

DEPARTMENT OF STATE AUTHORITIES ACT OF 2006

SEPTEMBER 29, 2006.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HYDE, from the Committee on International Relations, submitted the following

R E P O R T

[To accompany H.R. 6060]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (H.R. 6060) to authorize certain activities by the Department of State, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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SUMMARY

H.R. 6060 provides certain authorities for the Department of State and the Broadcasting Board of Governors. The provisions strengthen visa fraud investigations and protective functions of security officials, and other improvements to support functions at the

Department and the Broadcasting Board of Governors. The bill also resolves the pay discrepancy resulting from Washington based locality pay that is not received when personnel are stationed overseas and reconciles the Foreign Service pay system to one that is performance-based. The bill continues efforts by this Committee to protect the national interests of the United States, strengthen the U.S. diplomatic platform to better serve U.S. citizens, and support assistance for maternal and child health.

BACKGROUND AND PURPOSE FOR THE LEGISLATION

This bill authorizes certain activities for the Department of State many of which were requested by the Department. Ten of the twenty sections are contained in H.R. 2601, the "Foreign Relations Authorization Act, Fiscal Years 2006 and 2007," which passed the House of Representatives on June 20, 2005.

Additional sections reform the Foreign Service compensation system to eliminate, over a two-year period, wage disparities (currently 17.5%) between U.S. Government employees based in Washington D.C. who receive locality pay and those overseas who do not. The reformed system would establish a new equalized global pay scale no longer driven by longevity of service, the annual cost-of-living adjustment and the locality cost-of-living adjustments. Instead, the pay scale would be influenced by performance-based compensation adjustments. It is expected that these adjustments will be determined annually through the peer selection board process that currently exists. In fact, the Foreign Service Act of 1980 currently provides for a performance-based promotion system as well as a possible performance-based annual pay enhancement through the selection board process. In order to eliminate current and future inequalities between Foreign Service members stationed in the U.S. and abroad, H.R. 6060 increases overseas salaries starting in Fiscal Year 2007 to match those paid to Washington, D.C.-based employees while also transforming the previous salary adjustment opportunities into one performance-based process. This new system, supported strongly by the recognized bargaining agent of the Foreign Service (the American Foreign Service Association), will make the Foreign Service more competitive with the private sector in recruiting and retaining employees.

The additional provisions enhance the Department of State's ability to prevent and detect visa fraud, provide assistance to U.S. citizens in distressed situations, and permit the disposal of property that cannot be secured. The bill also authorizes the President to extend privileges and immunities to the African Union, the Permanent Observer Mission of the Holy See to the United Nations, and the Bank for International Settlements.

In other areas of foreign policy, the Committee has expressed its support for continued engagement in the areas of human rights and health.

HEARINGS

The Committee and its Subcommittees held numerous hearings on issues related to the bill. The Full Committee held three hearings. Two of those hearings, "The International Affairs Budget Request for Fiscal Year 2007" and "International Relations Budget for

Fiscal Year 2006,” were held on February 16, 2006 and February 17, 2005, respectively, with Secretary of State Condoleezza Rice. The other Full Committee hearing was held on May 5, 2005, entitled, “Promoting Democracy through Diplomacy.” Testimony was received from the following: Rep. Frank R. Wolf; The Hon. Paula Dobriansky, Under Secretary for Global Affairs, U.S. Department of State; The Hon. Mark Palmer, Capital Development Company; Ms. Jennifer Windsor, Freedom House; Mr. Saad al-Din Ibrahim, Woodrow Wilson International Center for Scholars; and Mr. Edil Baisalov, Coalition for Democracy and Civil Society, Kyrgyzstan.

The Subcommittee on Africa, Global Human Rights and International Operations held seven hearings on issues related to the bill, and the Subcommittee on Asia and the Pacific and the Subcommittee on Africa, Global Human Rights and International Operations held three joint hearings. These hearings are listed as follows:

3/17/05—A Global Review of Human Rights: Examining the State Department’s 2004 Annual Report, Subcommittee on Africa, Global Human Rights and International Operations hearing (Witnesses: The Hon. Michael G. Kozak, Acting Assistant Secretary, Bureau of Democracy, Human Rights and Labor, U.S. Department of State; and public witnesses.)

4/14/05—Foreign Relations Authorization for FY 2005–2006: Department of State Management Initiatives, Subcommittee on Africa, Global Human Rights and International Operations hearing (Witnesses: The Hon. Christopher B. Burnham, Acting Under Secretary for Management, U.S. Department of State; and Ms. Louise Crane, Vice President, American Foreign Service Association.)

4/28/05—The North Korean Human Rights Act of 2004: Issues and Implementation, joint hearing of the Subcommittee on Asia and the Pacific and the Subcommittee on Africa, Global Human Rights and International Operations (Witnesses: The Hon. Joseph E. DeTrani, Special Envoy for the Six-Party Talks, U.S. Department of State; The Hon. Arthur E. Dewey, Assistant Secretary, Bureau of Population, Refugees and Migration, U.S. Department of State; Ms. Gretchen A. Birkle, Acting Principal Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor, U.S. Department of State; and public witnesses.)

5/12/05—Foreign Relations Authorization for FY2006–2007: Embassy and Border Security, Subcommittee on Africa, Global Human Rights and International Operations hearing (Witnesses: Mr. Gregory B. Starr, Deputy Assistant Secretary for Countermeasures, Bureau of Diplomatic Security, U.S. Department of State; Maj. Gen. Charles E. Williams, USA (Ret.), Director, Bureau of Overseas Buildings Operations, U.S. Department of State; and Mr. Dan Smith, Principal Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.)

10/27/05—Lifting the Veil: Getting the Refugees Out, Getting Our Message In: An Update on the Implementation of the North Korea Human Rights Act, Joint Hearing of the Subcommittee on Asia and the Pacific and the Subcommittee on

Africa, Global Human Rights and International Operations hearing (Witnesses: Ms. Kelu Chao, Associate Director for Language Programming, Voice of America; Mr. Daniel Southerland, Vice President for Programming, Radio Free Asia; and public witnesses.)

11/15/05—In Defense of Human Dignity: The 2005 International Religious Freedom Report, Subcommittee on Africa, Global Human Rights and International Operations hearing (Witnesses: The Hon. John V. Hanford III, Ambassador-at-Large for Office of International Religious Freedom, U.S. Department of State; Michael Cromartie, Ph.D., Chair, U.S. Commission on International Religious Freedom; and public witnesses.)

3/16/06—Monitoring Respect for Human Rights Around the World: A Review of the Country Reports on Human Rights Practices for 2005, Subcommittee on Africa, Global Human Rights and International Operations hearing (Witnesses: The Hon. Barry Lowenkron, Assistant Secretary of State, Bureau of Democracy, Human Rights and Labor, U.S. Department of State; and public witnesses.)

4/27/06—North Korea: Human Rights Update and International Abduction Issues, joint hearing of the Subcommittee on Asia and the Pacific and the Subcommittee on Africa, Global Human Rights and International Operations (Witnesses: The Hon. Jay Lefkowitz, Special Envoy for Human Rights in North Korea, U.S. Department of State; and public witnesses.)

5/10/06—Current Issues in U.S. Refugee Protection and Resettlement, Subcommittee on Africa, Global Human Rights and International Operations hearing (Witnesses: The Hon. Ellen R. Sauerbrey, Assistant Secretary, Bureau of Population, Refugees and Migration, U.S. Department of State; Ms. Rachel Brand, Assistant Attorney General, for the Office of Legal Policy, U.S. Department of Justice; Mr. Paul Rosenzweig, Acting Assistant Secretary for Policy Development, U.S. Department of Homeland Security; Mr. Michael Cromartie, Chair, U.S. Commission on International Religious Freedom; Mr. Tad Stahnke, Deputy Director for Policy, U.S. Commission on International Religious Freedom; and public witnesses.)

