to ensuring the ability of the Office to plan and implement an effective national strategy.

1. Designation of other officers

Subsection (a) clarifies that any officer and employee of the Office may be designated to serve as the acting Director. Previous law applied only to "permanent employee[s]" of the Office, failing to include senior politically appointed officers and employees who most logically would be designated for that purpose.

2. Responsibilities of Director

Subsection (b) makes technical and conforming clarifications to current law, and also defines some new responsibilities of the Director. These new responsibilities reflect the Committee's belief that close coordination between ONDCP and State and local drug control agencies, as well as private individuals and organizations involved in demand reduction, is vital to the success of Federal drug control policy. These responsibilities also reflect the Committee's judgment that the Federal Government must focus attention and resources on local and regional drug trafficking and abuse threats. Although such local or regional threats may appear to be isolated, they can quickly spread to other parts of the country. (This is precisely what happened when the methamphetamine epidemic spread from the West Coast to virtually every State during the 1990's.) The Federal Government must take action to address and contain these local threats before they become widespread.

ONDCP raised concerns about the scope of new paragraph (17), which calls for the Director to "seek the support and commitment of State and local officials in the formulation and implementation of the National Drug Control Strategy." This provision does not require the Director actually to obtain such support and commitment, as the Committee is aware that the Director does not have the power to compel such support from non-Federal officials. Rather,

this provision simply calls on the Director to use his best efforts to win the support and commitment of State and local officials, which the Committee believes are crucial for the success of the National Drug Control Strategy.

3. Submission of drug control budget requests, and national drug control budget proposal

Subsection (c) adds a new requirement to the drug budget process, that any drug budget request made by an agency include all drug control activities of that agency, including demand reduction, supply reduction, and State and local affairs. At present, the drug budget process excludes a number of significant drug control activities. ONDCP currently prefers to include only those activities that it deems have a "primary" drug control purpose, and that have a separate "line item" account in the President's budget.

ONDCP has defended the current process as adequate and more manageable, but that process has been criticized both by some Members of Congress and drug policy analysts as incomplete and inconsistent. For example, ONDCP does not include the cost of prosecuting and incarcerating Federal drug traffickers in the drug control budget, but does include the cost of providing drug treatment to Federal prisoners—thus giving the impression that the Federal Bureau of Prisons' primary drug control activity is treatment.

Moreover, the Director's obligation to certify the drug control budgets of the various departments (under 21 U.S.C. 1703(c)(3)) is tied to the actual drug budget submissions of those departments. A drug budget process that limits the submissions to only those items with a separate "line item" could allow the Administration to remove much of the Federal Government's drug control spending from ONDCP review, simply by eliminating separate line items and merging some activities' accounts into other, more general accounts.

Although no drug budget document is ever going to be perfectly precise, the Committee believes that if a budget is to err, it should err on the side of inclusiveness. Certainly the Administration should, whenever practical, attempt to identify specific line items in the budget dedicated to drug control activity. When that is not practical, however, the new provision in the bill requires the department involved to submit a documented calculation that estimates the proportion of an activity dedicated to drug control, and sets forth what the basis and method of the calculation is.

The Committee believes that, if this bill is adopted and a revised drug budget is submitted next year, it would be appropriate for ONDCP to explain and reconcile the differences in the previous year's budget and the new budget. Because the methodologies will have changed, there may appear to be major "shifts" from one year to the next, not based on any real movement of dollars, but rather because the new budget is more comprehensive.

Subsection (d) adds language clarifying that the purpose of the drug budget is not simply to implement the Administration's drug policy, but also to inform the public about how much the Federal Government proposes to spend on drug control. At present, there is no such document to fulfill that purpose; ONDCP does periodically publish a report on the total cost of drug abuse to society, but

that report is not specifically tied to the Federal Government's proposed budget.

4. Review and certification of National Drug Control Program budget

As previously stated, the Director's budget certification authority is one of the cornerstones of the Office's ability to plan and implement an effective national drug control strategy. The Committee believes that it is appropriate in the exercise of Congressional authority relating to drug policy to set forth general criteria governing application of the budget certification authority, particularly where oversight has identified significant ongoing issues in allocation of funding and resources for drug control activities within the Executive Branch. These criteria are wholly consistent with the Director's duty to ensure the effectiveness of Federal drug control programs and Congressional intent that the Director use the tools provided in the bill to advocate drug control programs within the Executive Branch. The intention of the Committee in most respects is simply to ensure that the budgets of National Drug Control Program Agencies are reviewed under the stated criteria. The bill specifically reserves the discretion of the Director to determine the adequacy of agency budgets under the statutory criteria.

A new subparagraph (C) is added to the certification mechanism (21 U.S.C. 1703(c)(3)) to prohibit certification of the adequacy of funding for Federal law enforcement activities that do not adequately compensate for transfers of drug enforcement resources and personnel to law enforcement and investigation. The Committee believes that questions of resource allocation are among the most significant contemporary challenges to drug control policy. Since the September 11, 2001 attacks on the United States, Federal law enforcement agencies have in some respects significantly reduced the commitment to drug enforcement. The Federal Bureau of Investigation, for example, transferred 567 special agents away from drug enforcement to other duties related to counterterrorism. The United States Coast Guard has been forced to reduce patrol hours for narcotics interdiction and to make special assets originally developed for drug interdiction purposes (such as the HITRON armed helicopter program) available for homeland security needs. Similarly, the Office of Air and Marine Operations (AMO) of the legacy Customs Service (now part of the bureau of Customs and Border Protection) has been forced to reduce drug interdiction activity to provide airspace security protection in the National Capital Region.

In many respects, the Executive Branch has planned or implemented steps to adjust for such reallocations, such as the addition of agent positions in the Drug Enforcement Administration, other steps in the Attorney General's Domestic Drug Enforcement Strategy, and actions taken by the Coast Guard and AMO to adjust for increased demands. However, the detrimental effects of increased demands have also been apparent. The Committee believes that substantially weakened law enforcement programs cannot be deemed adequate for the purposes of the budget certification process. It is essential for the Director to specifically consider whether steps have been taken to mitigate the reallocation of resources away from drug enforcement, particularly since the issue is likely

to remain a significant concern for the five-year period covered by the reauthorization.

The bill requires a similar evaluation of funding for law enforcement activities on the borders of the United States. During the 107th Congress, the Subcommittee on Criminal Justice, Drug Policy and Human Resources conducted an intensive survey of Federal law enforcement at the borders and ports of entry (H. Rpt. 107–794). That report and subsequent Subcommittee oversight activities suggest the possibility of a similar shift in focus at the borders, and the Director must also ensure that adequate resources are directed to drug interdiction prior to certifying any related budgets.

The new subparagraph also prohibits budget certification of drug treatment activities that do not provide adequate result and accountability measures as determined by the Director. The Committee strongly supports the President's initiative to increase and enhance the availability of drug treatment in the United States, as well as the focus of the initiative on using the results of treatment programs as a primary performance measure. Oversight activities including discussions with drug treatment providers have strongly suggested the need for development of a set of uniform and unambiguous standards for measuring the results and accountability of drug treatment programs, a goal which remains elusive even after Federal support for intensive research into drug treatment. Further, because treatment programs account for a significant portion of the National Drug Control Budget, the Committee believes that adequate measures are essential to ensure the effectiveness and accountability of these programs as a whole, as well as to provide performance and outcome measures.

The bill further requires that activities of the Safe and Drug Free Schools program include a clear anti-drug message or purpose intended to reduce drug use as a fixed prerequisite to budget certification. Along with the Media Campaign reauthorized in Section 112 of the bill, the Safe and Drug Free Schools program is one of the primary Federal drug prevention programs. As with law enforcement programs, however, resources are being diverted away from that intended goal to several other purposes, such as violence prevention. Significant broadening of the program to other purposes creates a substantial risk of dilution not only of its effectiveness as a drug prevention program, but also as a whole. For the purposes of the certification process, the Committee believes that the budget for the Safe and Drug Free Schools program cannot be deemed adequate unless each program activity includes a clear anti-drug message or purpose to reduce drug use, and has included such criteria as mandatory.

The bill also contains mandatory restrictions on certification of budgets related to enforcement in certain contexts of Section 484(r)(1) of the Higher Education Act, more popularly known as the "Drug Free Student Loan" provision. The provision makes students convicted of drug offenses temporarily ineligible to receive student loans and stands for an important principle—that students who ask for taxpayer assistance with their education should not be using or selling illegal drugs, which have a clear and proven detrimental impact on educational achievement. However, a significant problem has arisen as the Department of Education (beginning during the Clinton Administration and continuing during the cur-

rent Administration) has misinterpreted the clear language of that statute to improperly deny loans to students whose drug convictions predated their enrollment in school.

The plain text of the statute in question clearly provides that the disqualification applies to "a student who has been convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance." The term "student" in every other instance in the Act clearly and logically may apply only to those currently enrolled; thus a person convicted of a drug offense prior to enrollment would not have been a "student" under the Act at the time of conviction and the provision would not apply to them in relation to such a conviction. Moreover, the Executive Branch interpretation is clearly at odds with the overall structure of the law, which unambiguously provides that individuals shall become ineligible for assistance "beginning on the date of such conviction." Again, the interpretation offered by the Department is obviously inconsistent with the plain meaning and structure of the statute. (To determine whether Congress has unambiguously expressed its intent, a court considers in part the language and design of the statute as whole. See, e.g., Alabama Power v. Environmental Protection Agency, 40 F.3rd 450, 454 (D.C. Cir. 1994).) The text clearly does not square with the Department's reading because an individual who is not enrolled when convicted could not become ineligible at that time. He or she is not a "student" under the terms of the Act, and moreover is not receiving any assistance to be disqualified from at the time.

In addition to the inconsistency of its interpretation with the plain text of the statute, the Department also apparently did not undertake any substantial analysis prior to developing the policy in question. An oversight request issued by the Subcommittee on Criminal Justice, Drug Policy and Human Resources during the 107th Congress for all documents developed by the Department to explain and justify its position returned less than 25 pages of material, all of which postdated the Administration that originally instituted the policy. The analysis contained in the produced materials was almost entirely defensive and provided no affirmative justification of the Department's interpretation of the statute. The Committee therefore has determined that the Department's enforcement actions with respect to students convicted of drug offenses prior to the date of enrollment are arbitrary and capricious. It further believes that drug control budgets seeking to continue such arbitrary and legally unsupported enforcement should not be certified because they hinder the effective implementation of the Drug Free Student Loan provision.

An additional provision of the new subparagraph (C) prohibits funding for the drug control budget of the Department of Education unless it "is accompanied by a report setting forth a plan for expedited consideration" of loan applications for students improperly deprived under the conditions just described. (It is important to note that, while the provision textually implicates "funding for Fiscal Year 2007 for activities of the Department of Education," it applies in the context of 21 U.S.C. 1703(c)(1)(A), which only applies to drug control budget requests. Thus, the additional provision does not apply to budget requests for Department activities not related to drug control.) The intention of this provision is limited and sim-

ple—to ensure that improperly deprived students would have any re-applications for financial assistance considered on an expedited basis, as determined by the Department of Education and set forth in the report required by the text.

The bill also includes a provision prohibiting certification of drug treatment activities that "do not adequately support and enhance Federal drug treatment programs and capacity, as determined by the Director." The provision is a variation of language proposed by Subcommittee Ranking Member Cummings during the Committee's consideration of H.R. 2086 during the 108th Congress, which was approved by voice vote. The Committee notes that the language is primarily intended to apply to the Substance Abuse Prevention and Treatment block grant program and the Targeted Capacity Expansion grant program, which are critical to drug treatment in the United States. In considering the factors included in the bill incident to budget certification for drug treatment, the Director should consider whether adequate funding has been maintained for those programs or if adequate compensation in other programs has been substituted for any reductions in funding.

Finally, subparagraph (C) prohibits certification of any request for funds for the operations and management of the Department of Homeland Security (DHS) that does not include a specific request for funds for the Office of Counternarcotics Enforcement (OCE) to carry out its responsibilities under section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458). Congress established the OCE in December 2004, replacing the original Counternarcotics Officer position, and expressly authorized up to $6 million for OCE. Despite this, the Administration never even mentioned OCE in its FY 2006 budget request, and has indicated that it wishes to continue the practice of funding OCE as a mere subdivision of the office of the DHS chief of staff. That is contrary to Congressional intent, and deprives OCE of the resources and independence it needs to carry out its responsibilities effectively.

With respect to all of the certification provisions, the Committee notes that in no event do they actually prevent the President from making a budget request. The President remains free to propose any budget he wishes. The restriction is simply on the ability of the Director to certify such budget requests as being adequate from a drug control perspective. Congress makes the final decision with respect to any budget request for any activity, but the Director's certification is an important piece of information that Congress may rely on.

5. Reprogramming and transfer requests and miscellaneous provisions

The bill lowers from $5,000,000 to $1,000,000 the amount over which the Director must approve fund reprogramming or transfer requests under 21 U.S.C. 1703(c)(4)(A). The Committee understands that the change will not substantially decrease the flexibility of Drug Control Program Agencies in managing finances, but believes that it will enhance the ability of the Director to review and approve Federal spending related to drug control budgets.

The Committee is aware of a provision of existing law which indirectly exempts a single Drug Control Program Agency from compliance with the authority of the Director to issue a Fund Control

Notice under 21 U.S.C. 1703(d)(9) by reference to a conference report not adopted by Congress. The Committee believes that the Director should retain authority to issue Fund Control Notices to each Drug Control Program Agency, and that any exceptions to such authority should be made explicitly and be properly considered and cleared by the Government Reform Committee, which is the primary committee of jurisdiction for the Office of National Drug Control Policy. Thus, the bill clarifies that the Director's authority applies to each Drug Control Program Agency notwithstanding any other provision of law.

6. International drug control certification

The bill clarifies that the Director should continue to participate in the process for certification relating to foreign assistance for major drug source and transit countries as modified by the Department of State Authorization Act for Fiscal Year 2003. It also requires the Director to issue an independent assessment of the cooperation of foreign nations with U.S. drug control policies under the terms of a procedure that was explicitly contemplated by that Act.

The 2003 authorization made permanent modifications to the drug certification process that substantially weakened the standard by which the State Department would evaluate the cooperation of foreign nations with respect to drug control. The standard changed from whether the country had "cooperated fully" to whether it had "failed demonstrably" to do so, thus effectively shifting the burden of proof to an assumption that foreign nations were cooperating with the United States and had to be proved otherwise to trigger the restrictions in the Act. However, the law also expressly reserved authority for the President to apply the previous standard of whether or not countries had "cooperated fully" with the United States.

The law requires the President to make the relevant determination of whether to exercise such reserved authority. As the Director is the primary statutory advisor to the President with respect to drug control matters, the Committee believes that it is appropriate to require the Director to evaluate the drug control efforts of foreign countries by the "fully cooperating" standard which the President may invoke under the express terms of the revised process, and has included such a requirement in the bill. The Director has opposed the requirement on the ground that it may result in conflicting advice to the President from the Director and the Secretary of State. The Committee emphasizes, however, that the Director's evaluation is conducted under a different standard than the review to be conducted by the Secretary of State, thus removing the potential for conflict. Moreover, as the revised statutory process explicitly contemplated and reserved the potential exercise by the President of authority under the "fully cooperating" standard, the Committee believes that the President should receive the benefit of full and appropriate analysis under that standard as well as the "failed demonstrably" standard.

7. South American heroin strategy

The bill includes a requirement for submission of a strategy to deal with heroin cultivation in South America, which was originally

proposed as an amendment to H.R. 2086 during the 108th Congress by Representative John Mica. The Committee notes that sharp increases in Colombian heroin during the 1990's have finally been reversed, with data from the Drug Enforcement Administration showing a significant decrease (by more than half) in Colombian heroin production from its peak in 2000. This decrease is the result of aggressive efforts by the Colombian Government to eradicate opium poppy crops, and to bring drug traffickers to justice. This decrease in production has had a significant effect in the U.S., with the average purity of heroin seized at U.S. ports of entry declining from nearly 87 percent in 2000 to less than 73 percent in 2004.

The Committee believes that the U.S. must continue to support Colombia's efforts against heroin production and trafficking, and must also guard against the possibility of a "spillover" of opium cultivation from Colombia into countries such as Peru. Therefore, the Committee intends to continue aggressive oversight of Executive Branch efforts with respect to heroin control. At the same time, however, the Committee believes that increased efforts to counter South American heroin cannot come at the expense of efforts to control the growth of coca, which continues to be more widely abused than heroin in the United States. The mandated strategy is required to address each of these factors.

The strategy mandated by this subsection also requires a plan for providing assistance to regional governments in their efforts to help recently demobilized members of narco-terrorist groups to transition to civilian life. The Government of Colombia, for example, is currently engaged in such efforts, which are crucial to the success of the peace process and the reduction of narcotics trafficking in that country. Until quite recently, however, the U.S. had failed to provide any assistance to Colombia for demobilization programs, due to legal disagreements between the Department of Justice, the Department of State, and the U.S. Agency for International Development. The Committee believes that while it is important for the Federal Government to abide by the law and avoid direct assistance to true terrorists, failure to assist with the Colombian demobilization program will jeopardize not only the program, but all of the important gains made in Colombia over the last several years. It is vital for the U.S. government to resolve any internal disputes and proceed with timely assistance to the demobilization program.

8. Afghan heroin strategy

The bill includes a requirement that ONDCP develop and submit a comprehensive strategy to address one of the world's most serious drug threats: heroin production in Afghanistan. The Committee is extremely concerned about the explosion in heroin production and trafficking in that country, and believes that the Administration's response to this crisis has been inadequate, at best. The resumption of large-scale heroin production in Afghanistan breeds instability and directly funds terrorist groups. The Committee believes that the eradication of opium poppy, the interdiction of precursor chemical traffickers, and the actual destruction of stockpiled drugs and processing facilities in Afghanistan is absolutely necessary if

that country is to set firmly on the road to democracy and away from corruption, tyranny, and terrorism.

The rise in heroin production, and its ties to terrorism, are amply documented. The United Nations Office on Drugs and Crime (UNODC) has conducted annual opium poppy surveys in Afghanistan since 1994. The 2003 and 2004 Surveys showed that Afghanistan is producing three-quarters of the world's illicit opium, resulting in income to Afghan opium farmers and traffickers on the order of $2.3 billion, a sum equivalent to half the legitimate GDP of the country. The UNODC concluded in 2003 that "out of this drug chest, some provincial administrators and military commanders take a considerable share * * * Terrorists take a cut as well * * * the longer this happens, the greater the threat to security within the country and on its borders."

The U.S. government, and in particular the Department of Defense, however, have thus far failed to take this threat seriously. As this Committee noted in its Fiscal Year 2005 Views and Estimates, "Our British allies have identified many Afghan opium-processing plants necessary to the heroin trade. Yet, despite the financing of terrorists and other destabilizing elements from the drug trade, the Department of Defense does not view these as military targets. The Committee urges in the strongest terms for the Department to reconsider, and will monitor this issue incident to its oversight activities on behalf of the public safety."

The strategy required by this bill therefore should include efforts actually to target and eliminate opium crops, heroin production facilities, and heroin stockpiles in Afghanistan. It should also include measures to improve coordination and cooperation between U.S. agencies operating in Afghanistan, and between the U.S. and allied nations. That coordination and cooperation have frequently been lacking. The Committee hopes that the new strategy issued by ONDCP will help get U.S. efforts against narco-terrorism in Afghanistan back on track.

9. General counterdrug intelligence plan

The bill requires ONDCP to issue a new General Counterdrug Intelligence Plan (GCIP), and to reissue a new one every two years thereafter. The last GCIP, which was intended to set forth a framework for interagency cooperation and coordination of anti-drug law enforcement intelligence efforts, was issued in 2000, followed only by a brief update on its progress in 2002. Since the original GCIP was issued, the nation has experienced the 9/11 terrorist attacks; the redeployment of the FBI, the Defense Department, and other agencies away from drug enforcement activities; the reorganization of many drug interdiction agencies into the Department of Homeland Security; and the reorganization of the entire intelligence community in 2004. The entire landscape of law enforcement and intelligence has changed, and a new GCIP is therefore long overdue.

The GCIP provision in this bill is modeled after Section 639 of the Treasury and General Government Appropriations Act of 1998 (P.L. 105–61), the statute that called for the original GCIP. The major substantive difference is the express requirement of a report describing the nature and functions of the intelligence centers, task forces, and information sharing systems that have proliferated in the Federal Government. At a minimum, the GCIP should identify

where there are potential overlaps and duplication of effort, or lack of coordination and information sharing.

The manager's amendment adopted by the Committee modified the original language in H.R. 2829, most significantly by requiring the concurrence of (and not simply consultation with) the new Director of National Intelligence (DNI). This change reflects the necessity of the DNI's involvement and agreement to any GCIP that involves some members of the National Intelligence Program. At the request of ONDCP, reference to consultation with the members of the Counterdrug Intelligence Coordinating Group has been removed, as this would mandate consultation between the Director of ONDCP and sub-Cabinet level officials.

Also at the request of ONDCP, the list of participants no longer identifies the Counterdrug Intelligence Executive Secretariat (CDX) as a direct component of ONDCP, but rather as a separate entity. The Committee notes, however, that CDX has always operated under the auspices of the Director of ONDCP. Reference to the DEA Special Operations Division was also removed, as that Division, while involved with intelligence matters, is an operational and not primarily an intelligence center. The GCIP may still discuss that Division's involvement in intelligence matters, if the Director so chooses.

10. Southwest border counternarcotics strategy

The bill also requires ONDCP to issue a comprehensive strategy to address drug trafficking on the U.S.-Mexico border. That border remains the primary conduit for illegal drug trafficking (whether marijuana, cocaine, heroin, or methamphetamine) into the U.S. The sophisticated criminal organizations that control drug trafficking along that border, moreover, are fully capable of engaging in other kinds of trafficking—from the trafficking of persons to the movement of weapons of mass destruction. The Federal Government must get better control of the border, and fight the trafficking organizations at every level.

In addition to laying out how the Federal Government plans to stop cross-border drug trafficking, the strategy also requires ONDCP to identify the specific roles and responsibilities of the various Federal agencies involved. This step is critical to success, as it will help promote coordination and cooperation, and reduce interagency competition, on the border. The "stovepipe" mentality of many Federal agencies (which often seek to operate as independently as possible of one another) results in needless duplication of effort, and sometimes even in direct agency interference with other agencies' operations. This situation must be replaced by a more cooperative attitude among the agencies, and the strategy required by this bill must help facilitate that.

Finally, the strategy should address the various resource needs of the agencies tasked with the responsibility to stop drug trafficking on the Southwest border. The strategy should be specific, identifying the amount of personnel, equipment, and technology needed to implement each aspect of the strategy.

11. Scientific study of mycoherbicide in illicit drug crop eradication

This provision, originally proposed by Representative Dan Burton, requires ONDCP to submit a report to Congress within 90

days of enactment, setting forth a plan for the scientific study and testing of mycoherbicides as a means of illegal drug crop elimination. Mycoherbicides are naturally occurring fungi that can be used to target and eliminate specific types of plants. As they are naturally occurring, they do not involve chemicals or other pesticides, nor do they involve any kind of genetic modification or manipulation. They might, after appropriate testing, prove to be an effective, environmentally safe means of eradicating drug crops (such as coca and opium), reducing or perhaps even eliminating the need for aerial spraying or manual eradication. Their use may become particularly necessary if, as is already the case with many commercial crops, spray-resistant strains of drug crops are developed.

The mandated study requires only a controlled, scientific study, which would be subject to a thorough peer review. Its purpose is simply to obtain scientific evidence about the safety and effectiveness of mycoherbicides, and not to endorse or disapprove of the use of them. The report therefore should omit statements of policy preferences with respect to the use of mycoherbicides, and confine itself to scientific evaluation. Moreover, the primary participants in the study should be plant and fungal pathologists, together with scientific experts in ecology and environment. The study should not involve economic, political, or law enforcement experts, whose judgment should be sought only after the efficacy and safety of mycoherbicides has been established.

The testing required by the study may be conducted in any drug producing country, provided that the mycoherbicides are naturally occurring in that country. The Committee notes that, as the U.S. is itself a drug-producing nation, such testing could take place domestically.

It is important that any scientific study thoroughly evaluate any potential health or environmental risks. The Committee therefore adopted an amendment proposed by the Ranking Member of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, Elijah Cummings, that specifically required this critical aspect of the study.

F. Amendments relating to coordination with other agencies (section 107)

Section 107 restates and expands requirements of existing law relative to reporting on matters related to drug control of individual Cabinet departments. The additions made by the Committee to existing law primarily relate to statistics that will allow better evaluation of resource allocation for drug control activities within individual agencies. As previously described, the Committee has significant concern at the impact of diversion of drug control assets to unrelated missions, and believes that the mandated reporting will assist in oversight and monitoring in that respect.

G. Development, submission, implementation, and assessment of National Drug Control Strategy (section 108)

The coordination and development of the National Drug Control Strategy is one of the primary and most important responsibilities of the Director. The bill revises the process for development and issuance of the Strategy. In doing so, the Committee believes that the Strategy will be enhanced through the inclusion of more spe-

cific and comprehensive information on U.S. drug control efforts. The bill also modifies previous law to include clearer and more specific performance and outcome goals and objectives.

The bill approved by the Committee and the House during the 108th Congress, H.R. 2086, adopted an approach recommended by ONDCP that would have "streamlined" the annual Strategy by repealing numerous specific statutory requirements governing the issuance of the Strategy and replacing them with much more general guidelines reflecting the general goals of previous law. Since 2003, however, the Committee has become increasingly concerned about the lack of specific and comprehensive information in the Strategy reports, even under existing law. The Strategy will serve little purpose if it simply states the general goals of the Administration, and includes only a few facts chosen to bolster certain policies.

This bill therefore seeks to strike a compromise between the outdated details required under current law, and the overly general method proposed by ONDCP. The information required by the bill would help make the Strategy a truly comprehensive report on the status of Federal drug control efforts, and the Administration's plans to reduce illegal drug use. The Committee believes that the Strategy should help Congress and the public evaluate how well current policies are working, and what improvements may be in order.

Future Strategy reports issued under the bill's new requirements will include data not simply on overall trends in drug trafficking and abuse in the U.S., but will also include information on newly emerging regional or local drug threats—and the Administration's plans for addressing them. For example, future Strategy reports should look carefully at the growing problem of methamphetamine trafficking and abuse, which has spread from California and the Western states to the Midwest and now even the East Coast. The Committee believes that ONDCP must be more proactive in seeking to contain these emerging threats, rather than simply reacting when they have spread out of control.

