

110TH CONGRESS
2D SESSION

S. 3623

To authorize appropriations for the Department of Homeland Security for fiscal years 2008 and 2009, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26 (legislative day, SEPTEMBER 17), 2008

Mr. LIEBERMAN (for himself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To authorize appropriations for the Department of Homeland Security for fiscal years 2008 and 2009, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Home-
5 land Security Authorization Act of 2008 and 2009”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the term “Department” means the Depart-
9 ment of Homeland Security; and

1 (2) the term “Secretary” means the Secretary
2 of Homeland Security.

3 **SEC. 3. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Definitions.
- Sec. 3. Table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

- Sec. 101. Department of Homeland Security.

TITLE II—POLICY, MANAGEMENT, AND INTEGRATION
IMPROVEMENTS

- Sec. 201. Under Secretary for Policy.
- Sec. 202. Operations Coordination and Planning.
- Sec. 203. Department of Homeland Security headquarters.
- Sec. 204. Chief Information Officer.
- Sec. 205. Department of Homeland Security International Affairs Office.
- Sec. 206. Department of Homeland Security reorganization authority.
- Sec. 207. Homeland Security Institute.
- Sec. 208. Office of the Inspector General.
- Sec. 209. Department Management Directive System.

TITLE III—PROCUREMENT POLICY AND RESOURCES
IMPROVEMENTS

- Sec. 301. Department of Homeland Security investment review.
- Sec. 302. Required certification of project managers for level one projects.
- Sec. 303. Review and report on EAGLE and First Source contracts.
- Sec. 304. Report on use of personal services contracts.
- Sec. 305. Prohibition on use of contracts for congressional affairs activities.
- Sec. 306. Small business utilization report.
- Sec. 307. Department of Homeland Security mentor-protégé program.
- Sec. 308. Other transaction authority.
- Sec. 309. Independent verification and validation.
- Sec. 310. Strategic plan for acquisition workforce.
- Sec. 311. Buy American requirement; exceptions.

TITLE IV—WORKFORCE PROVISIONS

- Sec. 401. Authority for flexible personnel management at the Office of Intelligence and Analysis.
- Sec. 402. Direct hire authority for certain positions at the Science and Technology Directorate.
- Sec. 403. Appointment of the Chief Human Capital Officer by the Secretary of Homeland Security.
- Sec. 404. Plan to improve representation of minorities in various categories of employment.
- Sec. 405. Office of the Chief Learning Officer.
- Sec. 406. Extension of relocation expenses test programs.

TITLE V—INTELLIGENCE AND INFORMATION-SHARING
PROVISIONS

- Sec. 501. Full and efficient use of open source information.
- Sec. 502. Authorization of intelligence activities.
- Sec. 503. Under Secretary for Intelligence and Analysis technical correction.

TITLE VI—CYBER SECURITY INFRASTRUCTURE PROTECTION
IMPROVEMENTS

- Sec. 601. National Cyber Security Division.
- Sec. 602. National Cyber Security Center.
- Sec. 603. Authority for flexible personnel management for cyber security positions in the Department.
- Sec. 604. Cyber threat.
- Sec. 605. Cyber security research and development.
- Sec. 606. Comprehensive national cyber security initiative.
- Sec. 607. National Cyber Security Private Sector Advisory Board.
- Sec. 608. Infrastructure protection.

TITLE VII—BIOLOGICAL, MEDICAL, AND SCIENCE AND
TECHNOLOGY PROVISIONS

- Sec. 701. Chief Medical Officer and Office of Health Affairs.
- Sec. 702. Test, Evaluation, and Standards Division.
- Sec. 703. Director of Operational Testing.
- Sec. 704. Availability of testing facilities and equipment.
- Sec. 705. Homeland Security Science and Technology Advisory Committee.
- Sec. 706. National Academy of Sciences report.
- Sec. 707. Material threats.

TITLE VIII—BORDER SECURITY PROVISIONS

Subtitle A—Border Security Generally

- Sec. 801. Increase of Customs and Border Protection Officers and support staff at ports of entry.
- Sec. 802. Customs and Border Protection officer training.
- Sec. 803. Mobile Enrollment Teams Pilot Project.
- Sec. 804. Federal-State border security cooperation.

Subtitle B—Customs and Border Protection Agriculture Specialists

- Sec. 811. Sense of the Senate.
- Sec. 812. Increase in number of U.S. Customs and Border Protection agriculture specialists.
- Sec. 813. Agriculture Specialist Career Track.
- Sec. 814. Agriculture Specialist recruitment and retention.
- Sec. 815. Retirement Provisions for Agriculture Specialists and Seized Property Specialists.
- Sec. 816. Equipment support.
- Sec. 817. Reports.

TITLE IX—PREPAREDNESS AND RESPONSE PROVISIONS

- Sec. 901. National planning.
- Sec. 902. Predisaster hazard mitigation.
- Sec. 903. Community preparedness.

- Sec. 904. Metropolitan Medical Response System.
- Sec. 905. Emergency management assistance compact.
- Sec. 906. Clarification on use of funds.
- Sec. 907. Commercial Equipment Direct Assistance Program.
- Sec. 908. Task force for emergency readiness.
- Sec. 909. Technical and conforming amendments.

TITLE X—NATIONAL BOMBING PREVENTION ACT

- Sec. 1001. Bombing prevention.
- Sec. 1002. Explosives technology development and transfer.
- Sec. 1003. Savings clause.

TITLE XI—FEDERAL PROTECTIVE SERVICE AUTHORIZATION

- Sec. 1101. Authorization of Federal protective service personnel.
- Sec. 1102. Report on personnel needs of the Federal protective service.
- Sec. 1103. Authority for Federal protective service officers and investigators to carry weapons during off-duty times.
- Sec. 1104. Amendments relating to the civil service retirement system.
- Sec. 1105. Federal protective service contracts.

1 **TITLE I—AUTHORIZATION OF** 2 **APPROPRIATIONS**

3 **SEC. 101. DEPARTMENT OF HOMELAND SECURITY.**

4 (a) FISCAL YEAR 2008.—There is authorized to be
5 appropriated to the Secretary such sums as may be nec-
6 essary for the necessary expenses of the Department for
7 fiscal year 2008.

8 (b) FISCAL YEAR 2009.—There is authorized to be
9 appropriated to the Secretary \$42,186,000,000 for the
10 necessary expenses of the Department for fiscal year
11 2009.

1 **TITLE II—POLICY, MANAGE-**
2 **MENT, AND INTEGRATION IM-**
3 **PROVEMENTS**

4 **SEC. 201. UNDER SECRETARY FOR POLICY.**

5 (a) IN GENERAL.—The Homeland Security Act of
6 2002 (6 U.S.C. 101 et seq.) is amended by—

7 (1) redesignating section 601 as section 890A
8 and transferring that section to after section 890;
9 and

10 (2) striking the heading for title VI and insert-
11 ing the following:

12 **“TITLE VI—POLICY, PLANNING,**
13 **AND OPERATIONS COORDINA-**
14 **TION**

15 **“SEC. 601. UNDER SECRETARY FOR POLICY.**

16 “(a) IN GENERAL.—There shall be in the Depart-
17 ment an Under Secretary for Policy, who shall be ap-
18 pointed by the President, by and with the advice and con-
19 sent of the Senate.

20 “(b) RESPONSIBILITIES.—Subject to the direction
21 and control of the Secretary, the Under Secretary for Pol-
22 icy shall—

23 “(1) serve as the principal policy advisor to the
24 Secretary;

1 “(2) provide overall direction and supervision of
2 policy development for the programs, offices, and ac-
3 tivities of the Department;

4 “(3) establish and direct a formal policymaking
5 process for the Department;

6 “(4) ensure that the budget of the Department
7 (including the development of future year budgets)
8 is compatible with the statutory and regulatory re-
9 sponsibilities of the Department and with the prior-
10 ities, strategic plans, and policies established by the
11 Secretary;

12 “(5) conduct long-range, strategic planning for
13 the Department, including overseeing each quadren-
14 nial homeland security review under section 621;

15 “(6) coordinate policy development undertaken
16 by the component agencies and offices of the De-
17 partment; and

18 “(7) carry out such other responsibilities as the
19 Secretary determines are appropriate, consistent
20 with this section.”.

21 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

22 (1) IN GENERAL.—The Homeland Security Act
23 of 2002 (6 U.S.C. 101 et seq.) is amended—

24 (A) in the table of contents in section
25 1(b)—

1 (i) by striking the item relating to
2 title IV and inserting the following:

“TITLE IV—BORDER AND TRANSPORTATION SECURITY”.

3 (ii) by striking the item relating to
4 subtitle A of title IV and inserting the fol-
5 lowing:

“Subtitle A—Border and Transportation Security”.