6/30/06—The Plight of Religious Minorities: Can Religious Pluralism Survive?, Subcommittee on Africa, Global Human Rights and International Operations hearing (Witnesses: The Hon. Henry J. Hyde, Member of Congress; The Hon. John V. Hanford III, Ambassador-at-Large for Office of International Religious Freedom, U.S. Department of State; Ms. Nina Shea, Vice Chair, U.S. Commission on International Religious Freedom; and public witnesses.)

COMMITTEE CONSIDERATION

On September 13, 2006, the Committee met in open session and ordered favorably reported the bill, H.R. 6060, without amendment, by unanimous consent, a quorum being present.

VOTES OF THE COMMITTEE

No votes on the bill were taken.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 6060, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 25, 2006.

Hon. HENRY J. HYDE, *Chairman,*
Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6060, the Department of State Authorities Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte, who can be reached at 226-2840.

Sincerely,

DONALD B. MARRON, *Acting Director.*

Enclosure

cc: Honorable Tom Lantos
Ranking Member

H.R. 6060—Department of State Authorities Act of 2006.

SUMMARY

H.R. 6060 would revise the pay structure for the Foreign Service and modify several other administrative authorities of the Department of State. CBO estimates that implementing the bill would cost \$570 million over the 2007-2011 period, assuming appropriation of the necessary amounts. Enacting the legislation would not significantly affect direct spending or receipts.

H.R. 6060 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because provisions extending diplomatic privileges and immunities to three new enti-

ties and their members would preempt certain state and local laws. CBO estimates that the cost to state and local governments, in the form of lost tax revenues and increased law enforcement costs, would be small and would not exceed the annual threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation).

H.R. 6060 would also authorize the Secretary of State to increase the dollar amounts of certain surcharges related to consular services. Currently, the Department of State does not plan to raise those surcharges, and thus, CBO expects that this bill would impose no mandate on the private sector in the near term.

However, if the Secretary determines that the surcharges should be raised, such an increase would impose a private-sector mandate as defined in UMRA on individuals who apply for passports or immigrant visas. Because CBO cannot predict when or in what amount the department might increase those surcharges in the future, we have no basis for estimating whether the bill would impose private-sector mandates with costs that exceed the annual threshold established by UMRA (\$128 million in 2006, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 6060 is shown in Table 1. The costs of this legislation fall within budget functions 150 (international affairs) and 750 (administration of justice).

TABLE 1. BUDGETARY IMPACT OF H.R. 6060, THE DEPARTMENT OF STATE AUTHORITIES ACT OF 2006

	By Fiscal Year, in Millions of Dollars					
	2006	2007	2008	2009	2010	2011
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law						
Budget Authority ¹	4,828	0	0	0	0	0
Estimated Outlays	5,141	1,845	844	459	174	44
Proposed Changes						
Estimated Authorization Level	0	37	104	138	143	147
Estimated Outlays	0	35	104	140	143	147
Spending Under H.R. 6060						
Estimated Authorization Level ¹	4,828	37	104	138	143	147
Estimated Outlays	5,141	1,880	948	599	317	191
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	*	*	*	*	*
Estimated Outlays	0	*	*	*	*	*
CHANGES IN REVENUES						
Estimated Revenues	0	*	*	*	*	*

NOTE: * = less than \$500,000.

¹The 2006 level is the amount appropriated for that year for Diplomatic and Consular Programs and Assistance for the Independent States of the Former Soviet Union.

BASIS OF ESTIMATE

Most of the bill's budgetary impact would stem from pay reform for the Foreign Service. The bill also contains several provisions that would affect direct spending and revenues by less than \$500,000 a year.

For this estimate, CBO assumes that this legislation will be enacted near the start of fiscal year 2007, that the amounts necessary to implement the bill will be appropriated for each year, and that outlays will follow historical spending patterns for similar programs.

Spending Subject to Appropriation

CBO estimates that H.R. 6060 would authorize the appropriation of \$37 million in 2007 and \$570 million over the 2007–2011 period (see Table 2).

TABLE 2. CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 6060

	By Fiscal Year, in Millions of Dollars				
	2007	2008	2009	2010	2011
Locality-based Pay Adjustments					
Estimated Authorization Level	32	99	136	141	145
Estimated Outlays	32	99	136	141	145
Maternal and Prenatal Care					
Estimated Authorization Level	3	3	0	0	0
Estimated Outlays	1	3	2	0	0
Education Allowances					
Estimated Authorization Level	2	2	2	2	2
Estimated Outlays	2	2	2	2	2
Total Changes in Spending Subject to Appropriation Under H.R. 6060					
Estimated Authorization Level	37	104	138	143	147
Estimated Outlays	35	104	140	143	147

Locality-based Pay Adjustments. Sections 14, 15, and 16 would amend current law to allow the State Department to increase pay for Foreign Service officers posted overseas to compensate for the loss of locality pay. Based on information from the department about how the pay reform would be phased in, CBO estimates such locality-based pay adjustments would cost about \$32 million in 2007, \$99 million in 2008, and an average of \$141 million a year over the 2009–2011 period, assuming appropriation of the necessary funds.

Maternal and Prenatal Care. Section 13 would authorize the appropriation of such sums as may be necessary for the Republic of Belarus and Ukraine to improve maternal and prenatal care to help prevent birth defects and complications in pregnancy related to the Chernobyl disaster. Based on the cost of similar programs, CBO estimates that this provision would cost about \$3 million in both 2007 and 2008.

Education Allowances. Section 3 would authorize payments for certain educational expenses of dependent children of Foreign Service employees posted overseas. Based on information from the department, CBO estimates implementing this provision would cost about \$2 million annually.

Direct Spending and Revenues

CBO estimates that several provisions in H.R. 6060 would affect direct spending and revenues by less than \$500,000 a year.

Passport and Visa Fees. Three sections of the bill would affect passport and visa fees. Section 2 would broaden the department's authority to use fees collected for certain non-immigrant visa cat-

egories to investigate fraud in other visa categories (it would not affect the collection of fees). Information from the Department of State indicates that it spends all the fees in the same year they are collected (about \$32 million a year). Therefore, CBO estimates that this provision would not increase spending.

Section 7 would grant the Secretary of State the discretion to waive passport execution and issuance fees for humanitarian reasons or law enforcement purposes. Under current law, passport fees range from \$67 to \$97, and all but \$18 of such fees are recorded as revenues. Based on information from the department, CBO expects that implementing this bill would not significantly increase the number of applicants eligible for fee waivers.

Section 8 would authorize the Secretary of State to administratively increase the dollar amount of certain surcharges on passport and immigrant visa fees. Under current law, the department imposes a \$12 surcharge on passport fees and a \$45 surcharge on immigrant visa fees. Receipts from those surcharges are recorded as offsetting collections (that is, offsets to outlays) and are used by the department for spending related to border security. The department has no current plans to raise these surcharges, and CBO has no basis for estimating when or in what amount changes might be made. Ultimately, a change would have little impact on net outlays because any increase in the surcharges would be offset by a corresponding increase in spending.

Criminal Penalties. Section 5 would raise governmental receipts (revenues) by establishing new criminal penalties that would be assessed against persons interfering with the protective functions of special agents of the State Department. CBO estimates that the increase in revenues would not be significant in any year. Collections of criminal fines are deposited in the Crime Victims Fund and are later spent. CBO estimates that the criminal penalties that would be established under the bill would increase direct spending from the Crime Victims Fund by less than \$500,000 per year.