To better help ONDCP collect this information, and devise policies to address it, the bill requires ONDCP to consult with a wide array of agencies, organizations, and individuals involved in every aspect of drug control. The Committee is particularly concerned about the lack of consultation and communication between ONDCP and State and local agencies in recent years. For example, oversight hearings conducted by the Subcommittee on Criminal Justice, Drug Policy and Human Resources revealed that ONDCP and the Administration failed to consult any State or local officials before proposing to move the High Intensity Drug Trafficking Areas (HIDTA) program from ONDCP to the Department of Justice. State and local agencies are on the "front lines" in the fight against drug trafficking and abuse, and their experience, knowledge, and assistance are invaluable to the success of the nation's drug control policy. The Administration should not make major strategic and budgetary decisions affecting them without at least seeking their input.

The bill also includes more detailed and specific overall performance measurements, most notably requiring an assessment of Federal effectiveness in accomplishing the previous year's Strategy that includes a specific evaluation of whether the targets for reduc-

ing drug use were met. The intention of the Committee is that such an assessment should be conducted using data for the previously completed fiscal year and any available data from the current fiscal year at the time of the issuance of the Strategy.

The bill also includes a new requirement that the Committee believes will substantially increase the accountability and responsiveness of each individual Drug Control Program Agency. Incident to issuance of the Strategy, the Director is required to annually issue a supplement reviewing the activities of each individual Drug Control Program Agency with respect to the National Drug Control Strategy and the Director's assessment of the progress of each agency in meeting its responsibilities thereunder. Previously, agencies were not held individually accountable for the overall results of the Strategy, and the Committee believes that such a public "report card" will increase agency responsibility and stake holding in the overall progress of the national Strategy.

Finally, the bill includes a new requirement that the Strategy include data and information to permit a standardized and uniform assessment of the effectiveness of drug treatment programs in the United States. As previously discussed, the Committee believes that the development of uniform measurements in this regard is critical to performance and outcome evaluation of Federally supported drug treatment programs, as well as to the development of Federal strategy with respect to drug treatment programs. Simply put, there is no widely accepted or defined set of measurements for "what works" in drug treatment, and development of such measurements is essential.

H. High Intensity Drug Trafficking Areas Program (section 109)

The reauthorization of the High Intensity Drug Trafficking Areas (HIDTA) Program is critical to the nation's efforts to reduce the supply of illegal drugs. As explained in more detail below, the purpose of the program is to facilitate Federal, State and local law enforcement anti-drug cooperation in areas with significant narcotics trafficking problems that harmfully impact other parts of the nation.

1. Overview and history

The HIDTA program, ONDCP's principal law enforcement assistance initiative, was first authorized in 1988 by the legislation creating ONDCP, and reauthorized in 1993 and 1998. Under the program, the Director may designate a specific geographic area within the United States as a high intensity drug trafficking area. (The term "HIDTA" refers to an individual high intensity drug trafficking area designated by the Director under the program.) Each HIDTA is then eligible to receive Federal assistance and funding for joint Federal, State and local law enforcement initiatives targeted at drug trafficking activity. The first five HIDTAs (Houston, Los Angeles, New York/New Jersey, South Florida, and the Southwest Border) were designated in 1990; the program has since expanded to 28 HIDTAs as of fiscal year 2005.

2. Retention of HIDTA Program by ONDCP

In February 2005, the Administration proposed (as part of its fiscal year 2006 budget proposal) to move the program from ONDCP to the Organized Crime Drug Enforcement Task Force (OCDETF) program at the U.S. Department of Justice. The Committee has carefully considered the Administration's proposal, but does not agree with it. Such a move would severely undermine Federal, State, and local drug enforcement cooperation and coordination.

The Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing on March 10, 2005 concerning this issue, receiving testimony from a number of State and local officials who actively work with the HIDTA program. Not one of them supported moving the program into OCDETF. After the hearing, letters were sent to each of the directors of the HIDTAs, seeking their expert opinions. Again, not one of them supported moving the program.

The witnesses cited numerous reasons for opposing the move. First, OCDETF is a very different program, primarily designed to bring existing State and local cases into Federal court by providing funding through the U.S. Attorneys' offices. HIDTA, by contrast, seeks to bring together Federal, State, and local law enforcement agencies in cooperative operations, intelligence sharing, and investigations.

Second, the move threatens to undo the significant progress made by the program in promoting Federal, State, and local cooperation. Currently, each HIDTA has an executive board made up of equal representatives of Federal agencies on the one hand, and State and local agencies on the other. The boards decide how to allocate their HIDTAs' budgets among various task forces and other operations. This equal voice for State and local agencies has generated an unprecedented level of cooperation on the part of all participants. Despite this, the Administration's representatives who testified at the March 10 hearing declined to state whether they would continue this equal representation. The Director of OCDETF, Catherine O'Neil, simply stated that her program would "study" the HIDTA program if granted control by Congress, and make changes at a later date.

The Committee believes that it is very unlikely that State and local agencies will be willing to make significant contributions of their personnel and resources to HIDTA task forces if they believe they will not have an equal say in their deployment. The Administration should not request the authority to change this program before deciding what changes to make, or even whether change is necessary.

Third, while the Administration relies heavily on the HIDTA program's Program Assessment Rating Tool (PART) review—which claimed that HIDTA had failed to demonstrate results—for its argument that the program must be overhauled, that reliance is misplaced. The PART review was significantly undermined by ONDCP's apparent failure to provide sufficient information about the HIDTA program's results to the Office of Management and Budget (OMB), and also its failure to establish specific performance measures in time for the review. Had OMB even been given the complete annual reports of the individual HIDTAs—which detail the many investigations, arrests, seizures, and other actions funded by the program—it is difficult to see how the HIDTA program

could have been graded significantly worse than the Drug Enforcement Administration, the Coast Guard, or any other drug enforcement agency.

Finally, the Administration's argument that the program should be transferred to OCDETF to consolidate drug enforcement programs within the Department of Justice is not supported by the record. First, even within the Federal Government, drug enforcement cannot be "consolidated" within the Justice Department. Most Federal drug interdiction personnel are employed by agencies at the Department of Homeland Security, namely the Coast Guard, Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE), each of which participate in individual HIDTAs. ICE and the Internal Revenue Service (IRS, which also participates in HIDTAs) also engage in significant drug enforcement and money laundering investigations.

The Committee also notes that, although the Justice Department certainly plays a vital role in drug enforcement—both through the investigative work done by DEA and the Federal Bureau of Investigation (FBI), and through prosecutions in Federal court by the U.S. Attorneys' offices—that Department does not have an exclusive focus on drug control. Instead, drug enforcement is but one of many disparate missions that the Justice Department must balance. ONDCP, by contrast, is exclusively dedicated to drug control. It is not forced to divert resources or attention to other matters. Thus, an anti-drug trafficking program like HIDTA, which brings together Justice Department and non-Justice Department Federal drug control agencies, as well as State and local drug control agencies, is much better located within ONDCP.

The bill thus keeps the HIDTA program under the management of ONDCP. The bill does, however, include provisions designed to improve coordination of HIDTA activities with those of OCDETF (as well as other Federal anti-drug task forces), as described below.

3. Program purposes

Prior legislation did not include an explicit statement of the purposes of the program. While those purposes were long understood by both Congress and ONDCP, the Committee believes that an explicit statement will help to define more clearly the mission of the program. Accordingly, new section 707(a)(2) provides such a statement. The new subsection clearly defines the program as a law enforcement assistance and cooperation program designed to reduce the supply of drugs within the nation as a whole, and in the designated areas.

4. Designation of high intensity drug trafficking areas; criteria for designation

New section 707(b) provides that the Director shall retain authority to designate individual HIDTAs. The bill adds the Secretary of Homeland Security to the list of officials that the Director should consult with before making such a designation, to reflect the creation of the Department of Homeland Security containing some of the Federal Government's principal drug interdiction agencies. New section 707(c) requires the Director to establish a formal application process for areas seeking designation as a HIDTA; no such formal process currently exists.

The bill retains the four criteria originally specified by Congress for designation of a HIDTA, but clarifies them where necessary to ensure that the program remains focused on reducing illegal drug trafficking both in the nation as a whole, and in the designated areas. The criteria reflect the Committee's belief that while all aspects of the drug problem must be addressed by the nation's anti-drug strategy, the specific focus of the program must remain on combating the illegal supply of drugs to the entire U.S.

The Committee further notes that in determining whether the second criterion (section 707(d)(2)) has been met, and in allocating funds under the program, the Director should take into account the willingness of State and local law enforcement agencies to cooperate with their Federal counterparts with respect to all narcotics activity illegal under Federal law. The program is a Federal program, and the Committee has grave concerns about activities of certain State and local law enforcement agencies directly participating in the program that have actively hindered enforcement of Federal narcotics law. Such a failure to fully cooperate indicates a lack of (1) full commitment of resources to respond to the problem of drug trafficking, and (2) a determination to respond aggressively to the problem, and the Director should consider such activities in reviewing the designation of and discretionary funding for each HIDTA.

Unlike the legislation approved by the Committee and the House in 2003 (H.R. 2086, 108th Congress), this bill does not include an express provision authorizing the Director to revoke the designation of all or part of an area as a HIDTA. The sudden and potentially arbitrary "de-designation" of a HIDTA could have a very serious and detrimental effect on the task forces and other operations using HIDTA funding, and even the prospect of it might discourage State and local agency participation. The Committee believes that the most practical and responsible mechanism for reducing or eliminating an area's participation in the HIDTA program is through the budget process outlined in new section 707(i) (see below). If the Director believes that program funds should no longer be spent in a given area, the Director may simply request no funds for that area.

5. Organization of high intensity drug trafficking areas

As mentioned above, one of the key ingredients in the success of the HIDTA program has been the equal representation of Federal agencies on the one hand, and State and local agencies on the other, on the executive board of each HIDTA. Accordingly, the bill seeks to protect this success by explicitly defining the role of the boards, and mandating the balance in voting representation.

Under the bill, the boards remain responsible for the administrative management and funding allocations of their respective HIDTAs. The bill requires that each board have an equal number of votes for Federal agency representatives on the one hand, and State and local agencies on the other (State and local agency representatives being treated as a single contingent, rather than as separate contingents, under this bill). An executive board meeting must not be conducted in such a way that either the Federal representatives, or the State and local representatives, may be outvoted as a bloc. This will help prevent each HIDTA from being dominated either by Federal agencies, or by State and local agen-

cies, but will instead remain fully collaborative and cooperative joint enterprises against drug trafficking.

While none of the HIDTA directors, who were each contacted in writing by the Subcommittee on Criminal Justice, Drug Policy and Human Resources, opposed maintaining that voting balance, both ONDCP and certain HIDTAs expressed concern that it is not always practical for an equal number of Federal agency representatives and State and local agency representatives to attend every executive board meeting. This is particularly true for HIDTAs that include parts of more than one State, often spread out over a wide geographic area.

In response, the Committee amended this provision to allow individual HIDTAs to use weighted or proxy voting systems to achieve voting balance. For example, if only 4 Federal agency representatives could attend an executive board meeting in person, but 12 State and local agency representatives would be attending, the board could provide each Federal agency representative with 3 votes, thus ensuring that the Federal agency representatives could not be outvoted.

Testimony and other information received by the Subcommittee on Criminal Justice, Drug Policy and Human Resources indicate that most executive boards experience little disagreement between their Federal, State, and local representatives, and make most decisions unanimously. The Committee is pleased that that is the case, and hopes that such harmony will continue. However, the Committee believes that that kind of cooperation is supported and strengthened by equal partnership.

As noted above, the Committee believes that it is important for the bill to define the role and responsibility of each HIDTA executive board. In response to concerns raised by ONDCP, however, the bill includes language clarifying that these provisions should not be interpreted to create an "agency" relationship between the individual HIDTAs and the Federal Government. Although each HIDTA provides funding for various drug enforcement activities, those activities are actually undertaken by individual law enforcement agencies—Federal, State, and local. The actual operations are the responsibility of the participating agencies, and as such they, and not the individual HIDTA or ONDCP, would be liable for those operations.

6. Use of funds

Although the program is a law enforcement initiative, several HIDTAs have spent program funds on drug treatment and drug use prevention (demand reduction) activities. While the Committee strongly believes that the Federal Government should provide support to these activities, the HIDTA program is generally not the appropriate vehicle. Drug treatment and drug use prevention should be carried out by those agencies and programs that specialize in these activities; this program should remain focused on its law enforcement purpose.

The 1998 reauthorization legislation sought to redirect the program back to drug supply reduction by specifying that no program funds could be spent to establish or expand drug treatment programs (21 U.S.C. 1706(d)). New section 707(f) would extend this restriction to drug prevention programs. While existing HIDTA fund-

ing for treatment or prevention programs could be continued (at least until alternative sources of funding are found), that funding could not be increased or used for new programs with HIDTA dollars.

7. Terrorism activities

In the wake of the September 11, 2001 terrorist attacks, many Federal agencies, including ONDCP, have reallocated resources to meet the increased threat of terrorism. The HIDTA program in particular made its intelligence-gathering and analysis resources available to agencies conducting investigations of terrorist threats. While the Committee believes that such temporary reallocations make critical contributions and are appropriate where needed, care must be taken that significant resources are not directed away from the primary mission of fighting traffic in illegal drugs. Accordingly, new section 707(g) addresses the use of HIDTA resources in anti-terrorism investigations. The bill permits the use of program resources to assist Federal, State and local law enforcement agencies investigating terrorism. However, such assistance must remain incidental to the program's primary mission of reducing drug availability, and the Director is required to ensure that significant resources are not diverted away from that mission.

8. Role of Drug Enforcement Administration

Under program regulations, each HIDTA is required to create and maintain an Intelligence Support Center, where law enforcement personnel collect and analyze intelligence shared by participating agencies. In most HIDTAs, the Drug Enforcement Administration has taken an active role in these Centers, reflecting that agency's expertise in the analysis of drug trafficking intelligence and overall leadership in Federal drug enforcement. New section 707(h) provides that the Director, in consultation with the Attorney General, shall ensure that at least one representative of DEA is included in each Center. The Committee also believes that such involvement will assist in maintaining appropriate focus within each HIDTA on national drug traffic.

9. Annual HIDTA Program budget submissions

The original authorizing legislation and subsequent reauthorizations did not specify how ONDCP was to allocate the funds appropriated for the program among the various HIDTAs; that determination was instead left to the discretion of the Director. Even as the program has grown from five HIDTAs and a budget of $25,000,000 in fiscal year 1990 to 28 HIDTAs and $227,000,000 in fiscal year 2005, however, the actual discretion of the Director has shrunk. Appropriations acts have mandated that no HIDTA may be funded at a level below the previous fiscal year; the Director has thus retained true discretion over only approximately $20,000,000 of the current budget allocation.

ONDCP has indicated that without discretion over the HIDTA program budget, its ability to effectively manage the program and direct resources to where they are needed most is greatly reduced. The Committee shares that concern, but also notes that giving absolute discretion to ONDCP or any other Federal agency to make dramatic annual changes in individual HIDTA budgets could have

negative consequences. State and local agencies make significant contributions to the HIDTAs, and without their active participation, the program would not exist at all. Many of these agencies, however, would be reluctant to make long-term commitments of personnel and other resources to HIDTA task forces or projects if the Federal contribution were unpredictable or constantly changing.

The bill seeks to strike a balance between the need for HIDTA dollars to go where they are most needed, and the need to maintain enough continuity to allow the Program to function with State and local support. The bill does not expressly give absolute discretion to the Director to shift funds among the HIDTAs over the short-term. However, it does require the Director to submit, as part of the Administration's annual budget proposal to Congress, specific budget requests for each individual HIDTA, with an explanation of the rationale for each request. The Director could therefore propose a reallocation of funds among the various HIDTAs, explaining how the reallocation would better serve the purposes of the program and the National Drug Control Strategy.

ONDCP has expressed concerns about this provision. In particular, since budget proposals are drafted well in advance not only of the President's final budget request, but also of the final funding decision made by Congress, it is possible that the Directors' proposals for the HIDTAs would be based on increasingly "stale" information. This is a genuine concern, but it is probably unavoidable. As indicated previously, State and local agencies face the same long-term budget allocation process that the Federal Government does. It is unrealistic to expect them to make long-term contributions to the HIDTA program if the Federal Government is unwilling to do so.

Moreover, this criticism overlooks the fact that the HIDTAs' budgets are currently based on information that is even more "stale"—as those budgets have been locked at their late-1990's levels. Although a process that requires longer-term planning than ONDCP would like may not be ideal, it is undoubtedly preferable to a process that allows no practical flexibility at all.

The Committee is also aware of concerns raised by some law enforcement officials regarding the impact these provisions may have on the budgets of individual HIDTAs. The Committee believes, however, that given the changing patterns of drug trafficking in the nation as a whole, the Director must have some ability to adapt the program to meet shifting threats. A HIDTA's budget must be based on the facts, the threat assessment and the role of each HIDTA in reducing national drug traffic, and not simply on administrative convenience or political considerations.

The Committee also acknowledges the concern raised by some law enforcement officials that an excessive focus on Federal missions may discourage State and local law enforcement agencies from fully participating in the program. This concern arises not simply in connection with the allocation of funds among the HIDTAs, but also in the choice of which initiatives each HIDTA will fund and which targets it will pursue. The Committee believes that ONDCP should take affirmative steps to ensure that these concerns are addressed to ensure the full and active cooperation of State and local law enforcement in the program. At the same time,

it is important to remember that since not every part of the country can receive assistance under the program, those areas that are designated as HIDTAs have a responsibility to spend Federal funds in a manner that has demonstrable benefits not simply within the HIDTA, but for the rest of the country as well.

10. Emerging threat response fund

Although, as discussed above, the budgets of the individual HIDTAs have been kept level by annual appropriations acts, the Director has had real discretion over approximately $20 million of the overall program budget. These funds have historically been used to fund initiatives within certain HIDTAs, often targeted at drug trafficking organizations on the Consolidated Priority Organization Target (CPOT) or Regional Priority Organization Target (RPOT) lists compiled by the U.S. Department of Justice. They have also been used to meet urgent drug control needs, as in 2002 when the Director used some of this discretionary funding to ensure the continued assistance of National Guard officers to border inspectors in the Southwest Border HIDTA.

The Committee considers these to be fully appropriate examples of uses for these funds, and believes that such discretionary funding authority should be preserved. The bill would therefore permit the Director to expend up to 10 percent of total appropriated funds on a discretionary basis, to respond to any emerging drug trafficking threat in an existing HIDTA, or to establish a new HIDTA or expand an existing HIDTA. The bill includes criteria for allocating these discretionary funds, in particular the impact of activities funded on reducing overall drug traffic in the United States, or minimizing the probability that an emerging drug trafficking threat (such as the growing epidemic of methamphetamine trafficking) will spread to other areas of the United States. The bill authorizes the Director to use additional criteria, in his discretion.

11. Evaluation

The bill requires, within 90 days of enactment, an initial report by the Director to Congress, describing the purposes, goals and objectives, means of evaluation, and reporting requirements needed for each HIDTA. In each subsequent National Drug Control Strategy report, the Director is also required to submit a restatement of the goals and objectives of each HIDTA, and provide an evaluation of each HIDTA.

This provision responds to the criticism contained in the Office of Management and Budget's (OMB) Program Assessment Rating Tool (PART) review of the HIDTA program, namely that the HIDTA program had not "demonstrated results." As described above, this was largely due to the failure of ONDCP to provide sufficient data to OMB to enable it to conduct a complete evaluation of the HIDTA program. By requiring an annual review and evaluation of the program, this problem should be avoided in the future.

The Committee notes that much of the information needed for this evaluation is already being provided by the individual HIDTAs themselves, which issue annual threat assessments and annual reports on their expenditures and results. The Committee is further encouraged by the recent announcement by the National HIDTA Directors Association that the individual HIDTAs have agreed on

a system of performance measurement and data reporting. The Committee believes that the individual HIDTAs have demonstrated a strong commitment to high standards of management and accountability, and urges ONDCP to work closely with them to achieve even better results.

12. Assessment of drug enforcement task forces in high intensity drug trafficking areas

The bill requires, not later than 180 days after enactment, and as part of each subsequent National Drug Control Strategy report, an assessment of drug task force activity within each HIDTA, including (among other things) an evaluation of the level of cooperation and coordination between those task forces. One of the key purposes of the HIDTA program (as defined in this bill) is to "facilitat[e] cooperation among Federal, State, and local law enforcement agencies to share information and implement coordinated enforcement activities". As such, it is important to evaluate the extent and nature of coordinated activities, which most often take the form of "task forces" made up of personnel from multiple Federal, State, or local agencies.

ONDCP has raised concerns about including information about task forces which do not receive direct Federal funding or support, fearing that this might prove burdensome. The Committee notes, however, that the assessment required under the bill only includes task forces operating within a HIDTA; while such task forces may be numerous, they are certainly not unlimited. The HIDTAs themselves, which operate locally and work closely with State and local agencies involved in drug control, will almost certainly be able to collect much of this information for ONDCP. Moreover, an assessment that included information only on federally funded task forces would give an incomplete picture of drug enforcement activity within each HIDTA. It is important to look at all task force activity to determine whether coordination and cooperation have actually been maximized in a HIDTA, or could be further expanded and improved.

13. Assessment of intelligence sharing in High Intensity Drug Trafficking Areas Program

The bill includes a requirement for a comprehensive annual review of intelligence sharing among, and systems used by, agencies and drug task forces receiving Federal funding within each HIDTA. The review is not limited simply to agencies or task forces directly participating in the HIDTA, but to any that receives any Federal funding. As one of the primary purposes of the HIDTA program is to "enhanc[e] intelligence sharing among Federal, State, and local law enforcement agencies", it is vital that ONDCP assess the extent of such enhancement, and identify ways in which intelligence sharing could be improved.

14. Authorization of appropriations

The bill authorizes increases in the program budget through fiscal year 2010, to meet shifting drug trafficking threats, and to accommodate the rising costs borne by drug enforcement agencies. However, the Committee believes that substantial increases in funding may not be necessary for the program to achieve its objec-

tives; rather, what may be needed is better management of existing resources on the basis of thorough, fact-based analysis of the drug trafficking threat.

I. Dawson Family Community Protection Act (section 110)

The bill includes the Dawson Family Community Protection Act (H.R. 812), originally introduced by Representative Elijah Cummings, the Ranking Member of the Subcommittee on Criminal Justice, Drug Policy and Human Resources. Section 110 contains H.R. 812 in its entirety with only conforming changes. The Committee shared the shock of all Americans at the violent death of members of the Dawson family at the hands of drug traffickers, and strongly supports the findings and witness protection initiatives included in the bill.

The findings are outlined clearly. They indicate that while many citizens and their families want to cooperate with law enforcement authorities to rid their neighborhoods of the scourge of drug trafficking, the threat of retaliatory violence makes such cooperation extremely dangerous, particularly in lower income and minority communities. The murders of the Dawson family in East Baltimore City, Maryland are a tragic illustration of this growing problem.

Accordingly, new section 707(o) provides that at least $5,000,000 of the amounts appropriated for the HIDTA program shall be used in HIDTAs with severe neighborhood safety and illegal drug distribution problems. These funds are to be used in the manner provided for in new section 707(o)(2), for example by protecting potential witnesses and facilitating citizens' communication with law enforcement authorities concerning illegal drug trafficking in their neighborhoods.

J. Amendments relating to Counter-Drug Technology Assessment Center (section 111)

The bill changes the current designation of the head of the Counter-Drug Technology Assessment Center (CTAC) from "Director of Technology" to "Chief Scientist," which reflects customary usage in the field.

The remainder of section 111 primarily restates much of the existing law, with the most substantial amendments reserved for the Technology Transfer Program. This program, which authorizes CTAC to purchase technology and transfer it to State and local drug enforcement agencies, is amended to include a new system of priority in making the transfers. Among other things, the Chief Scientist is to give priority in distributing law enforcement assistance developed under the program most likely to assist in drug interdiction and border enforcement to southwest border areas and northern border areas with significant traffic in illegal drugs. The Secretary of Homeland Security is also added as an official required to assist in the assessment of counter-drug technology.

The bill also requires an annual report by the Director on the management of the Technology Transfer Program. The report is to include information both on transfers requested, and transfers actually made. In response to concerns raised by ONDCP, the Committee revised the bill to ensure that it did not call upon ONDCP to release information about specific requests that were denied. In-

stead, the Committee believes the report should include information on the criteria that were used to accept or reject requests.

K. National Youth Anti-Drug Media Campaign (section 112)

The National Youth Anti-Drug Media Campaign (Media Campaign) is in all likelihood the single most important drug prevention program operated by the Federal Government and one of the most critical tools for achieving the President's goal of specific reductions in drug abuse among youth. At the same time, however, the program has presented some of the greatest challenges for reauthorization, as the Committee has been required to consider a number of issues relating to program focus, management, and performance evaluation. The bill responds to these needs and challenges by strongly supporting the continuation of the Media Campaign through a five-year reauthorization, subject to several reforms intended to address ongoing issues.

The bill incorporates authorization for the Media Campaign, which previously had been constituted by free-standing authorization, into the Office of National Drug Control Policy Reauthorization Act. Unless otherwise indicated in this report, it primarily retains the program structure and authorities existing in the previous authorization. The Committee made the following reforms to the program:

1. Statement of purposes

The bill clarifies the purposes of the Media Campaign, to make clear that the focus of the program is to support mass media advertising aimed at preventing drug abuse, predominantly through television, radio, and print. Oversight activities have suggested that the Media Campaign may be losing its focus through diversification into a number of other activities not directly related to mass media advertising. Such diversification suggests a significant risk that instead of concentrating on doing its primary job well, the program could be weakening its impact by attempting to dabble in too many other areas simultaneously. As originally envisioned when first authorized, Congress supported the Campaign for the primary purpose of supporting mass media advertising, and the Committee expects that function to continue to serve as its main and overriding goal.

2. Use of funds

New section 709(b) contains a list of permitted uses for Media Campaign funds, the most important of which is the purchase of advertising time and space. As explained in more detail elsewhere, bringing anti-drug advertisements to the viewing public is the primary purpose of the program.

The bill reported by the Committee does not contain an express provision as to the specific subject matter of Media Campaign-funded advertisements, beyond the general guidelines contained in new section 709. The Committee believes, however, that it is vital for the Media Campaign to dedicate at least some if its resources to respond to specific, severe, and emerging drug threats, even if (in some cases) those threats are regional and not yet present in every part of the nation.