6 (iii) by striking the item relating to
7 section 441 and inserting the following:

“Sec. 441. Transfer of functions.”;

8 (iv) by striking the items relating to
9 title VI and section 601 and inserting the
10 following:

“TITLE VI—POLICY, PLANNING, AND OPERATIONS
COORDINATION

“Sec. 601. Under Secretary for Policy.”; and

11 (v) by inserting after the item relating
12 to section 890 the following:

“Sec. 890A. Treatment of charitable trusts for members of the Armed Forces
of the United States and other governmental organizations.”;

13 (B) in section 102(f)(10), by striking “the
14 Directorate of Border and Transportation Secu-
15 rity” and inserting “U.S. Customs and Border
16 Protection”;

17 (C) in section 103(a)(3), by striking “for
18 Border and Transportation Security” and in-
19 serting “for Policy”;

1 (D) by striking the heading for title IV
2 and inserting the following:

3 **“TITLE IV—BORDER AND**
4 **TRANSPORTATION SECURITY”;**

5 (E) by striking the heading for subtitle A
6 of title IV and inserting the following:

7 **“Subtitle A—Border and**
8 **Transportation Security”;**

9 (F) in section 402, by striking “, acting
10 through the Under Secretary for Border and
11 Transportation Security,”;

12 (G) in section 411(a), by striking “under
13 the authority of the Under Secretary for Border
14 and Transportation Security,”;

15 (H) in section 441—

16 (i) in the section heading, by striking

17 **“TO UNDER SECRETARY FOR BORDER**
18 **AND TRANSPORTATION SECURITY”;**

19 and

20 (ii) by striking “Under Secretary for
21 Border and Transportation Security” and

22 inserting “Secretary”;

23 (I) in section 442(a)—

1 (i) in paragraph (2), by striking
2 “who—” and all that follows through “(B)
3 shall” and inserting “who shall”; and

4 (ii) in paragraph (3)—

5 (I) in subparagraph (A), by strik-
6 ing “Under Secretary for Border and
7 Transportation Security” each place it
8 appears and inserting “Secretary”;
9 and

10 (II) in subparagraph (C), by
11 striking “Border and Transportation
12 Security” and inserting “Policy”;

13 (J) in section 443, by striking “The Under
14 Secretary for Border and Transportation Secu-
15 rity” and inserting “The Secretary”;

16 (K) in section 444, by striking “The Under
17 Secretary for Border and Transportation Secu-
18 rity” and inserting “The Secretary”;

19 (L) in section 472(e), by striking “or the
20 Under Secretary for Border and Transportation
21 Security”; and

22 (M) in section 878(e), by striking “the Di-
23 rectorate of Border and Transportation Secu-
24 rity” and inserting “U.S. Customs and Border

1 Protection, Immigration and Customs Enforce-
2 ment”.

3 (2) OTHER LAWS.—

4 (A) VULNERABILITY AND THREAT ASSESS-
5 MENT.—Section 301 of the REAL ID Act of
6 2005 (8 U.S.C. 1778) is amended—

7 (i) in subsection (a)—

8 (I) in the first sentence, by strik-
9 ing “Under Secretary of Homeland
10 Security for Border and Transpor-
11 tation Security” and inserting “Sec-
12 retary of Homeland Security”; and

13 (II) in the second sentence, by
14 striking “Under”;

15 (ii) in subsection (b)—

16 (I) by striking “Under”; and

17 (II) by striking “Under Sec-
18 retary’s findings and conclusions” and
19 inserting “Secretary’s findings and
20 conclusions”; and

21 (iii) in subsection (c), by striking “Di-
22 rectorate of Border and Transportation
23 Security”.

24 (B) AIR CHARTER PROGRAM.—Section
25 44903(l)(1) of title 49, United States Code, is

1 amended by striking “Under Secretary for Bor-
2 der and Transportation Security of the Depart-
3 ment of” and inserting “Secretary of”.

4 (C) BASIC SECURITY TRAINING.—Section
5 44918(a)(2)(E) of title 49, United States Code,
6 is amended by striking “Under Secretary for
7 Border and Transportation Security of the De-
8 partment of” and inserting “Secretary of”.

9 (D) AIRPORT SECURITY IMPROVEMENT
10 PROJECTS.—Section 44923 of title 49, United
11 States Code, is amended—

12 (i) in subsection (a), in the matter
13 preceding paragraph (1), by striking
14 “Under Secretary for Border and Trans-
15 portation Security of the Department of”
16 and inserting “Secretary of”;

17 (ii) by striking “Under Secretary”
18 each place it appears and inserting “Sec-
19 retary of Homeland Security”; and

20 (iii) in subsection (d)(3), in the para-
21 graph heading, by striking “UNDER”.

22 (E) REPAIR STATION SECURITY.—Section
23 44924 of title 49, United States Code, is
24 amended—

1 (i) in subsection (a), by striking
2 “Under Secretary for Border and Trans-
3 portation Security of the Department of”
4 and inserting “Secretary of”; and

5 (ii) by striking “Under Secretary”
6 each place it appears and inserting “Sec-
7 retary of Homeland Security”.

8 (F) CERTIFICATE ACTIONS IN RESPONSE
9 TO A SECURITY THREAT.—Section 46111 of
10 title 49, United States Code, is amended—

11 (i) in subsection (a), by striking
12 “Under Secretary for Border and Trans-
13 portation Security of the Department of”
14 and inserting “Secretary of”; and

15 (ii) by striking “Under Secretary”
16 each place it appears and inserting “Sec-
17 retary of Homeland Security”.

18 **SEC. 202. OPERATIONS COORDINATION AND PLANNING.**

19 (a) IN GENERAL.—Title VI of the Homeland Secu-
20 rity Act of 2002 (6 U.S.C. 201 et seq.), as amended by
21 section 201 of this Act, is amended by adding at the end
22 the following:

1 **“Subtitle B—Operations**
2 **Coordination and Planning**

3 **“SEC. 611. OPERATIONS COORDINATION AND PLANNING.**

4 “(a) IN GENERAL.—The Secretary shall ensure that
5 the Department develops and maintains the capability to
6 coordinate operations and strategically plan across all of
7 the component organizations of the Department, includ-
8 ing, where appropriate, through the use of a joint staff
9 comprising personnel from those component organizations.

10 “(b) OFFICE.—In order to carry out the responsibil-
11 ities described in subsection (a), the Secretary may estab-
12 lish in the Department an Office of Operations Coordina-
13 tion and Planning, which may be headed by a Director
14 for Operations Coordination and Planning.

15 “(c) RESPONSIBILITIES.—The responsibilities of a
16 Director for Operations Coordination and Planning, sub-
17 ject to the direction and control of the Secretary, may in-
18 clude—

19 “(1) operations coordination and strategic plan-
20 ning, consistent with the responsibilities described in
21 subsection (a);

22 “(2) supervision of a joint staff comprised of
23 personnel detailed from the component organizations
24 of the Department in order to carry out the respon-
25 sibilities under paragraph (1);

1 “(3) overseeing the National Operations Center
2 described in section 515; and

3 “(4) any other responsibilities, as determined
4 by the Secretary.

5 “(d) LIMITATION.—Nothing in this section may be
6 construed to modify or impair the authorities of the Sec-
7 retary or the Administrator of the Federal Emergency
8 Management Agency under title V of this Act.

9 **“Subtitle C—Quadrennial**
10 **Homeland Security Review”.**

11 (b) TRANSFER.—The Homeland Security Act of
12 2002 (6 U.S.C. 101 et seq.) is amended by redesignating
13 section 707 as section 621 and transferring that section
14 to after the heading for subtitle C of title VI, as added
15 by subsection (a) of this section.

16 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
17 The table of contents in section 1(b) of the Homeland Se-
18 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended—

19 (1) by inserting after the item relating to sec-
20 tion 601, as added by section 201 of this Act, the
21 following:

 “Subtitle B—Operations Coordination and Planning

“Sec. 611. Operations Coordination and Planning.

 “Subtitle C—Quadrennial Homeland Security Review

“Sec. 621. Quadrennial Homeland Security Review.”; and

22 (2) by striking the item relating to section 707.

1 **SEC. 203. DEPARTMENT OF HOMELAND SECURITY HEAD-**
2 **QUARTERS.**

3 (a) FINDINGS.—Relating to the consolidation of the
4 operations of the Department in a secure location, Con-
5 gress finds the following:

6 (1) The headquarters facilities of the Depart-
7 ment are currently spread throughout 40 sites
8 across the National Capital Region, making commu-
9 nication, coordination, and cooperation among the
10 components of the Department a significant chal-
11 lenge and disrupting the ability of the Department
12 to effectively fulfill the homeland security mission.

13 (2) The General Services Administration has
14 determined that the only site under the control of
15 the Federal Government within the National Capital
16 Region with the size, capacity, and security features
17 to meet the minimum consolidation needs of the De-
18 partment as identified in the National Capital Re-
19 gion Housing Master Plan of the Department sub-
20 mitted to the Congress on October 24, 2006, is the
21 West Campus of Saint Elizabeth’s Hospital in the
22 District of Columbia.

23 (b) CONSOLIDATION.—

24 (1) IN GENERAL.—Notwithstanding any other
25 provision of law and not later than the end of fiscal
26 year 2016, the Secretary shall consolidate key head-

1 quarters and components of the Department, as de-
2 termined by the Secretary, in accordance with this
3 subsection.

4 (2) ST. ELIZABETH'S HOSPITAL.—The Sec-
5 retary shall ensure that at the West Campus of
6 Saint Elizabeth's Hospital in the District of Colum-
7 bia, in a secure setting, there are—

8 (A) not less than 4,500,000 gross square
9 feet of office space for use by the Department;
10 and

11 (B) all necessary parking and infrastruc-
12 ture to support approximately 14,000 employ-
13 ees.

14 (3) OTHER MISSION SUPPORT ACTIVITIES.—

15 (A) IN GENERAL.—The Secretary shall
16 consolidate the physical location of all compo-
17 nents and activities of the Department in the
18 National Capitol Region that do not relocate to
19 the West Campus of St. Elizabeth's Hospital to
20 as few locations within the National Capitol Re-
21 gion as possible.

22 (B) LIMITATION.—The Secretary may only
23 consolidate components and activities described
24 in subparagraph (A) if the consolidation can be
25 accomplished without negatively affecting the

1 specific mission of the components or activities
2 being consolidated.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated such sums as may be nec-
5 essary to carry out this section for each of fiscal years
6 2008 through 2016.