Diplomatic Immunity. Section 9 would extend diplomatic privileges and immunities to the African Union Mission, the Bank of International Settlements, and the Permanent Observer Mission of the Holy See to the United Nations. Under current law, international organizations and their employees that enjoy diplomatic privileges and immunities are exempt from paying property taxes, customs duties, and internal revenue taxes on imports, and from certain judicial proceedings. CBO estimates that a small number of people and properties would benefit from this provision, and that the forgone taxes, duties, fines, and criminal penalties would be less than \$500,000 a year.

Palazzo Corpi Building. Section 10 of the bill would allow the Department of State to sell the historic Palazzo Corpi building in Istanbul, which is now vacant and does not meet current safety standards for United States consulates. Under current law, any proceeds from the sale of buildings overseas are retained by the department as offsetting collections and used for the maintenance and construction of embassies or consulates. According to the department, a 2005 assessment estimated the building could fetch \$4 million, but the department has no plans to sell the building. Therefore, CBO estimates that this provision would not affect direct spending.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 6060 contains an intergovernmental mandate as defined in UMRA because provisions extending diplomatic privileges and immunities to three new entities and their members would preempt certain state and local laws. Under current law, organizations and individuals with such protections are exempt from paying state and local sales, property, and use taxes. In addition, those individuals may be immune from prosecution or fines by state and local law enforcement authorities and may require additional police protection in certain circumstances. Because the number of people and properties that would benefit from those protections is small, CBO estimates that the cost to those governments, in the form of lost tax revenues and increased law enforcement costs, would be small and would not exceed the annual threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 6060 would authorize the Secretary of State to increase the dollar amounts of certain surcharges related to consular services in support of increased border security that are in addition to current passport and immigrant visa fees. Currently, the Department of State does not plan to raise these surcharges, and thus, CBO expects that this bill would impose no mandate on the private sector in the near term.

However, if the Secretary determines that the surcharges should be raised, such an increase would impose a private-sector mandate as defined in UMRA on individuals who apply for passports or immigrant visas. Because CBO cannot predict when or in what amount the department might increase those surcharges in the future, we have no basis for estimating whether the bill would impose private-sector mandates with costs that exceed the annual threshold established by UMRA (\$128 million in 2006, adjusted annually for inflation). Receipts from those surcharges are estimated to be less than \$300 million in 2007, so it would require a significant increase in those surcharges to reach that threshold.

PREVIOUS CBO ESTIMATE

On July 1, 2005, CBO transmitted a cost estimate for H.R. 2601, the Foreign Relations Authorization Act, Fiscal Years 2006 and 2007, as ordered reported by the House Committee on International Relations on June 9, 2005. Sections 305 and 909 of H.R. 2601 are similar to sections 16 and 13 of H.R. 6060, but the estimated budget impact differs due to the later enactment date assumed for H.R. 6060 and more recent information from the State Department. Section 301 of H.R. 2601 is identical to section 3 of H.R. 6060, as are their estimated costs.

On March 18, 2005, CBO transmitted a cost estimate for S. 600, the Foreign Affairs Authorization Act, Fiscal Years 2006 and 2007, as ordered reported by the Senate Committee on Foreign Relations on March 10, 2005. Sections 201 and 301 of S. 600 are identical to sections 5 and 3 of H.R. 6060, as are their estimated costs.

PERFORMANCE GOALS AND OBJECTIVES

The goals and objectives of this legislation are to authorize certain activities by the United States Department of State.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

DEPARTMENT OF STATE AUTHORITIES ACT OF 2006

Section 1. Short title.

Section 1 provides that the short title of the Act is the Department of State Authorities Act of 2006 and also provides the table of contents.

Section 2. Fraud prevention and detection account.

This section provides enhanced flexibility to certain State Department fraud prevention and detection programs. The H-1B Visa Reform Act of 2004, part of the FY 2005 Consolidated Appropriations Act (Public Law 108-447, Division J, sec. 426), imposed a \$500 fraud prevention fee to be collected by the Department of Homeland Security at the time H-1B visa petitions and L-1 individual visa petitions are filed, and by consular posts from applicants who are beneficiaries of L-1 blanket visa petitions. The Emergency Supplemental Appropriations Act for Defense, the Global War on Terrorism and Tsunami Relief (Public Law 109-13, Div. B, Title IV, sec. 403) imposed a \$150 fraud prevention fee to be collected by the Department of Homeland Security at the time H-2B petitions are filed. (H and L visas are designed for aliens who come temporarily to the United States to perform services in certain occupations and to work in certain managerial, executive and specialty jobs.) Funds generated by the combined fees are to be made available evenly (one-third each) to the Department of Homeland Security, the Department of Labor and the Department of State and used to enhance efforts to detect and prevent H-1B, H-2B and L visa fraud.

The current language, Section 286(v)(1)&(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(1)&(2)(A)), limits the Secretary of State's use of these fees. Under the current language, the funds may be used only for activities devoted to H and L visa fraud. Since fraud issues are not so discreet, this section provides authority to use the fees primarily on H and L visa fraud, but would also permit the use of the fees for other types of visa fraud. Allowing an expanded use of the funds will assist the Department in developing a system that concentrates on H and L visa fraud, but will potentially reduce fraud among all visa classifications and disrupt terrorist travel.

Section 3. Education allowances.

This section amends Section 5924(4) of title 5 of the United States Code concerning government employees. These proposed changes to the education allowance for overseas employee depend-

ents would: (1) allow for travel to the United States for children in kindergarten through 12th grade when schools at post are not adequate; (2) allow for educational travel to a school outside the United States for children at the secondary and college level; and (3) allow the option of storing a child's personal effects near the school during his or her trip to post, rather than transporting the effects back and forth.

Section 4. Protection of refugees from North Korea.

This section amends P.L. 108-333, the North Korean Human Rights Act of 2004 ("NKHRA"). Subsection (a) ensures that the Special Envoy on Human Rights in North Korea has a continuing role in helping to coordinate United States policy toward North Korean refugees. Although the Special Envoy was always intended to be involved in such deliberations, that role was inadvertently left out of the listings of the Envoy's responsibilities in Section 107 of the NKHRA.

Subsection (b) directs that annual reports on immigration by North Korean refugees and defectors (required for five years by NKHRA Section 305) include a description of U.S. efforts to facilitate the submission of U.S. refugee applications by North Koreans, including country-specific information on U.S. diplomatic efforts in East and Southeast Asia. Persistence by American officials will be required to secure from nations in the region the cooperation necessary to permit the United States to process North Korean refugees within their borders. This section is intended to assist the Congress in tracking that progress.

Section 5. Interference with protective functions.

This section makes it a crime to knowingly and willfully obstruct, resist, or interfere with Diplomatic Security agents involved in their protective duties. The provision is modeled on a similar provision in the Federal criminal code with regard to interference with the protective duties conducted by the Secret Service. (18 U.S.C. 3056(d)).

Section 6. Incitement to acts of discrimination.

This section amends the Foreign Assistance Act of 1961 to require the Secretary of State to expand reporting in the Department's annual *Country Reports on Human Rights Practices* to include in reports, when applicable, for each country a description of the nature and extent of propaganda in foreign government and foreign government-controlled media and other sources that attempt to justify or promote racial hatred or incite acts of violence against any race or people and a description of the actions, if any, taken by that government to eliminate such propaganda. To improve the capacity of State Department personnel in fulfilling the requirements of this section, the Committee recommends that instruction in identifying, combating, and repudiating anti-Semitic rhetoric and incitement be provided as part of the training for members of the Foreign Service.

Section 7. Persons excused from payment of fees for execution and issuance of passports.