For example, the Committee believes that ONDCP should undertake a significant advertising campaign to combat the growing epidemic of methamphetamine abuse. Methamphetamine is a particularly addictive and debilitating drug, whose rapid spread across the U.S. threatens to impact virtually every community. Although the reported number of users of methamphetamine (according to national use surveys) does not yet equal the number of users of some other drugs, the rapid growth of the problem, and the severe individual and societal costs created by it, should make it a high priority for the Federal Government. As our nation's primary drug use prevention program, the Media Campaign must not remain silent about methamphetamine and similar emerging drug threats.

3. Creative services

In considering the question of obtaining creative services for Campaign advertising, the Committee is forced to balance the original vision of the program that such services should almost entirely be provided on a pro bono basis by leading advertising firms against the demonstrated need of the Director for occasional flexibility in creating advertisements to respond to emergent needs or special requirements. The most important example of the requirement for such flexibility is the well-known "Drugs and Terrorism" campaign developed quickly in the wake of the September 11, 2001 terrorist attacks.

New section 709(b)(2)(A)(i) provides that the Director "shall use creative services donated at no cost to the Government wherever feasible" and may only procure creative services for advertising responding to high-priority or emergent campaign needs that cannot timely be obtained at no cost or are intended to reach a minority, ethnic or other special audience that cannot be reasonably be obtained at no cost. The Committee strongly emphasizes that the use of such authority to procure creative services should be exercised as a rare exception to the pro bono model in necessary circumstances, and not as a rule. Further, new section 709(b)(2)(A)(ii) limits the amount which can be expended on creative services to no more than $1,500,000 each fiscal year, except that the Director may expend up to $2,000,000 to meet urgent needs on advance approval from the Committee on Appropriations. Again, the Committee strongly emphasizes that this authority should be used sparingly and that the expenditure limits are maximums and not recommended amounts for such spending.

4. Evaluation

Perhaps the most significant issue facing the Media Campaign is the need for appropriate means to evaluate the effectiveness of individual advertisements and of the Campaign as a whole. Under the previous authorization, the Office procured an elaborate and expensive evaluation of the program conducted by Westat that returned inconclusive results difficult to reconcile and consider in the context of the performance goals of the President's strategy. The Committee agrees with the Director that the Media Campaign is better served by methods of evaluation that are less costly and elaborate and are tied to performance goals and well-established industry standards.

Accordingly, the bill in new section 709(b)(2)(B) requires testing of all Campaign advertisements (with limited stated exceptions) to ensure that that they are effective and meet industry-accepted standards. More broadly, new section 709(b)(2)(C) requires evaluation of the effectiveness of the Campaign as a whole based on data from several accepted studies that track the level of youth drug abuse. In doing so, the Committee intends to rely predominantly on performance measurements that can be directly evaluated, particularly in reference to the statutory requirement for each annual Strategy to include specific targets to reduce drug abuse.

The bill also specifically requires the Campaign to be evaluated in a manner that enables discrete consideration of whether and how it has contributed to reductions of illicit drug use among youth. The Committee intends to ensure that some method of evaluation be conducted to permit consideration of the results of the program proper, and not merely of general success in reduction of youth drug use, which could be subject to a widely varying array of factors unrelated to the Campaign. Such measurements are critical to ensure continued review, performance measurement, and accountability for the program. The Committee fully agrees with concerns that have been raised in this regard by the Committee on Appropriations.

5. Purchase of advertising time and space

The Committee requires in new section 709(b)(3) that a fixed percentage (normally 77 percent, but rising to 82 percent if the program's budget falls below $125 million, and falling to 72 percent if the budget rises above $195 million) of amounts appropriated for the Campaign shall be used for the purchase of advertising time and space. As previously stated, these were the primary intended purposes of the Campaign when first created. The Committee believes that the restriction is an important means to maintain the focus of the program. The Committee fully agrees with concerns that have been raised in this regard by the Committee on Appropriations.

When the Subcommittee on Criminal Justice, Drug Policy and Human Resources first considered reauthorizing legislation in 2003, the bill before it (H.R. 2086, 108th Congress) contained an additional restriction permitting no more than 3 percent of program funds to be expended on certain ancillary activities of the Media Campaign, such as entertainment industry outreach, corporate outreach, additional media and public information efforts, and community partnerships. The Committee ultimately determined that such a restriction was not necessary in light of the restriction contained in new section 709(b)(3), which ensures that proper resources are dedicated to the intended focus of the campaign and will require reevaluation of program spending for purposes that would have been covered by the 3 percent cap. This bill again omits the 3 percent cap for that reason.

The Committee strongly emphasizes its view that, of the activities that would have been subject to that 3 percent restriction (those authorized in subparagraphs (G) and (H) of new subsection 709(b)(1)), the Media Campaign should make interactive outreach and efforts to reach minority and underserved communities a priority. Such activities currently account for 1.4 percent of program

spending and easily would have been accommodated under the 3 percent cap. The Committee continues to have significant reservations about the effectiveness, lack of meaningful performance measurement, and potential for lack of focus implicated by the other activities that would have been subject to the cap, such as entertainment industry outreach and corporate partnerships. It will continue to conduct careful oversight of those activities.

Both ONDCP and the Partnership for a Drug Free America (PDFA) have opposed the provision requiring that 82 percent of the Campaign's Federal dollars be spent on purchases of time and space for anti-drug advertising, if the Campaign's budget falls below $125 million. (As noted above, if the budget is above $125 million, this "floor" would only be 77 percent.) ONDCP argues that this might force the Campaign to abandon its efforts to do Internet advertising and other, less traditional media activities, and reduce its ability to conduct testing of advertisements before airing them.

When the Committee considered this same provision in 2003, ONDCP did not express strong concern about this provision, because the Campaign's budget was $145 million and the Senate's proposed legislation included an 80 percent minimum floor, regardless of budget size. Now, however, the fiscal year 2005 budget for the Media Campaign is only $120 million, and the Administration has lowered its request for fiscal year 2006 to that amount, meaning that the 82 percent floor would apply.

The Committee has strongly supported increased funding for the Media Campaign, and sympathizes with the restrictions such low budgets place on the Media Campaign's activity. Again, however, the original intent, and primary purpose, of the Campaign is to get anti-drug advertisements on the air. When the budget is shrinking, and advertising costs are going up, "diversifying" into other areas (however great their future potential), or conducting some kinds of testing of advertisements (however desirable) simply is not feasible. Difficult choices must sometimes be made in a time of declining resources. The Committee does, however, pledge to continue to work with ONDCP to help resolve its difficulties with managing the Media Campaign.

6. Division of responsibilities and functions under the program

The Partnership for a Drug-Free America, a pro bono coalition of leading advertising agencies, has served as a national leader in drug prevention advertising since well before the creation of the Media Campaign, which was intended to take maximum advantage of the skills and expertise of the Partnership in conducting the Campaign. The bill provides that the Partnership for a Drug Free America shall serve as the primary outside strategic advisor to the Media Campaign and be responsible for coordinating donations of creative and other services to the Campaign. The Committee believes that this provision properly recognizes the historic role of the Partnership in national drug prevention advertising and its intended significant participation in the Media Campaign. It notes that the provision in no way undermines the Director's ultimate responsibility for, and control of, the Media Campaign.

7. Prohibitions

The bill retains prohibitions contained in existing law and tightens them in many respects to clarify that Campaign advertising may not be used for express advocacy in support of or to defeat any clearly identified candidate, clearly identified ballot initiative, or clearly identified legislative or regulatory proposal. In discussions among members of the Committee regarding the bill, there was clear bipartisan consensus in favor of such additional restrictions.

The bill also prohibits funding of 1) advertising that does not contain a primary message intended to reduce or prevent illicit drug use and 2) advertising containing a primary message intended to promote support for the Media Campaign or private sector contributions to the Media Campaign. Once again, the primary purpose of the Campaign is to prevent drug abuse among youth. The Committee on a bipartisan basis has been disturbed by Media Campaign advertising not directed at youth or parents to aid in youth prevention. Several advertisements funded by the Media Campaign in public opinion publications appeared focused on self-congratulation for the program itself and, perhaps indirectly, at winning support for the program within the policy community. These advertisements contained no direct drug prevention messages. Oversight activities of the Committee determined that a not insubstantial amount of campaign resources were expended in this regard. The Committee believes that such advertising is inappropriate within the Media Campaign and intends to prohibit it by these provisions.

8. Match requirement

New section 709(f)(1) retains the requirement of existing law that each advertisement purchased by the Campaign be matched in kind by the providers of advertising time and space. The requirement has been a highly successful component of the Media Campaign and the Committee recognizes the countless contributions of a diverse array of Americans to the Media Campaign under the matching requirement. The Committee further believes that ONDCP should seek voluntary matching or other contributions, whenever possible, from providers of other services to the Media Campaign.

A new provision, section 709(f)(2), is added relating to the allocation of advertising time obtained under the media match, requiring at least 70 percent of no-cost match advertising to directly relate to substance abuse. It is the intention of the Committee that the term "substance abuse prevention" in this section be interpreted to apply only to prevention of illicit drug use. Again, the provision is intended to maintain the focus of the Media Campaign on its intended primary purpose of airing anti-drug advertisements. While the Committee supports the limited provision of available match advertising time to community and other groups, the Campaign should first use available match advertising time in furtherance of its primary goal.

A related concern is addressed in new section 709(f)(3), which requires that no-cost match advertising not directly related to substance abuse include a clear anti-drug message, which is not required to be the primary message of the match advertising. It is

the Committee's intention that such a message may be brief and limited, such as a hypothetical "tag" at the end of the advertisement mentioning that participation in a community group using the time is "an anti-drug," or otherwise briefly reinforcing the prevention messages of the Campaign. As recipients of no-cost match advertising time are receiving free air time provided for the purpose of drug prevention advertising, the Committee believes that this requirement is appropriate within the overall context of the Campaign and does not impose an undue burden.

The inclusion of the requirement for a clear anti-drug message in each match advertisement made unnecessary a provision that would have removed the requirement for match advertising unrelated to drug prevention to be "tagged" as originating from the Office of National Drug Control Policy and the Media Campaign. While such a statutory clarification would continue to be wholly appropriate for match advertising containing no anti-drug message, the Committee believes that the mandatory inclusion of such a message in each advertisement makes it appropriate to continue identifying such advertising as originating with the Media Campaign.

9. Report to Congress

The bill requires an annual report to Congress on the Media Campaign, the requirements of which are clearly stated. The provision was originally included in legislation to reauthorize the Media Campaign sponsored during the 108th Congress by then-Representative Rob Portman.

Incident to debate at the 2003 markup of this bill's predecessor (H.R. 2086), the Committee notes its continued understanding that the Office of National Drug Control Policy has agreed to notify the Chairman and Ranking Member of the Subcommittee on Criminal Justice, Drug Policy and Human Resources in writing of new Media Campaign national television advertisements on the date of first airing, to provide a brief description of the subject matter of each advertisement, and to make those advertisements available for viewing by members of the Committee on request at ONDCP on the date of first airing. Such notification and availability is without prejudice to usual requests and oversight relating to advertisements after the date of first airing.

10. Local target requirement

This provision directs ONDCP, to the maximum extent feasible, to use amounts made available under this section for media that focuses on, or includes specific information on, prevention or treatment resources for consumers within specific local areas. The intent of the Committee is to ensure that the Media Campaign has the maximum direct impact on the target audience (most importantly, young people and their parents). As such, it is important that Media Campaign advertisements, where feasible, direct members of the audience to available resources within their communities, such as treatment facilities, community anti-drug coalitions, education centers, and similar resources. For example, it would be appropriate and advisable for advertisements funded by the Media Campaign to inform audience members in communities severely

impacted by methamphetamine abuse about further sources of information and assistance.

11. Prevention of marijuana use

New section 709(j) contains specific findings related to marijuana that are clearly stated, and specifically provides that the Director may emphasize prevention of youth marijuana use in conducting advertising and activities otherwise authorized by the bill.

Besides avoiding the serious health consequences of marijuana use itself, marijuana use prevention targeted at young people is critical to all forms of illegal drug use prevention. Studies show that of those who have ever used marijuana, those who started using marijuana early in life are 8 times more likely to use cocaine, 15 times more likely to use heroin, and 5 times more likely to use any illegal drug. As the primary "gateway" for young people to even more serious drug abuse, marijuana must be dealt with by any effective prevention program.

The Committee emphasizes, however, that this provision does not call upon the Media Campaign to be focused exclusively on marijuana prevention. Other severe drug threats, such as methamphetamine abuse, need to be addressed by the Media Campaign and other Federal prevention programs.

12. Authorization of appropriations (Media Campaign)

The Media Campaign is authorized to expend $195 million for each of Fiscal Years 2006 and 2007 and $210 million for each of Fiscal Years 2008 through 2010.

L. Drug interdiction (section 113)

The bill replaces the prior section 711 (21 U.S.C. 1710), which originally provided certain reporting requirements with respect to drug interdiction. Currently pertinent requirements of this nature have been moved to the sections relating to the National Drug Control Strategy and coordination with other agencies. Instead, the bill adds new requirements relating to the United States Interdiction Coordinator (USIC) and the Interdiction Committee (TIC).

1. United States Interdiction Coordinator

The United States Interdiction Coordinator (USIC) has played an important role under the authority of the Director in coordinating the drug interdiction activities of diverse Federal agencies, even though the position was not a statutory position before 2002. The creation of the Department of Homeland Security included the most prominent interdiction agencies (with the notable exception of activities of the Department of Defense) within a single Cabinet department. Accordingly, the legislation creating the Department in 2002 required the appointment of a Counternarcotics Officer within the Department of Homeland Security, and provided that that individual would concurrently serve as the USIC.

During the Committee's consideration of H.R. 2086 during the 108th Congress, however, the Director expressed concern that the mandated appointment of the Counternarcotics Officer as the USIC removed his discretion to appoint his own advisor. Accordingly, H.R. 2086 proposed to remove the mandated concurrent appointment and permit the Director to name any individual as the USIC,

so long as the individual did not concurrently serve as the head of any other Federal department or agency or any subdivision thereof with responsibility for narcotics interdiction activities. The Counternarcotics Officer of the Department of Homeland Security, however, would have been permitted to serve concurrently as the USIC given that the two positions share responsibilities in a number of respects. Although H.R. 2086 never became law, this approach was ultimately adopted by Congress when it replaced the Counternarcotics Officer position with the Office of Counternarcotics Enforcement (OCE) in December 2004. The Director of OCE currently is eligible, but is not mandated, to serve as the USIC.

As the Office of Counternarcotics Enforcement has established itself and begun its work within the Department of Homeland Security, it has become increasingly problematic for its Director to concurrently serve as the USIC. In part, this is due to the ambiguity inherent in forcing the same individual to report directly to both the Secretary of Homeland Security and the Director of ONDCP. It is unclear to whom the Director of OCE is ultimately responsible. More importantly, the mission of OCE, namely coordinating the counterdrug activities of the Department, is simply too large to allow sufficient time and attention for the mission of the USIC, which is to coordinate the entire Federal Government's drug interdiction activity.

The bill therefore ends the USIC position's "collocation" in the Department of Homeland Security and ONDCP, and assigns it to the Deputy Director for Supply Reduction at ONDCP. (A conforming amendment is made to the Homeland Security Act of 2002, to delete that act's reference to the USIC position in the description of the role of the Director of Counternarcotics Enforcement.) The USIC should serve as an agency-neutral coordinator and devote primary and exclusive attention to narcotics interdiction coordination. The bill defines the responsibilities of the USIC, and authorizes the Director to assign permanent staff, and to request detailed staff from interdiction agencies, to assist the USIC.

The bill also includes a requirement that the USIC, on behalf of the Director, issue a National Interdiction Command and Control Plan (NICCP) on an annual basis. The NICCP is currently issued under the auspices of the Director (acting through the USIC), but has not been updated since 1999. Although the various drug interdiction agencies have reportedly been working on a draft of a new NICCP, they had (as of the date of the Committee's action on this legislation) failed to agree on a final version. The Committee expects that, with this new statutory requirement for an annual NICCP, ONDCP and the various interdiction agencies will work to resolve their differences and make greater progress towards coordinated, cooperative, and effective drug interdiction operations.

The NICCP required by the bill is similar in function to the one issued in 1999, but is significantly more comprehensive. In particular, it must include a statement of interdiction strategy, a description of the specific roles and responsibilities of the various interdiction agencies in implementing that strategy, and a description of the specific resources (including equipment, personnel, technology, and their cost) needed to carry it out. The Committee believes that the NICCP, like many of the "strategic" documents issued by ONDCP and other drug control agencies, needs to be

much more specific and substantive to be of use to the Executive Branch and to Congress.

2. The Interdiction Committee

Like the USIC, the Interdiction Committee (TIC) has existed for many years, but to date has not been specifically authorized by statute. The TIC, organized under the authority of ONDCP, consists of the heads of each of the major drug interdiction agencies, and has historically been chaired by the Commissioner of the former U.S. Customs Service (now the Commissioner of the bureau of Customs and Border Protection at the Department of Homeland Security).

The bill defines the membership and role of the TIC, and gives the Director the authority to name its chair. To ensure the effectiveness of the TIC in bringing together the various drug interdiction agencies, the bill requires the listed individuals to meet in person at least once per year, in time to discuss the proposed NICCP and provide advice concerning it to the USIC. Subsequent meetings may be called by the Director or the chair of the TIC, and may be attended by delegates or representatives of the members.

M. Authorization of appropriations (section 114)

The authorization for appropriation of such sums as are necessary does not apply to the High Intensity Drug Trafficking Areas Program and the National Youth Anti Drug Media Campaign, each of which is provided with a specific authorization ceiling in the relevant section.

N. Technical amendments and repeal (section 115)

The bill repeals 21 U.S.C. 1509, which created the "Special Forfeiture Fund," as that mechanism is no longer used to appropriate funds for ONDCP.

An additional repeal made by the bill (through its replacement of former 21 U.S.C. 1708 with the revised Media Campaign provisions) is the repeal of the President's Council on Counter-Narcotics within the Executive Branch. As a practical matter, the body was never formally constituted and did not meet. The Committee believes that the Director has been provided clear authority to serve as the President's principal advisor with respect to drug control policy, and that the existing authority for coordination of policy and budgets for the Office serves the intended purpose of the previous President's Council.

O. Requirement for disclosure of Federal sponsorship of all Federal advertising or other communication materials

This provision, added by an amendment offered by Ranking Member Henry Waxman, requires that each advertisement or other communication paid for by ONDCP, either directly or through a contract, include a prominent notice informing the target audience that the advertisement or other communication is paid for by ONDCP. This amendment was offered in response to concerns raised about the past use of "video news releases" by ONDCP, as well as other Federal agencies. The Committee notes that ONDCP reports that it has already discontinued the use of such video news releases, and that in any case this amendment merely restates ex-

isting law banning such advertisements by any branch of the Federal Government.

P. Policy relating to syringe exchange programs

This provision, also added by an amendment offered by Ranking Member Waxman (as modified by the Committee during markup), requires that when developing the national drug control policy, any policy of the Director relating to syringe exchange programs for intravenous drug users shall be based on the best available medical and scientific evidence regarding their effectiveness in promoting individual health and preventing the spread of infectious disease, and their impact on drug addiction and use. The provision further requires that, in making any policy relating to syringe exchange programs, the Director shall consult with the National Institutes of Health and the National Academy of Sciences.

The Committee's intent in adopting this provision is simply to ensure that the Director has the best available medical and scientific evidence when formulating the Administration's policy on syringe exchange programs. The Committee notes that such programs are highly controversial. While some advocates have argued that they may help prevent the spread of AIDS and other infectious diseases, other experts have criticized syringe exchange programs as both ineffective in reducing the spread of infectious disease, and counterproductive to the goal of reducing drug abuse. Thus, in adopting this amendment the Committee in no way endorses the use of such programs. However, the amendment is designed to ensure that such programs are evaluated on the basis of scientific and medical facts concerning health impact, and impact on drug addiction and use, whenever that is possible. As the National Institute on Drug Abuse (NIDA) is the primary authority on drug addiction and use at the National Institutes of Health, NIDA should be involved in any consultation required by this provision.

SECTION-BY-SECTION

Title I—Reauthorization of Office of National Drug Control Policy

Section 101. Short title

This section designates the bill as the "Office of National Drug Control Policy Reauthorization Act of 2005".

Section 102. Amendment of Office of National Drug Control Policy Reauthorization Act of 1998

This section notes that the legislation amends and repeals in part the Office of National Drug Control Policy Reauthorization Act of 1998 (the "1998 Act").

Section 103. Repeal of termination provision

This section reauthorizes ONDCP and its programs by repealing the 1998 Act's "sunset provision." The bill still limits authorized appropriations to five more fiscal years, from 2006 through 2010 (see Section 114).

Section 104. Amendments to definitions

This section clarifies the definition of various terms related to drug control defined in the Act, which also affect the responsibilities of certain Deputy Directors within the Office.

The definition of "demand reduction" activities is amended to include drug testing of employees, interventions to stop drug addiction, and international efforts to achieve basic demand reduction policies (such as treatment and prevention).

The existing definition of the "National Drug Control Program" is clarified to ensure that it includes all Federal activities involving supply reduction, demand reduction, or State and local affairs (as those terms are defined in 21 U.S.C. 1701). Such activities are defined as part of the National Drug Control Program, even if some of them are not exclusively dedicated to drug control.

The definition of "State and local affairs" is amended to include both domestic drug enforcement and intelligence. This section also classifies facilitating Federal, State, and local cooperation as "State and local affairs", and adds the task of facilitating drug intelligence sharing among the different levels of government.

The definition of "supply reduction" is amended to include law enforcement activities outside the United States, as well as other programs in drug source countries (including alternative development programs, such as those administered by the U.S. Agency for International Development (USAID) in Colombia, primarily intended to reduce the production and trafficking of illegal drugs). The paragraph also defines intelligence sharing among only Federal or foreign agencies (as opposed to sharing involving State or local agencies), as a supply reduction function.

Two new definitions are added, one listing the Congressional committees that are primarily to receive information from the Office, and another defining "law enforcement" related to drug control. The latter definition clarifies that drug law enforcement includes not simply investigation and arrest, but prosecution and incarceration or other punishment of drug offenders.

Subsection (b) makes several conforming amendments to the statutory responsibilities of the Deputy Directors, to reflect the clarified definitions of supply reduction, demand reduction, and State and local affairs. The subsection also confirms the existing responsibility of the Deputy Director for State and Local Affairs for the High Intensity Drug Trafficking Areas (HIDTA) and Counterdrug Technology Assessment Center (CTAC) programs.

Section 105. Amendments relating to establishment of Office of National Drug Control Policy and designation of officers

Section 105 makes specific changes to the appointment and responsibilities of the Director of ONDCP and his subordinate officers. Subsection (a) clarifies the current responsibility of the Director to evaluate the effectiveness of national drug control programs, to include the requirement that the Director use specific goals and performance measures.

Subsection (b) provides that the Director shall have the same "rank and status" as the heads of the executive departments already defined by statute.

Subsection (c) provides that the Deputy Director for Supply Reduction shall have substantial experience in drug interdiction operations.

Section 106. Amendments related to appointment and duties of Director and Deputy Director

Section 106 makes amendments to the specific duties of the Director and Deputy Director of National Drug Control Policy. These changes apply to budget and drug certification processes along with other duties of the Director and Deputy Director. Existing law is amended to provide that any "officer or employee" may serve as the Director in the absence of the Director. The change clarifies that politically appointed officers may serve as the Acting Director. Additionally, the term "Federal departments and agencies engaged in drug enforcement" is changed to "national drug control program agencies" to conform to the term already defined in the statute.

Outlined in this section are the duties of the Director pertaining to budget certification processes. The Director is prohibited from certifying the adequacy of any drug control program budget request that 1) fails to adequately compensate for transfers of drug enforcement resources to non-drug related activities; 2) requests funding for border activities that do not adequately address drug interdiction; 3) requests funding for drug treatment activities that do not provide result and accountability measures; 4) requests funding for drug treatment activities that do not adequately support and enhance Federal drug treatment programs and capacity; 5) requests funding for Department of Education drug control programs that do not follow reporting requirements concerning expedited consideration of student loan applications from improperly denied students; or 6) requests funding for management and operations of the Department of Homeland Security without including a specific request for funding for that Department's Office of Counternarcotics Enforcement.

The bill adds requirements for authorizing committees for the Office to receive notification whenever the Director exercises certain authorities with respect to Federal drug control budgets and funding. Additionally, the Director's authority to issue Fund Control Notices is clarified to extend to all drug control program agencies.

The Director's authority to participate in the annual drug certification process is clarified to include the recently amended certification process. In addition, the Director is required to submit a report to the President each year providing an assessment of whether major drug transit or production countries are fully cooperating with the United States, and whether certain procedures provided for in the amended law with respect to countries not fully cooperating should be applied. The Director is also required to transmit the report to the Secretary of State and the authorizing committees for the Office.

The Director's responsibilities are expanded to include new duties relating to treatment research, and coordination of efforts to assist State and local efforts against drug trafficking.

This section adds a new requirement to the drug budget process that any drug budget request made by an agency include all drug control activities of that agency, including demand reduction, supply reduction, and State and local affairs. At present, the drug

budget process excludes a number of significant drug control activities.

This section also requires ONDCP, within 90 days of enactment, to submit to Congress two separate, comprehensive strategies to address the threat of heroin from South America (in particular Colombia and Peru), and Afghanistan. The Director is also required to submit, with the concurrence of the Director of National Intelligence, a new General Counterdrug Intelligence Plan to improve coordination, and eliminate unnecessary duplication, among the counterdrug intelligence centers, information sharing systems, and other counterdrug activities of the Federal Government. The Plan is due within 120 days of enactment, and new Plans must be submitted every two years thereafter.

The Director is also required to submit, within 120 days of enactment, a comprehensive strategy to address narcotics trafficking at the Southwest Border between the United States and Mexico. Finally, this section requires ONDCP to submit, within 90 days of enactment, a report that includes a plan to conduct, on an expedited basis, a scientific study of the use of mycoherbicide as a means of illicit drug crop elimination by an appropriate Government scientific research entity, including a complete and thorough scientific peer review. The study shall include an evaluation of the likely human health and environmental impacts of such use. The report shall also include a plan to conduct controlled scientific testing in a major drug producing nation of mycoherbicide naturally existing in the producing nation.