7 **SEC. 204. CHIEF INFORMATION OFFICER.**

8 Section 703 of the Homeland Security Act of 2002
9 (6 U.S.C. 343) is amended—

10 (1) by redesignating subsection (b) as sub-
11 section (c); and

12 (2) by inserting after subsection (a) the fol-
13 lowing:

14 “(b) RESPONSIBILITIES.—The Chief Information Of-
15 ficer shall—

16 “(1) advise and assist the Secretary, heads of
17 the components of the Department, and other senior
18 officers in carrying out the responsibilities of the
19 Department for all activities relating to the pro-
20 grams and operations of the information technology
21 functions of the Department;

22 “(2) establish the information technology prior-
23 ities, policies, processes, standards, guidelines, and
24 procedures of the Department;

1 “(3) in accordance with guidance from the Di-
2 rector of the Office of Management and Budget, de-
3 velop and maintain a strategic information resources
4 management plan that shall describe how informa-
5 tion resources management activities help accom-
6 plish agency missions as required by section
7 3506(b)(2) of title 44, United States Code;

8 “(4) be responsible for information technology
9 capital planning and investment management in ac-
10 cordance with section 3506(h) of title 44, United
11 States Code and sections 11312 and 11313 of title
12 40, United States Code;

13 “(5) develop, maintain, and facilitate the imple-
14 mentation of a sound, secure, and integrated infor-
15 mation technology architecture for the Department,
16 as required by section 11315 of title 40, United
17 States Code;

18 “(6) in coordination with the Chief Procure-
19 ment Officer of the Department, assume responsi-
20 bility for information systems acquisition, develop-
21 ment and integration as required by section
22 3506(h)(2) of title 44, United States Code, and sec-
23 tion 11312 of title 40, United States Code;

24 “(7) in coordination with the Chief Procure-
25 ment Officer of the Department, review and approve

1 any information technology acquisition with a total
2 value greater than a threshold level to be determined
3 by the Secretary;

4 “(8) implement initiatives to use information
5 technology to improve government services to the
6 public under section 101 of title 44, United States
7 Code, (commonly known as the E-Government Act)
8 and as required by section 3506(h)(3) of title 44,
9 United States Code;

10 “(9) in coordination with the Executive Agent
11 for Information Sharing of the Department, as des-
12 ignated by the Secretary, ensure that information
13 technology systems meet the standards established
14 under the information sharing environment, as de-
15 fined in section 1016 of the Intelligence Reform and
16 Terrorism Prevention Act of 2004 (6 U.S.C. 485);

17 “(10) ensure that the Department meets its in-
18 formation technology and information resources
19 management workforce or human capital needs in its
20 hiring, training and professional development poli-
21 cies as required by section 3506(b) of title 44,
22 United States Code, and section 11315(c) of title
23 40, United States Code;

24 “(11) collaborate with the heads of the compo-
25 nents of the Department in recruiting and selecting

1 key information technology officials in the compo-
2 nents of the Department; and

3 “(12) perform other responsibilities, as deter-
4 mined by the Secretary.”.

5 **SEC. 205. DEPARTMENT OF HOMELAND SECURITY INTER-**
6 **NATIONAL AFFAIRS OFFICE.**

7 (a) OFFICE OF INTERNATIONAL AFFAIRS.—The
8 Homeland Security Act of 2002 (6 U.S.C. 101 et seq.)
9 is amended by striking section 879 and inserting the fol-
10 lowing:

11 **“SEC. 879. OFFICE OF INTERNATIONAL AFFAIRS.**

12 “(a) ESTABLISHMENT.—There is established within
13 the Department an Office of International Affairs, headed
14 by the Assistant Secretary for International Affairs, who
15 shall be appointed by the President, by and with the advice
16 and consent of the Senate.

17 “(b) RESPONSIBILITIES OF THE ASSISTANT SEC-
18 RETARY.—The Assistant Secretary for International Af-
19 fairs shall—

20 “(1) coordinate international activities within
21 the Department, including the components of the
22 Department, in coordination with other Federal offi-
23 cers with responsibility for counterterrorism and
24 homeland security matters;

1 “(2) develop and update, in consultation with
2 all components of the Department with international
3 activities, an international strategic plan for the De-
4 partment and establish a process for managing its
5 implementation;

6 “(3) provide guidance to components of the De-
7 partment on executing international activities and to
8 employees of the Department who are deployed over-
9 seas, including—

10 “(A) establishing predeployment prepared-
11 ness criteria for employees and any accom-
12 panying family members;

13 “(B) establishing, in coordination with the
14 Under Secretary for Management, minimum
15 support requirements for Department employ-
16 ees abroad, to ensure the employees have the
17 proper resources and have received adequate
18 and timely support prior to and during tours of
19 duty;

20 “(C) providing information and training on
21 administrative support services available to
22 overseas employees from the Department of
23 State and other Federal agencies;

1 “(D) establishing guidance on how Depart-
2 ment attaches are expected to coordinate with
3 other component staff and activities; and

4 “(E) developing procedures and guidance
5 for employees of the Department returning to
6 the United States;

7 “(4) maintain full awareness regarding the
8 international travel of senior officers of the Depart-
9 ment, in order to fully inform the Secretary and
10 Deputy Secretary of the Department’s international
11 activities;

12 “(5) promote information and education ex-
13 change with the international community of nations
14 friendly to the United States in order to promote the
15 sharing of homeland security information, best prac-
16 tices, and technologies relating to homeland security,
17 in coordination with the Science and Technology
18 Homeland Security International Cooperative Pro-
19 grams Office established under section 317, includ-
20 ing—

21 “(A) exchange of information on research
22 and development on homeland security tech-
23 nologies;

24 “(B) joint training exercises of emergency
25 response providers;

1 “(C) exchange of expertise on terrorism
2 prevention, preparedness, response, and recov-
3 ery;

4 “(D) exchange of information with appro-
5 priate private sector entities with international
6 exposure; and

7 “(E) international training and technical
8 assistance to representatives of foreign coun-
9 tries who are collaborating with the Depart-
10 ment;

11 “(6) identify areas for homeland security infor-
12 mation and training exchange in which the United
13 States has a demonstrated weakness and a country
14 that is a friend or ally of the United States has a
15 demonstrated expertise;

16 “(7) review and provide input to the Secretary
17 on budget requests relating to the international ex-
18 penditures of the elements and components of the
19 Department;

20 “(8) participate, in coordination with other ap-
21 propriate Federal agencies, in the development and
22 implementation of international agreements relating
23 to homeland security; and

24 “(9) perform other duties, as determined by the
25 Secretary.

1 “(c) RESPONSIBILITIES OF THE COMPONENTS OF
2 THE DEPARTMENT.—

3 “(1) IN GENERAL.—All components of the De-
4 partment shall notify the Office of International Af-
5 fairs of the intent of the component to pursue nego-
6 tiations with foreign governments.

7 “(2) TRAVEL.—All components of the Depart-
8 ments shall inform the Office of International Af-
9 fairs about the international travel of senior officers
10 of the Department, including contacts with foreign
11 governments.

12 “(d) EXCLUSIONS.—This section does not apply to
13 international activities related to the protective mission of
14 the United States Secret Service or to the United States
15 Coast Guard when operating under the direct authority
16 of the Secretary of Defense or Secretary of the Navy.”.

17 (b) REVIEW OF HOMELAND SECURITY INTER-
18 NATIONAL AFFAIRS ACTIVITIES.—

19 (1) IN GENERAL.—The Secretary, in consulta-
20 tion with the Secretary of State, shall develop a plan
21 to improve the coordination of the activities of the
22 Department outside of the United States.

23 (2) CONTENTS OF PLAN.—The plan developed
24 under paragraph (1) shall include—

1 (A) an assessment of the strategic prior-
2 ities for the Department in the outreach and li-
3 aison activities of the Department with inter-
4 national partners;

5 (B) an inventory and cost analysis of the
6 international offices, workforce, and fixed assets
7 of the Department;

8 (C) a plan for improving the coordination
9 of the activities and resources of the Depart-
10 ment outside of the United States, including at
11 United States embassies overseas; and

12 (D) recommendations relating to the ap-
13 propriate role for Senior Homeland Security
14 Representatives and attaches of the Depart-
15 ment at United States embassies overseas.

16 (3) REPORTING.—Not later than 210 days after
17 the date of enactment of this Act, the Secretary
18 shall submit the plan developed under paragraph (1)
19 to—

20 (A) the Committee on Homeland Security
21 and Governmental Affairs and the Committee
22 on Foreign Relations of the Senate; and

23 (B) the Committee on Homeland Security
24 and the Committee on Foreign Affairs of the
25 House of Representatives.

1 **SEC. 206. DEPARTMENT OF HOMELAND SECURITY REORGA-**
2 **NIZATION AUTHORITY.**

3 Section 872(b) of the Homeland Security Act of 2002
4 (6 U.S.C. 452(b)) is amended—

5 (1) in paragraph (1), in the paragraph heading,
6 by striking “IN GENERAL” and inserting “LIMITA-
7 TIONS ON INITIAL REORGANIZATION PLAN”; and

8 (2) by striking paragraph (2) and inserting the
9 following:

10 “(2) LIMITATIONS ON OTHER REORGANIZATION
11 AUTHORITY.—

12 “(A) IN GENERAL.—Authority under sub-
13 section (a)(2) does not extend to the discontinu-
14 ance, abolition, substantial consolidation, alter-
15 ation, or transfer of any agency, entity, organi-
16 zational unit, program, or function established
17 or required to be maintained by statute.

18 “(B) EXCEPTION.—Notwithstanding para-
19 graph (1), if the President determines it to be
20 necessary because of an imminent threat to
21 homeland security, a function, power, or duty
22 vested by law in the Department, or an officer,
23 official, or agency thereof, may be transferred,
24 reassigned, or consolidated within the Depart-
25 ment. A transfer, reassignment, or consolida-
26 tion under this subparagraph shall remain in

1 effect only until the President determines that
2 the threat to homeland security has terminated
3 or is no longer imminent.”.

4 **SEC. 207. HOMELAND SECURITY INSTITUTE.**

5 Section 312 of the Homeland Security Act of 2002
6 (6 U.S.C. 192) is amended by striking subsection (g), and
7 inserting the following:

8 “(g) PUBLICATION OF INSTITUTE REPORTS.—To the
9 maximum extent possible, the Homeland Security Insti-
10 tute shall make available unclassified versions of reports
11 by the Homeland Security Institute on the website of the
12 Homeland Security Institute.”.