This section would permit passport fees not to be charged in humanitarian cases abroad where Americans are unable to pay for emergency passports to return to the United States (e.g., mass natural disasters, like the Tsunami of Christmas 2004, civil war, insurrections, etc.). American citizens caught in such foreign disasters may lack the financial means to pay for passports to return home because the crisis has removed them from their daily support systems. During a crisis, the primary duty of the United States Government to its citizens is to remove them from the danger as expeditiously as possible. Humanitarian cases would also include victims of crime overseas who are seeking to return to the United States. The provision also would permit a waiver of the passport fee for law enforcement purposes, such as witness travel or the return of an abducted child.

An assessment by the State Department suggests that recovering the cost of the passport at a later time is resource intensive and it would generally be more cost effective to simply waive the fee in such circumstances.

Section 8. Authority to administratively amend surcharges.

This section allows the Secretary of State to adjust fee levels for passports and immigrant visas administratively in keeping with the practice followed for other fees collected by the Department.

Section 9. Extension of privileges and immunities.

This section would give the President authority to extend privileges and immunities to the African Union's newly established diplomatic Mission to the United States in Washington, D.C. , and to the members of that Mission, that are equivalent to those enjoyed by the bilateral diplomatic missions of foreign States and their diplomatic staff. Should the President exercise this authority, it will afford the African Union's Mission to the United States a status equivalent to that enjoyed by the Mission of the European Commission on behalf of the European Union.

This section also would designate the Bank for International Settlements ("BIS") as an international organization under the International Organizations Immunities Act ("IOIA"), thus allowing the President to extend appropriate immunities to the BIS. The BIS is an international organization that functions as a bank for central banks and is owned exclusively by central banks. The Federal Reserve formally joined the BIS board of directors in 1994. Because the BIS is indirectly owned by more than one foreign government, the immunities granted by the Foreign Sovereign Immunities Act are not available to the BIS absent a specific act of Congress under the framework established by the IOIA for international organizations. An extension of immunity to the BIS in accordance with the provisions of the IOIA would provide protection of its assets held in the U.S. equivalent to the protection currently enjoyed by the European Central Bank and other international financial institutions, such as the International Monetary Fund and the World Bank.

Finally, this section would give the President authority to extend privileges and immunities to the Holy See's Observer Mission to

the United Nations, and to the members of the mission, equivalent to those enjoyed by the United Nations (“UN”) missions of member states and their diplomatic staff. The Holy See is the only non-member state that maintains a permanent observer mission to the UN. Since the Holy See is active in UN affairs but believes it cannot take on all the obligations of membership, the UN has acted to place it in a position as close as possible to that of a member state. Consistent with this effort, the Holy See has asked the United States to place its Observer Mission and its staff on an equal footing with those of UN member state missions with respect to privileges and immunities. This section will enable the United States to grant that request and demonstrate our commitment to a close, bilateral partnership with the Holy See. Given the unique character of the Holy See among sovereign states and the fact that it is now the only state to maintain an observer mission to the UN, the proposed extension of privileges and immunities to its observer mission and its members will not establish a precedent on which any other non-member states, non-state entities or organizations who maintain UN observer missions could base a request for similar treatment.

Section 10. Property disposition.

This section would allow the Secretary of State to use discretion as to whether to retain ownership of the Palazzo Corpi building located in Istanbul, Turkey. Despite known security risks, current law mandates that the Secretary of State retain ownership of the building for the purpose of maintaining the International Center for Middle Eastern-Western Dialogue at such location due to the building’s historic nature. Recognizing that the Palazzo Corpi does not meet security standards that it has been a terrorist target numerous times in the past, and the Department of State has indicated it cannot ensure the safety and security of the staff and visitors to this location, the Secretary should be allowed to properly dispose of this property .

Section 11. Services for children with autism at overseas missions.

This section requires the Secretary of State to conduct a study in countries where the U.S. has at least one mission to determine the availability of programs that address the needs of children with autism and to provide a report of the study to Congress within 30 days of completion of the study. This report will include the estimated number of incidences of autism among dependents of Foreign Service Officers and Specialists, and an analysis of the possibility of establishing “Educational Centers of Excellence” for such dependents.

According to the Centers for Disease Control, autism is growing rapidly in the United States and worldwide. There is no known cure for autism, and little is known about its causes, although much promising research is being conducted. While the State Department’s Office of Medical Services does make an allowance available for Foreign Service Officers to cover certain costs associated with addressing autism in dependents, including speech therapy, occupational therapy, and special education services, there are concerns about whether these allowances will be effectively used if only speech therapists who are English-speaking and pediatric oc-

cupational therapists skilled in treating the sensory integration disorder which is common in autistic children are available to be hired privately. The net effect is that Foreign Service Officers with autistic children can serve in only a limited number of overseas posts (such as the UK, Australia, and Brussels) when their children are young and intervention needs are high. With the growing number of autistic children and the need for Foreign Service Officers to be available for worldwide service, the Department must look at alternatives. The difficulty of frequent moves and the social turmoil that goes with it are the same for those in the Foreign Service as in the military. Therefore, the Department should coordinate closely with the Department of Defense (DoD) to examine the provision of autism services at DoD overseas schools or other possible mechanisms.

Sec. 12. Removal of contracting prohibition.

This section provides certain limited flexibility in the Department's contracting authority. Section 406(c) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (P.L. 99-399) states that, "No person doing business with Libya may be eligible for a contract awarded pursuant to this Act." This provision currently would prohibit the Department from contracting with construction or architectural firms doing business with Libya. The Department seeks relief from this prohibition in order to undertake near-term activities, such as refurbishing and maintaining the current Embassy location in Tripoli, as well as beginning the preparations to build a new embassy compound.

Section 13. Assistance for maternal and prenatal care for certain individuals of Belarus and Ukraine involved in the cleanup of the Chernobyl disaster.

This section authorizes such sums as may be necessary from Freedom Support Act funds for each of Fiscal Years 2006 and 2007 to improve maternal and prenatal care for the victims in Belarus and Ukraine involved in the cleanup of the region affected by the Chernobyl nuclear disaster.

Nearly 20 years after the Chernobyl disaster, there is a large increase in chromosomal damage and birth defects now affecting the new generation in Belarus and Ukraine. A number of health studies have indicated spikes in chromosome damage as high as seven-fold. This is particularly the case among the more than 600,000 emergency workers, firefighters, miners and construction workers who were exposed to exceedingly high levels of radiation during the 1986 cleanup effort. Parents in the affected region are still being exposed to radioactive fallout as well.

With respect to certain types of birth defects (e.g., respiratory distress, anemia, severe cleft palates and facial deformities, missing digits or limbs, damaged, missing or malformed critical organs and certain types of telltale cardiac defects linked to radiation exposure), pregnant mothers can be monitored and prenatal care can bolster the mother's ability to carry the child to term, and the child's ability to increase in weight. Training of medical personnel helps improve prenatal care, and for congenital heart defects, the condition can be detected in utero, monitored and preparations made for surgical intervention after birth.

In this fragile transition period, it is important for the United States to foster goodwill towards the people of Belarus and Ukraine. Furthermore, it is important to demonstrate support for the new democratic government in Ukraine not only with economic and political support, but also by meeting tangible social and health needs.

Section 14. Foreign Service pay for performance system.