Section 107. Amendments relating to coordination with other agencies

This section makes technical corrections to the existing law, to reflect the creation of the position of Director of National Intelligence in 2004. The section also provides for a number of required reports from Federal departments on drug control issues to the Director and authorizing committees for the Office. The Secretaries of Agriculture and Interior are required to submit an assessment on illegal drug cultivation on public lands. The Attorney General is required to submit a report on arrests, prosecutions, and seizures related to drugs. The Secretary of Homeland Security is required to submit a report on drug seizures and air and maritime patrol hours dedicated to drug supply reduction. The Secretary of Defense is required to submit a report on air and maritime patrol hours dedicated to drug supply reduction.

Section 108. Development, submission, implementation, and assessment of National Drug Control Strategy

This section revises the process and content for the National Drug Control Strategy. The Director is required to submit an annual Strategy report, which shall include significant information about the nature and impact of drug trafficking and abuse in the United States. The Director is also required annually to submit a description of a performance measurement system for the National Drug Control Strategy and drug control program agencies.

Under the revised process, the Strategy must include specific information about drug trafficking, drug abuse, and the impact of both on our communities. Among other things, the Strategy shall

include comprehensive goals for reducing drug use; annual objectives and specific targets to accomplish and evaluate progress toward reduction in drug use; a strategy to reduce the availability and purity of illegal drugs; an assessment of Federal effectiveness in accomplishing the previous year's strategy; notification of budget priorities expected to significantly change over the next five years; a review of international, State and local, and private sector drug control activities to ensure coordination; and a supplement reviewing the activities and progress of each individual drug control program agency during the previous year.

The Director is required to continue consultation with appropriate outside individuals and entities in developing the strategy, as under existing law. The bill restates provisions of existing law relating to the Director's authority with respect to the El Paso Intelligence Center and the National Drug Intelligence Center, and adds a new provision allowing the Director to make recommendations regarding research at the National Institutes of Health supporting the National Drug Control Strategy. The Director is also required to annually submit a description of a performance measurement system for the National Drug Control Strategy and drug control program agencies.

Section 109. High Intensity Drug Trafficking Areas Program

This section addresses the High Intensity Drug Trafficking Areas (HIDTA) program, adding several new provisions to the existing statutory authorization for the program, which contains limited guidance. The Secretary of Homeland Security is added as an official the Director is required to consult before designating a HIDTA.

The bill includes a statement of purposes for the program, as well as revised criteria for designating HIDTAs. ONDCP is directed to establish, by regulation, procedures for areas to seek to designation as a HIDTA. The bill also sets forth the basic guidelines for the executive committees that govern an individual HIDTA.

ONDCP is also directed to submit, as part of each annual budget proposal to Congress, a spending plan that indicates the specific amount proposed to be spent on each HIDTA. The bill restates current law regarding the Director's authority to reassign Federal personnel to HIDTAs and otherwise increase Federal assistance. The Director is prohibited from expending funds to create or expand drug prevention or drug treatment programs in any HIDTA, but would be free to continue funding existing programs if necessary. The Director is authorized to permit HIDTA assistance to investigations related to terrorism, but is required to ensure that such assistance remains incidental and that significant resources of the program are not redirected to activities exclusively related to terrorism. A representative of the Drug Enforcement Administration must be included in the Intelligence Support Center of each HIDTA.

The HIDTA program is authorized at $280 million in fiscal year 2006, $290 million in fiscal years 2007 and 2008, and $300,000,000 in fiscal years 2009 and 2010.

Section 110. Funding for certain high intensity drug trafficking areas

This section may be referred to as the "Dawson Family Community Protection Act." It includes findings expressing the sense of Congress regarding the firebombing of the Dawson family home in October 2002, the need for cooperation of citizens in law enforcement, and the need for initiatives aimed at improving community safety and encouraging cooperation to counter illegal drug traffic. The Director is directed to ensure that at least $5 million in HIDTA funding is used in areas with severe neighborhood safety and illegal drug distribution problems to ensure neighborhood safety and combat illegal drug trafficking.

Section 111. Amendments relating to Counter-Drug Technology Assessment Center

Section 111 contains provisions relating to the Counterdrug Technology Assessment Center (CTAC). The title of "Director of Technology" within ONDCP is changed to "Chief Scientist." Explicit authority is added for the Chief Scientist to oversee and coordinate a technology transfer program to State and local law enforcement. The Chief Scientist is also required to give general priority for such grants based on need and potential impact on drug trafficking; a specific priority is also required for technologies most likely to assist in drug interdiction and border enforcement to agencies in southwest border areas and northern border areas with significant traffic in illegal drugs. The Substance Abuse and Mental Health Administration is included in the list of agencies to be consulted with respect to technology research related to drug treatment.

Section 112. National Youth Antidrug Media Campaign

Section 112 contains provisions relating to the National Youth Anti-Drug Media Campaign. The bill restates some of the existing law authorizing the Media Campaign, and makes some amendments. The primary purposes of the Campaign are restated and clarified.

Authorization to use funds for creative and talent costs is narrowed to provide that the Director shall use donated creative services wherever possible and may only use funds for creative services for advertising responding to high-priority or emergent campaign needs that cannot timely be obtained at no cost, or intended to reach a minority, ethnic or other special audience that cannot be obtained at no cost. Funding for creative services is limited to $1.5 million per fiscal year, unless the Director demonstrates and the Appropriations Committees approve increased funding for urgent needs, which may not exceed $2 million.

The Director is required to test all advertisements to ensure they are effective and meet industry-accepted standards. The requirement can be waived for advertisements making up no more than 10 percent of the airtime and print space of the Campaign. The Director is also required to designate an independent entity to evaluate the effectiveness of the Campaign using certain specified data. This independent entity is also required to ensure the effectiveness of the Media Campaign is evaluated in a manner that enables consideration of whether the Media Campaign has contributed to re-

duction of illicit drug use by youth and such other measures of evaluation as the Director determines are appropriate.

The bill requires that 77 percent of the amounts appropriated for the Media Campaign must be used for the purchase of advertising time and space. The limit changes to 82 percent when less than $125 million is appropriated for the program, and 72 percent when more than $195 million is appropriated for the program. The bill prohibits funding for advertising not containing a primary message intended to prevent illicit drug use or intended to promote support for the Media Campaign or private sector contributions to the Media Campaign. In addition to the existing prohibition on expenditure of campaign funds for partisan political activity, the bill prohibits express advocacy in support of or to defeat any clearly identified candidate, clearly identified ballot initiative, or clearly identified legislative or regulatory proposal. The appearance of certain elected and politically appointed officials in Media Campaign advertising is also prohibited.

The Director is required to ensure that 70 percent of no-cost match advertising directly relates to substance abuse prevention consistent with the specific purposes of the Media Campaign. The limit changes to 85 percent in any fiscal year in which less than $125 million is appropriated to the Media Campaign. In addition, the Director is required to ensure that no-cost match advertising that does not directly relate to substance abuse prevention include a clear anti-drug message, which is not required to be the primary message of the match advertising.

The bill provides that the Partnership for a Drug-Free America shall serve as the primary outside strategic advisor to the campaign and be responsible for coordinating donations of creative and other services to the campaign, except those funded under authorities provided elsewhere in the bill. The Director shall inform the Partnership of the strategic goals of the campaign and consider advice from the Partnership on campaign strategy.

The bill also restates provision of current law requiring certain information on local treatment resources to be included in Media Campaign advertising where feasible.

Congress makes several findings regarding marijuana use by America's youth. The Director is authorized to emphasize prevention of youth marijuana use in advertising and activities otherwise authorized in this section.

The bill requires an annual report to Congress on the performance of the Media Campaign. The Media Campaign is authorized at $195 million in Fiscal Years 2006 and 2007, and at $210 million in Fiscal Years 2008 through 2010.

Section 113. Drug interdiction

This section replaces the previously existing law with new provisions that establish and define the functions and role of the United States Interdiction Coordinator (USIC) and the Interdiction Committee (TIC). The Deputy Director for Supply Reduction of the Office serves as the USIC, and is responsible for (1) coordinating the interdiction activities of the National Drug Control Program agencies to ensure consistency with the National Drug Control Strategy; (2) issuing the annual National Interdiction Command and Control Plan (NICCP); (3) assessing the sufficiency of assets committed to

illicit drug interdiction by the relevant National Drug Control Program agencies; and (4) advising the Director on the efforts of each National Drug Control Program agency to implement the NICCP. The NICCP is required to (1) set forth the Government's strategy for drug interdiction; (2) state the specific roles and responsibilities of the relevant National Drug Control Program agencies for implementing that strategy; and (3) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement that strategy.

This section also authorizes the TIC, which is to meet to (1) discuss and resolve issues related to the coordination, oversight and integration of international, border, and domestic drug interdiction efforts in support of the National Drug Control Strategy; (2) review the annual NICCP, and provide advice to the Director and the USIC concerning that plan; and (3) provide such other advice to the Director concerning drug interdiction strategy and policies as the committee determines is appropriate. The TIC is required to meet in person at least once per year, with additional meetings subject to the call of the Director or the chairman of the TIC.

The section includes a conforming amendment that modifies the Homeland Security Act of 2002 (6 U.S.C. 458), to delete the reference to the USIC position from the description of the position of Director of Counternarcotics Enforcement at the Department of Homeland Security.

Section 114. Authorization of appropriations

Section 114 authorizes appropriations for ONDCP activities through fiscal year 2010. Except for activities otherwise specified, such sums as are necessary are authorized to be appropriated for fiscal years 2006 through 2010.

Section 115. Technical amendments and repeal

This section deletes obsolete references elsewhere in the Code, and repeals the Special Forfeiture Fund.

Section 116. Requirement for disclosure of Federal sponsorship of all Federal advertising or other communication materials

This section requires that each advertisement or other communication paid for by the Office, either directly or through a contract awarded by the Office, shall include a prominent notice informing the target audience that the advertisement or other communication is paid for by the Office.

Section 117. Policy relating to syringe exchange programs

This section further amends Section 703(a) (21 U.S.C. 1702(a)) by adding a requirement that when developing the national drug control policy, any policy of the Director relating to syringe exchange programs for intravenous drug users shall be based on the best available medical and scientific evidence regarding their effectiveness in promoting individual health and preventing the spread of infectious disease, and their impact on drug addiction and use. The Director is required, when making any policy relating to syringe exchange programs, to consult with the National Institutes of Health and the National Academy of Sciences.

Title II—Clean Sports Act of 2005

Section 201. Addition of minimum drug testing standards to the Office of National Drug Control Policy Act

Section 201 amends the Office of National Drug Control Policy Reauthorization Act of 1998 by inserting a new substitute known as the "Clean Sports Act of 2005," with the following sections:

Section 721. Short title

This section designates the subtitle of the bill as the "Clean Sports Act of 2005."

Section 722. Findings and purpose

Throughout the Committee's investigation into the use of steroids and performance-enhancing drugs, it became clear that the use of those drugs by minors is a public health problem of national significance. Experts estimate that over half a million high school students have tried steroids and abused performance-enhancing drugs. The use of these drugs can be detrimental to one's health, especially in young children and teenagers.

Additionally, the Committee found that professional athletes are role models for young athletes and influence the behavior of children and young teenagers. The real or perceived tolerance of the use of performance-enhancing substances by college and professional athletes has resulted in increased pressure on children and teenagers to use performance-enhancing drugs in order to advance their athletic careers.

The purpose of the Clean Sports Act is to protect the integrity of professional sports and the health and safety of athletes generally by establishing minimum standards for the testing of steroids and other performance-enhancing substances by professional sports leagues. The legislation aims not only to eliminate performance-enhancing drug use on a professional level, but also to send a message to the young people of America: steroids are illegal, dangerous, and can be deadly. There is no place for these drugs in sports or on school grounds.

Finally, in anticipation of the viability of gene-doping or genetic modification for performance enhancement, and the foreseeable difficulty in detecting such modification, the Committee would like to see a prohibition against gene-doping and feels that professional sports should implement policies and procedures to address gene-doping and other emerging enhancement methods.

Section 723. Definitions

This section clarifies the definition of various terms related to doping control and professional sports defined in the Act. The term "anti-doping code" means the doping controls standards established in the United States Anti-Doping Agency Protocol of the Olympic Movement Testing. The term "Director" means the Director of the Office of National Drug Control Policy who is responsible for formulating and implementing the nation's drug policy.

The legislation applies to four major American sports. The "major professional leagues" identified in the Act are Major League Baseball, the National Basketball Association, the National Football League, and the National Hockey League. Additionally, the defini-

tions for "prohibited method" and "prohibited substance" are as listed and described in the Anti-Doping Code.

Section 724. Minimum uniform testing standards

This section requires that Major League Baseball, the National Football League, the National Basketball Association, and the National Hockey League adopt drug testing standards that are consistent with, and at least as stringent as, the Olympic standard established by the U.S. Anti-Doping Agency. Absent these standards, it shall be unlawful for a major professional league to arrange, promote, organize, or produce a professional game. At a minimum, each league must adopt the list of prohibited performance-enhancing drugs included in the Olympic Anti-Doping Code. This list includes steroids (both those scheduled by the DEA, and newer "designer" steroids), amphetamines and other illegal stimulants, illegal hormones, and "illegal methods," such as blood or gene doping.

At minimum, each league must test each player, on an unannounced basis at least three times during the regular season and at least twice during the off-season. The testing policies and procedures must be independently administered. Each professional league must adopt the same stringent penalties for positive tests as the Olympic standard: a two-year ban for the first violation and a lifetime ban for the second.

The provision that standards must be consistent with and as stringent as the Olympic Code requires that although specific provisions are not spelled out in this legislation, the standards put in place for professional sports require testing for the use of designer steroids and blood and gene doping, eliminate the opportunities for cheating on drug tests, contain provisions for "non-analytical positives," and retain the strict protections against performance-enhancing drug use contained in the Olympic code.

The legislation guarantees that players who test positive receive their due process rights, including the right to notice, a fair, timely, and expedited hearing, the right to be represented by counsel, and the right to appeal. The legislation also allows penalties to be reduced for a positive test if the athlete establishes that he did not know or suspect, and could not reasonably have known or suspected, that he had used the prohibited substance. Finally, the legislation requires that information regarding a drug-related suspension be made public.

Section 725. Promulgation of standards by the Director of the Office of National Drug Control Policy

The Director is also given the authority to require that additional professional sports leagues, or NCAA Division I and II sports, meet the same stringent standards as MLB, the NFL, the NBA, and the NHL. The Director may also modify the standards for individual leagues for exceptional circumstances, provided that these modifications do not reduce the effectiveness of the standards.

Section 726. Enforcement by the Federal Trade Commission

The legislation give the Federal Trade Commission the authority to issue and enforce these regulations and provides for enhanced civil penalties for violations leading up to $1,000,000 for each violation.

Section 727. Reports to Congress

This section requires major professional sport leagues to transmit to the Committee a report on their testing policies and procedures. The report is required to include a comparison of the major professional league's policy to that of the United States Anti-Doping Agency and provide rationale for the differences between the policies. The report must also include aggregate data on the number of players tested and number of tests conducted during the season of play and off-season. A separate provision requires the aforementioned report to be submitted every two years following the initial report.

This section also requires the ONDCP Director to submit a report to the Committee including recommendations for improving any Federal law governing controlled substances as may be necessary for reducing the use of steroids and other performance-enhancing substances.

Section 728. Promulgation of standards by the United States Boxing Commission

This section requires that, should the United States Boxing Commission be established, it shall adhere to the performance-enhancing substance testing standards that are consistent with the standards established in section 724.

Section 729. Study on college testing policies and procedures

This section requires the Government Accountability Office (GAO) to examine performance-enhancing drug use by college athletes and drug testing policies of inter-collegiate athletic associations and college and university athletic departments. The report should assess the adequacy of testing policies and include recommendations to Congress regarding whether intercollegiate and interscholastic athletic associations should be required to meet the same stringent testing policies as the major professional sport leagues.

Section 730. Commission on high school and collegiate athletics

The legislation establishes a Commission to report on the use of performance-enhancing drugs in high school and college athletics, and to provide recommendations for reducing their use.

Section 731. Sense of Congress

As outlined in this section, it is the sense of Congress that all professional sports should implement strong drug testing policies and procedures to ensure that American professional sport leagues are world leaders in the effort to keep steroids and other performance-enhancing drugs out of sports. Congress also feels strongly that all professional sport leagues should implement policies and procedures that address the development of designer steroids and emerging methods for doping, including gene doping, that enhance sport performance, are potential or actual health risks, and are contrary to the spirit of the sport. Officials in the athletic community anticipate a market for genetic enhancement, and fear that such genetic enhancement will be abused in the same manner as steroids. However, such illicit enhancement would also present more difficult challenges for detection. By adopting the USADA

protocol that explicitly prohibits gene-doping, and by addressing the importance of having policies and procedures in place regarding gene-doping, genetic modification and other enhancement methods, the Clean Sports Act creates a preemptory disincentive for athletes to pursue gene-doping.

Additionally, each major professional league should produce and publicize public service announcements regarding the health and safety consequences of steroids and other similar performance-enhancing substances on children and teenagers.

Section 732. Effective date

This section stipulates that this subtitle shall take effect one year after enactment. Professional sport leagues will have one full year to come into compliance with the law.

EXPLANATION OF AMENDMENTS

The provisions of the substitute, as it was amended, are explained in this report.

COMMITTEE CONSIDERATION

On June 16, 2005, the Committee met in open session and ordered reported favorably the bill, H.R. 2829, as amended, by voice vote, a quorum being present.

ROLLCALL VOTES

No rollcall votes were held.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill reauthorizes the Office of National Drug Control Policy and enacts a new program for the regulation of illegal steroids use in professional sports.

Legislative branch employees and their families, to the extent that they are otherwise eligible for the benefits provided by this legislation, have equal access to its benefits.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 2829. The Committee finds the authority for this legislation in article I, section 8 of the Constitution.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 2829. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2829 from the Director of the Congressional Budget Office:

AUGUST 5, 2005.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed estimate for H.R. 2829, a bill to reauthorize the Office of National Drug Control Policy Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Matthew Pickford (for federal costs), Sarah Puro (for the state and local impact), and Paige Piper/Bach (for the private-sector impact).

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure.

H.R. 2829—A bill to reauthorize the Office of National Drug Control Policy Act

Summary: H.R. 2829 would reauthorize operations of the Office of National Drug Control Policy (ONDCP) and programs administered by that office through 2010. Major programs administered by that office include the High-Intensity Drug Trafficking Areas program, the National Youth Anti-Drug Media Campaign, and the Counterdrug Technology Assessment Center. In addition, the legislation would direct ONDCP to oversee drug policies of professional sports leagues. Under the bill, those leagues would be required to ban the use of certain drugs and set mandatory minimum drug-testing requirements for professional athletes. The bill would increase penalties for leagues and athletes that do not comply with those requirements.

Assuming the appropriation of the necessary amounts, CBO estimates that implementing H.R. 2829 would cost about $3.1 billion over the 2006–2010 period. Of this total, about $2.2 billion would result from amounts specifically authorized for the National Youth Anti-Drug Media Campaign and High-Intensity Drug Trafficking Areas. In addition, by authorizing the Federal Trade Commission (FTC) to enforce the law regarding the use of performance-enhancing drugs in professional sports leagues, enacting H.R. 2829 could increase direct spending and revenues, but CBO estimates that any such effects would be negligible.

H.R. 2829 contains two intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO cannot determine if the costs would exceed the threshold established in that act ($62 million in 2005, adjusted annually for inflation).

H.R. 2829 would impose several private-sector mandates as defined in UMRA on major professional sports leagues. CBO estimates that the total direct cost of those mandates would fall well below the annual threshold established by UMRA for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2829 is shown in the following table. The costs of this legislation fall within budget functions 370 (commerce and housing credit), 750 (administration of justice), and 800 (general government).

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2005, that the necessary amounts will be provided each year, and that spending will follow historical patterns for the ONDCP and its programs.

Spending subject to appropriation

The bill would reauthorize all the programs of ONDCP through 2010. The current authorization for ONDCP expired at the end of fiscal year 2003 (although the office continued to receive funding in 2004 and 2005). Based on information from ONDCP and historical spending patterns of the agency, CBO estimates that these authorizations, if funded, would result in outlays of about $400 million in 2006 and about $3.1 billion over the 2006–2010 fiscal year.

High-Intensity Drug Trafficking Areas. Section 109 would authorize the appropriation of $280 million in fiscal year 2006, $290

million a year for 2007 and 2008, and $300 million a year for 2009 and 2010 for the High-Intensity Drug Trafficking Areas program. This program coordinates drug-control efforts among local, state, and federal law enforcement agencies. Assuming appropriation of the specified amounts, CBO estimates that implementing this provision would cost $70 million in fiscal year 2006 and $1.2 billion over the 2006–2010 period.

National Youth Anti-Drug Media Campaign. Section 112 would authorize the appropriation of $195 million in each of fiscal years 2006 and 2007, and $210 million a year for the 2008–2010 period for the National Youth Anti-Drug Media Campaign (NYADMC) program. NYADMC delivers anti-drug messages through mass communications to help prevent and reduce youth drug use. Assuming appropriations of the specified amounts, CBO estimates that implementing this provision would cost $176 million in 2006 and about $1 billion over the 2006–2010 period.

	By fiscal year, in millions of dollars—					
	2005	2006	2007	2008	2009	2010
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for ONDCP:						
Budget Authority[1]	508	0	0	0	0	0
Estimated Outlays	504	201	34	11	0	0
Proposed Changes:						
High-Intensity Drug Trafficking Areas:						
Authorization Level	0	280	290	290	300	300
Estimated Outlays	0	70	241	275	292	299
National Youth Anti-Drug Media Campaign:						
Authorization Level	0	195	195	210	210	210
Estimated Outlays	0	176	195	209	210	210
Other Federal Drug Control Programs:						
Estimated Authorization Level	0	95	96	98	101	103
Estimated Outlays	0	79	92	96	98	100
Counterdrug Technology Assessment Center:						
Estimated Authorization Level	0	43	43	44	45	46
Estimated Outlays	0	40	43	44	45	46
Office of National Drug Control Policy:						
Estimated Authorization Level	0	28	29	30	30	31
Estimated Outlays	0	24	28	30	30	31
Drug Standards for Professional Sports:						
Estimated Authorization Level	0	8	8	8	8	8
Estimated Outlays	0	7	8	8	8	8
Other Provisions:						
Estimated Authorization Level	0	7	7	7	7	7
Estimated Outlays	0	6	7	7	7	7
Total Proposed Changes:						
Estimated Authorization Level	0	656	668	687	701	705
Estimated Outlays	0	402	614	668	690	701
Total Spending Under H.R. 2829 for ONDCP:						
Estimated Authorization Level[1]	508	656	668	687	701	705
Estimated Outlays	504	603	648	679	690	701

[1] The 2005 level is the amount appropriated for that year for programs administered by the Office of National Drug Control Policy.
Notes.—Components may not sum to totals because of rounding.

Other Federal Drug Control Programs. H.R. 2829 would authorize the appropriation of such sums as necessary to operate other federal drug-control programs (excluding NYADMC) through fiscal year 2010. Those include the Drug-Free Communities program, National Drug Court Institute, and the U.S. Anti-Doping Agency. Based on the level of funding for 2005, information from ONDCP, and adjusting for anticipated inflation, CBO estimates that imple-

menting the programs would cost about $80 million in 2006 and $465 million over the 2006–2010 period.

Counterdrug Technology Assessment Center. The legislation would authorize the appropriation of such sums as necessary to operate the Counterdrug Assessment Center. The center coordinates counterdrug research and development activities for the federal government. Because the bill did not specify funding levels, CBO estimated the costs by adjusting 2005 funding for anticipated inflation. On that basis, we estimate that operation of the center would cost $40 million in 2006 and $218 million over the 2006–2010 period.

Office of National Drug Control Policy. H.R. 2829 would authorize the appropriation of such sums as necessary for ONDCP. The office establishes policies, priorities, and objectives for federal drug-control programs. Assuming appropriation of the necessary amounts, CBO estimates that these activities would cost $24 million in 2006 and $143 million over the 2006–2010 period. This estimate is based on historical spending patterns and assumes that the appropriation for 2005 is adjusted for anticipated inflation.

Drug Standards for Professional Sports. Title II would require Major League Baseball (MLB), the National Football League (NFL), the National Basketball Association (NBA), and the National Hockey League (NHL) to adopt the performance-enhancing drug standards established by the U.S. Anti-Doping Agency. Those standards include a list of drugs that athletes are prohibited to use (i.e., steroids, amphetamines, and illegal hormones) and minimum drug-testing requirements. The legislation also would create mandatory penalties for individuals who fail such tests. ONDCP would oversee the professional sports drug standards and have the authority to require other professional or collegiate sports leagues to comply with the new drug standards. Finally, the legislation would require the agency, working through a commission, to report on the use of performance-enhancing drugs in college and high school sports.

Based on information from ONDCP, CBO expects that three new attorneys and requisite support staff would be required to oversee the drug policies of MLB, the NFL, the NBA, and the NHL. This would include promulgating standards for leagues to follow and preparing annual reports to the Congress. In addition, the agency would be required to study the use of performance-enhancing drugs in high school and collegiate sports. The commission would report to the Congress annually with recommendations for reducing drug use. ONDCP expects that this provision would require the agency to conduct an annual survey on steroid use among high school and college athletes. Based on information from ONDCP, CBO estimates that this study and additional personnel would cost $7 million in 2006 and about $40 million over the 2006–2010 period.

Other Provisions. Section 106 would require ONDCP to produce a biannual plan to increase the coordination among federal agencies working to combat illegal drug use. Based on information from ONDCP, CBO estimates that completing such plans would cost $3 million a year.

Section 113 would amend the responsibilities and authorities of the United States Interdiction Coordinator. Based within the ONDCP, the U.S. Interdiction Coordinator would be responsible for

coordinating efforts to prevent drugs from entering the United States. Based on information from ONDCP and the Department of Homeland Security, CBO estimates that increased staffing levels and new reporting requirements necessary under the bill would cost $2 million annually.

The legislation includes other provisions that would establish new reporting requirements and procedures for preparing budget requests for ONDCP. CBO estimates that those provisions would cost $2 million annually.

Revenues and direct spending

H.R. 2829 would give the FTC the authority to pursue enforcement over the use of performance-enhancing drugs in professional sports leagues. However, CBO expects that the sports leagues would comply with the new minimum drug standards. Therefore, CBO expects that any increase in civil penalties resulting from enactment of H.R. 2829 would be insignificant. (Such penalties are recorded in the budget as revenues.)