13 **SEC. 208. OFFICE OF THE INSPECTOR GENERAL.**

14 Of the amount authorized to be appropriated under
15 section 101, there are authorized to be appropriated to
16 the Secretary for operations of the Office of the Inspector
17 General of the Department—

18 (1) \$108,500,000 for fiscal year 2008; and

19 (2) \$111,600,000 for fiscal year 2009.

20 **SEC. 209. DEPARTMENT MANAGEMENT DIRECTIVE SYSTEM.**

21 (a) IN GENERAL.—Not later than 60 days after the
22 date of enactment of this Act, the Secretary shall make
23 available on the website of the Department all unclassified
24 directives and management directives of the Department,
25 including relevant attachments and enclosures. Any direc-

1 tive that contains controlled unclassified information may
2 be redacted, as appropriate.

3 (b) REPORT.—Not later than 7 days after the date
4 on which the Secretary makes all directives available
5 under subsection (a), the Secretary shall submit a report
6 that includes any directive or management directive of the
7 Department (including attachments and enclosures) that
8 was redacted or not published on the website of the De-
9 partment because the directive or management directive
10 contains classified information or controlled unclassified
11 information to—

12 (1) the Committee on Homeland Security and
13 Governmental Affairs of the Senate; and

14 (2) the Committee on Homeland Security of the
15 House of Representatives.

16 **TITLE III—PROCUREMENT POL-**
17 **ICY AND RESOURCES IM-**
18 **PROVEMENTS**

19 **SEC. 301. DEPARTMENT OF HOMELAND SECURITY INVEST-**
20 **MENT REVIEW.**

21 (a) IN GENERAL.—Title VII of the Homeland Secu-
22 rity Act of 2002 (6 U.S.C. 341 et seq.), as amended by
23 section 202 of this Act, is amended by adding at the end
24 the following:

1 **“SEC. 707. DEPARTMENT INVESTMENT REVIEW.**

2 “(a) ESTABLISHMENT.—The Secretary shall estab-
3 lish a process for the review of proposed investments by
4 the Department.

5 “(b) PURPOSE.—The Secretary shall use the process
6 established under subsection (a) to inform investment de-
7 cisions, strengthen acquisition oversight, and improve re-
8 source management across the Department.

9 “(c) BOARDS AND COUNCILS.—

10 “(1) ESTABLISHMENT.—The Secretary shall es-
11 tablish a Department-wide Acquisition Review Board
12 for the purpose of carrying out the investment re-
13 view process established under subsection (a).

14 “(2) MEMBERSHIP.—The Secretary shall des-
15 ignate appropriate officers of the Department to
16 serve on the Acquisition Review Board.

17 “(3) SUBORDINATE BOARDS AND COUNCILS.—
18 The Secretary may establish subordinate boards and
19 councils reporting to the Acquisition Review Board
20 to review certain categories of investments on a De-
21 partment-wide basis.

22 “(d) INVESTMENT THRESHOLDS.—The Secretary
23 shall establish threshold amounts for the review of invest-
24 ments by the Acquisition Review Board and any subordi-
25 nate boards and councils.”.

26 (b) REPORTING REQUIREMENTS.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date of enactment of this Act, the Secretary
3 shall submit a report on the implementation of the
4 amendments made by this section, including pro-
5 viding all directives, instructions, memoranda, manu-
6 als, guidebooks, and other materials relevant to the
7 implementation of the amendments made by this
8 section to—

9 (A) the Committee on Homeland Security
10 and Governmental Affairs of the Senate; and

11 (B) the Committee on Homeland Security
12 of the House of Representatives.

13 (2) ANNUAL REPORT.—

14 (A) IN GENERAL.—The Secretary shall
15 submit an annual report on the activities of the
16 Acquisition Review Board and subordinate
17 boards and councils established within the De-
18 partment for the purpose of Department-wide
19 investment review and acquisition oversight
20 under section 707 of the Homeland Security
21 Act of 2002, as added by this section, including
22 detailed statistics on programs and activities re-
23 viewed, to—

1 (i) the Committee on Homeland Secu-
2 rity and Governmental Affairs of the Sen-
3 ate; and

4 (ii) the Committee on Homeland Se-
5 curity of the House of Representatives.

6 (B) ANNUAL FINANCIAL REPORT.—The re-
7 port under this paragraph may be included as
8 part of the performance and accountability re-
9 port submitted by the Department under sec-
10 tion 3516(f) of title 31, United States Code.

11 (c) TECHNICAL AND CONFORMING AMENDMENT.—
12 The table of contents in section 1(b) of the Homeland Se-
13 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
14 inserting after the item relating to section 706 the fol-
15 lowing:

“Sec. 707. Department investment review.”.

16 **SEC. 302. REQUIRED CERTIFICATION OF PROJECT MAN-**
17 **AGERS FOR LEVEL ONE PROJECTS.**

18 Not later than 12 months after the date of enactment
19 of this Act, the Secretary shall assign to each Level 1
20 project of the Department (as defined by the Acquisition
21 Review Board established under section 707 of the Home-
22 land Security Act of 2002, as added by this Act) with an
23 estimated value of more than \$100,000,000 at least 1
24 project manager certified by the Secretary as competent
25 to administer programs of that size. The designation of

1 project level and the certification of project managers shall
2 be in accordance with the Federal IT Project Manager
3 Guidance issued by the Chief Information Officers Coun-
4 cil.

5 **SEC. 303. REVIEW AND REPORT ON EAGLE AND FIRST**
6 **SOURCE CONTRACTS.**

7 (a) REVIEW.—Not later than 6 months after the date
8 of enactment of this Act, the Secretary shall review the
9 Enterprise Acquisition Gateway for Leading Edge Solu-
10 tions and First Source contract vehicles and determine
11 whether each contract vehicle is cost effective or redun-
12 dant considering all contracts in effect on the date of en-
13 actment of this Act that are available for multi-agency
14 use. In determining whether a contract is cost effective,
15 the Secretary shall consider all direct and indirect costs
16 to the Department of awarding and administering the con-
17 tract and the impact the contract will have on the ability
18 of the Federal Government to leverage its purchasing
19 power. The Secretary shall submit the results of the review
20 to the Administrator of the Office of Federal Procurement
21 Policy and the Committees listed in subsection (b).

22 (b) IN GENERAL.—On a quarterly basis, the Chief
23 Procurement Officer of the Department shall submit a re-
24 port on contracts awarded and orders issued in an amount
25 greater than \$1,000,000 by the Department under the

1 Enterprise Acquisition Gateway for Leading Edge Solu-
2 tions and First Source contract vehicles to—

3 (1) the Committee on Homeland Security and
4 Governmental Affairs of the Senate; and

5 (2) the Committee on Homeland Security of the
6 House of Representatives.

7 (c) CONTENTS.—Each report submitted under this
8 section shall contain—

9 (1) a description of each contract awarded or
10 order issued by the Department under the Enter-
11 prise Acquisition Gateway for Leading Edge Solu-
12 tions and First Source contract vehicles during the
13 applicable quarter, including the name of the con-
14 tractor, the estimated cost, and the type of contract
15 or order and, if applicable, the award fee structure;

16 (2) for each contract or order described in para-
17 graph (1), a copy of the statement of work;

18 (3) for each contract or order described in para-
19 graph (1), an explanation of why other Government-
20 wide contract vehicles are not suitable to meet the
21 needs of the Department; and

22 (4) for any contract or order described in para-
23 graph (1) that is a cost reimbursement or time and
24 materials contract or order, an explanation of why a

1 fixed price arrangement was not an appropriate so-
2 lution.

3 **SEC. 304. REPORT ON USE OF PERSONAL SERVICES CON-**
4 **TRACTS.**

5 (a) IN GENERAL.—Not later than 6 months after the
6 date of enactment of this Act, the Secretary shall submit
7 a report on the use by the Department of the authority
8 granted for procurement of personal services under section
9 832 of the Homeland Security Act of 2002 (6 U.S.C. 392)
10 to—

11 (1) the Committee on Homeland Security and
12 Governmental Affairs of the Senate; and

13 (2) the Committee on Homeland Security of the
14 House of Representatives.

15 (b) CONTENTS.—The report submitted under sub-
16 section (a) shall include a description of each procurement
17 for temporary or intermittent personal services acquired
18 under the authority granted for procurement of personal
19 services under section 832 of the Homeland Security Act
20 of 2002 (6 U.S.C. 392), including the duration of any con-
21 tract for such services.

22 **SEC. 305. PROHIBITION ON USE OF CONTRACTS FOR CON-**
23 **GRESSIONAL AFFAIRS ACTIVITIES.**

24 The Department may not enter into a contract under
25 which the person contracting with the Department will—

1 (1) provide responses to requests for informa-
2 tion from a Member of Congress or a committee of
3 Congress; or

4 (2) prepare written or oral testimony of an offi-
5 cer or employee of the Department in response to a
6 request to appear before Congress.

7 **SEC. 306. SMALL BUSINESS UTILIZATION REPORT.**

8 (a) REPORT.—

9 (1) IN GENERAL.—Not later than 12 months
10 after the date of enactment of this Act, the Chief
11 Procurement Officer of the Department shall submit
12 a report regarding the use of small business con-
13 cerns by the Department to—

14 (A) the Secretary;

15 (B) the Committee on Homeland Security
16 and Governmental Affairs of the Senate; and

17 (C) the Committee on Homeland Security
18 of the House of Representatives.

19 (2) CONTENTS.—The report submitted under
20 paragraph (1) shall identify each component of the
21 Department that did not meet the goals for small
22 business participation by the component the previous
23 fiscal year.