This section, along with sections 15, 16 and 17, establishes a pay for performance system for Foreign Service members with the rank of 01 and below. The Senior Foreign Service already participates in a pay for performance plan as mandated in previously enacted law (Section 412(a)(2) P.L.108-447, Div. B). This section replaces “within class salary increases” for junior officers with a requirement that, upon the introduction of the new Foreign Service Schedule in April 2008, any further adjustments in pay are tied to individual performance rather than to longevity of service. Specifically, it directs the Secretary of State to pay to each member of the Service an adjustment taking into account “individual performance, contribution to the mission of the Department, or both, under a rigorous performance management system that makes meaningful distinctions based on relative performance and that clearly links individual pay and performance under precepts prescribed by the Secretary.” It is the understanding of the Committee that those foreign affairs agencies that utilize selection boards for promotions will extend that process for pay for performance salary adjustments, thereby preserving the crucial link between the selections boards and the promotion and monetary rewards system that underpins the modern Foreign Service. Poor performers would get no increase in pay (but would not be subject to pay decreases). As with the Senior Foreign Service, the pay for performance planned for the Foreign Service would utilize multiple levels of performance distinctions. Performance-based adjustments are expected to be made at least once in any 12-month period.

This section also provides a number of employee protections. It specifically guarantees a minimum funding pool for performance-based pay adjustments to ensure that, in the aggregate, employees are not disadvantaged by conversion to the new pay system. It authorizes existing selection boards to rank order employees for the purpose of recommending pay for performance salary adjustments, and requires agencies that use selection boards for pay for performance to follow the selection board rankings in allocating salary increases, except in special circumstances. For purposes of the Foreign Service Act of 1980 only, the phrase, “sole and exclusive,” as used in this section’s amendments to Chapter 4 of the Act and in the transition authorities provided in Sections 15 and 16 of this Act, provides the agency head sole discretion to make pay determinations under the pay for performance system. It does not impact the negotiation of procedures (such as pay for performance precepts) and appropriate arrangements for adversely affected employees with the employees’ exclusive representative, the American Foreign Service Association (AFSA).

Subsection (a) explains the purposes of this section.

Subsection (b) amends section 403 of the Foreign Service Act of 1980, providing that the President shall establish a Foreign Service

Schedule which shall consist of 9 salary classes for U.S. citizens who are members of the Foreign Service. The Committee expects that the Schedule will consist of a minimum and a maximum salary rate for each class and that the President will annually review and alter the schedule so that the minimum rate for each class increases at a rate comparable to the General Schedule under section 5303 of Title 5 of the United States Code. The new section 403(b) merely clarifies that salary rates for individuals within each class are set in accordance with the new section 406 (added by subsection (c)).

Subsection (c) adds section 406 of the Foreign Service Act to provide for how salaries are set for the individual members of the Service. Under the new section 406(a), the Secretary shall set such salaries based on individual performance and contribution to the mission of the Department under a rigorous performance management system that makes meaningful distinctions based on relative performance and clearly links individual pay and performance under precepts prescribed by the Secretary. As described above, the statutory scheme calls for those precepts to be negotiated with appropriation Foreign Service representatives and to be applied in accordance with title 6 of the Foreign Service Act, which provides for selection boards. In any case, the Committee does not intend that the Secretary use the authority provided in this section to decrease salary rates for low performers.

Subsection (b) of the new 406 authorizes the Secretary to provide for equal basic salary adjustments for career candidates or other members of the service who have not been reviewed by selection boards but meet performance standards. The Committee notes that the Peace Corps does utilize the Foreign Service Act, but in a unique manner. The Peace Corps employees who serve abroad are, with a few exceptions, non-career Foreign Service limited appointees who generally serve not more than five years. The Committee does not intend that the new pay for performance system provided for in this bill would apply to such employees, particularly since Peace Corps does not utilize selection boards. The Committee expects that Peace Corps would be able to provide high performing employees with salaries competitive with other Foreign Affairs agencies that will be utilizing the new system.

Subsection (c) of the new section 406 provides for the funding pool for salary increases described above. While generating a precise formula for this pool is difficult, the Committee intends that the pool should include the amount that would have been available under 406(a) of the Foreign Service Act of 1980 as provided for prior to the effective date of the new section 406, including amounts sufficient to fund within-class step increases and increases in salary rates pursuant to section 5303 of title 5, United States Code. The new paragraph (3) clarifies that, irrespective of what increases in basic salary rate are provided, no member of the service who falls below the standards of performance should have a salary increase. As described above, however, the Committee does not believe that such person should have his or her salary decreased.

Section 15. Pay for performance interim schedule.

This section provides transitional authorities to the Secretary of State for use during the interim period before April 2008 when the new Foreign Service Schedule is established. It contains provisions that govern the conversion of employees to the new schedule, and it provides for a one-year transition period from the current 14-step system. It also gives the Secretary authority to establish transitional rules that prevent a reduction in a member's rate of pay by reason of conversion to the new system, among other measures that are to be applied to provide for a smooth transition. While subsection (b) provides some discretion to the President to adjust the increased interim rate, the Committee expects that the President shall set the interim rate as close to 9 percent as possible and, in the case of any reduction, shall consult closely with the Committee before exercising this authority.

Section 16. Uniform compensation for worldwide service.

This section provides for uniform compensation for worldwide service by April 2008. It eliminates the disparity in pay between Washington, D.C. based employees who receive additional compensation due to locality pay and those serving overseas who do not. The Washington, D.C. locality pay can result in as much as a 17.5% pay differential. Since this is a substantial pay increase for approximately 7,000 overseas personnel, the adjustment will be phased in over 2 years. The Congressional Budget Office estimates that the cost in FY 2007 will be \$32 million, in FY 2008 will be \$99 million and an average of \$141 million in subsequent years. The discrepancy has skewed incentives to serve overseas. The section provides for pay conversion and establishes temporary rules for the period leading up to April 2008 as the transition takes place.

Section 17. Technical and conforming amendments.

This section contains conforming amendments to the Foreign Service Act. Subparagraph (a)(1) adds the term, "sole and exclusive discretion," and reference to precepts prescribed by the Secretary to section 402(a)(2) for consistency with new section 406. Subsection (a)(2) removes reference in 602 of the Foreign Service Act to the sunset "step" concepts and amends section 602 to provide that selection boards established by the Secretary shall make recommendations for approvals and denials of pay for performance adjustments. Personnel systems not otherwise utilizing selection boards under Section 602, such as the Peace Corps, would not be affected by the proposed change to Section 602. Subsection (3) amends section 605 of the Foreign Service Act regarding the implementation of selection board recommendations to include pay for performance salary adjustments under sections 402(a)(2) and 406(a). Subparagraphs (4) and (5) sunset the application of overseas "virtual locality pay", which no longer will be required after full implementation of the global pay scale in April 2008. However, virtual locality pay in effect before the establishment of the new Foreign Service Schedule will continue to be used in computing annuities for employees who retire after the new Foreign Service Schedule takes effect.

Section 18. Dual gateway policy of the Government of The Republic of Ireland.

This section provides for an economic impact study by the Secretary of State, in consultation with other appropriate agencies, of the dual gateway policy of the Government of the Republic of Ireland. This policy requires air carriers serving Ireland's Dublin Airport from the United States to undertake an almost equal number of flights to Ireland's Shannon Airport. The study is to determine the effects, which a discontinuation of such a policy would have on the large number of U.S. businesses, as well as Irish businesses, operating in western Ireland.

Section 19. Personal services contracting program.

This section amends the Foreign Relations Authorization Act, Fiscal Year 2003, PL 107-228, to make the Personal Services Contracting Program for the International Broadcasting Bureau a permanent program. The program allows the Bureau to respond to new or emerging broadcast needs or to augment broadcast services. The amendment expands the types of professionals who can participate in the program to "broadcasting specialists," and increases the number of those who can be employed at any one time as personal service contractors from 60 to 100.

Section 20. Worldwide availability.

This provision amends the Foreign Service Act to change the statutory basis of the Department of State's requirement for worldwide availability for new entrants to the Foreign Service.