Estimated impact on state, local, and tribal governments: H.R. 2829 contains two intergovernmental mandates as defined in UMRA: a preemption of state privacy laws and new authority for the Director of ONDCP to regulate public institutions of higher education. Section 724 (9) would require professional sporting leagues to publicly disclose the identity of any player who tests positive for a banned substance. That requirement would preempt numerous state privacy protections but would likely impose no costs on state, local, or tribal governments.

The bill also would give the ONDCP director the authority to extend testing standards to colleges and athletes in Divisions I and II of the National Collegiate Athletic Association (NCAA)—more than half of such colleges are public. Such a requirement could be costly to those institutions. It is unclear if the ONDCP director would choose to extend testing requirements to colleges and college athletes or what testing requirements would be included if the program was extended to such athletes. If the director chose to extend testing requirements, institutions participating in Divisions I and II of the NCAA could be required to test athletes multiple times per year for substances for which they do not currently test, imposing significant costs on such institutions. For example, information from ONDCP indicates that drug tests that conform to United States Anti-Doping standards could cost up to $600 per test; the current NCAA random testing program costs over $300 per test, including administrative costs. Until future regulations and testing regimes are clearly defined, CBO is unable to estimate the total costs that would result from enacting this provision.

Title I would establish new requirements for existing programs administered by the Office of National Drug Control Policy. Any costs incurred by state, local, and tribal as a result of those provisions would result from participating in a voluntary federal program.

Estimate impact on the private sector: H.R. 2829 would impose several private-sector mandates, as defined in UMRA, on major professional sports leagues. CBO estimates that the total direct cost of those mandates would fall well below the annual threshold

established by UMRA for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

The bill would require Major League Baseball, the National Football League, the National Basketball Association, and the National Hockey League to implement drug-testing programs for performance-enhancing drugs consistent with the standard established by the U.S. Anti-Doping Agency (USADA). The leagues would be required to test, without advance notice, their players at least three times during the regular season and at least twice during the off-season. Currently, the sports leagues conduct their own testing, so the cost of the mandate would be the increase in cost attributable to the additional drug testing. Based on information from the USADA, the cost of drug testing of athletes could be up to $600 per test. The cost of the testing would include locating the athletes in the off-season, shipping charges, and the comprehensive analysis of samples at a laboratory approved by the USADA. According to representatives of the major sports leagues, approximately 4,000 athletes would need to be tested. Therefore, CBO estimates that the direct cost would not be as large relative to the threshold.

H.R. 2829 also would require the leagues to certify to the Director of the Office of National Drug Control Policy that it has consulted with the USADA in the development of their test-distribution planning, method of testing, and adjudication process. Under the bill, the leagues also would be required to publicly disclose the identity of any athlete who has tested positive, the penalty imposed, and the tested substance. In addition, the leagues would be required to provide certain reports to the Congress. Currently, the leagues have their own procedures for test distribution, testing, and adjudication as well as providing some public disclosure of test results and penalties. Thus, CBO expects that the cost to comply with those mandates would be small.

In addition, H.R. 2829 could impose a new mandate if the United States Boxing Commission is established. The bill would require the Commission to implement drug-testing programs for professional boxing consistent with the standard established by the USADA. According to the Association of Boxing Commissions, almost all states currently require drug testing of boxers prior to professional fights. This bill would expand the number of drug tests and could include as many as 7,000 boxers to be tested. However, the bill does not specify who would be responsible for the cost of the drug testing.

Previous CBO estimates: On July 7, 2005, CBO transmitted a cost estimate for H.R. 2565, a bill to reauthorize the Office of National Drug Control Policy Act and to establish minimum drug-testing standards for major professional sports leagues, as ordered reported by the House Committee on Government Reform on May 26, 2005. On July 18, 2005, CBO transmitted a cost estimate for H.R. 3084, the Drug Free Sports Act, as ordered reported by the House Committee on Energy and Commerce on June 29, 2005.

H.R. 2829 and H.R. 2565 are similar; both bills would reauthorize ONDCP and programs administered through that office through 2010. CBO estimates that H.R. 2829 would authorize the appropriation of more funds over the 2006–2010 period, including activities that are not authorized by H.R. 2565.

In addition, all three bills would establish requirements for professional sports related to performance-enhancing substances, although H.R. 3084 would implement that effort through the Department of Commerce rather than ONDCP.

All three bills would preempt state privacy protections, but H.R. 2829 and H.R. 2565 contain a potentially costly provision that would give the director of ONDCP the authority to extend testing standards to colleges in Divisions I and II of the National Collegiate Athletic Association—more than half of which are public. The mandates statements reflect the differences.

The three pieces of legislation would require testing for performance-enhancing substances of professional athletes. H.R. 2829 and H.R. 2565 could require the professional boxing industry to test their boxers if the U.S. Boxing Commission is established. That requirement is not in H.R. 3084. H.R. 3084 would require more sports leagues, adding Major League Soccer and Arena Football, to test their athletes than H.R. 2829 and H.R. 2565.

Estimate prepared by: Federal Costs: Matthew Pickford. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

OFFICE OF NATIONAL DRUG CONTROL POLICY ACT REAUTHORIZATION ACT OF 1998

TITLE VII—OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION

Subtitle A—Office of National Drug Control Policy

SEC. 701. SHORT TITLE.

This [title] *subtitle* may be cited as the "Office of National Drug Control Policy Reauthorization Act of 1998".

SEC. 702. DEFINITIONS.

In this [title] *subtitle*:

(1) DEMAND REDUCTION.—The term "demand reduction" means any activity conducted by a National Drug Control Program agency, other than an enforcement activity, that is intended to reduce the use of drugs, including—

(A) * * *

* * * * * * *

(F) drug-free workplace programs; [and]

(G) drug testing[.], *including the testing of employees;*

(H) interventions for drug abuse and dependence; and

(I) international drug control coordination and cooperation with respect to activities described in this paragraph.

* * * * * * *

(6) NATIONAL DRUG CONTROL PROGRAM.—The term "National Drug Control Program" means programs, policies, and activities undertaken by National Drug Control Program agencies pursuant to the responsibilities of such agencies under the National Drug Control Strategy*, including any activities involving supply reduction, demand reduction, or State and local affairs*.

(7) NATIONAL DRUG CONTROL PROGRAM AGENCY.—The term "National Drug Control Program [Agency] *agency*" means any agency that is responsible for implementing any aspect of the National Drug Control Strategy, including any agency that receives Federal funds to implement any aspect of the National Drug Control Strategy, but does not include any agency that receives funds for drug control activity solely under the [National Foreign Intelligence Program,] *National Intelligence Program,* the Joint Military Intelligence Program*,* or Tactical Intelligence and Related Activities, unless such agency has been designated—

(A) * * *

* * * * * * *

(9) OFFICE.—Unless the context clearly [implicates] *indicates* otherwise, the term "Office" means the Office of National Drug Control Policy established under section 703(a).

(10) STATE AND LOCAL AFFAIRS.—The term "State and local affairs" means domestic activities conducted by a National Drug Control Program agency that are intended to reduce the availability and use of drugs, including—

(A) * * *

(B) promotion of coordination and cooperation among *National Drug Control Program agencies and* the drug supply reduction and demand reduction agencies of the various States, territories, and units of local government; [and]

(C) such other cooperative governmental activities which promote a comprehensive approach to drug control at the national, State, territory, and local levels[.]*;*

(D) domestic drug law enforcement, including domestic drug interdiction and law enforcement directed at drug users; and

(E) coordination and enhancement of Federal, State, and local law enforcement initiatives to gather, analyze, and disseminate information and intelligence relating to drug control among domestic law enforcement agencies.

(11) SUPPLY REDUCTION.—The term "supply reduction" means any activity of a program conducted by a National Drug Control Program agency that is intended to reduce the availability or use of drugs in the United States and abroad, including—

(A) international drug control*, including—*

(i) law enforcement outside the United States; and

(ii) source country programs, including economic development programs primarily intended to reduce the production or trafficking of illicit drugs;

[(B) foreign and domestic drug intelligence;]

(B) facilitating and enhancing the sharing of foreign and domestic information and law enforcement intelligence relating to drug production and trafficking among National Drug Control Program agencies, and between those agencies and foreign law enforcement agencies; and

(C) interdiction[; and].

[(D) domestic drug law enforcement, including law enforcement directed at drug users.]

(12) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except where otherwise provided, the term "appropriate congressional committees" means the Committee on the Judiciary, the Committee on Appropriations, and the Caucus on International Narcotics Control of the Senate and the Committee on Government Reform, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(13) LAW ENFORCEMENT.—The term "law enforcement" or "drug law enforcement" means all efforts by a Federal, State, or local government agency to enforce the drug laws of the United States or any State, including investigation, arrest, prosecution, and incarceration or other punishments or penalties.

SEC. 703. OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) ESTABLISHMENT OF OFFICE.—There is established in the Executive Office of the President an Office of National Drug Control Policy, which shall—

(1) develop national drug control policy;

(2) coordinate and oversee the implementation of that national drug control policy;

(3) assess and certify the adequacy of national drug control programs and the budget for those programs; and

[(4) evaluate the effectiveness of the national drug control programs.]

(4) evaluate the effectiveness of the national drug control policy and the National Drug Control Program agencies' programs, by developing and applying specific goals and performance measurements.

When developing the national drug control policy, any policy of the Director relating to syringe exchange programs for intravenous drug users shall be based on the best available medical and scientific evidence regarding their effectiveness in promoting individual health and preventing the spread of infectious disease, and their impact on drug addiction and use. In making any policy relating to syringe exchange programs, the Director shall consult with the National Institutes of Health and the National Academy of Sciences.

(b) DIRECTOR AND DEPUTY DIRECTORS.—

(1) DIRECTOR.—There shall be at the head of the Office a Director of National Drug Control Policy, *who shall hold the same rank and status as the head of an executive department listed in section 101 of title 5, United States Code*.

(2) DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—There shall be in the Office a Deputy Director of National

Drug Control Policy, who shall assist the Director in carrying out the responsibilities of the Director under this [title] *subtitle*.

(3) OTHER DEPUTY DIRECTORS.—There shall be in the [Office—] *Office the following additional Deputy Directors—*

(A) a Deputy Director for Demand Reduction, who shall be responsible for the activities described in subparagraphs (A) through [(G)] *(I)* of section 702(1);

(B) a Deputy Director for Supply Reduction, [who shall] *who shall have substantial experience and expertise in drug interdiction operations and other supply reduction activities, and who shall serve as the United States Interdiction Coordinator and* be responsible for the activities described in subparagraphs (A) through (C) of section 702(11); and

(C) a Deputy Director for State and Local Affairs, who shall be responsible for the activities described in subparagraphs (A) through [(C)] *(E)* of section 702(10) [and subparagraph (D) of section 702(11)]*, and sections 707 and 708 of this Act*.

* * * * * * *

SEC. 704. APPOINTMENT AND DUTIES OF DIRECTOR AND DEPUTY DIRECTORS.

(a) APPOINTMENT.—

(1) * * *

* * * * * * *

(3) DESIGNATION OF OTHER OFFICERS.—In the absence of the Deputy Director, or if the Office of the Deputy Director is vacant, the Director shall designate such other [permanent employee] *officer or employee* of the Office to serve as the *acting* Director, if the Director is absent or unable to serve.

* * * * * * *

(b) RESPONSIBILITIES.—The Director—

(1) * * *

* * * * * * *

(4) shall make such recommendations to the President as the Director determines are appropriate regarding changes in the organization, management, and budgets of [Federal departments and agencies engaged in drug enforcement,] *National Drug Control Program agencies,* and changes in the allocation of personnel to and within those departments and agencies, to implement the policies, goals, priorities, and objectives established under paragraph (1) and the National Drug Control Strategy;

* * * * * * *

(7) shall notify any National Drug Control Program agency if its policies are not in compliance with the responsibilities of the agency under the National Drug Control Strategy, transmit a copy of each such notification to the President *and the appropriate congressional committees*, and maintain a copy of each such notification;

* * * * * * *

(13) shall require each National Drug Control Program agency to submit to the Director on an annual basis [(beginning in 1999)] an evaluation of progress by the agency with respect to drug control program goals using the performance measures for the agency developed under section 706(c), including progress with respect to—

(A) * * *

* * * * * * *

(14) shall submit to the [Appropriations committees and the authorizing committees of jurisdiction of the House of Representatives and the Senate] *appropriate congressional committees* on an annual basis, not later than 60 days after the date of the last day of the applicable period, a summary of—

(A) each of the evaluations received by the Director under paragraph (13); and

(B) the progress of each National Drug Control Program agency toward the drug control program goals of the agency using the performance measures for the agency developed under section 706(c); [and]

(15) shall ensure that drug prevention and drug treatment research and information is effectively disseminated by National Drug Control Program agencies to State and local governments and nongovernmental entities involved in demand reduction by—

(A) * * *

* * * * * * *

[(C) developing a single interagency clearinghouse for the dissemination of research and information by such agencies to State and local governments and nongovernmental agencies involved in demand reduction.]

(C) supporting the substance abuse information clearinghouse administered by the Administrator of the Substance Abuse and Mental Health Services Administration and established in section 501(d)(16) of the Public Health Service Act by—

(i) encouraging all National Drug Control Program agencies to provide all appropriate and relevant information; and

(ii) supporting the dissemination of information to all interested entities;

(16) shall coordinate with the private sector to promote private research and development of medications to treat addiction;

(17) shall seek the support and commitment of State and local officials in the formulation and implementation of the National Drug Control Strategy;

(18) shall monitor and evaluate the allocation of resources among Federal law enforcement agencies in response to significant local and regional drug trafficking and production threats; and

(19) shall submit an annual report to Congress detailing how the Office of National Drug Control Policy has consulted with and assisted State and local governments with respect to the

formulation and implementation of the National Drug Control Strategy and other relevant issues.

(c) NATIONAL DRUG CONTROL PROGRAM BUDGET.—

(1) RESPONSIBILITIES OF NATIONAL DRUG CONTROL PROGRAM AGENCIES.—

(A) * * *

* * * * * * *

(C) CONTENT OF DRUG CONTROL BUDGET REQUESTS.—A drug control budget request submitted by a department, agency, or program under this paragraph shall include all requests for funds for any drug control activity undertaken by that department, agency, or program, including demand reduction, supply reduction, and State and local affairs, including any drug law enforcement activities. If an activity has both drug control and nondrug control purposes or applications, the department, agency, or program shall estimate by a documented calculation the total funds requested for that activity that would be used for drug control, and shall set forth in its request the basis and method for making the estimate.

(2) NATIONAL DRUG CONTROL PROGRAM BUDGET PROPOSAL.—For each fiscal year, following the transmission of proposed drug control budget requests to the Director under paragraph (1), the Director shall, in consultation with the head of each National Drug Control Program agency—

(A) develop a consolidated National Drug Control Program budget proposal designed to implement the National Drug Control Strategy *and to inform Congress and the public about the total amount proposed to be spent on all supply reduction, demand reduction, State and local affairs, including any drug law enforcement, and other drug control activities by the Federal Government, which shall conform to the content requirements set forth in subparagraph (C) of paragraph (1) of this subsection*;

* * * * * * *

(3) REVIEW AND CERTIFICATION OF BUDGET REQUESTS AND BUDGET SUBMISSIONS OF NATIONAL DRUG CONTROL PROGRAM AGENCIES.—

(A) * * *

* * * * * * *

(C) SPECIFIC REQUESTS.—The Director shall not confirm the adequacy of any budget request that—

(i) requests funding for Federal law enforcement activities that do not adequately compensate for transfers of drug enforcement resources and personnel to law enforcement and investigation activities not related to drug enforcement as determined by the Director;

(ii) requests funding for law enforcement activities on the borders of the United States that do not adequately direct resources to drug interdiction and enforcement as determined by the Director;

(iii) requests funding for drug treatment activities that do not provide adequate result and accountability measures as determined by the Director;

(iv) requests funding for any activities of the Safe and Drug Free Schools Program that do not include a clear antidrug message or purpose intended to reduce drug use;

(v) requests funding to enforce section 484(r)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(r)(1)) with respect to convictions for drug-related offenses not occurring during a period of enrollment for which the student was receiving any Federal grant, loan, or work assistance;

(vi) requests funding for drug treatment activities that do not adequately support and enhance Federal drug treatment programs and capacity, as determined by the Director;

(vii) requests funding for fiscal year 2007 for activities of the Department of Education, unless it is accompanied by a report setting forth a plan for providing expedited consideration of student loan applications for all individuals who submitted an application for any Federal grant, loan, or work assistance that was rejected or denied pursuant to 484(r)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(r)(1)) by reason of a conviction for a drug-related offense not occurring during a period of enrollment for which the individual was receiving any Federal grant, loan, or work assistance;

(viii) requests funding for fiscal year 2007 for activities of the Department of Education, unless it is accompanied by a report setting forth a plan for providing expedited consideration of student loan applications for all individuals who submitted an application for any Federal grant, loan, or work assistance that was rejected or denied pursuant to 484(r)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(r)(1)) by reason of a conviction for a drug-related offense not occurring during a period of enrollment for which the individual was receiving any Federal grant, loan, or work assistance;

(ix) requests funding for the operations and management of the Department of Homeland Security that does not include a specific request for funds for the Office of Counternarcotics Enforcement to carry out its responsibilities under section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458).

[(C)] *(D)* AGENCY RESPONSE.—

(i) * * *

* * * * * * *

(iii) CONGRESSIONAL NOTIFICATION.—The head of a National Drug Control Program agency shall submit a copy of any impact statement under clause (ii) to the Senate and the House of Representatives *and the appropriate congressional committees* at the time the

budget for that agency is submitted to Congress under section 1105(a) of title 31, United States Code.

[(D)] *(E)* CERTIFICATION OF BUDGET SUBMISSIONS.—

(i) * * *

(ii) CERTIFICATION.—The Director—

(I) * * *

(II) based on the review under subclause (I), if the Director concludes that the budget submission of a National Drug Control Program agency does not include the funding levels and initiatives described under subparagraph (B)—

(aa) * * *

(bb) in the case of a decertification issued under item (aa), shall submit to the Senate and the House of Representatives *and the appropriate congressional committees* a copy of—

(aaa) * * *

* * * * * * *

(4) REPROGRAMMING AND TRANSFER REQUESTS.—

(A) IN GENERAL.—No National Drug Control Program agency shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds in an amount exceeding [$5,000,000] *$1,000,000* that is included in the National Drug Control Program budget unless the request has been approved by the Director.

* * * * * * *

(d) POWERS OF THE DIRECTOR.—In carrying out subsection (b), the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees of the Office as may be necessary to carry out the functions of the Office under this [title] *subtitle*;

* * * * * * *

(8) transfer funds made available to a National Drug Control Program agency for National Drug Control Strategy programs and activities to another account within such agency or to another National Drug Control Program agency for National Drug Control Strategy programs and activities, except that—

(A) * * *

* * * * * * *

(D) funds transferred to an agency under this paragraph may only be used to increase the funding for programs or activities [have been authorized by Congress;] *authorized by law;* and

* * * * * * *

(9) *notwithstanding any other provision of law,* issue to the head of a National Drug Control Program agency a fund control notice described in subsection (f) to ensure compliance with the National Drug Control Program [Strategy; and] *Strategy and notify the appropriate congressional committees of any fund control notice issued;*

(10) participate in the drug certification process pursuant to section 490 of the Foreign Assistance Act of 1961 [(22 U.S.C. 2291j).] *(22 U.S.C. 2291j) and section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2291j–1); and*

(11) not later than August 1 of each year, submit to the President a report, and transmit copies of the report to the Secretary of State and the appropriate congressional committees, that—

(A) provides the Director's assessment of which countries are major drug transit countries or major illicit drug producing countries as defined in section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e));

(B) provides the Director's assessment of whether each country identified under subparagraph (A) has cooperated fully with the United States or has taken adequate steps on its own to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and otherwise has assisted in reducing the supply of illicit drugs to the United States; and

(C) provides the Director's assessment of whether application of procedures set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), as provided in section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2291j–1), is warranted with respect to countries the Director assesses have not cooperated fully.

* * * * * * *

(f) FUND CONTROL NOTICES.—

(1) * * *

* * * * * * *

(4) CONGRESSIONAL NOTICE.—A copy of each fund control notice shall be transmitted to the appropriate congressional committees.

(5) RESTRICTIONS.—The Director shall not issue a fund control notice to direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated, modified, or altered in any manner contrary, in whole or in part, to a specific appropriation or statute.

(g) INAPPLICABILITY TO CERTAIN PROGRAMS.—The provisions of this section shall not apply to the [National Foreign Intelligence Program] *National Intelligence Program*, the Joint Military Intelligence Program, and Tactical Intelligence and Related Activities unless the agency that carries out such program is designated as a National Drug Control Program agency by the President or jointly by the Director and the head of the agency.

(h) CONSTRUCTION.—Nothing in this Act shall be construed as derogating the authorities and responsibilities of the [Director of Central Intelligence] *Director of National Intelligence or the Director of the Central Intelligence Agency* contained in sections 104 and 504 of the National Security Act of 1947 or any other law.

SEC. 705. COORDINATION WITH NATIONAL DRUG CONTROL PROGRAM AGENCIES IN DEMAND REDUCTION, SUPPLY REDUCTION, AND STATE AND LOCAL AFFAIRS.

(a) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Upon the request of the Director, the head of any National Drug Control Program agency shall cooperate with and provide to the Director any statistics, studies, reports, and other information prepared or collected by the agency concerning the responsibilities of the agency under the National Drug Control Strategy that relate to—

(A) drug [abuse] control; or

(B) the manner in which amounts made available to that agency for drug control are being used by that agency.

(2) PROTECTION OF INTELLIGENCE INFORMATION.—

(A) IN GENERAL.—The authorities conferred on the Office and the Director by this [title] *subtitle* shall be exercised in a manner consistent with provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.). The [Director of Central Intelligence] *Director of National Intelligence* shall prescribe such regulations as may be necessary to protect information provided pursuant to this [title] *subtitle* regarding intelligence sources and methods.

(B) DUTIES OF DIRECTOR.—The [Director of Central Intelligence] *Director of National Intelligence and the Director of the Central Intelligence Agency* shall, to the maximum extent practicable in accordance with subparagraph (A), render full assistance and support to the Office and the Director.

[(3) ILLEGAL DRUG CULTIVATION.—The Secretary of Agriculture shall annually submit to the Director an assessment of the acreage of illegal drug cultivation in the United States.]

(3) REQUIRED REPORTS.—

(A) SECRETARIES OF THE INTERIOR AND AGRICULTURE.—The Secretaries of Agriculture and Interior shall, by July 1 of each year, jointly submit to the Director, the appropriate congressional committees, the Committee on Agriculture and the Committee on Resources of the House of Representatives, and the Committee on Agriculture and the Committee on Energy and Natural Resources of the Senate, an assessment of the quantity of illegal drug cultivation and manufacturing in the United States on lands owned or under the jurisdiction of the Federal Government for the preceding year.

(B) ATTORNEY GENERAL.—The Attorney General shall, by July 1 of each year, submit to the Director and the appropriate congressional committees information for the preceding year regarding the number and type of—

(i) arrests for drug violations;

(ii) prosecutions for drug violations by United States Attorneys; and

(iii) seizures of drugs by each component of the Department of Justice seizing drugs, as well as statistical information on the geographic areas of such seizures.

(C) SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall, by July 1 of each year, submit to the Director, the appropriate congressional committees, and the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security

and Governmental Affairs of the Senate, information for the preceding year regarding—

(i) the number and type of seizures of drugs by each component of the Department of Homeland Security seizing drugs, as well as statistical information on the geographic areas of such seizures; and

(ii) the number of air and maritime patrol hours undertaken by each component of that Department primarily dedicated to drug supply reduction missions.

(D) SECRETARY OF DEFENSE.—The Secretary of Defense shall, by July 1 of each year, submit to the Director, the appropriate congressional committees, the Committee on Armed Services of the House of Representatives, and the Committee on Armed Services of the Senate, information for the preceding year regarding the number of air and maritime patrol hours primarily dedicated to drug supply reduction missions undertaken by each component of the Department of Defense.

(b) CERTIFICATION OF POLICY CHANGES TO DIRECTOR.—

(1) * * *

(2) EXCEPTION.—If prior notice of a proposed change under paragraph (1) is not practicable—

(A) * * *

(B) upon such notification, the Director shall review the change and certify to the head of that agency in writing whether the change is consistent with the National Drug Control [Program.] *Strategy.*

(c) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Director, [in] *on* a reimbursable basis, such administrative support services as the Director may request.

* * * * * * *

[SEC. 706. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.

[(a) TIMING, CONTENTS, AND PROCESS FOR DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.—

[(1) TIMING.—Not later than February 1, 1999, the President shall submit to Congress a National Drug Control Strategy, which shall set forth a comprehensive plan, covering a period of not more than 5 years, for reducing drug abuse and the consequences of drug abuse in the United States, by limiting the availability of and reducing the demand for illegal drugs.

[(2) CONTENTS.—

[(A) IN GENERAL.—The National Drug Control Strategy submitted under paragraph (1) shall include—

[(i) comprehensive, research-based, long-range, quantifiable, goals for reducing drug abuse and the consequences of drug abuse in the United States;

[(ii) annual, quantifiable, and measurable objectives and specific targets to accomplish long-term quantifiable goals that the Director determines may be achieved during each year of the period beginning on the date on which the National Drug Control Strategy is submitted;

[(iii) 5-year projections for program and budget priorities; and

[(iv) a review of international, State, local, and private sector drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.

[(B) CLASSIFIED INFORMATION.—Any contents of the National Drug Control Strategy that involves information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the National Drug Control Strategy.

[(3) PROCESS FOR DEVELOPMENT AND SUBMISSION.—

[(A) CONSULTATION.—In developing and effectively implementing the National Drug Control Strategy, the Director—

[(i) shall consult with—

[(I) the heads of the National Drug Control Program agencies;

[(II) Congress;

[(III) State and local officials;

[(IV) private citizens and organizations with experience and expertise in demand reduction;

[(V) private citizens and organizations with experience and expertise in supply reduction; and

[(VI) appropriate representatives of foreign governments;

[(ii) with the concurrence of the Attorney General, may require the El Paso Intelligence Center to undertake specific tasks or projects to implement the National Drug Control Strategy; and

[(iii) with the concurrence of the Director of Central Intelligence and the Attorney General, may request that the National Drug Intelligence Center undertake specific tasks or projects to implement the National Drug Control Strategy.