24 (b) ACTION PLAN.—For a component meeting or ex-
25 ceeding the goals for small business participation an ac-

1 tion plan is not required. For a component not meeting
2 the goals for small business participation, not later than
3 90 days after the date on which the report under sub-
4 section (a) is submitted, the Chief Procurement Officer
5 of the Department, in consultation with the Director of
6 Small and Disadvantaged Business Utilization of the De-
7 partment, shall, for each component develop, submit to the
8 Committee on Homeland Security and Governmental Af-
9 fairs of the Senate and the Committee on Homeland Secu-
10 rity of the House of Representatives, and begin imple-
11 menting an action plan, including a timetable, for achiev-
12 ing small business participation goals.

13 **SEC. 307. DEPARTMENT OF HOMELAND SECURITY MENTOR-**
14 **PROTÉGÉ PROGRAM.**

15 (a) ESTABLISHMENT.—The Secretary shall establish
16 within the Office of Small and Disadvantaged Business
17 Utilization of the Department a mentor-protégé program.

18 (b) REVIEW BY INSPECTOR GENERAL.—The Inspec-
19 tor General of the Department shall conduct a review of
20 the mentor-protégé program established under this sec-
21 tion, which shall include—

22 (1) an assessment of the effectiveness of the
23 program under this section;

1 (2) identification of any barriers that restrict
2 contractors from participating in the program under
3 this section;

4 (3) a comparison of the program under this sec-
5 tion with the Department of Defense mentor-protégé
6 program; and

7 (4) development of recommendations to
8 strengthen the program.

9 **SEC. 308. OTHER TRANSACTION AUTHORITY.**

10 Section 831 of the Homeland Security Act of 2002
11 (6 U.S.C. 391) is amended—

12 (1) in subsection (a)—

13 (A) by striking “Until September 30,
14 2008, the Secretary may carry out a pilot pro-
15 gram” and inserting “If the Secretary issues
16 policy guidance by September 30, 2008, detail-
17 ing the appropriate use of other transaction au-
18 thority and provides mandatory other trans-
19 action training to each employee who has the
20 authority to handle procurements under other
21 transaction authority, the Secretary may, before
22 September 30, 2010, carry out a program”; and

23 (B) in paragraph (1), by striking “sub-
24 section (b)” and inserting “subsection (b)(1)”;
25 (2) in subsection (b)—

1 (A) by redesignating paragraphs (1) and
2 (2) as subparagraphs (A) and (B), respectively,
3 and realigning such subparagraphs, as so reded-
4 igned, so as to be indented 4 ems from the
5 left margin;

6 (B) by striking “(b) REPORT.—Not later
7 than 2 years” and inserting the following:

8 “(b) REPORTS.—

9 “(1) IN GENERAL.—Not later than 2 years”;

10 and

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

12 “(2) ANNUAL REPORT ON EXERCISE OF OTHER
13 TRANSACTION AUTHORITY.—

14 “(A) IN GENERAL.—The Secretary shall
15 submit to the Committee on Homeland Security
16 and Governmental Affairs of the Senate and the
17 Committee on Homeland Security of the House
18 of Representatives an annual report on the ex-
19 ercise of other transaction authority under sub-
20 section (a).

21 “(B) CONTENT.—The report required
22 under subparagraph (A) shall include the fol-
23 lowing:

1 “(i) The technology areas in which re-
2 search projects were conducted under other
3 transaction authority.

4 “(ii) The extent of the cost-sharing
5 among Federal and non-Federal sources.

6 “(iii) The extent to which the use of
7 the other transaction authority—

8 “(I) has contributed to a broad-
9 ening of the technology and industrial
10 base available for meeting the needs
11 of the Department; and

12 “(II) has fostered within the
13 technology and industrial base new re-
14 lationships and practices that support
15 the national security of the United
16 States.

17 “(iv) The total amount of payments,
18 if any, that were received by the Federal
19 Government during the fiscal year covered
20 by the report.

21 “(v) The rationale for using other
22 transaction authority, including why grants
23 or Federal Acquisition Regulation-based
24 contracts were not used, the extent of com-

1 petition, and the amount expended for
2 each such project.”.

3 **SEC. 309. INDEPENDENT VERIFICATION AND VALIDATION.**

4 (a) REPORT.—

5 (1) IN GENERAL.—Not later than 12 months
6 after the date of enactment of this Act, and semi-
7 annually thereafter, the Chief Procurement Officer
8 of the Department shall submit a report regarding
9 the use of independent verification and validation by
10 the Department to—

11 (A) the Secretary;

12 (B) the Committee on Homeland Security
13 and Governmental Affairs of the Senate; and

14 (C) the Committee on Homeland Security
15 of the House of Representatives.

16 (2) CONTENTS.—The report submitted under
17 paragraph (1) shall—

18 (A) identify each program in the Depart-
19 ment where independent verification and valida-
20 tion was used and a description of the use;

21 (B) include recommendations for imple-
22 menting independent verification and validation
23 in future procurements; and

24 (C) for all Level 1 projects of the Depart-
25 ment (as defined by the Acquisition Review

1 Board established under section 707 of the
2 Homeland Security Act of 2002, as added by
3 this Act) not using independent verification and
4 validation, provide an explanation of why inde-
5 pendent verification and validation was not
6 used.

7 **SEC. 310. STRATEGIC PLAN FOR ACQUISITION WORK-**
8 **FORCE.**

9 (a) STRATEGIC PLAN.—Not later than 6 months
10 after the date of enactment of this Act, the Chief Procure-
11 ment Officer and the Chief Human Capital Officer of the
12 Department shall develop and deliver to relevant congres-
13 sional committees a 5-year strategic plan for the acquisi-
14 tion workforce of the Department.

15 (b) ELEMENTS OF PLAN.—The plan required under
16 subsection (a) shall, at a minimum—

17 (1) designate, in coordination with the Office of
18 Federal Procurement Policy, positions in the De-
19 partment that are acquisition positions which—

20 (A) shall include, at a minimum—

21 (i) program management positions;

22 (ii) systems planning, research, devel-
23 opment, engineering, and testing positions;

24 (iii) procurement, including con-
25 tracting positions;

- 1 (iv) industrial property management
2 positions;
- 3 (v) logistics positions;
- 4 (vi) quality control and assurance po-
5 sitions;
- 6 (vii) manufacturing and production
7 positions;
- 8 (viii) business, cost estimating, finan-
9 cial management, and auditing positions;
- 10 (ix) education, training, and career
11 development positions;
- 12 (x) construction positions; and
- 13 (xi) positions involving joint develop-
14 ment and production with other govern-
15 ment agencies and foreign countries; and
- 16 (B) may include positions that are in man-
17 agement headquarters activities and in manage-
18 ment headquarters support activities and per-
19 form acquisition-related functions;
- 20 (2) identify acquisition workforce needs of each
21 component and of units performing Department-
22 wide acquisition functions, including workforce gaps
23 and strategies for filling those gaps;

1 (3) include Departmental guidance and policies
2 on the use of contractors to perform acquisition
3 functions;

4 (4) describe specific steps for the recruitment,
5 hiring, training, and retention of the workforce iden-
6 tified in paragraph (2); and

7 (5) set forth goals for achieving integration and
8 consistency with governmentwide training and ac-
9 creditation standards, acquisition training tools and
10 training facilities.

11 (c) OTHER ACQUISITION POSITIONS.—The plan re-
12 quired under subsection (a) may provide that the Chief
13 Acquisition Officer or Senior Procurement Executive, as
14 appropriate, may designate as acquisition positions those
15 additional positions that perform significant acquisition-
16 related functions within that component of the Depart-
17 ment.

18 (d) RELEVANT CONGRESSIONAL COMMITTEES.—For
19 purposes of this section, the term “relevant congressional
20 committees” means the Committee on Homeland Security
21 and Governmental Affairs of the Senate and the Com-
22 mittee on Homeland Security of the House of Representa-
23 tives.

1 **SEC. 311. BUY AMERICAN REQUIREMENT; EXCEPTIONS.**

2 (a) REQUIREMENT.—Except as provided in sub-
3 sections (c) through (e), funds appropriated or otherwise
4 available to the Transportation Security Administration
5 may not be used for the procurement of an item described
6 in subsection (b) if the item is not grown, reprocessed,
7 reused, or produced in the United States.

8 (b) COVERED ITEMS.—An item referred to in sub-
9 section (a) is, if the item is directly related to the national
10 security interests of the United States, an article or item
11 of—

12 (1) clothing and the materials and components
13 thereof, other than sensors, electronics, or other
14 items added to, and not normally associated with,
15 clothing (and the materials and components thereof);

16 (2) tents, tarpaulins, or covers; or

17 (3) cotton and other natural fiber products,
18 woven silk or woven silk blends, spun silk yarn for
19 cartridge cloth, synthetic fabric or coated synthetic
20 fabric (including all textile fibers and yarns that are
21 for use in such fabrics), canvas products, or wool
22 (whether in the form of fiber or yarn or contained
23 in fabrics, materials, or manufactured articles).

24 (c) AVAILABILITY EXCEPTION.—Subsection (a) does
25 not apply to the extent that the Secretary determines that
26 satisfactory quality and sufficient quantity of any such ar-

1 ticle or item described in subsection (b) grown, repro-
2 cessed, reused, or produced in the United States cannot
3 be procured as and when needed.

4 (d) EXCEPTION FOR CERTAIN PROCUREMENTS OUT-
5 SIDE THE UNITED STATES.—Subsection (a) does not
6 apply to—

- 7 (1) procurements by vessels in foreign waters;
8 or
9 (2) emergency procurements.

10 (e) EXCEPTION FOR SMALL PURCHASES.—Sub-
11 section (a) does not apply to purchases for amounts not
12 greater than the threshold for a public notice of solicita-
13 tion described in section 18(a)(1)(A) of the Office of Fed-
14 eral Procurement Policy Act (41 U.S.C. 416(a)(1)(A)).

15 (f) APPLICABILITY TO CONTRACTS AND SUB-
16 CONTRACTS FOR PROCUREMENT OF COMMERCIAL
17 ITEMS.—This section shall apply to contracts and sub-
18 contracts for the procurement of commercial items not-
19 withstanding section 34 of the Office of Federal Procure-
20 ment Policy Act (41 U.S.C. 430).