NEW ADVISORY COMMITTEES

H.R. 6060 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 6060 does not apply to the legislative branch.

FEDERAL MANDATES

H.R. 6060 provides no Federal mandates.

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 italics, existing law in which no change is proposed is shown in roman):

IMMIGRATION AND NATIONALITY ACT

TITLE II—IMMIGRATION

* * * * *

CHAPTER 9—MISCELLANEOUS

* * * * *

DISPOSITION OF MONEYS COLLECTED UNDER THE PROVISIONS OF THIS TITLE

SEC. 286. (a) * * *

* * * * *

(v) FRAUD PREVENTION AND DETECTION ACCOUNT.—

(1) * * *

* * * * *

(2) USE OF FEES TO COMBAT FRAUD.—

(A) SECRETARY OF STATE.—One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of State until expended for programs and activities at United States embassies and consulates abroad—

(i) to increase the number diplomatic security personnel assigned exclusively or primarily to the function of preventing and detecting fraud by applicants for visas described in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15);

[(ii) otherwise to prevent and detect such fraud pursuant to the terms of a memorandum of understanding or other cooperative agreement between the Secretary of State and the Secretary of Homeland Security; and]

(ii) otherwise to prevent and detect visa fraud, including primarily fraud by applicants for visas described in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15), in cooperation with the Secretary of Homeland Security or pursuant to the terms of a memorandum of understanding or other agreement between the Secretary of State and the Secretary of Homeland Security; and

* * * * *

TITLE 5, UNITED STATES CODE

* * * * *

PART III—EMPLOYEES

* * * * *

Subpart D—Pay and Allowances

* * * * *

CHAPTER 53—PAY RATES AND SYSTEMS

* * * * *

SUBCHAPTER I—PAY COMPARABILITY SYSTEM

* * * * *

§ 5302. Definitions

For the purpose of this subchapter—

(1) the term “statutory pay system” means a pay system under—

- (A) subchapter III, relating to the General Schedule; or
- [(B) section 403 of the Foreign Service Act of 1980, relating to the Foreign Service of the United States; or]
- [(C)] (B) chapter 74 of title 38, relating to the Veterans Health Administration (other than a position subject to section 7451 of title 38);

* * * * *

§ 5304. Locality-based comparability payments

(a) * * *

* * * * *

(h)(1) For the purpose of this subsection, the term “position” means—

(A) * * *

* * * * *

(D) a position within an Executive agency not covered under the General Schedule or any of the preceding subparagraphs, the rate of basic pay for which is (or, but for this section, would be) no more than the rate payable for level IV of the Executive Schedule;

but does not include—

(i) * * *

* * * * *

(v) a position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151; [or]

(vi) a position in a system equivalent to the system in clause (iv), as determined by the President’s Pay Agent designated under subsection (d)[.]; or

(vii) a position in the Foreign Service.

* * * * *

CHAPTER 57—TRAVEL, TRANSPORTATION, AND SUBSISTENCE

* * * * *

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

* * * * *

§ 5753. Recruitment and relocation bonuses

(a)(1) * * *

(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate,

excluding members of the Foreign Service other than chiefs of mission and ambassadors at large;

* * * * *

§ 5754. Retention bonuses

(a)(1) * * *

(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate, *excluding members of the Foreign Service other than chiefs of mission and ambassadors at large;*

* * * * *

CHAPTER 59—ALLOWANCES

* * * * *

SUBCHAPTER III—OVERSEAS DIFFERENTIALS AND ALLOWANCES

* * * * *

§ 5924. Cost-of-living allowances

The following cost-of-living allowances may be granted, when applicable, to an employee in a foreign area:

(1) * * *

* * * * *

(4) An education allowance or payment of travel costs to assist an employee with the extraordinary and necessary expenses, not otherwise compensated for, incurred because of his service in a foreign area or foreign areas in providing adequate education for his dependents (or, to the extent education away from post is involved, official assignment to service in such area or areas), as follows:

(A) An allowance not to exceed the cost of obtaining such kindergarten, elementary and secondary educational services as are ordinarily provided without charge by the public schools in the United States (including such educational services as are provided by the States under the Individuals with Disabilities Education Act), plus, in those cases when adequate schools are not available at the post of the employee, board and room, and periodic transportation between that post and the school chosen by the employee, not to exceed the total cost to the Government of the dependent attending an adequate school in the nearest *United States* locality where an adequate school is available, without regard to section of title 31. When travel from school to post is infeasible, travel may be allowed between the school attended and the home of a designated relative or family friend or to join a parent at any location, with the allowable travel expense not to exceed the cost of travel between the school and the post. The amount of the allowance granted shall be determined on the basis of the educational facility used.

[(B) The travel expenses of dependents of an employee to and from a school in the United States (or to and from a school outside the United States if the dependent is attending that school for less than one year under a program approved by the school in the United States at which the dependent is enrolled, with the allowable travel expense not to exceed the cost of travel to and from the school in the United States) to obtain an American secondary or postsecondary educational institution education (other than a program of post-baccalaureate education), not to exceed one annual trip each way for each dependent. At the election of the employee, in lieu of the transportation of the baggage of a dependent from the dependent's school, the costs incurred to store the baggage at or in the vicinity of the school during the dependent's annual trip between the school and the employee's duty station may be paid or reimbursed to the employee, except that the amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage. An allowance payment under subparagraph (A) of this paragraph (4) may not be made for a dependent during the 12 months following his arrival in the United States for secondary education under authority contained in this subparagraph (B). Notwithstanding section 5921(6) of this title, travel expenses, for the purpose of obtaining postsecondary educational institution education (other than a program of post-baccalaureate education), may be authorized under this subparagraph (B), under such regulations as the President may prescribe, for dependents of employees who are citizens of the United States stationed in the Canal Zone. For the purposes of this subparagraph, the term "educational institution" has the meaning defined under section 1701(a)(6) of title 38.]

(B) The travel expenses of dependents of an employee to and from a secondary or post-secondary educational institution, not to exceed one annual trip each way for each dependent, except that an allowance payment under subparagraph (A) may not be made for a dependent during the 12 months following the arrival of the dependent at the selected educational institution under authority contained in this subparagraph.

* * * * *

(D) Allowances provided pursuant to subparagraphs (A) and (B) may include, at the election of the employee, payment or reimbursement of the costs incurred to store baggage for the employee's dependent at or in the vicinity of the dependent's school during the dependent's annual trip between the school and the employee's duty station, except that such payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage in connection with the annual trip, and such payment

or reimbursement shall be in lieu of transportation of the baggage.

* * * * *

NORTH KOREAN HUMAN RIGHTS ACT OF 2004

* * * * *

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

* * * * *

SEC. 107. SPECIAL ENVOY ON HUMAN RIGHTS IN NORTH KOREA.

(a) * * *

* * * * *

(c) **DUTIES AND RESPONSIBILITIES.**—The Special Envoy shall—

(1) * * *

* * * * *

(5) review strategies for improving protection of human rights in North Korea, including technical training and exchange programs; **[and]**

(6) develop an action plan for supporting implementation of the United Nations Commission on Human Rights Resolution 2004/13**[.]**; *and*

(7) *help coordinate efforts by the Secretary of State to assist North Korean refugees and migrants, including the activities directed by section 303.*

* * * * *

SEC. 305. ANNUAL REPORTS.