[(B) INCLUSION IN STRATEGY.—The National Drug Control Strategy under this subsection, and each report submitted under subsection (b), shall include a list of each entity consulted under subparagraph (A)(i).

[(4) SPECIFIC TARGETS.—The targets in the National Drug Control Strategy shall include the following:

[(A) Reduction of unlawful drug use to 3 percent of the population of the United States or less by December 31, 2003 (as measured in terms of overall illicit drug use during the past 30 days by the National Household Survey), and achievement of at least 20 percent of such reduction during each of 1999, 2000, 2001, 2002, and 2003.

[(B) Reduction of adolescent unlawful drug use (as measured in terms of illicit drug use during the past 30 days by the Monitoring the Future Survey of the University of Michigan or the National PRIDE Survey conducted by the National Parents' Resource Institute for Drug Education) to 3 percent of the adolescent population of the United States or less by December 31, 2003, and achieve-

ment of at least 20 percent of such reduction during each of 1999, 2000, 2001, 2002, and 2003st.

[(C) Reduction of the availability of cocaine, heroin, marijuana, and methamphetamine in the United States by 80 percent by December 31, 2003.

[(D) Reduction of the respective nationwide average street purity levels for cocaine, heroin, marijuana, and methamphetamine (as estimated by the interagency drug flows assessment led by the Office of National Drug Control Policy, and based on statistics collected by the Drug Enforcement Administration and other National Drug Control Program agencies identified as relevant by the Director) by 60 percent by December 31, 2003, and achievement of at least 20 percent of each such reduction during each of 1999, 2000, 2001, 2002, and 2003.

[(E) Reduction of drug-related crime in the United States by 50 percent by December 31, 2003, and achievement of at least 20 percent of such reduction during each of 1999, 2000, 2001, 2002, and 2003, including—

[(i) reduction of State and Federal unlawful drug trafficking and distribution;

[(ii) reduction of State and Federal crimes committed by persons under the influence of unlawful drugs;

[(iii) reduction of State and Federal crimes committed for the purpose of obtaining unlawful drugs or obtaining property that is intended to be used for the purchase of unlawful drugs; and

[(iv) reduction of drug-related emergency room incidents in the United States (as measured by data of the Drug Abuse Warning Network on illicit drug abuse), including incidents involving gunshot wounds and automobile accidents in which illicit drugs are identified in the bloodstream of the victim, by 50 percent by December 31, 2003.

[(5) FURTHER REDUCTIONS IN DRUG USE, AVAILABILITY, AND CRIME.—Following the submission of a National Drug Control Strategy under this section to achieve the specific targets described in paragraph (4), the Director may formulate a strategy for additional reductions in drug use and availability and drug-related crime beyond the 5-year period covered by the National Drug Control Strategy that has been submitted.

[(b) ANNUAL STRATEGY REPORT.—

[(1) IN GENERAL.—Not later than February 1, 1999, and on February 1 of each year thereafter, the President shall submit to Congress a report on the progress in implementing the Strategy under subsection (a), which shall include—

[(A) an assessment of the Federal effectiveness in achieving the National Drug Control Strategy goals and objectives using the performance measurement system described in subsection (c), including—

[(i) an assessment of drug use and availability in the United States; and

[(ii) an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and inter-

national programs under the National Drug Control Strategy in effect during the preceding year, or in effect as of the date on which the report is submitted;

[(B) any modifications of the National Drug Control Strategy or the performance measurement system described in subsection (c);

[(C) an assessment of the manner in which the budget proposal submitted under section 704(c) is intended to implement the National Drug Control Strategy and whether the funding levels contained in such proposal are sufficient to implement such Strategy;

[(D) measurable data evaluating the success or failure in achieving the annual measurable objectives described in subsection (a)(2)(A)(ii);

[(E) an assessment of current drug use (including inhalants) and availability, impact of drug use, and treatment availability, which assessment shall include—

[(i) estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of—

[(I) casual and chronic drug use;

[(II) high-risk populations, including school dropouts, the homeless and transient, arrestees, parolees, probationers, and juvenile delinquents; and

[(III) drug use in the workplace and the productivity lost by such use;

[(ii) an assessment of the reduction of drug availability against an ascertained baseline, as measured by—

[(I) the quantities of cocaine, heroin, marijuana, methamphetamine, and other drugs available for consumption in the United States;

[(II) the amount of marijuana, cocaine, heroin, and precursor chemicals entering the United States;

[(III) the number of hectares of marijuana, poppy, and coca cultivated and destroyed domestically and in other countries;

[(IV) the number of metric tons of marijuana, heroin, cocaine, and methamphetamine seized;

[(V) the number of cocaine and methamphetamine processing laboratories destroyed domestically and in other countries;

[(VI) changes in the price and purity of heroin and cocaine, changes in the price of methamphetamine, and changes in tetrahydrocannabinol level of marijuana;

[(VII) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

[(VIII) the effectiveness of Federal technology programs at improving drug detection capabilities in interdiction, and at United States ports of entry;

[(iii) an assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

[(I) the burden drug users placed on hospital emergency departments in the United States, such as the quantity of drug-related services provided;

[(II) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other infectious diseases as a result of drug use;

[(III) the extent of drug-related crime and criminal activity; and

[(IV) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States;

[(iv) a determination of the status of drug treatment in the United States, by assessing—

[(I) public and private treatment capacity within each State, including information on the treatment capacity available in relation to the capacity actually used;

[(II) the extent, within each State, to which treatment is available;

[(III) the number of drug users the Director estimates could benefit from treatment; and

[(IV) the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals; and

[(v) a review of the research agenda of the Counter-Drug Technology Assessment Center to reduce the availability and abuse of drugs; and

[(F) an assessment of private sector initiatives and cooperative efforts between the Federal Government and State and local governments for drug control.

[(2) SUBMISSION OF REVISED STRATEGY.—The President may submit to Congress a revised National Drug Control Strategy that meets the requirements of this section—

[(A) at any time, upon a determination by the President, in consultation with the Director, that the National Drug Control Strategy in effect is not sufficiently effective; and

[(B) if a new President or Director takes office.

[(3) 1999 STRATEGY REPORT.—With respect to the Strategy report required to be submitted by this subsection on February 1, 1999, the President shall prepare the report using such information as is available for the period covered by the report.

[(c) PERFORMANCE MEASUREMENT SYSTEM.—

[(1) SENSE OF CONGRESS.—It is the sense of Congress that—

[(A) the targets described in subsection (a) are important to the reduction of overall drug use in the United States;

[(B) the President should seek to achieve those targets during the 5 years covered by the National Drug Control Strategy required to be submitted under subsection (a);

[(C) the purpose of such targets and the annual reports to Congress on the progress towards achieving the targets is to allow for the annual restructuring of appropriations by the Appropriations Committees and authorizing committees of jurisdiction of Congress to meet the goals described in this Act;

[(D) the performance measurement system developed by the Director described in this subsection is central to the National Drug Control Program targets, programs, and budget; and

[(E) the Congress strongly endorses the performance measurement system for establishing clear outcomes for reducing drug use nationwide during the next five years, and the linkage of this system to all agency drug control programs and budgets receiving funds scored as drug control agency funding.

[(2) SUBMISSION TO CONGRESS.—Not later than February 1, 1999, the Director shall submit to Congress a description of the national drug control performance measurement system, designed in consultation with affected National Drug Control Program agencies, that—

[(A) develops performance objectives, measures, and targets for each National Drug Control Strategy goal and objective;

[(B) revises performance objectives, measures, and targets, to conform with National Drug Control Program Agency budgets;

[(C) identifies major programs and activities of the National Drug Control Program agencies that support the goals and objectives of the National Drug Control Strategy;

[(D) evaluates in detail the implementation by each National Drug Control Program agency of program activities supporting the National Drug Control Strategy;

[(E) monitors consistency between the drug-related goals and objectives of the National Drug Control Program agencies and ensures that drug control agency goals and budgets support and are fully consistent with the National Drug Control Strategy; and

[(F) coordinates the development and implementation of national drug control data collection and reporting systems to support policy formulation and performance measurement, including an assessment of—

[(i) the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

[(ii) the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups that are at risk for drug use; and

[(iii) the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B) of subsection (b)(4).

[(3) MODIFICATIONS.—A description of any modifications made during the preceding year to the national drug control performance measurement system described in paragraph (2) shall be included in each report submitted under subsection (b).

[SEC. 707. HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.

[(a) ESTABLISHMENT.—There is established in the Office a program to be known as the High Intensity Drug Trafficking Areas Program.

[(b) DESIGNATION.—The Director, upon consultation with the Attorney General, the Secretary of the Treasury, heads of the National Drug Control Program agencies, and the Governor of each applicable State, may designate any specified area of the United States as a high intensity drug trafficking area. After making such a designation and in order to provide Federal assistance to the area so designated, the Director may—

[(1) obligate such sums as appropriated for the High Intensity Drug Trafficking Areas Program;

[(2) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the head of the department or agency that employs such personnel;

[(3) take any other action authorized under section 704 to provide increased Federal assistance to those areas;

[(4) coordinate activities under this subsection (specifically administrative, recordkeeping, and funds management activities) with State and local officials.

[(c) FACTORS FOR CONSIDERATION.—In considering whether to designate an area under this section as a high intensity drug trafficking area, the Director shall consider, in addition to such other criteria as the Director considers to be appropriate, the extent to which—

[(1) the area is a center of illegal drug production, manufacturing, importation, or distribution;

[(2) State and local law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

[(3) drug-related activities in the area are having a harmful impact in other areas of the country; and

[(4) a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

[(d) USE OF FUNDS.—The Director shall ensure that no Federal funds appropriated for the High Intensity Drug Trafficking Program are expended for the establishment or expansion of drug treatment programs.]

SEC. 706. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.

(a) TIMING, CONTENTS, AND PROCESS FOR DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.—

(1) IN GENERAL.—Not later than February 1 of each year, the President shall submit to Congress a National Drug Control Strategy, which shall set forth a comprehensive plan for reducing illicit drug use and the consequences of illicit drug use in

the United States by reducing the demand for illegal drugs, limiting the availability of illegal drugs, and conducting law enforcement activities with respect to illegal drugs.

(2) CONTENTS.—

(A) IN GENERAL.—The National Drug Control Strategy submitted under paragraph (1) shall include the following:

(i) Comprehensive, research-based, long-range, and quantifiable goals for reducing illicit drug use and the consequences of illicit drug use in the United States.

(ii) Annual quantifiable objectives for demand reduction, supply reduction, and law enforcement activities, specific targets to accomplish long-range quantifiable reduction in illicit drug use as determined by the Director, and specific measurements to evaluate progress toward the targets and strategic goals.

(iii) A strategy to reduce the availability and purity of illegal drugs and the level of drug-related crime in the United States.

(iv) An assessment of Federal effectiveness in achieving the National Drug Control Strategy for the previous year, including a specific evaluation of whether the objectives and targets for reducing illicit drug use for the previous year were met and reasons for the success or failure of the previous year's Strategy.

(v) A general review of the status of, and trends in, international, State, and local drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.

(vi) A general review of the status of, and trends in, demand reduction activities by private sector entities and community-based organizations, including faith-based organizations, to determine their effectiveness and the extent of cooperation, coordination, and mutual support between such entities and organizations and Federal, State, and local government agencies.

(vii) An assessment of current illicit drug use (including inhalants and steroids) and availability, impact of illicit drug use, and treatment availability, which assessment shall include—

(I) estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of nondependent and dependent illicit drug use;

(II) illicit drug use in the workplace and the productivity lost by such use; and

(III) illicit drug use by arrestees, probationers, and parolees.

(viii) An assessment of the reduction of illicit drug availability, as measured by—

(I) the quantities of cocaine, heroin, marijuana, methamphetamine, ecstasy, and other drugs available for consumption in the United States;

(II) the amount of marijuana, cocaine, heroin, methamphetamine, ecstasy, and precursor chemicals and other drugs entering the United States;

(III) the number of illicit drug manufacturing laboratories seized and destroyed and the number of hectares of marijuana, poppy, and coca cultivated and destroyed domestically and in other countries;

(IV) the number of metric tons of marijuana, heroin, cocaine, and methamphetamine seized and other drugs; and

(V) changes in the price and purity of heroin, methamphetamine, and cocaine, changes in the price of ecstasy, and changes in tetrahydrocannabinol level of marijuana and other drugs.

(ix) An assessment of the reduction of the consequences of illicit drug use and availability, which shall include—

(I) the burden illicit drug users place on hospital emergency departments in the United States, such as the quantity of illicit drug-related services provided;

(II) the annual national health care cost of illicit drug use; and

(III) the extent of illicit drug-related crime and criminal activity.

(x) A general review of the status of, and trends in, of drug treatment in the United States, by assessing—

(I) public and private treatment utilization; and

(II) the number of illicit drug users the Director estimates meet diagnostic criteria for treatment.

(xi) A review of the research agenda of the Counterdrug Technology Assessment Center to reduce the availability and abuse of drugs.

(xii) A summary of the efforts made by Federal agencies to coordinate with private sector entities to conduct private research and development of medications to treat addiction by—

(I) screening chemicals for potential therapeutic value;

(II) developing promising compounds;

(III) conducting clinical trials;

(IV) seeking, where appropriate, Food and Drug Administration approval for drugs to treat addiction;

(V) marketing, where appropriate, the drug for the treatment of addiction;

(VI) urging physicians, where appropriate, to use the drug in the treatment of addiction; and

(VII) encouraging, where appropriate, insurance companies to reimburse the cost of the drug for the treatment of addiction.

(xiii) Such additional statistical data and information as the Director considers appropriate to demonstrate and assess trends relating to illicit drug use, the effects and consequences of illicit drug use, supply reduction, demand reduction, drug-related law enforce-

ment, and the implementation of the National Drug Control Strategy.

(xiv) A supplement reviewing the activities of each individual National Drug Control Program agency during the previous year with respect to the National Drug Control Strategy and the Director's assessment of the progress of each National Drug Control Program agency in meeting its responsibilities under the National Drug Control Strategy.

(B) CLASSIFIED INFORMATION.—Any contents of the National Drug Control Strategy that involve information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the National Drug Control Strategy.

(C) SELECTION OF DATA AND INFORMATION.—In selecting data and information for inclusion under subparagraph (A), the Director shall ensure—

(i) the inclusion of data and information that will permit analysis of current trends against previously compiled data and information where the Director believes such analysis enhances long-term assessment of the National Drug Control Strategy; and

(ii) the inclusion of data and information to permit a standardized and uniform assessment of the effectiveness of drug treatment programs in the United States.

(3) PROCESS FOR DEVELOPMENT AND SUBMISSION.—

(A) CONSULTATION.—In developing and effectively implementing the National Drug Control Strategy, the Director—

(i) shall consult with—

(I) the heads of the National Drug Control Program agencies;

(II) Congress;

(III) State and local officials;

(IV) private citizens and organizations, including community- and faith-based organizations, with experience and expertise in demand reduction;

(V) private citizens and organizations with experience and expertise in supply reduction;

(VI) private citizens and organizations with experience and expertise in law enforcement; and

(VII) appropriate representatives of foreign governments;

(ii) with the concurrence of the Attorney General, may require the El Paso Intelligence Center to undertake specific tasks or projects to implement the National Drug Control Strategy;

(iii) with the concurrence of the Director of National Intelligence and the Attorney General, may request that the National Drug Intelligence Center undertake specific tasks or projects to implement the National Drug Control Strategy; and

(iv) may make recommendations to the Secretary of Health and Human Services on research that supports or advances the National Drug Control Strategy.

(B) COMMITMENT TO SUPPORT STRATEGY.—In satisfying the requirements of subparagraph (A)(i), the Director shall ensure, to the maximum extent possible, that State and local officials and relevant private organizations commit to support and take steps to achieve the goals and objectives of the National Drug Control Strategy.

(C) RECOMMENDATIONS.—Recommendations under subparagraph (A)(iv) may include recommendations of research to be performed at the National Institutes of Health, including the National Institute on Drug Abuse, or any other appropriate agency within the Department of Health and Human Services.

(D) INCLUSION IN STRATEGY.—The National Drug Control Strategy under this subsection shall include a list of each entity consulted under subparagraph (A)(i).

(4) SUBMISSION OF REVISED STRATEGY.—The President may submit to Congress a revised National Drug Control Strategy that meets the requirements of this section—

(A) at any time, upon a determination by the President, in consultation with the Director, that the National Drug Control Strategy in effect is not sufficiently effective; or

(B) if a new President or Director takes office.

(b) PERFORMANCE MEASUREMENT SYSTEM.—Not later than February 1 of each year, the Director shall submit to Congress, as part of the National Drug Control Strategy, a description of a national drug control performance measurement system that—

(1) develops 2-year and 5-year performance measures and targets for each National Drug Control Strategy goal and objective established for reducing drug use, drug availability, and the consequences of drug use;

(2) describes the sources of information and data that will be used for each performance measure incorporated into the performance measurement system;

(3) identifies major programs and activities of the National Drug Control Program agencies that support the goals and annual objectives of the National Drug Control Strategy;

(4) evaluates the contribution of demand reduction and supply reduction activities implemented by each National Drug Control Program agency in support of the National Drug Control Strategy;

(5) monitors consistency of drug-related goals and objectives among the National Drug Control Program agencies and ensures that each agency's goals, objectives, and budgets support and are fully consistent with the National Drug Control Strategy; and

(6) coordinates the development and implementation of national drug control data collection and reporting systems to support policy formulation and performance measurement, including an assessment of—

(A) the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

(B) the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure

the illicit drug user population, and groups that are at risk for illicit drug use; and

(C) the adequacy of the coverage of existing national treatment outcome monitoring systems to measure the effectiveness of drug abuse treatment in reducing illicit drug use and criminal behavior during and after the completion of substance abuse treatment; and

(7) identifies the actions the Director shall take to correct any inadequacies, deficiencies, or limitations identified in the assessment described in paragraph (6).

(c) MODIFICATIONS.—A description of any modifications made during the preceding year to the national drug performance measurement system described in subsection (b) shall be included in each report submitted under subsection (a).

SEC. 707. HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Office a program to be known as the High Intensity Drug Trafficking Areas Program (in this section referred to as the "Program").

(2) PURPOSE.—The purpose of the Program is to reduce drug trafficking and drug production in the United States by—

(A) facilitating cooperation among Federal, State, and local law enforcement agencies to share information and implement coordinated enforcement activities;

(B) enhancing intelligence sharing among Federal, State, and local law enforcement agencies;

(C) providing reliable intelligence to law enforcement agencies needed to design effective enforcement strategies and operations; and

(D) supporting coordinated law enforcement strategies which maximize use of available resources to reduce the supply of illegal drugs in designated areas and in the United States as a whole.

(b) DESIGNATION.—The Director, upon consultation with the Attorney General, the Secretary of the Treasury, the Secretary of Homeland Security, heads of the National Drug Control Program agencies, and the Governor of each applicable State, may designate any specified area of the United States as a high intensity drug trafficking area. After making such a designation and in order to provide Federal assistance to the area so designated, the Director may—

(1) obligate such sums as are appropriated for the Program;

(2) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the head of the department or agency that employs such personnel;

(3) take any other action authorized under section 704 to provide increased Federal assistance to those areas; and

(4) coordinate activities under this section (specifically administrative, recordkeeping, and funds management activities) with State and local officials.

(c) PETITIONS FOR DESIGNATION.—The Director shall establish regulations under which a coalition of interested law enforcement agencies from an area may petition for designation as a high intensity drug trafficking area. Such regulations shall provide for a regular review by the Director of the petition, including a recommenda-

tion regarding the merit of the petition to the Director by a panel of qualified, independent experts.

(d) FACTORS FOR CONSIDERATION.—In considering whether to designate an area under this section as a high intensity drug trafficking area, the Director shall consider, in addition to such other criteria as the Director considers to be appropriate, the extent to which—

(1) the area is a significant center of illegal drug production, manufacturing, importation, or distribution;

(2) State and local law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

(3) drug-related activities in the area are having a significant harmful impact in the area, and in other areas of the country; and

(4) a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

(e) ORGANIZATION OF HIGH INTENSITY DRUG TRAFFICKING AREAS.—

(1) EXECUTIVE BOARD AND OFFICERS.—To be eligible for funds appropriated under this section, each high intensity drug trafficking area shall be governed by an Executive Board. The Executive Board shall designate a chairman, vice chairman, and any other officers to the Executive Board that it determines are necessary.

(2) RESPONSIBILITIES.—The Executive Board of a high intensity drug trafficking area shall be responsible for—

(A) providing direction and oversight in establishing and achieving the goals of the high intensity drug trafficking area;

(B) managing the funds of the high intensity drug trafficking area;

(C) reviewing and approving all funding proposals consistent with the overall objective of the high intensity drug trafficking area; and

(D) reviewing and approving all reports to the Director on the activities of the high intensity drug trafficking area.

(3) BOARD REPRESENTATION.—None of the funds appropriated under this section may be expended for any high intensity drug trafficking area, or for a partnership or region of a high intensity drug trafficking area, if that area's, region's or partnership's Executive Board does not apportion an equal number of votes between representatives of participating Federal agencies and representatives of participating State and local agencies. Where it is impractical for a equal number of representatives of Federal agencies and State and local agencies to attend a meeting of an Executive Board in person, the Executive Board may use a system of proxy votes or weighted votes to achieve the voting balance required by this paragraph.

(4) NO AGENCY RELATIONSHIP.—The eligibility requirements of this section are intended to ensure the responsible use of Federal funds. Nothing in this section is intended to create an

agency relationship between individual high intensity drug trafficking areas and the Federal Government.

(f) USE OF FUNDS.—The Director shall ensure that no Federal funds appropriated for the Program are expended for the establishment or expansion of drug treatment or drug use prevention programs.

(g) COUNTERTERRORISM ACTIVITIES.—

(1) ASSISTANCE AUTHORIZED.—The Director may authorize use of resources available for the Program to assist Federal, State, and local law enforcement agencies in investigations and activities related to terrorism and prevention of terrorism, especially but not exclusively with respect to such investigations and activities that are also related to drug trafficking.

(2) LIMITATION.—The Director shall ensure—

(A) that assistance provided under paragraph (1) remains incidental to the purpose of the Program to reduce drug availability and carry out drug-related law enforcement activities; and

(B) that significant resources of the Program are not redirected to activities exclusively related to terrorism, except on a temporary basis under extraordinary circumstances, as determined by the Director.

(h) ROLE OF DRUG ENFORCEMENT ADMINISTRATION.—The Director, in consultation with the Attorney General, shall ensure that a representative of the Drug Enforcement Administration is included in the Intelligence Support Center for each high intensity drug trafficking area.

(i) ANNUAL HIDTA PROGRAM BUDGET SUBMISSIONS.—As part of the documentation that supports the President's annual budget request for the Office, the Director shall submit to Congress a budget justification that includes the following:

(1) The amount requested for each high intensity drug trafficking area with supporting narrative descriptions and rationale for each request.

(2) A detailed justification for each funding request that explains the reasons for the requested funding level, how such funding level was determined based on a current assessment of the drug trafficking threat in each high intensity drug trafficking area, how such funding will ensure that the goals and objectives of each such area will be achieved, and how such funding supports the National Drug Control Strategy.

(j) EMERGING THREAT RESPONSE FUND.—

(1) IN GENERAL.—The Director may expend up to 10 percent of the amounts appropriated under this section on a discretionary basis, to respond to any emerging drug trafficking threat in an existing high intensity drug trafficking area, or to establish a new high intensity drug trafficking area or expand an existing high intensity drug trafficking area, in accordance with the criteria established under paragraph (2).

(2) CONSIDERATION OF IMPACT.—In allocating funds under this subsection, the Director shall consider—

(A) the impact of activities funded on reducing overall drug traffic in the United States, or minimizing the probability that an emerging drug trafficking threat will spread to other areas of the United States; and

(B) such other criteria as the Director considers appropriate.

(k) EVALUATION.—

(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this subsection, the Director shall, after consulting with the Executive Boards of each designated high intensity drug trafficking area, submit a report to Congress that describes, for each designated high intensity drug trafficking area—

(A) the specific purposes for the high intensity drug trafficking area;

(B) the specific long-term and short-term goals and objectives for the high intensity drug trafficking area;

(C) the measurements that will be used to evaluate the performance of the high intensity drug trafficking area in achieving the long-term and short-term goals; and

(D) the reporting requirements needed to evaluate the performance of the high intensity drug trafficking area in achieving the long-term and short-term goals.

(2) EVALUATION OF HIDTA PROGRAM AS PART OF NATIONAL DRUG CONTROL STRATEGY.—For each designated high intensity drug trafficking area, the Director shall submit, as part of the annual National Drug Control Strategy report, a report that—

(A) describes—

(i) the specific purposes for the high intensity drug trafficking area; and

(ii) the specific long-term and short-term goals and objectives for the high intensity drug trafficking area; and

(B) includes an evaluation of the performance of the high intensity drug trafficking area in accomplishing the specific long-term and short-term goals and objectives identified under paragraph (1)(B).

(l) ASSESSMENT OF DRUG ENFORCEMENT TASK FORCES IN HIGH INTENSITY DRUG TRAFFICKING AREAS.—Not later than 180 days after the date of enactment of this subsection, and as part of each subsequent annual National Drug Control Strategy report, the Director shall submit to Congress a report—

(1) assessing the number and operation of all federally funded drug enforcement task forces within each high intensity drug trafficking area; and

(2) describing—

(A) each Federal, State, and local drug enforcement task force operating in the high intensity drug trafficking area;

(B) how such task forces coordinate with each other, with any high intensity drug trafficking area task force, and with investigations receiving funds from the Organized Crime and Drug Enforcement Task Force;

(C) what steps, if any, each such task force takes to share information regarding drug trafficking and drug production with other federally funded drug enforcement task forces in the high intensity drug trafficking area;

(D) the role of the high intensity drug trafficking area in coordinating the sharing of such information among task forces;

(E) the nature and extent of cooperation by each Federal, State, and local participant in ensuring that such information is shared among law enforcement agencies and with the high intensity drug trafficking area;

(F) the nature and extent to which information sharing and enforcement activities are coordinated with joint terrorism task forces in the high intensity drug trafficking area; and

(G) any recommendations for measures needed to ensure that task force resources are utilized efficiently and effectively to reduce the availability of illegal drugs in the high intensity drug trafficking areas.