21 (g) GEOGRAPHIC COVERAGE.—In this section, the
22 term “United States” includes the possessions of the
23 United States.

24 (h) NOTIFICATION REQUIRED WITHIN 7 DAYS
25 AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS AP-

1 PLIED.—In the case of any contract for the procurement
2 of an item described in subsection (b), if the Secretary
3 applies an exception set forth in subsection (c) with re-
4 spect to that contract, the Secretary shall, not later than
5 7 days after the award of the contract, post a notification
6 that the exception has been applied on the Internet site
7 maintained by the General Services Administration know
8 as FedBizOpps.gov (or any successor site).

9 (i) TRAINING DURING FISCAL YEAR 2008.—

10 (1) IN GENERAL.—The Secretary shall ensure
11 that each member of the acquisition workforce in the
12 Department who participates personally and sub-
13 stantially in the acquisition of textiles on a regular
14 basis receives training during fiscal year 2008 on
15 the requirements of this section and the regulations
16 implementing this section.

17 (2) INCLUSION OF INFORMATION IN NEW
18 TRAINING PROGRAMS.—The Secretary shall ensure
19 that any training program for the acquisition work-
20 force developed or implemented after the date of en-
21 actment of this Act includes comprehensive informa-
22 tion on the requirements described in paragraph (1).

23 (j) CONSISTENCY WITH INTERNATIONAL AGREE-
24 MENTS.—

1 (1) IN GENERAL.—A provision of this section
2 shall not apply to the extent the Secretary, in con-
3 sultation with the United States Trade Representa-
4 tive, determines that the provision is inconsistent
5 with United States obligations under an inter-
6 national agreement.

7 (2) REPORT.—The Secretary shall submit to
8 Congress a report each year containing, with respect
9 to the year covered by the report—

10 (A) a list of each provision of this section
11 that did not apply during that year pursuant to
12 a determination by the Secretary under para-
13 graph (1); and

14 (B) a list of each contract awarded by the
15 Department during that year without regard to
16 a provision in this section because that provi-
17 sion was made inapplicable pursuant to such a
18 determination.

19 (k) EFFECTIVE DATE.—This section applies with re-
20 spect to contracts entered into by or on behalf of the
21 Transportation Security Administration after the date of
22 the enactment of this Act.

1 **TITLE IV—WORKFORCE**
2 **PROVISIONS**

3 **SEC. 401. AUTHORITY FOR FLEXIBLE PERSONNEL MANAGE-**
4 **MENT AT THE OFFICE OF INTELLIGENCE AND**
5 **ANALYSIS.**

6 (a) IN GENERAL.—The Homeland Security Act of
7 2002 (6 U.S.C. 101 et seq.) is amended by inserting after
8 section 845 the following:

9 **“SEC. 846. AUTHORITY FOR FLEXIBLE PERSONNEL MAN-**
10 **AGEMENT AT THE OFFICE OF INTELLIGENCE**
11 **AND ANALYSIS.**

12 “(a) AUTHORITY TO ESTABLISH POSITIONS IN EX-
13 CEPTED SERVICE.—

14 “(1) IN GENERAL.—With the concurrence of
15 the Director of National Intelligence and in coordi-
16 nation with the Director of the Office of Personnel
17 Management, the Secretary may—

18 “(A) convert competitive service positions,
19 and the incumbents of such positions, within
20 the Office of Intelligence and Analysis to ex-
21 cepted service positions as the Secretary deter-
22 mines necessary to carry out the intelligence
23 functions of the Department; and

24 “(B) establish new positions within the Of-
25 fice of Intelligence and Analysis in the excepted

1 service, if the Secretary determines such posi-
2 tions are necessary to carry out the intelligence
3 functions of the Department.

4 “(2) CLASSIFICATION AND PAY RANGES.—In
5 coordination with the Director of National Intel-
6 ligence, the Secretary may establish the classifica-
7 tion and ranges of rates of basic pay for any posi-
8 tion converted under paragraph (1)(A) or estab-
9 lished under paragraph (1)(B), notwithstanding oth-
10 erwise applicable laws governing the classification
11 and rates of basic pay for such positions.

12 “(3) APPOINTMENT AND COMPENSATION.—The
13 Secretary may appoint individuals for service in po-
14 sitions converted under paragraph (1)(A) or estab-
15 lished under paragraph (1)(B) without regard to the
16 provisions of chapter 33 of title 5, United States
17 Code, governing appointments in the competitive
18 service, and to fix the compensation of such individ-
19 uals within the applicable ranges of rates of basic
20 pay established under paragraph (2).

21 “(4) MAXIMUM RATE OF BASIC PAY.—The max-
22 imum rate of basic pay the Secretary may establish
23 under this subsection is the rate for level III of the
24 Executive Schedule under section 5314 of title 5,
25 United States Code.

1 “(b) EXTENSION OF FLEXIBLE PERSONNEL MAN-
2 AGEMENT AUTHORITIES.—

3 “(1) DEFINITIONS.—In this subsection—

4 “(A) the term ‘compensation authority’—

5 “(i) means authority involving basic
6 pay (including position classification), pre-
7 mium pay, awards, bonuses, incentives, al-
8 lowances, differentials, student loan repay-
9 ments, and special payments; and

10 “(ii) shall not include—

11 “(I) authorities relating to bene-
12 fits such as leave, severance pay, re-
13 tirement, and insurance;

14 “(II) authority to grant a rank
15 award by the President under section
16 4507, 4507a, or 3151(c) of title 5,
17 United States Code, or any other pro-
18 vision of law; or

19 “(III) compensation authorities
20 and performance management au-
21 thorities provided under provisions of
22 law relating to the Senior Executive
23 Service; and

24 “(B) the term ‘intelligence community’ has
25 the meaning given under section 3(4) of the

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

3 “(2) IN GENERAL.—Notwithstanding any other
4 provision of law, in order to ensure the equitable
5 treatment of employees across the intelligence com-
6 munity, the Secretary, with the concurrence of the
7 Director of National Intelligence, or for those mat-
8 ters that fall under the responsibilities of the Office
9 of Personnel Management under statute or executive
10 order, in coordination with the Director of the Office
11 of Personnel Management, may authorize the Office
12 of Intelligence and Analysis to adopt compensation
13 authority, performance management authority, and
14 scholarship authority that have been authorized for
15 another element of the intelligence community if the
16 Secretary and the Director of National Intel-
17 ligence—

18 “(A) determine that the adoption of such
19 authority would improve the management and
20 performance of the intelligence community; and

21 “(B) not later than 60 days before such
22 authority is to take effect, submit notice of the
23 adoption of such authority by the Office of In-
24 telligence and Analysis, including the authority
25 to be so adopted, and an estimate of the costs

1 associated with the adoption of such authority
2 to—

3 “(i) the Committee on Homeland Se-
4 curity and Governmental Affairs and the
5 Select Committee on Intelligence of the
6 Senate; and

7 “(ii) the Committee on Homeland Se-
8 curity and the Permanent Select Com-
9 mittee on Intelligence of the House of Rep-
10 resentatives.

11 “(3) EQUIVALENT APPLICATION OF COMPENSA-
12 TION AUTHORITY.—To the extent that a compensa-
13 tion authority within the intelligence community is
14 limited to a particular category of employees or a
15 particular situation, the authority may be adopted
16 by the Office of Intelligence and Analysis under this
17 subsection only for employees in an equivalent cat-
18 egory or in an equivalent situation.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—
20 The table of contents in section 1(b) of the Homeland Se-
21 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
22 inserting after the item relating to section 845 the fol-
23 lowing:

“Sec. 846. Authority for flexible personnel management at the Office of Intel-
ligence and Analysis.”.

1 **SEC. 402. DIRECT HIRE AUTHORITY FOR CERTAIN POSI-**
2 **TIONS AT THE SCIENCE AND TECHNOLOGY**
3 **DIRECTORATE.**

4 (a) DEFINITION.—In this section, the term “em-
5 ployee” has the meaning given under section 2105 of title
6 5, United States Code.

7 (b) AUTHORITY.—The Secretary may make appoint-
8 ments to a position described under subsection (c) without
9 regard to the provisions of subchapter I of chapter 33 of
10 title 5, United States Code, other than sections 3303 and
11 3328 of such title.

12 (c) POSITIONS.—This section applies with respect to
13 any scientific or engineering position within the Science
14 and Technology Directorate which requires an advanced
15 degree.

16 (d) LIMITATION.—

17 (1) IN GENERAL.—Authority under this section
18 may not, in any calendar year and with respect to
19 any laboratory, be exercised with respect to a num-
20 ber of positions greater than the number equal to 2
21 percent of the total number of positions within such
22 laboratory that are filled as of the end of the most
23 recent fiscal year before the start of such calendar
24 year.

1 (2) FULL-TIME EQUIVALENT BASIS.—For pur-
 2 poses of this subsection, positions shall be counted
 3 on a full-time equivalent basis.

4 (e) TERMINATION.—The authority to make appoint-
 5 ments under this section shall terminate on January 1,
 6 2014.

7 **SEC. 403. APPOINTMENT OF THE CHIEF HUMAN CAPITAL**
 8 **OFFICER BY THE SECRETARY OF HOMELAND**
 9 **SECURITY.**

10 Section 103(d) of the Homeland Security Act of 2002
 11 (6 U.S.C. 113(d)) is amended—

12 (1) by striking paragraph (3); and

13 (2) redesignating paragraphs (4) and (5) as
 14 paragraphs (3) and (4), respectively.