(a) **IMMIGRATION INFORMATION.**—Not later than 1 year after the date of the enactment of this Act, and every 12 months thereafter for each of the following 5 years, the Secretary of State and the Secretary of Homeland Security shall submit a joint report to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate on the operation of this title during the previous year, which shall include—

(1) the number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum; **[and]**

(2) the number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status**[.]**; *and*

(3) *a detailed description of the measures undertaken by the Secretary of State to carry out section 303, including country-specific information with respect to United States efforts to secure the cooperation and permission of the governments of countries in East and Southeast Asia to facilitate United States processing of North Koreans seeking protection as refugees. The*

information required by this paragraph may be provided in a classified format, if necessary.

* * * * *

TITLE 18, UNITED STATES CODE

PART I—CRIMES

* * * * *

CHAPTER 7—ASSAULT

Sec.

111. Assaulting, resisting, or impeding certain officers or employees.

* * * * *

Sec. 118. *Interference with certain protective functions.*

* * * * *

§ 118. *Interference with certain protective functions*

Any person who knowingly and willfully obstructs, resists, or interferes with a Federal law enforcement agent engaged, within the United States or the special maritime territorial jurisdiction of the United States, in the performance of the protective functions authorized under section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709) or section 103 of the Diplomatic Security Act (22 U.S.C. 4802) shall be fined under this title, imprisoned not more than 1 year, or both.

* * * * *

FOREIGN ASSISTANCE ACT OF 1961

PART I

CHAPTER 1—POLICY; DEVELOPMENT ASSISTANCE AUTHORIZATIONS

* * * * *

SEC. 116. HUMAN RIGHTS.—(a) * * *

* * * * *

(d) The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by February 25 of each year, a full and complete report regarding—

(1) * * *

* * * * *

(10) for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country; **[and]**

(11)(A) * * *

* * * * *

(C) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary[.]; and

(12) wherever applicable, a description of the nature and extent of—

(A) propaganda in foreign government and foreign government-controlled media and other sources, including foreign government-produced educational materials and textbooks, that attempt to justify or promote racial hatred or incite acts of violence against any race or people;

(B) complicity or involvement by the foreign government in the creation of such propaganda or incitement of acts of violence against any race or people; and

(C) a description of the actions, if any, taken by the foreign government to eliminate such propaganda or incitement.

* * * * *

PART II

CHAPTER 1—POLICY

* * * * *

SEC. 502B. HUMAN RIGHTS.—(a) * * *

(b) The Secretary of State shall transmit to the Congress, as part of the presentation materials for security assistance programs proposed for each fiscal year, a full and complete report, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights, and Labor and with the assistance of the Ambassador at Large for International Religious Freedom, with respect to practices regarding the observance of and respect for internationally recognized human rights in each country proposed as a recipient of security assistance. Wherever applicable, such report shall include consolidated information regarding the commission of war crimes, crimes against humanity, and evidence of acts that may constitute genocide (as defined in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide and modified by the United States instrument of ratification to that convention and section 2(a) of the Genocide Convention Implementation Act of 1987). Wherever applicable, such report shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization. Such report shall also include, wherever applicable, information on violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998). Wherever applicable, a description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur, including the descriptions of such acts required under section 116(d)(8). Such report shall also include, for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country. Each report under this section shall list the votes of each member of the United Nations Commission on Human Rights on all

country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year. Each report under this section shall describe the extent to which each country has extended protection to refugees, including the provision of first asylum and resettlement. Each report under this section shall also include (i) wherever applicable, a description of the nature and extent of the compulsory recruitment and conscription of individuals under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, the participation of such individuals in such groups, and the nature and extent that such individuals take a direct part in hostilities, (ii) what steps, if any, taken by the government of the country to eliminate such practices, and (iii) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary of State. *Each report under this section shall also include, wherever applicable, a description of the nature and extent of propaganda in foreign government and foreign government-controlled media and other sources, including foreign government-produced educational materials and textbooks, that attempt to justify or promote racial hatred or incite acts of violence against any race or people, complicity or involvement by the foreign government in the creation of such propaganda or incitement of acts of violence against any race or people, and a description of the actions, if any, taken by the foreign government to eliminate such propaganda or incitement.* In determining whether a government falls within the provisions of subsection (a)(3) and in the preparation of any report or statement required under this section, consideration shall be given to—

(1) * * *

* * * * *

ACT OF JUNE 4, 1920

CHAP. 233.—AN ACT Making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921.

SECTION 1. (a) There shall be collected and paid into the Treasury of the United States a fee, prescribed by the Secretary of State by regulation, for the filing of each application for a passport (including the cost of passport issuance and use) and a fee, prescribed by the Secretary of State by regulation, for executing each such application; except that the Secretary of State may by regulation authorize State officials or the United States Postal Service to collect and retain the execution fee for each application for a passport accepted by such officials or by that Service. Such fees shall not be refundable, except as the Secretary may by regulation prescribe. No passport fee shall be collected from an officer or employee of the United States proceeding abroad in the discharge of official duties, or from members of his immediate family; from an American seaman who requires a passport in connection with his duties aboard an American-flag vessel; [or] from a widow, widower, child, parent, grandparent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to

attend a funeral or memorial service for such member; or from an individual or individuals abroad, returning to the United States, when the Secretary determines that foregoing the collection of such fee is justified for humanitarian reasons or for law enforcement purposes. No execution fee shall be collected for an application made before a Federal official by a person excused from payment of the passport fee under this section.

* * * * *

INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT

TITLE I

* * * * *

SEC. 12. (a) The provisions of this title may be extended to the African Union and may continue to be extended to the International Labor Organization and the United Nations Industrial Development Organization in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(b) Under such terms and conditions as the President shall determine, consistent with the purposes of this title, the President is authorized to extend, or enter into an agreement to extend, to the African Union Mission to the United States of America, and to its members, the privileges and immunities enjoyed by diplomatic missions accredited to the United States, and by members of such missions, subject to corresponding conditions and obligations.

* * * * *

SEC. 17. The provisions of this title may be extended to the Bank for International Settlements in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

SECTION 633 OF THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

(division B of Public Law 108-199)

SEC. 633. (a) * * *

* * * * *

(e) The [United States, through the Department of State, shall retain ownership of the Palazzo Corpi building in Istanbul, Turkey, and the] Secretary of State shall be responsible for maintaining

the International Center for Middle Eastern-Western Dialogue [at such location] *at an appropriate location.*

* * * * *

SECTION 406 OF THE OMNIBUS DIPLOMATIC SECURITY AND ANTITERRORISM ACT OF 1986

SEC. 406. EFFICIENCY IN CONTRACTING.

(a) * * *

* * * * *

[(c) **DISQUALIFICATION OF CONTRACTORS.**—No person doing business with Libya may be eligible for any contract awarded pursuant to this Act.]

FOREIGN SERVICE ACT OF 1980

* * * * *

TITLE I—THE FOREIGN SERVICE OF THE UNITED STATES

* * * * *

CHAPTER 3—APPOINTMENTS

SEC. 301. GENERAL PROVISIONS RELATING TO APPOINTMENTS.—

(a) * * *

(b) The Secretary shall prescribe, as appropriate, written, oral, physical, foreign language, and other examinations for appointment to the Service (other than as a chief of mission or ambassador at large). *At the time of entry into the Service, each member of the Service must be worldwide available, as determined by the Secretary of State through appropriate medical examinations, unless the Secretary determines that a waiver of the worldwide availability requirement is required to fulfill a compelling Service need. The Secretary shall establish an internal administrative review process for medical ineligibility determinations.*

* * * * *

CHAPTER 4—COMPENSATION

* * * * *

SEC. 402. SALARIES OF THE SENIOR FOREIGN SERVICE.—

(a)(1) * * *

(2) **[The Secretary shall]** *The Secretary, in the Secretary's sole and exclusive discretion, shall determine which basic salary rate within the ranges prescribed by the President under paragraph (1) shall be paid to each member of the Senior Foreign Service based on individual performance, contribution to the mission of the Department, or both, as determined under a rigorous performance management system under precepts prescribed by the Secretary. Except as provided in regulations prescribed by the Secretary and, to the extent possible, consistent with regulations governing the Senior Executive Service, [the Secretary may] The Secretary, in the Secretary's sole and exclusive discretion, may adjust the basic sal-*

ary rate of a member of the Senior Foreign Service not more than once during any 12-month period.