(m) ASSESSMENT OF INTELLIGENCE SHARING IN HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.—Not later than 180 days after the date of the enactment of this subsection, and as part of each subsequent annual National Drug Control Strategy report, the Director shall submit to Congress a report evaluating—

(1) existing and planned intelligence systems supported by each high intensity drug trafficking area, or utilized by task forces receiving any funding under the Program, including the extent to which such systems ensure access and availability of intelligence to Federal, State, and local law enforcement agencies within the high intensity drug trafficking area and outside of it;

(2) the extent to which Federal, State, and local law enforcement agencies participating in each high intensity drug trafficking area are sharing intelligence information to assess current drug trafficking threats and design appropriate enforcement strategies; and

(3) the measures needed to improve effective sharing of information and intelligence regarding drug trafficking and drug production among Federal, State, and local law enforcement participating in a high intensity drug trafficking area, and between such agencies and similar agencies outside the high intensity drug trafficking area.

(n) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Office of National Drug Control Policy to carry out this section—

(1) $280,000,000 for fiscal year 2006;

(2) $290,000,000 for each of fiscal years 2007 and 2008; and

(3) $300,000,000 for each of fiscal years 2009 and 2010.

(o) SPECIFIC PURPOSES.—

(1) IN GENERAL.—The Director shall ensure that, of the amounts appropriated for a fiscal year for the Program, at least $5,000,000 is used in high intensity drug trafficking areas with severe neighborhood safety and illegal drug distribution problems.

(2) REQUIRED USES.—The funds used under paragraph (1) shall be used—

(A) to ensure the safety of neighborhoods and the protection of communities, including the prevention of the intimidation of potential witnesses of illegal drug distribution and related activities; and

(B) to combat illegal drug trafficking through such methods as the Director considers appropriate, such as estab-

lishing or operating (or both) a toll-free telephone hotline for use by the public to provide information about illegal drug-related activities.

SEC. 708. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) ESTABLISHMENT.—There is established within the Office the Counter-Drug Technology Assessment Center (referred to in this section as the "Center"). The Center shall operate under the authority of the Director of National Drug Control Policy and shall serve as the central counter-drug technology research and development organization of the United States Government.

(b) [DIRECTOR OF TECHNOLOGY.—] *CHIEF SCIENTIST.*—There shall be at the head of the Center the [Director of Technology,] *Chief Scientist,* who shall be appointed by the Director of National Drug Control Policy from among individuals qualified and distinguished in the area of science, medicine, engineering, or technology.

[(c) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—

[(1) IN GENERAL.—The Director, acting through the Director of Technology shall—

[(A) identify and define the short-, medium-, and long-term scientific and technological needs of Federal, State, and local drug supply reduction agencies, including—

[(i) advanced surveillance, tracking, and radar imaging;

[(ii) electronic support measures;

[(iii) communications;

[(iv) data fusion, advanced computer systems, and artificial intelligence; and

[(v) chemical, biological, radiological (including neutron, electron, and graviton), and other means of detection;

[(B) identify demand reduction basic and applied research needs and initiatives, in consultation with affected National Drug Control Program agencies, including—

[(i) improving treatment through neuroscientific advances;

[(ii) improving the transfer of biomedical research to the clinical setting; and

[(iii) in consultation with the National Institute on Drug Abuse, and through interagency agreements or grants, examining addiction and rehabilitation research and the application of technology to expanding the effectiveness or availability of drug treatment;

[(C) make a priority ranking of such needs identified in subparagraphs (A) and (B) according to fiscal and technological feasibility, as part of a National Counter-Drug Enforcement Research and Development Program;

[(D) oversee and coordinate counter-drug technology initiatives with related activities of other Federal civilian and military departments;

[(E) provide support to the development and implementation of the national drug control performance measurement system; and

[(F) pursuant to the authority of the Director of National Drug Control Policy under section 704, submit re-

quests to Congress for the reprogramming or transfer of funds appropriated for counter-drug technology research and development.

[(2) LIMITATION ON AUTHORITY.—The authority granted to the Director under this subsection shall not extend to the award of contracts, management of individual projects, or other operational activities.]

(c) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—

(1) IN GENERAL.—The Director, acting through the Chief Scientist shall—

(A) identify and define the short-, medium-, and long-term scientific and technological needs of Federal, State, and local law enforcement agencies relating to drug enforcement, including—

(i) advanced surveillance, tracking, and radar imaging;

(ii) electronic support measures;

(iii) communications;

(iv) data fusion, advanced computer systems, and artificial intelligence; and

(v) chemical, biological, radiological (including neutron, electron, and graviton), and other means of detection;

(B) identify demand reduction (including drug prevention) basic and applied research needs and initiatives, in consultation with affected National Drug Control Program agencies, including—

(i) improving treatment through neuroscientific advances;

(ii) improving the transfer of biomedical research to the clinical setting; and

(iii) in consultation with the National Institute on Drug Abuse and the Substance Abuse and Mental Health Services Administration, and through interagency agreements or grants, examining addiction and rehabilitation research and the application of technology to expanding the effectiveness or availability of drug treatment;

(C) make a priority ranking of such needs identified in subparagraphs (A) and (B) according to fiscal and technological feasibility, as part of a National Counterdrug Research and Development Program;

(D) oversee and coordinate counterdrug technology initiatives with related activities of other Federal civilian and military departments;

(E) provide support to the development and implementation of the national drug control performance measurement system established under subsection (b) of section 706;

(F) with the advice and counsel of experts from State and local law enforcement agencies, oversee and coordinate a technology transfer program for the transfer of technology to State and local law enforcement agencies; and

(G) pursuant to the authority of the Director of National Drug Control Policy under section 704, submit requests to

Congress for the reprogramming or transfer of funds appropriated for counterdrug technology research and development.

(2) PRIORITIES IN TRANSFERRING TECHNOLOGY.—

(A) IN GENERAL.—The Chief Scientist shall give priority, in transferring technology under paragraph (1)(F), based on the following criteria:

(i) the need of potential recipients for such technology;

(ii) the effectiveness of the technology to enhance current counterdrug activities of potential recipients; and

(iii) the ability and willingness of potential recipients to evaluate transferred technology.

(B) INTERDICTION AND BORDER DRUG LAW ENFORCEMENT TECHNOLOGIES.—The Chief Scientist shall give priority, in transferring technologies most likely to assist in drug interdiction and border drug law enforcement, to State, local, and tribal law enforcement agencies in southwest border areas and northern border areas with significant traffic in illicit drugs.

(3) LIMITATION ON AUTHORITY.—The authority granted to the Director under this subsection shall not extend to the direct management of individual projects or other operational activities.

(4) REPORT.—On or before July 1 of each year, the Director shall submit a report to the appropriate congressional committees that addresses the following:

(A) The number of requests received during the previous 12 months, including the identity of each requesting agency and the type of technology requested.

(B) The number of requests fulfilled during the previous 12 months, including the identity of each recipient agency and the type of technology transferred.

(C) A summary of the criteria used in making the determination on what requests were funded and what requests were not funded, except that such summary shall not include specific information on any individual requests.

(D) A general assessment of the future needs of the program, based on expected changes in threats, expected technologies, and likely need from potential recipients.

(E) An assessment of the effectiveness of the technologies transferred, based in part on the evaluations provided by the recipients, with a recommendation whether the technology should continue to be offered through the program.

(d) ASSISTANCE AND SUPPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.—The Secretary of Defense*, the Secretary of Homeland Security,* and the Secretary of Health and Human Services shall, to the maximum extent practicable, render assistance and support to the Office and to the Director in the conduct of counter-drug technology assessment.

[SEC. 709. PRESIDENT'S COUNCIL ON COUNTER-NARCOTICS.

[(a) ESTABLISHMENT.—There is established a council to be known as the President's Council on Counter-Narcotics (referred to in this section as the "Council").

[(b) MEMBERSHIP.—

[(1) IN GENERAL.—Subject to paragraph (2), the Council shall be composed of 18 members, of whom—

[(A) 1 shall be the President, who shall serve as Chairman of the Council;

[(B) 1 shall be the Vice President;

[(C) 1 shall be the Secretary of State;

[(D) 1 shall be the Secretary of the Treasury;

[(E) 1 shall be the Secretary of Defense;

[(F) 1 shall be the Attorney General;

[(G) 1 shall be the Secretary of Transportation;

[(H) 1 shall be the Secretary of Health and Human Services;

[(I) 1 shall be the Secretary of Education;

[(J) 1 shall be the Representative of the United States of America to the United Nations;

[(K) 1 shall be the Director of the Office of Management and Budget;

[(L) 1 shall be the Chief of Staff to the President;

[(M) 1 shall be the Director of the Office, who shall serve as the Executive Director of the Council;

[(N) 1 shall be the Director of Central Intelligence;

[(O) 1 shall be the Assistant to the President for National Security Affairs;

[(P) 1 shall be the Counsel to the President;

[(Q) 1 shall be the Chairman of the Joint Chiefs of Staff; and

[(R) 1 shall be the National Security Adviser to the Vice President.

[(2) ADDITIONAL MEMBERS.—The President may, in the discretion of the President, appoint additional members to the Council.

[(c) FUNCTIONS.—The Council shall advise and assist the President in—

[(1) providing direction and oversight for the national drug control strategy, including relating drug control policy to other national security interests and establishing priorities; and

[(2) ensuring coordination among departments and agencies of the Federal Government concerning implementation of the National Drug Control Strategy.

[(d) ADMINISTRATION.—

[(1) IN GENERAL.—The Council may utilize established or ad hoc committees, task forces, or interagency groups chaired by the Director (or a representative of the Director) in carrying out the functions of the Council under this section.

[(2) STAFF.—The staff of the Office, in coordination with the staffs of the Vice President and the Assistant to the President for National Security Affairs, shall act as staff for the Council.

[(3) COOPERATION FROM OTHER AGENCIES.—Each department and agency of the executive branch shall—

[(A) cooperate with the Council in carrying out the functions of the Council under this section; and

[(B) provide such assistance, information, and advice as the Council may request, to the extent permitted by law.]

SEC. 709. NATIONAL YOUTH ANTIDRUG MEDIA CAMPAIGN.

(a) IN GENERAL.—The Director shall conduct a national youth anti-drug media campaign (referred to in this subtitle as the "national media campaign") in accordance with this section for the purposes of—

(1) preventing drug abuse among young people in the United States;

(2) increasing awareness of adults of the impact of drug abuse on young people; and

(3) encouraging parents and other interested adults to discuss with young people the dangers of illegal drug use.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Amounts made available to carry out this section for the national media campaign may only be used for the following:

(A) The purchase of media time and space, including the strategic planning for, and accounting of, such purchases.

(B) Creative and talent costs, consistent with paragraph (2)(A).

(C) Advertising production costs.

(D) Testing and evaluation of advertising.

(E) Evaluation of the effectiveness of the national media campaign.

(F) The negotiated fees for the winning bidder on requests for proposals issued either by the Office or its designee to enter into contracts to carry out activities authorized by this section.

(G) Partnerships with professional and civic groups, community-based organizations, including faith-based organizations, and government organizations related to the national media campaign.

(H) Entertainment industry outreach, interactive outreach, media projects and activities, public information, news media outreach, and corporate sponsorship and participation.

(I) Operational and management expenses.

(2) SPECIFIC REQUIREMENTS.—

(A) CREATIVE SERVICES.—

(i) In using amounts for creative and talent costs under paragraph (1)(B), the Director shall use creative services donated at no cost to the Government (including creative services provided by the Partnership for a Drug-Free America) wherever feasible and may only procure creative services for advertising—

(I) responding to high-priority or emergent campaign needs that cannot timely be obtained at no cost; or

(II) intended to reach a minority, ethnic, or other special audience that cannot reasonably be obtained at no cost; or

(III) the Director determines that the Partnership for a Drug-Free America is unable to provide, pursuant to subsection (d)(2)(B).

(ii) No more than $1,500,000 may be expended under this section each fiscal year on creative services, except

that the Director may expend up to $2,000,000 in a fiscal year on creative services to meet urgent needs of the national media campaign with advance approval from the Committee on Appropriations of the House of Representatives and of the Senate upon a showing of the circumstances causing such urgent needs of the national media campaign.

(B) TESTING AND EVALUATION OF ADVERTISING.—In using amounts for testing and evaluation of advertising under paragraph (1)(D), the Director shall test all advertisements prior to use in the national media campaign to ensure that the advertisements are effective and meet industry-accepted standards. The Director may waive this requirement for advertisements using no more than 10 percent of the purchase of advertising time purchased under this section in a fiscal year and no more than 10 percent of the advertising space purchased under this section in a fiscal year, if the advertisements respond to emergent and time-sensitive campaign needs or the advertisements will not be widely utilized in the national media campaign.

(C) EVALUATION OF EFFECTIVENESS OF MEDIA CAMPAIGN.—In using amounts for the evaluation of the effectiveness of the national media campaign under paragraph (1)(E), the Director shall—

(i) designate an independent entity to evaluate annually the effectiveness of the national media campaign based on data from—

(I) the Monitoring the Future Study published by the Department of Health and Human Services;

(II) the Attitude Tracking Study published by the Partnership for a Drug Free America;

(III) the National Household Survey on Drug Abuse; and

(IV) other relevant studies or publications, as determined by the Director, including tracking and evaluation data collected according to marketing and advertising industry standards; and

(ii) ensure that the effectiveness of the national media campaign is evaluated in a manner that enables consideration of whether the national media campaign has contributed to reduction of illicit drug use among youth and such other measures of evaluation as the Director determines are appropriate.

(3) PURCHASE OF ADVERTISING TIME AND SPACE.—For each fiscal year, not less than 77 percent of the amounts appropriated under this section shall be used for the purchase of advertising time and space for the national media campaign, subject to the following exceptions:

(A) In any fiscal year for which less than $125,000,000 is appropriated for the national media campaign, not less than 82 percent of the amounts appropriated under this section shall be used for the purchase of advertising time and space for the national media campaign.

(B) In any fiscal year for which more than $195,000,000 is appropriated under this section, not less than 72 percent

shall be used for advertising production costs and the purchase of advertising time and space for the national media campaign.

(c) ADVERTISING.—In carrying out this section, the Director shall ensure that sufficient funds are allocated to meet the stated goals of the national media campaign.

(d) DIVISION OF RESPONSIBILITIES AND FUNCTIONS UNDER THE PROGRAM.—

(1) IN GENERAL.—The Director, in consultation with the Partnership for a Drug-Free America, shall determine the overall purposes and strategy of the national media campaign.

(2) RESPONSIBILITIES.—

(A) DIRECTOR.—The Director shall be responsible for implementing a focused national media campaign to meet the purposes set forth in subsection (a), and shall approve—

(i) the strategy of the national media campaign;

(ii) all advertising and promotional material used in the national media campaign; and

(iii) the plan for the purchase of advertising time and space for the national media campaign.

(B) THE PARTNERSHIP FOR A DRUG-FREE AMERICA.—The Director shall request that the Partnership for a Drug-Free America—

(i) develop and recommend strategies to achieve the goals of the national media campaign, including addressing national and local drug threats in specific regions or States, such as methamphetamine and ecstasy;

(ii) create all advertising to be used in the national media campaign, except advertisements that are—

(I) provided by other nonprofit entities pursuant to subsection (f);

(II) intended to respond to high-priority or emergent campaign needs that cannot timely be obtained at no cost (not including production costs and talent reuse payments), provided that any such advertising material is reviewed by the Partnership for a Drug-Free America;

(III) intended to reach a minority, ethnic, or other special audience that cannot be obtained at no cost (not including production costs and talent reuse payments), provided that any such advertising material is reviewed by the Partnership for a Drug-Free America; or

(IV) any other advertisements that the Director determines that the Partnership for a Drug-Free America is unable to provide.

(C) MEDIA BUYING CONTRACTOR.—The Director shall enter into a contract with a media buying contractor to plan and purchase advertising time and space for the national media campaign. The media buying contractor shall not provide any other service or material, or conduct any other function or activity which the Director determines should be provided by the Partnership for a Drug-Free America.

(e) PROHIBITIONS.—None of the amounts made available under subsection (b) may be obligated or expended for any of the following:

(1) To supplant current antidrug community-based coalitions.

(2) To supplant pro bono public service time donated by national and local broadcasting networks for other public service campaigns.

(3) For partisan political purposes, or express advocacy in support of or to defeat any clearly identified candidate, clearly identified ballot initiative, or clearly identified legislative or regulatory proposal.

(4) To fund advertising that features any elected officials, persons seeking elected office, cabinet level officials, or other Federal officials employed pursuant to section 213 of Schedule C of title 5, Code of Federal Regulations.

(5) To fund advertising that does not contain a primary message intended to reduce or prevent illicit drug use.

(6) To fund advertising containing a primary message intended to promote support for the media campaign or private sector contributions to the media campaign.

(f) MATCHING REQUIREMENT.—

(1) IN GENERAL.—Amounts made available under subsection (b) for media time and space shall be matched by an equal amount of non-Federal funds for the national media campaign, or be matched with in-kind contributions of the same value.

(2) NO-COST MATCH ADVERTISING DIRECT RELATIONSHIP REQUIREMENT.—The Director shall ensure that at least 70 percent of no-cost match advertising provided directly relates to substance abuse prevention consistent with the specific purposes of the national media campaign, except that in any fiscal year in which less than $125,000,000 is appropriated to the national media campaign, the Director shall ensure that at least 85 percent of no-cost match advertising directly relates to substance abuse prevention consistent with the specific purposes of the national media campaign.

(3) NO-COST MATCH ADVERTISING NOT DIRECTLY RELATED.—The Director shall ensure that no-cost match advertising that does not directly relate to substance abuse prevention consistent with the purposes of the national media campaign includes a clear antidrug message. Such message is not required to be the primary message of the match advertising.

(g) FINANCIAL AND PERFORMANCE ACCOUNTABILITY.—The Director shall cause to be performed—

(1) audits and reviews of costs of the national media campaign pursuant to section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d); and

(2) an audit to determine whether the costs of the national media campaign are allowable under section 306 of such Act (41 U.S.C. 256).

(h) REPORT TO CONGRESS.—The Director shall submit on an annual basis a report to Congress that describes—

(1) the strategy of the national media campaign and whether specific objectives of the media campaign were accomplished;

(2) steps taken to ensure that the national media campaign operates in an effective and efficient manner consistent with the overall strategy and focus of the national media campaign;

(3) plans to purchase advertising time and space;

(4) policies and practices implemented to ensure that Federal funds are used responsibly to purchase advertising time and space and eliminate the potential for waste, fraud, and abuse; and

(5) all contracts entered into with a corporation, partnership, or individual working on behalf of the national media campaign.

(i) LOCAL TARGET REQUIREMENT.—The Director shall, to the maximum extent feasible, use amounts made available under this section for media that focuses on, or includes specific information on, prevention or treatment resources for consumers within specific local areas.

(j) PREVENTION OF MARIJUANA USE.—

(1) FINDINGS.—The Congress finds the following:

(A) 60 percent of adolescent admissions for drug treatment are based on marijuana use.

(B) Potency levels of contemporary marijuana, particularly hydroponically grown marijuana, are significantly higher than in the past, rising from under 1 percent of THC in the mid-1970s to as high as 30 percent today.

(C) Contemporary research has demonstrated that youths smoking marijuana early in life may be up to five times more likely to use hard drugs.

(D) Contemporary research has demonstrated clear detrimental effects in adolescent educational achievement resulting from marijuana use.

(E) Contemporary research has demonstrated clear detrimental effects in adolescent brain development resulting from marijuana use.

(F) An estimated 9,000,000 Americans a year drive while under the influence of illegal drugs, including marijuana.

(G) Marijuana smoke contains 50 to 70 percent more of certain cancer causing chemicals than tobacco smoke.

(H) Teens who use marijuana are up to four times more likely to have a teen pregnancy than teens who have not.

(I) Federal law enforcement agencies have identified clear links suggesting that trade in hydroponic marijuana facilitates trade by criminal organizations in hard drugs, including heroin.

(J) Federal law enforcement agencies have identified possible links between trade in cannabis products and financing for terrorist organizations.

(2) EMPHASIS ON PREVENTION OF YOUTH MARIJUANA USE.—In conducting advertising and activities otherwise authorized under this section, the Director may emphasize prevention of youth marijuana use.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Office to carry out this section, $195,000,000 for each of fiscal years 2006 and 2007 and $210,000,000 for each of fiscal years 2008 through 2010.

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SEC. 711. DRUG INTERDICTION.

[(a) DEFINITION.—In this section, the term "Federal drug control agency" means—

[(1) the Office of National Drug Control Policy;

[(2) the Department of Defense;

[(3) the Drug Enforcement Administration;

[(4) the Federal Bureau of Investigation;

[(5) the Immigration and Naturalization Service;

[(6) the United States Coast Guard;

[(7) the United States Customs Service; and

[(8) any other department or agency of the Federal Government that the Director determines to be relevant.

[(b) REPORT.—In order to assist Congress in determining the personnel, equipment, funding, and other resources that would be required by Federal drug control agencies in order to achieve a level of interdiction success at or above the highest level achieved before the date of enactment of this title, not later than 90 days after the date of enactment of this Act, the Director shall submit to Congress and to each Federal drug control program agency a report, which shall include—

[(1) with respect to the southern and western border regions of the United States (including the Pacific coast, the border with Mexico, the Gulf of Mexico coast, and other ports of entry) and in overall totals, data relating to—

[(A) the amount of marijuana, heroin, methamphetamine, and cocaine—

[(i) seized during the year of highest recorded seizures for each drug in each region and during the year of highest recorded overall seizures; and

[(ii) disrupted during the year of highest recorded disruptions for each drug in each region and during the year of highest recorded overall seizures; and

[(B) the number of persons arrested for violations of section 1010(a) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)) and related offenses during the year of the highest number of arrests on record for each region and during the year of highest recorded overall arrests;

[(2) the price of cocaine, heroin, methamphetamine, and marijuana during the year of highest price on record during the preceding 10-year period, adjusted for purity where possible; and

[(3) a description of the personnel, equipment, funding, and other resources of the Federal drug control agency devoted to drug interdiction and securing the borders of the United States against drug trafficking for each of the years identified in paragraphs (1) and (2) for each Federal drug control agency.]

(a) UNITED STATES INTERDICTION COORDINATOR.—

(1) IN GENERAL.—The Deputy Director for Supply Reduction in the Office shall serve as the United States Interdiction Coordinator, and shall perform the duties of that position described in paragraph (2) and such other duties as may be determined by the Director with respect to coordination of efforts to interdict illicit drugs from entering the United States.

(2) RESPONSIBILITIES.—The United States Interdiction Coordinator shall be responsible to the Director for—

(A) coordinating the interdiction activities of the National Drug Control Program agencies to ensure consistency with the National Drug Control Strategy;

(B) on behalf of the Director, developing and issuing, on or before March 1 of each year and in accordance with paragraph (3), a National Interdiction Command and Control Plan to ensure the coordination and consistency described in subparagraph (A);

(C) assessing the sufficiency of assets committed to illicit drug interdiction by the relevant National Drug Control Program agencies; and

(D) advising the Director on the efforts of each National Drug Control Program agency to implement the National Interdiction Command and Control Plan.

(3) STAFF.—The Director shall assign such permanent staff of the Office as he considers appropriate to assist the United States Interdiction Coordinator to carry out the responsibilities described in paragraph (2), and may also, at his discretion, request that appropriate National Drug Control Program agencies detail or assign staff to the Office of Supply Reduction for that purpose.

(4) NATIONAL INTERDICTION COMMAND AND CONTROL PLAN.—

(A) PURPOSES.—The National Interdiction Command and Control Plan shall—

(i) set forth the Government's strategy for drug interdiction;

(ii) state the specific roles and responsibilities of the relevant National Drug Control Program agencies for implementing that strategy; and

(iii) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement that strategy.

(B) CONSULTATION WITH OTHER AGENCIES.—The United States Interdiction Coordinator shall issue the National Interdiction Command and Control Plan in consultation with the other members of the Interdiction Committee described in subsection (b).

(C) LIMITATION.—The National Interdiction Command and Control Plan shall not change existing agency authorities or the laws governing interagency relationships, but may include recommendations about changes to such authorities or laws.

(D) REPORT TO CONGRESS.—On or before March 1 of each year, the United States Interdiction Coordinator shall provide a report on behalf of the Director to the appropriate congressional committees, to the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives, and to the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate, which shall include—

(i) a copy of that year's National Interdiction Command and Control Plan;

(ii) information for the previous 10 years regarding the number and type of seizures of drugs by each National Drug Control Program agency conducting drug interdiction activities, as well as statistical information on the geographic areas of such seizures; and

(iii) information for the previous 10 years regarding the number of air and maritime patrol hours undertaken by each National Drug Control Program agency conducting drug interdiction activities, as well as statistical information on the geographic areas in which such patrol hours took place.

(E) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the report described in subparagraph (D) that involves information classified under criteria established by an Executive order, or the public disclosure of which, as determined by the United States Interdiction Coordinator or the head of any relevant National Drug Control Program agency, would be detrimental to the law enforcement or national security activities of any Federal, State, or local agency, shall be presented to Congress separately from the rest of the plan.

(b) INTERDICTION COMMITTEE.—

(1) IN GENERAL.—The Interdiction Committee shall meet to—

(A) discuss and resolve issues related to the coordination, oversight and integration of international, border, and domestic drug interdiction efforts in support of the National Drug Control Strategy;

(B) review the annual National Interdiction Command and Control Plan, and provide advice to the Director and the United States Interdiction Coordinator concerning that plan; and

(C) provide such other advice to the Director concerning drug interdiction strategy and policies as the committee determines is appropriate.

(2) MEMBERSHIP.—The membership of the Interdiction Committee shall consist of—

(A) the Commissioner of the bureau of Customs and Border Protection at the Department of Homeland Security;

(B) the Assistant Secretary of the bureau of Immigration and Customs Enforcement at the Department of Homeland Security;

(C) the Commandant of the United States Coast Guard;

(D) the Director of the Office of Counternarcotics Enforcement at the Department of Homeland Security;

(E) the Administrator of the Drug Enforcement Administration;

(F) the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs;

(G) the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict;

(H) the Deputy Director for Supply Reduction of the Office of National Drug Control Policy, acting in his role as the United States Interdiction Coordinator;

(I) the director of the Crime and Narcotics Center of the Central Intelligence Agency;

(J) the Deputy Director for State and Local Affairs of the Office of National Drug Control Policy;

(K) the Chief of the National Guard Bureau's Counterdrug Program; and

(L) such additional persons as may be determined by the Director.