15 **SEC. 404. PLAN TO IMPROVE REPRESENTATION OF MINORI-**
 16 **TIES IN VARIOUS CATEGORIES OF EMPLOY-**
 17 **MENT.**

18 (a) REPRESENTATION OF MINORITIES.—

19 (1) IN GENERAL.—The Department shall imple-
 20 ment policies and procedures Department-wide in
 21 accordance with section 717 of the Civil Rights Act
 22 of 1964 (42 U.S.C. 2000e–16) and section 501 of
 23 the Rehabilitation Act of 1973 (29 U.S.C. 791).

24 (2) TERMS.—In this section, the terms defined
 25 in section 7201(a) of title 5, United States Code,

1 have the meanings given such terms in that section
2 7201(a).

3 (b) PLAN FOR IMPROVING REPRESENTATION OF MI-
4 NORITIES.—

5 (1) IN GENERAL.—

6 (A) SUBMISSION OF PLAN.—Not later than
7 90 days after the date of enactment of this Act,
8 the Chief Human Capital Officer of the Depart-
9 ment shall submit a plan to achieve the objec-
10 tive of addressing any underrepresentation of
11 minorities in the various categories of civil serv-
12 ice employment within the Department to—

13 (i) the Committee on Homeland Secu-
14 rity and Governmental Affairs of the Sen-
15 ate;

16 (ii) the Committee on Homeland Se-
17 curity and the Committee on Oversight
18 and Government Reform of the House of
19 Representatives; and

20 (iii) the Comptroller General of the
21 United States.

22 (B) CONTENTS.—The plan submitted
23 under this subsection shall identify and de-
24 scribe—

1 (i) any barriers to achieving the objec-
2 tive described under subparagraph (A);
3 and

4 (ii) the strategies and measures to
5 overcome such barriers.

6 (2) DETERMINATION BY EQUAL EMPLOYMENT
7 OPPORTUNITY COMMISSION.—In consultation with
8 the Office of Personnel Management, the Equal Em-
9 ployment Opportunity Commission shall make the
10 determination of the number of members of a minor-
11 ity group for purposes of applying definitions under
12 section 7201(a) of title 5, United States Code, in
13 this section.

14 (c) ASSESSMENTS.—Not later than 1 year after the
15 date on which Chief Human Capital Officer submits the
16 plan under subsection (b), the Comptroller General of the
17 United States shall assess—

18 (1) any programs and other measures currently
19 being implemented to achieve the objective described
20 under subsection (b)(1); and

21 (2) the likelihood that the plan will allow the
22 Department to achieve such objective.

1 **SEC. 405. OFFICE OF THE CHIEF LEARNING OFFICER.**

2 (a) IN GENERAL.—The Homeland Security Act of
3 2002 (6 U.S.C. 101 et seq.) is amended by inserting after
4 section 707 the following:

5 **“SEC. 708. CHIEF LEARNING OFFICER.**

6 “(a) ESTABLISHMENT.—There is established within
7 the Department an Office of the Chief Learning Officer.

8 “(b) CHIEF LEARNING OFFICER.—The Chief Learn-
9 ing Officer shall be the head of the Office of the Chief
10 Learning Officer.

11 “(c) RESPONSIBILITIES.—The responsibilities of the
12 Chief Learning Officer shall include—

13 “(1) establishing a Learning and Development
14 strategy for the Department, and managing the im-
15 plementation of that strategy;

16 “(2) managing the Department of Homeland
17 Security University System;

18 “(3) coordinating with the components of the
19 Department to ensure that training and education
20 activities at the component level are consistent, as
21 appropriate, with the objectives of the Learning and
22 Development strategy;

23 “(4) identifying training and education require-
24 ments throughout the Department for career fields
25 not otherwise managed by another office or compo-
26 nent of the Department as directed by statute;

1 “(5) filling gaps in training and education
2 through analysis and creation of courses or pro-
3 grams;

4 “(6) coordinating with the Administrator of the
5 Federal Emergency Management Agency on activi-
6 ties under section 845;

7 “(7) ensuring that training and education pro-
8 grams and activities are adequately publicized to De-
9 partment employees and to other stakeholders, in-
10 cluding other Federal, State, local and tribal offi-
11 cials, as appropriate; and

12 “(8) other responsibilities, as directed by the
13 Secretary.”.

14 (b) LEARNING AND DEVELOPMENT STRATEGY.—Not
15 later than 15 days after the date of enactment of this Act,
16 the Department shall publish the Department of Home-
17 land Security Learning and Development strategy, dated
18 September 28, 2007, on the Department website.

19 (c) TECHNICAL AND CONFORMING AMENDMENT.—
20 The table of contents in section 1(b) of the Homeland Se-
21 curity Act of 2002 (6 U.S.C. 101(b)) is amended by in-
22 serting after the item relating to section 707 the following:

“Sec. 708. Chief Learning Officer.”.

1 **SEC. 406. EXTENSION OF RELOCATION EXPENSES TEST**
2 **PROGRAMS.**

3 (a) **IN GENERAL.**—Section 5739(e) of title 5, United
4 States Code, is amended by striking “11 years” and in-
5 serting “14 years”.

6 (b) **EFFECTIVE DATE.**—The amendment made by
7 this section shall take effect as though enacted as part
8 of the Travel and Transportation Reform Act of 1998
9 (Public Law 105–264; 112 Stat. 2355).

10 **TITLE V—INTELLIGENCE AND**
11 **INFORMATION-SHARING PRO-**
12 **VISIONS**

13 **SEC. 501. FULL AND EFFICIENT USE OF OPEN SOURCE IN-**
14 **FORMATION.**

15 (a) **IN GENERAL.**—Subtitle A of title II of the Home-
16 land Security Act of 2002 (6 U.S.C. 121 et seq.) is amend-
17 ed by adding at the end the following:

18 **“SEC. 210F. FULL AND EFFICIENT USE OF OPEN SOURCE IN-**
19 **FORMATION.**

20 “(a) **DEFINITION OF OPEN SOURCE INFORMA-**
21 **TION.**—In this section, the term ‘open source information’
22 means publicly available information that can be lawfully
23 obtained by a member of the public by request, purchase,
24 or observation.

25 “(b) **RESPONSIBILITIES OF SECRETARY.**—In coordi-
26 nation with the Assistant Deputy Director of National In-

1 telligence for Open Source and the Director of National
2 Intelligence, the Secretary shall establish an open source
3 collection, analysis, and dissemination program within the
4 Office of Intelligence and Analysis. The program shall
5 make full and efficient use of open source information to
6 develop and disseminate open source alerts, warnings, and
7 other intelligence products relating to the mission of the
8 Department.

9 “(c) INTELLIGENCE ANALYSIS.—The Secretary shall
10 ensure that the Department makes full and efficient use
11 of open source information in carrying out paragraphs (1)
12 and (2) of section 201(d).

13 “(d) DISSEMINATION.—The Secretary shall make
14 open source information of the Department available to
15 appropriate officers of the Federal Government, State,
16 local, and tribal governments, and private-sector entities,
17 using systems and networks for the dissemination of
18 homeland security information.

19 “(e) PROTECTION OF PRIVACY.—

20 “(1) COMPLIANCE WITH OTHER LAWS.—The
21 Secretary shall ensure that the manner in which
22 open source information is gathered and dissemi-
23 nated by the Department complies with section 552a
24 of title 5, United States Code (commonly referred to
25 as the Privacy Act of 1974), provisions of law en-

1 acted by the E-Government Act of 2002 (Public
2 Law 107–347), and all other relevant Federal laws.

3 “(2) DESCRIPTION IN ANNUAL REPORT BY PRI-
4 VACY OFFICER.—The Privacy Officer of the Depart-
5 ment shall include in the annual report submitted to
6 Congress under section 222 an assessment of com-
7 pliance by Federal departments and agencies with
8 the laws described in paragraph (1), as they relate
9 to the use of open source information.”.

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—
11 The table of contents in section 1(b) of the Homeland Se-
12 curity Act of 2002 (6 U.S.C. et seq.) is amended by insert-
13 ing after the item relating to section 210E the following:
“Sec. 210F. Full and efficient use of open source information.”.

14 **SEC. 502. AUTHORIZATION OF INTELLIGENCE ACTIVITIES.**

15 (a) IN GENERAL.—Funds authorized or made avail-
16 able by this Act for intelligence activities are deemed to
17 be specifically authorized by the Congress for purposes of
18 section 504 of the National Security Act of 1947 (50
19 U.S.C. 414) during fiscal years 2008 and 2009.

20 (b) RULE OF CONSTRUCTION.—The authorization of
21 appropriations by this Act shall not be deemed to con-
22 stitute authority for the conduct of any intelligence activ-
23 ity which is not otherwise authorized by the Constitution
24 or the laws of the United States.

1 **SEC. 503. UNDER SECRETARY FOR INTELLIGENCE AND**
2 **ANALYSIS TECHNICAL CORRECTION.**

3 Section 103(a) of the Homeland Security Act of 2002
4 (6 U.S.C. 113(a)) is amended—

5 (1) by redesignating paragraphs (9) and (10)
6 as paragraphs (10) and (11), respectively; and

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

9 “(9) An Under Secretary for Intelligence and
10 Analysis.”.

11 **TITLE VI—CYBER SECURITY IN-**
12 **FRASTRUCTURE PROTECTION**
13 **IMPROVEMENTS**

14 **SEC. 601. NATIONAL CYBER SECURITY DIVISION.**

15 (a) IN GENERAL.—Subtitle C of title II of the Home-
16 land Security Act of 2002 (6 U.S.C. 141 et seq.) is amend-
17 ed by adding at the end the following:

18 **“SEC. 226. NATIONAL CYBER SECURITY DIVISION.**

19 **“(a) DEFINITIONS.—**In this section—

20 **“(1) the term ‘critical information infrastruc-**
21 **ture’ means a system or asset, whether physical or**
22 **virtual, used in processing, transferring, and storing**
23 **information so vital to the United States that the in-**
24 **capacity or destruction of such system or asset**
25 **would have a debilitating impact on security, na-**

1 tional economic security, or national public health or
2 safety; and

3 “(2) the term ‘Division’ means the National
4 Cyber Security Division.