* * * * *

【SEC. 403. FOREIGN SERVICE SCHEDULE.—The President shall establish a Foreign Service Schedule which shall consist of 9 salary classes and which shall apply to members of the Service who are citizens of the United States and for whom salary rates are not otherwise provided for by this chapter. The maximum salary rate for the highest class established under this section, which shall be designated class 1, may not exceed the maximum rate of basic pay prescribed for GS-15 of the General Schedule under section 5332 of title 5, United States Code. Salary rates established under this section shall be adjusted in accordance with section 5303 of title 5, United States Code.】

§403. Foreign service schedule

(a) *ESTABLISHMENT.*—The President shall establish, and periodically adjust, a Foreign Service Schedule, which shall consist of 9 salary classes that apply to members of the Service who are citizens of the United States and for whom salary rates are not otherwise provided under this chapter. The maximum salary rate for the highest class established under this section, which shall be designated class 1, may not exceed the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) *ADJUSTMENTS.*—Any adjustment in the basic salary rates for members of the Service made at the time of a schedule adjustment under subsection (a) shall be made in accordance with section 406.

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【SEC. 406. WITHIN-CLASS SALARY INCREASES.—(a) Any member of the Service receiving a salary under the Foreign Service Schedule shall be advanced to the next higher salary step in the member's class at the beginning of the first applicable pay period following the completion by that member of a period of—

【(1) 52 calendar weeks of service in each of salary steps 1 through 9, and

【(2) 104 calendar weeks of service in each of salary steps 10 through 13,

unless the performance of the member during that period is found in a review by a selection board established under section 602 to fall below the standards of performance for his or her salary class.

【(b) The Secretary may grant, on the basis of especially meritorious service, to any member of the Service receiving an increase in salary under subsection (a), an additional salary increase to any higher step in the salary class in which the member is serving.】

§406. Within class salary increases

(a) *DETERMINATION.*—The Secretary, in the Secretary's sole and exclusive discretion, shall determine which basic salary rate within a band of rates of pay prescribed by the President under section 403(a) shall be paid to members of the Service, taking into account individual performance, contribution to the mission of the Department, or both, under a rigorous performance management system that—

(1) makes meaningful distinctions based upon relative performance; and

(2) clearly links individual pay and performance under precepts prescribed by the Secretary.

(b) **EQUAL BASIC SALARY ADJUSTMENTS.**—Notwithstanding subsection (a), the Secretary, in the Secretary’s sole and exclusive discretion, may provide equal basic salary adjustments for all career candidates or other members of the Service—

(1) whose performance has not been reviewed by a selection board under section 602; and

(2) who are found to meet the standards of performance for their class.

(c) **PERFORMANCE-BASED SALARY ADJUSTMENTS.**—

(1) **IN GENERAL.**—For performance-based pay adjustments, the Secretary in the Secretary’s sole and exclusive discretion, shall annually allocate an amount equal to or greater than the sum of—

(A) an amount that would be sufficient to fund increases under section 406(a) of the Foreign Service Act as in effect on March 31, 2008; and

(B) the amount necessary to provide for pay adjustments based on mission requirements, labor market conditions, availability of funds, pay adjustments received by employees of other Federal agencies, and any other relevant factors.

(2) **FLEXIBILITY.**—The formula set forth in paragraph (1) shall—

(A) ensure that employees, in the aggregate, are not disadvantaged in terms of the overall amount of pay available as a result of conversion to the new foreign service performance-based compensation system; and

(B) provide flexibility to accommodate changes in the mix of employees performing those functions, and other changed circumstances that might impact pay levels.

(3) **LIMITATION.**—No performance-based salary adjustments authorized by this section may be paid to any member of the Service if the performance of the member falls below the standards of performance for the salary class of the member.

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CHAPTER 6—PROMOTION AND RETENTION

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SEC. 602. SELECTION BOARDS.—(a) The Secretary shall establish selection boards to evaluate the performance of members of the Senior Foreign Service and members of the Service assigned to a salary class in the Foreign Service Schedule. Selection boards shall, in accordance with precepts prescribed by the Secretary, rank the members of a salary class on the basis of relative performance and may make recommendations for—

(1) * * *

* * * * *

[(3) denials of within-class step increases under section 406(a);]

(3) *approvals or denials of pay for performance salary adjustments under sections 402(a)(2) and 406(a)*

* * * * *

SEC. 605. IMPLEMENTATION OF SELECTION BOARD RECOMMENDATIONS.—(a) Recommendations for promotion *and pay for performance salary adjustments under sections 402(a)(2) and 406(a)* made by selection boards shall be submitted to the Secretary in rank order by salary class or in rank order by specialization within a salary class. The Secretary shall make promotions *and pay for performance salary adjustments* and, with respect to career appointments into or within the Senior Foreign Service, shall make recommendations to the President for promotions, in accordance with the rankings of the selection boards.

(b) Notwithstanding subsection (a), in special circumstances set forth by regulation *or precepts prescribed by the Secretary*, the Secretary may remove the name of an individual from the rank order list submitted by a selection board or delay the promotion *or salary adjustment* of an individual named in such a list.

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CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY

SUBCHAPTER I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

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SEC. 806. COMPUTATION OF ANNUITIES.—(a)(1) * * *

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(9) For purposes of any annuity computation under this subsection, the basic salary or basic pay of any member of the Service whose official duty station is outside the continental United States shall be considered to be the salary or pay that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member if the member's official duty station had been Washington, D.C. *This paragraph shall not apply to service performed on or after the first day of the first pay period beginning on or after April 1, 2008.*

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SUBCHAPTER II—FOREIGN SERVICE PENSION SYSTEM

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SEC. 855. ENTITLEMENT TO ANNUITY.—(a)(1) * * *

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(3) For purposes of any annuity computation under this subsection, the average pay (as used in section 8414 of title 5, United States Code) of any member of the Service whose official duty station is outside the continental United States shall be considered to be the salary that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member

if the member's official duty station had been Washington, D.C. *This paragraph shall not apply to service performed on or after the first day of the first pay period beginning on or after April 1, 2008.*

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SECTION 504 OF THE FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 2003

SEC. 504. PERSONAL SERVICES CONTRACTING [PILOT] PROGRAM.

(a) IN GENERAL.—The Director of the International Broadcasting Bureau (in this section referred to as the “Director”) may establish a [pilot] program [(in this section referred to as the “program”)] for the purpose of hiring United States citizens or aliens as personal services contractors, without regard to Civil Service and classification laws, for service in the United States as broadcasters, [producers, and writers] *and other broadcasting specialists* in the International Broadcasting Bureau to respond to new or emerging broadcast needs or to augment broadcast services.

(b) CONDITIONS.—The Director is authorized to use the authority of subsection (a) subject to the following conditions:

(1) * * *

* * * * *

(4) Not more than a total of [60] 100 United States citizens or aliens are employed at any one time as personal services contractors under the program.

[(c) TERMINATION OF AUTHORITY.—The authority to award personal services contracts under the pilot program authorized by this section shall terminate on December 31, 2006. A contract entered into prior to the termination date under this subsection may remain in effect for a period not to exceed 6 months after such termination date.]

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