(3) CHAIRMAN.—The Director shall designate one of the members of the Interdiction Committee to serve as chairman.

(4) MEETINGS.—The members of the Interdiction Committee shall meet, in person and not through any delegate or representative, at least once per calendar year, prior to March 1. At the call of either the Director or the current chairman, the Interdiction Committee may hold additional meetings, which shall be attended by the members either in person, or through such delegates or representatives as they may choose.

(5) REPORT.—Not later than September 30 of each year, the chairman of the Interdiction Committee shall submit a report to the Director and to the appropriate congressional committees describing the results of the meetings and any significant findings of the Committee during the previous 12 months. Any content of such a report that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Director, the chairman, or any member, would be detrimental to the law enforcement or national security activities of any Federal, State, or local agency, shall be presented to Congress separately from the rest of the report.

* * * * * * *

[SEC. 712. ESTABLISHMENT OF SPECIAL FORFEITURE FUND.

[Section 6073 of the Asset Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is amended—

[(1) in subsection (b)—

[(A) by striking "section 524(c)(9)" and inserting "section 524(c)(8)"; and

[(B) by striking "section 9307(g)" and inserting "section 9703(g)"; and

[(2) in subsection (e), by striking "strategy" and inserting "Strategy".]

SEC. 712. REQUIREMENT FOR DISCLOSURE OF FEDERAL SPONSORSHIP OF ALL FEDERAL ADVERTISING OR OTHER COMMUNICATION MATERIALS.

(a) REQUIREMENT.—Each advertisement or other communication paid for by the Office, either directly or through a contract awarded by the Office, shall include a prominent notice informing the target audience that the advertisement or other communication is paid for by the Office.

(b) ADVERTISEMENT OR OTHER COMMUNICATION.—In this section, the term "advertisement or other communication" includes—

(1) an advertisement disseminated in any form, including print or by any electronic means; and

(2) a communication by an individual in any form, including speech, print, or by any electronic means.

* * * * * * *

SEC. 714. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this [title,] *title, except activities for which amounts are otherwise specifically authorized by this title,* to remain available until expended, such sums as may be necessary for each of fiscal years [1999 through 2003] *2006 through 2010*.

[SEC. 715. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

[(a) IN GENERAL.—Except as provided in subsection (b), effective on September 30, 2003, this title and the amendments made by this title are repealed.

[(b) EXCEPTION.—Subsection (a) does not apply to section 713 or the amendments made by that section.]

Subtitle B—Clean Sports Act of 2005

SEC. 721. SHORT TITLE.

This subtitle may be cited as the "Clean Sports Act of 2005".

SEC. 722. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The use of anabolic steroids and other performance-enhancing substances by minors is a public health problem of national significance.

(2) Experts estimate that over 500,000 teenagers have used performance-enhancing substances, which medical experts warn can cause a litany of health problems for individuals who take them, in particular children and teenagers.

(3) The adverse health effects caused by steroids and other performance-enhancing substances include stunted growth, scarring acne, hair loss, dramatic mood swings, hormonal and metabolic imbalances, liver damage, a higher risk of heart disease and stroke later in life, as well as an increased propensity to demonstrate aggressive behavior, commit suicide, and commit crimes.

(4) Professional athletes are role models for young athletes and influence the behavior of children and teenagers.

(5) Congressional testimony by parents of minors who used performance enhancing drugs, as well as medical and health experts, indicates that the actual or alleged use of performance-enhancing substances by professional athletes results in the increased use of these substances by children and teenagers.

(6) Surveys and studies suggest a connection between the actual or alleged use of performance-enhancing substances by college and professional athletes and the increased use of these substances by children and teenagers.

(7) The real or perceived tolerance of the use of performance-enhancing substances by professional athletes has resulted in both increased pressure on children and teenagers to use performance-enhancing drugs in order to advance their athletic careers and to professional sports loss of integrity.

(8) The adoption by professional sports leagues of strong policies to eliminate the use of performance-enhancing substances would result in the reduced use of these substances by children and teenagers.

(9) Minimum drug testing standards for professional sports established by Federal law would ensure the adoption of strong policies to eliminate the use of performance-enhancing substances in professional sports.

(10) Minimum drug testing standards for professional sports established by Federal law would help return integrity to professional sports.

(11) Congress has for several years expressed a strong interest in the problem of the role of performance-enhancing drugs in professional sports and other levels of sports.

(12) Congress has for several years regulated the use of anabolic steroids and other performance-enhancing substances.

(13) Recent Federal laws regulating the use of anabolic steroids and other performance-enhancing substances were enacted in large part to reduce the prevalence of these substances in sports.

(14) Congress has for several years regulated both professional and amateur sports.

(b) PURPOSE.—The purpose of this subtitle is to protect the integrity of professional sports and the health and safety of athletes generally by establishing minimum standards for the testing of steroids and other performance-enhancing substances by professional sports leagues.

SEC. 723. DEFINITIONS.

In this subtitle:

(1) ANTI-DOPING CODE.—The term "anti-doping code" means the doping control standards established in the United States Anti-Doping Agency Protocol for Olympic Movement Testing (excluding substances or methods prohibited in a particular sport, as defined in such protocol).

(2) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(3) DIRECTOR.—The term "Director" means the Director of the Office of National Drug Control Policy.

(4) MAJOR PROFESSIONAL LEAGUE.—The term "major professional league" means Major League Baseball, the National Basketball Association, the National Football League, and the National Hockey League or any successor organization to those leagues.

(5) OFF-SEASON.—The term "off-season" means the period of time in each calendar year outside of the season of play for each major professional league.

(6) PROFESSIONAL ATHLETE.—The term "professional athlete" means an individual who competes in a major professional league.

(7) PROFESSIONAL GAME.—The term "professional game" means any game held in the United States between any professional teams of a major professional league.

(8) PROHIBITED METHOD OR SUBSTANCE.—

(A) PROHIBITED METHOD.—The term "prohibited method" means a method listed and described in the Anti-Doping Code.

(B) PROHIBITED SUBSTANCE.—The term "prohibited substance" means a substance listed and described in the Anti-Doping Code.

(C) PERIOD OF PROHIBITION.—A substance prohibited in-competition by the Anti-Doping Code shall be a prohibited substance only during the season of play. Only a substance or method prohibited out-of-competition by the Anti-Doping Code shall be a prohibited substance or method during the off-season.

(9) SEASON OF PLAY.—

(A) IN GENERAL.—The term "season of play" for each major professional league means the period of time in each calendar year beginning with the date on which professional athletes of that major professional league are collectively obligated to report to their teams in preparation for play and ending with the last game of the major professional league's regular season.

(B) POST-SEASON.—The season of play shall include post-season play for an athlete who is a member of a team that remains active in post-season play.

SEC. 724. MINIMUM UNIFORM TESTING STANDARDS.

(a) CONDUCT PROHIBITED.—It shall be unlawful for a major professional league to arrange, promote, organize, or produce a professional game without meeting the requirements in subsection (b).

(b) MINIMUM TESTING REQUIREMENTS.—Each major professional league shall implement policies and procedures for the testing of the use of prohibited substances by professional athletes who compete in each respective major professional league which shall be independently administered and shall be consistent with and as stringent as the doping control standard established by the United States Anti-Doping Agency, and which shall, at minimum, include the following:

(1) TIMING AND FREQUENCY OF TESTING.—

(A) IN GENERAL.—Each professional athlete shall be tested a minimum of 5 times each calendar year that such athlete is competing in games organized by the major professional league.

(B) TIMING.—Each athlete shall be tested—

(i) at least 3 times, each with no advance notice, during each season of play; and

(ii) at least 2 times, each with no advance notice, during the off-season.

(2) TEST DISTRIBUTION PLANNING.—Each major professional league shall certify to the Director on or prior to December 31 of each year that it has consulted with the United States Anti-Doping Agency in the development of its test distribution plan for both season of play and off-season testing.

(3) METHOD OF TESTING.—Each major professional league shall certify to the Director on or prior to December 31 of each year that it has consulted with the United States Anti-Doping Agency in the development of its drug testing protocols for both season of play and off-season testing.

(4) APPLICABLE SUBSTANCES.—Each professional athlete shall be tested for all prohibited substances at the time of each test. A major professional league may make exceptions for any prohibited substances that have been properly prescribed by a doctor of medicine licensed in the United States for legitimate and documented therapeutic purposes.

(5) ANALYSIS OF SAMPLE.—Each sample provided shall be analyzed by a laboratory approved by the United States Anti-Doping Agency.

(6) POSITIVE TESTS.—

(A) IN GENERAL.—A positive test shall consist of the presence in the sample of any prohibited substance or its metabolites or markers, or evidence of the use of a prohibited method, unless that substance was prescribed to the athlete in accordance with paragraph (4).

(B) REFUSAL.—A refusal by a professional athlete to submit to a test or a failure of a professional athlete to submit to a test without compelling justification shall also be considered a positive test.

(7) PENALTIES.—

(A) GENERAL RULE.—

(i) FIRST VIOLATION.—Except as provided in subparagraph (B), a professional athlete who tests positive shall be immediately suspended for a minimum of 2 years for a first violation. All suspensions shall include a loss of pay for the period of the suspension.

(ii) SECOND VIOLATION.—A second violation shall result in a lifetime ban of the professional athlete from all major professional leagues.

(B) EXCEPTIONS.—

(i) KNOWLEDGE OF THE ATHLETE.—A major professional league may impose a lesser penalty than provided in subparagraph (A) or no penalty if the professional athlete establishes that he did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he had used the prohibited substance.

(ii) ASSISTANCE IN IDENTIFYING VIOLATIONS.—A major professional league may impose a lesser penalty than provided in subparagraph (A) if the professional athlete provides substantial assistance to the major professional league in identifying violations of the league's drug testing policy by other professional athletes or assistance in violations of the league's drug testing policy by any coach, trainer, manager, agent, team staff, official, medical, or other personnel working with or treating professional athletes participating in or preparing for sports competition.

(8) ADJUDICATION.—

(A) CONSULTATION.—Each major professional league shall certify to the Director on or prior to December 31 of each year that it has consulted with the United States Anti-Doping Agency in the development of its adjudication process.

(B) DUE PROCESS.—If a professional athlete tests positive, the professional athlete shall have the right to notice, a fair, timely, and expedited hearing, representation by counsel and appeal.

(C) SUSPENSION.—During the pendency of any proceedings the professional athlete shall be suspended from participating in any professional game.

(9) PUBLIC DISCLOSURE.—

(A) TESTING.—A major professional league shall publicly disclose the identity of any professional player who has tested positive as well as the prohibited substance or prohibited method for which he tested positive not later than 30 days after receiving the test results.

(B) PENALTY.—A major professional league shall publicly disclose the name of any penalized athlete, the penalty imposed, the substance for which the player tested positive, and the reason for the penalty not later than 15 days after the final disposition of the player's case.

SEC. 725. PROMULGATION OF STANDARDS BY THE DIRECTOR OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) IN GENERAL.—The Director shall have the authority to promulgate standards that would modify the provisions of section 724 as they apply to an individual major professional league for exceptional circumstances or for other good cause.

(b) EFFECTIVENESS MAINTAINED.—A modification under subsection (a) shall not—

(1) reduce the effectiveness of the standards in eliminating the use of steroids or other performance-enhancing substances in any major professional league; or

(2) diminish the leadership role of the United States in eliminating the use of steroids or other performance-enhancing substances in sports.

(c) INCLUSION OF ADDITIONAL LEAGUES.—The Director may include an additional professional sporting league or the colleges and athletes participating in Division I or Division II of the NCAA as a major professional league if the Director determines that such additions would prevent the use of performance-enhancing substances by high school, college, or professional athletes.

(d) DELEGATION.—The Director may delegate the administration of this subtitle to any other appropriate agency of the Federal Government.

SEC. 726. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.

(a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of section 724 shall be treated as a violation of section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

(b) POWERS OF COMMISSION.—

(1) IN GENERAL.—The Commission shall issue and enforce the regulations for the enforcement of section 724 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this subtitle. Any person who violates such regulations shall be subject to the penalties and entitled to the privileges and immunities provided in that Act.

(2) ENHANCED PENALTY FOR VIOLATIONS.—Notwithstanding subsection (a) and the Federal Trade Commission Act, in the case of a person who violates section 724, the Commission may, in its discretion, seek a civil penalty for such violation in an

amount, as determined by the Commission, of not more than $1,000,000 for each violation of section 724.

(3) GENERAL AUTHORITY.—Nothing in this subtitle shall be construed to limit the authority of the Commission under any other provision of law.

SEC. 727. REPORTS TO CONGRESS.

(a) FIRST LEAGUE REPORT.—

(1) IN GENERAL.—Not later than 6 months after completion of a professional sports league's first season of play after the effective date of this subtitle, each major professional league shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce and the Committee on Government Reform of the House of Representatives, a report on its testing policies and procedures.

(2) CONTENTS.—The report required by this subsection shall contain—

(A) a comparison of the major professional league's testing policy (including its adjudication procedures) to that of the United States Anti-Doping Agency, emphasizing the differences between the policies and the rationales for the differences; and

(B) aggregate data on the number of professional players tested by the major professional league and the prohibited substances detected in samples or prohibited methods, including the number of tests conducted during the season of play and during the off-season.

(b) BIENNIAL LEAGUE REPORTS.—Each major professional league shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce and the Committee on Government Reform of the House of Representatives, on a biennial basis, a report containing the data and analysis required in subsection (a) for each of the 2 prior years.

(c) ONDCP REPORT.—Not later than 1 year after the date of enactment of this subtitle, and subsequently thereafter as determined appropriate by the Director, the Director shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce and the Committee on Government Reform of the House of Representatives, recommendations for improving any Federal law governing controlled substances as may be necessary for reducing the use of steroids and other performance-enhancing substances.

SEC. 728. PROMULGATION OF STANDARDS BY UNITED STATES BOXING COMMISSION.

Upon the later of 12 months after enactment of this subtitle or 12 months after the establishment of the United States Boxing Commission pursuant to Federal law, that commission shall, in consultation with the Association of Boxing Commissions and the United States Anti-Doping Agency, promulgate uniform performance-enhancing substance testing standards for professional boxing that are consistent with section 724.

SEC. 729. STUDY ON COLLEGE TESTING POLICIES AND PROCEDURES.

(a) STUDY.—The Government Accountability Office shall conduct a study on the use of performance-enhancing substances by college

athletes which shall examine the prohibited substance policies and testing procedures of intercollegiate athletic associations and college and university athletic departments.

(b) REPORT.—

(1) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this subtitle, the Government Accountability Office shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce and the Committee on Government Reform of the House of Representatives.

(2) CONTENTS.—The report required by this subsection shall—

(A) assess the adequacy of the testing policies and procedures described in subsection (a) in detecting and preventing the use of performance-enhancing substances; and

(B) include recommendations to Congress regarding expanding the application of the regulations issued pursuant to this subtitle to such intercollegiate and interscholastic athletic associations.

SEC. 730. COMMISSION ON HIGH SCHOOL AND COLLEGIATE ATHLETICS.

(a) COMMISSION.—The Director shall establish a commission on high school and collegiate athletics.

(b) REPORT.—Not later than 1 year after the date of enactment of this subtitle, the commission shall report to Congress—

(1) findings on the use of steroids and other performance-enhancing substances in high school and collegiate sports; and

(2) recommendations for reducing their use.

SEC. 731. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) professional sports leagues not regulated by this subtitle should adhere to the drug testing standards established in this subtitle;

(2) all professional sports should implement policies and procedures for the testing of the use of prohibited substances or the detection of prohibited methods by professional athletes that ensure that American professional sports leagues are world leaders in the effort to keep steroids and other performance-enhancing drugs out of sports;

(3) all professional sports should implement policies and procedures that address the development of designer steroids and emerging methods for doping, including gene doping, that enhance sports performance, are potential or actual health risks, and are contrary to the spirit of the sport; and

(4) each major professional league should produce and publicize public service announcements regarding the health and safety consequences of steroids and other similar performance-enhancing substances on children and teenagers.

SEC. 732. EFFECTIVE DATE.

This subtitle shall take effect 1 year after the date of enactment of this subtitle.

DRUG-FREE MEDIA CAMPAIGN ACT OF 1998

TITLE I—TARGETED SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAMS

[Subtitle A—National Youth Anti-Drug Media Campaign

[SEC. 101. SHORT TITLE.

[This subtitle may be cited as the "Drug-Free Media Campaign Act of 1998".

[SEC. 102. REQUIREMENT TO CONDUCT NATIONAL MEDIA CAMPAIGN.

[(a) IN GENERAL.—The Director of the Office of National Drug Control Policy (in this subtitle referred to as the "Director") shall conduct a national media campaign in accordance with this subtitle for the purpose of reducing and preventing drug abuse among young people in the United States.

[(b) LOCAL TARGET REQUIREMENT.—The Director shall, to the maximum extent feasible, use amounts made available to carry out this subtitle under section 105 for media that focuses on, or includes specific information on, prevention or treatment resources for consumers within specific local areas.

[SEC. 103. USE OF FUNDS.

[(a) AUTHORIZED USES.—

[(1) IN GENERAL.—Amounts made available to carry out this subtitle for the support of the national media campaign may only be used for—

[(A) the purchase of media time and space;

[(B) talent reuse payments;

[(C) out-of-pocket advertising production costs;

[(D) testing and evaluation of advertising;

[(E) evaluation of the effectiveness of the media campaign;

[(F) the negotiated fees for the winning bidder on request for proposals issued by the Office of National Drug Control Policy;

[(G) partnerships with community, civic, and professional groups, and government organizations related to the media campaign; and

[(H) entertainment industry collaborations to fashion antidrug messages in motion pictures, television programing, popular music, interactive (Internet and new) media projects and activities, public information, news media outreach, and corporate sponsorship and participation.

[(2) ADVERTISING.—In carrying out this subtitle, the Director shall devote sufficient funds to the advertising portion of the national media campaign to meet the stated reach and frequency goals of the campaign.

[(b) PROHIBITIONS.—None of the amounts made available under section 105 may be obligated or expended—

[(1) to supplant current antidrug community based coalitions;

[(2) to supplant current pro bono public service time donated by national and local broadcasting networks;

[(3) for partisan political purposes; or

[(4) to fund media campaigns that feature any elected officials, persons seeking elected office, cabinet level officials, or other Federal officials employed pursuant to section 213 of Schedule C of title 5, Code of Federal Regulations, unless the Director provides advance notice to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Government Reform and Oversight of the House of Representatives and the Committee on the Judiciary of the Senate.

[(c) MATCHING REQUIREMENT.—Amounts made available under section 105 should be matched by an equal amount of non-Federal funds for the national media campaign, or be matched with in-kind contributions to the campaign of the same value.

[SEC. 104. REPORTS TO CONGRESS.

[The Director shall—

[(1) submit to Congress on an annual basis a report on the activities for which amounts made available under section 105 have been obligated during the preceding year, including information for each quarter of such year, and on the specific parameters of the national media campaign; and

[(2) not later than 1 year after the date of enactment of this Act, submit to Congress a report on the effectiveness of the national media campaign based on measurable outcomes provided to Congress previously.

[SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

[There is authorized to be appropriated to the Office of National Drug Control Policy to carry out this subtitle $195,000,000 for each of fiscal years 1999 through 2002.]

SECTION 878 OF THE HOMELAND SECURITY ACT OF 2002

SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCEMENT.

(a) * * *

* * * * * * *

(c) LIMITATION ON CONCURRENT EMPLOYMENT.—[Except as provided in subsection (d), the] *The* Director of the Office of Counternarcotics Enforcement shall not be employed by, assigned to, or serve as the head of, any other branch of the Federal Government, any State or local government, or any subdivision of the Department other than the Office of Counternarcotics Enforcement.

[(d) ELIGIBILITY TO SERVE AS THE UNITED STATES INTERDICTION COORDINATOR.—The Director of the Office of Counternarcotics Enforcement may be appointed as the United States Interdiction Coordinator by the Director of the Office of National Drug Control Policy, and shall be the only person at the Department eligible to be so appointed.]

[(e)] *(d)* RESPONSIBILITIES.—The Secretary shall direct the Director of the Office of Counternarcotics Enforcement—

(1) * * *

* * * * * * *

[(f)] *(e)* SAVINGS CLAUSE.—Nothing in this section shall be construed to authorize direct control of the operations conducted by

the Directorate of Border and Transportation Security, the Coast Guard, or joint terrorism task forces.

[(g)] *(f)* REPORTS TO CONGRESS.—

(1) * * *

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SECTION 464P OF THE PUBLIC HEALTH SERVICE ACT

MEDICATION DEVELOPMENT PROGRAM

SEC. 464P. (a) * * *

* * * * * * *

(c) REPORT.—

(1) IN GENERAL.—Not later than December 31, 1992, and each December 31 thereafter, the Director of the Institute shall submit to the Office of National Drug Control Policy established [under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501)] *under section 703 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1702)* a report, in accordance with paragraph (3), that describes the objectives and activities of the program assisted under this section.

(2) NATIONAL DRUG CONTROL STRATEGY.—The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 [under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504)] *under section 706 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1705)*.

* * * * * * *

SECTION 6073 OF THE ASSET FORFEITURE AMENDMENTS ACT OF 1988

[SEC. 6073. ESTABLISHMENT OF SPECIAL FORFEITURE FUND.

[(a) IN GENERAL.—There is established in the Treasury of the United States the Special Forfeiture Fund (hereafter referred to in this section as the "Fund") which shall be available to the Director of the National Drug Control Policy without fiscal year limitation in such amounts as may be specified in appropriations Acts.

[(b) DEPOSITS.—There shall be deposited into the Fund the amounts specified by section 524(c)(8) of title 28, United States Code, and section 9703(g) of title 31, United States Code, and any earnings on the investments authorized by subsection (d).

[(c) SUPER SURPLUS.—(1) Any unobligated balance up to $20,000,000 remaining in the Fund on September 30 of a fiscal year shall be available to the Director, subject to paragraph (2), to transfer to, and for obligation and expenditure in connection with drug control activities of, any Federal agency or State or local entity with responsibilities under the National Drug Control Strategy.

[(2) A transfer may be made under paragraph (1) only with the advance written approval of the Committees on Appropriations of each House of Congress.

[(d) INVESTMENT OF FUND.—Amounts in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

[(e) PRESIDENT'S BUDGET.—The President shall, in consultation with the Director for National Drug Control Policy, include, as part of the budget submitted to the Congress under section 1105(a) of title 31, United States Code, a separate and detailed request for the use of the amounts in the Fund. This request shall reflect the priorities of the National Drug Control Strategy.

[(f) FUNDS PROVIDED SUPPLEMENTAL.—Funds disbursed under this subsection shall not be used to supplant existing funds, but shall be used to supplement the amount of funds that would be otherwise available.

[(g) ANNUAL REPORT.—No later than 4 months after the end of each fiscal year, the President shall submit to both Houses of Congress a detailed report on the amounts deposited in the Fund and a description of expenditures made under this subsection.]

ADDITIONAL VIEWS

We support H.R. 2829 in general and concur with many of the views expressed in the report. We offer the following views on a few specific areas of the bill and the majority's report language.

With regard to provisions in the bill and language in the report concerning the Director's review and certification of agency drug budgets, we note that the purpose of the Safe and Drug-Free Schools Program, from its inception, plainly has been twofold. As its very name suggests, the program aims to reduce drug use and violence in public schools. Although the two problems are often intertwined, they are clearly harmful independent of one another and both should be addressed vigorously through this important program. To the extent that both aims can be addressed simultaneously, efficiency dictates that they should be. We also believe, however, that one aim should not trump the other. Effective anti-violence initiatives supported by this program should not be curtailed because it is impracticable to incorporate within them a "clear anti-drug message" any more than an effective anti-drug initiative should be curtailed because it cannot practicably accommodate an anti-violence message. We should not be satisfied that a child is drug-free if he or she continues to be at risk of violent harm in school.

We support the provision in the bill that seeks to limit the application of the so-called "drug-free student loan" provision to persons convicted of a drug crime while receiving federal student aid. In contrast to the majority, however, we further support removing the drug-free student loan provision altogether from the Higher Education Act, although such action is beyond the scope of this legislation and this Committee's jurisdiction.

As the majority notes, the purpose of the proposed mycoherbicide plan of action and study (a provision the majority included in the Manager's Amendment with minimal notice to the minority) is limited to determining whether mycoherbicides can be effective in destroying illicit drug crops and does not represent an endorsement of their use anywhere, whether or not they prove to be effective in limited testing. In our view, a decision whether to test or employ mycoherbicides to destroy illicit drug crops in any given environment or geographic area, foreign or domestic, should take into account not just their efficacy or potential efficacy but also the possibility for any unintended consequences to human health and the environment. This position is embodied in the amendment offered by Mr. Cummings and adopted by the Committee.

We note that the original appropriations law funding Plan Colombia (in FY 2000) included language, authored by Mr. Souder and Mr. Burton, requiring the Colombian government to implement a coca and heroin elimination strategy involving the use of mycoherbicides, as a condition of receiving assistance. The Clinton

Administration exercised its authority to waive that condition (along with others) and provide assistance to Colombia notwithstanding Colombia's non-compliance.

More recently, the current Administration also has expressed reservations about mycoherbicides. During a Committee hearing in May, ONDCP Director John Walters, in response to a question from Mr. Burton about the potential of mycoherbicides to eradicate Colombian coca crops, expressed "concern about other agents being introduced to the environment" and cited a lack of interest by the government of Colombia. Mr. Walters stated, "Again, it is not clear that this particular organism is specific to coca . . . If you were to [spray] it—and it is not specific to coca—it could cause considerable damage to the environment which in Colombia is very delicate." We further believe that a decision whether to test or use mycoherbicides abroad also should take account of concerns raised as to the legality under international law of introducing mycoherbicides into a foreign country and the likelihood of such testing or use being perceived or regarded as biological warfare. Considerations such as these should inform any decision as to whether and where the proposed testing can be conducted safely and in concert with international law and diplomatic objectives. In addition, we stress that an effective approach to international supply reduction must include vigorous alternative development programs.

With regard to the report's language and the bill's findings on marijuana, we point out that the RAND Drug Policy Research Center has found that reducing marijuana use may not reduce addiction to cocaine, heroin or methamphetamine. This finding reinforces the importance of targeting these substances directly in federal drug prevention efforts.

HENRY A. WAXMAN.
CAROLYN B. MALONEY.
ELIJAH E. CUMMINGS.
WM. LACY CLAY.
BRIAN HIGGINS.

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