5 “(b) ESTABLISHMENT.—There shall be within the
6 Office of the Assistant Secretary for Cyber Security and
7 Communications a National Cyber Security Division.

8 “(c) RESPONSIBILITIES.—

9 “(1) IN GENERAL.—The Division shall be re-
10 sponsible for overseeing preparation, situational
11 awareness, response, reconstitution, and mitigation
12 necessary for cyber security, including—

13 “(A) establishing and maintaining a capa-
14 bility within the Department to identify threats
15 to critical information infrastructure to aid in
16 detection of vulnerabilities and warning of po-
17 tential acts of terrorism and other attacks;

18 “(B) establishing and maintaining a capa-
19 bility to share useful, timely information re-
20 garding cyber vulnerabilities, threats, and at-
21 tacks with officers of the Federal Government
22 and State and local governments, the private
23 sector, and the general public;

24 “(C) conducting comprehensive risk assess-
25 ments on critical information infrastructure

1 with respect to acts of terrorism and other
2 large-scale disruptions, identifying and
3 prioritizing vulnerabilities in non-Federal crit-
4 ical information infrastructure, and coordi-
5 nating the mitigation of such vulnerabilities;

6 “(D) coordinating with the Assistant Sec-
7 retary for Infrastructure Protection to ensure
8 that cyber security is appropriately addressed in
9 carrying out the infrastructure protection re-
10 sponsibilities described in section 201(d);

11 “(E) developing, with input from the own-
12 ers and operators of relevant assets and sys-
13 tems, a plan for the continuation of critical in-
14 formation operations in the event of a cyber at-
15 tack or other large-scale disruption of the infor-
16 mation infrastructure of the United States;

17 “(F) defining what qualifies as a cyber in-
18 cident of national significance for purposes of
19 the National Response Plan or any successor
20 plan prepared under section 504(a)(6);

21 “(G) ensuring that the priorities, proce-
22 dures, and resources of the Department are in
23 place to reconstitute critical information infra-
24 structures in the event of an act of terrorism or

1 other large-scale disruption of such infrastruc-
2 tures;

3 “(H) developing, in coordination with the
4 National Cyber Security Center, a national
5 cyber security awareness, training, and edu-
6 cation program that promotes cyber security
7 awareness within the Federal Government and
8 throughout the Nation; and

9 “(I) consulting and coordinating with the
10 Under Secretary for Science and Technology on
11 cyber security research and development to
12 strengthen critical information infrastructure
13 against acts of terrorism and other large-scale
14 disruptions.

15 “(2) STAFFING.—The Division shall establish a
16 capability to attract and retain qualified information
17 technology experts at the Department to help ana-
18 lyze cyber threats and vulnerabilities.

19 “(3) FEDERAL NETWORK SECURITY.—The Di-
20 vision, in coordination with the National Cyber Secu-
21 rity Center, shall monitor, consistent with the Con-
22 stitution and other applicable laws of the United
23 States, network traffic for all Federal civilian de-
24 partments and agencies to determine any potential
25 cyber incidents or vulnerabilities.

1 “(4) COLLABORATION.—

2 “(A) IN GENERAL.—Wherever possible, the
3 Division shall work collaboratively with relevant
4 members of the private sector, academia, other
5 cyber security experts, and officers of the Fed-
6 eral Government and State, local, and tribal
7 governments in carrying out the responsibilities
8 under this subsection.

9 “(B) SINGLE CONTACT.—The Division
10 shall provide a single Federal Government con-
11 tact for State, local, and tribal governments
12 and academia and other private sector entities
13 to exchange information and work collabo-
14 ratively regarding the security of critical infor-
15 mation infrastructure.”.

16 (b) TABLE OF CONTENTS.—The table of contents in
17 section 1(b) of the Homeland Security Act of 2002 (6
18 U.S.C. 101 et seq.) is amended by inserting after the item
19 relating to section 225 the following:

“Sec. 226. National Cyber Security Division.”.

20 **SEC. 602. NATIONAL CYBER SECURITY CENTER.**

21 (a) IN GENERAL.—Subtitle C of title II of the Home-
22 land Security Act of 2002 (6 U.S.C. 141 et seq.), as
23 amended by section 601 of this Act, is amended by adding
24 at the end the following:

1 **“SEC. 227. NATIONAL CYBER SECURITY CENTER.**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘agency’—

4 “(A) means any executive department,
5 military department, Government corporation,
6 Government controlled corporation, or other es-
7 tablishment in the executive branch of the Gov-
8 ernment (including the Executive Office of the
9 President), or any independent regulatory agen-
10 cy; and

11 “(B) does not include the governments of
12 the District of Columbia and of the territories
13 and possessions of the United States and their
14 various subdivisions;

15 “(2) the term ‘Director’ means the Director of
16 the National Cyber Security Center;

17 “(3) the term ‘Federal information infrastruc-
18 ture’ means the information infrastructure that is
19 operated by an agency; and

20 “(4) the term ‘information infrastructure’
21 means the underlying framework that information
22 systems and assets rely on in processing, transmit-
23 ting, receiving, or storing information electronically.

24 “(b) ESTABLISHMENT.—There is established within
25 the Department a National Cyber Security Center.

26 “(c) DIRECTOR.—

1 “(1) ESTABLISHMENT AND APPOINTMENT.—

2 There is a Director of the National Cyber Security
3 Center, who shall be—

4 “(A) the head of the National Cyber Secu-
5 rity Center;

6 “(B) a member of the Chief Information
7 Officers Council; and

8 “(C) appointed by the President, by and
9 with the advice and consent of the Senate.

10 “(2) QUALIFICATIONS.—The Director shall
11 have significant expertise in matters relating to the
12 security of information technology systems or other
13 relevant experience.

14 “(3) LIMITATION ON SERVICE.—The individual
15 serving as the Director may not, while so serving,
16 serve in any other capacity in the Federal Govern-
17 ment, except to the extent that the individual serv-
18 ing as Director is doing so in an acting capacity.

19 “(4) SUPERVISION.—The Director shall report
20 to—

21 “(A) the President on matters relating to
22 the interagency missions described in subpara-
23 graph (B), (C), or (E) of subsection (e)(1); and

1 “(B) the Secretary on all other matters,
2 without being required to report through any
3 other official of the Department.

4 “(d) DEPUTY DIRECTORS.—

5 “(1) ESTABLISHMENT AND APPOINTMENT.—
6 There are 2 Deputy Directors of the National Cyber
7 Security Center, who shall report to the Director.

8 “(2) DETAILEE AND EMPLOYEE.—

9 “(A) DETAILEE.—The Director shall enter
10 into a memorandum of understanding with the
11 Director of National Intelligence for the assign-
12 ment of an employee of the intelligence commu-
13 nity (as defined in section 3(4) of the National
14 Security Act of 1947 (50 U.S.C. 401a(4))) with
15 relevant experience to work at the National
16 Cyber Security Center as a Deputy Director.

17 “(B) EMPLOYEE.—One Deputy Director
18 shall be a permanent employee of the Depart-
19 ment and a member of the Senior Executive
20 Service.

21 “(e) PRIMARY MISSIONS.—

22 “(1) IN GENERAL.—The primary missions of
23 the National Cyber Security Center shall be to—

24 “(A) coordinate and integrate information
25 to—

1 “(i) provide cross-domain situational
2 awareness; and

3 “(ii) analyze and report on the com-
4 posite state of the Federal information in-
5 frastructure;

6 “(B) unify strategy for the security of the
7 Federal information infrastructure;

8 “(C) coordinate the development of inter-
9 agency plans in response to an incident of na-
10 tional significance relating to the security of the
11 Federal information infrastructure;

12 “(D) coordinate in conjunction with the
13 Director of the Office of Management and
14 Budget the development of uniform standards
15 and guidelines under section 20 of the National
16 Institute of Standards and Technology Act (15
17 U.S.C. 278g-3);

18 “(E) develop performance measures to
19 evaluate the security of the Federal information
20 infrastructure; and

21 “(F) ensure, in coordination with the Pri-
22 vacy Office and the Office for Civil Rights and
23 Civil Liberties, that all policies and procedures
24 for securing the Federal information infrastruc-
25 ture comply with all applicable policies, regula-

1 tions, and laws protecting the privacy and civil
2 liberties of individuals.

3 “(2) AWARENESS OF SECURITY STATUS.—The
4 National Cyber Security Center shall establish elec-
5 tronic connections to ensure timely awareness of the
6 security status of the information infrastructure and
7 overall United States Cyber Networks and Systems
8 with—

9 “(A) the United States Computer Emer-
10 gency Readiness Team;

11 “(B) the National Security Agency Threat
12 Operations Center;

13 “(C) the Joint Task Force-Global Network
14 Operations;

15 “(D) the Department of Defense Cyber
16 Crime Center;

17 “(E) the National Cyber Investigative
18 Joint Task Force;

19 “(F) the Intelligence Community Incident
20 Response Center;

21 “(G) any other agency identified by the Di-
22 rector, with the concurrence of the head of that
23 agency; and

24 “(H) any other nongovernmental organiza-
25 tion identified by the Director, with the concur-

1 rence of the owner or operator of that organiza-
2 tion.

3 “(f) AUTHORITIES OF THE DIRECTOR.—

4 “(1) ACCESS TO INFORMATION.—Unless other-
5 wise directed by the President—

6 “(A) the Director shall access, receive, and
7 analyze law enforcement information, intel-
8 ligence information, terrorism information (as
9 defined in section 1016 of the Intelligence Re-
10 form and Terrorism Prevention Act of 2004 (6
11 U.S.C. 485)), and other information as deter-
12 mined by the Director, relevant to the security
13 of the Federal information infrastructure from
14 agencies of the Federal Government, State, and
15 local government agencies (including law en-
16 forcement agencies), and as appropriate, private
17 sector entities related to the security of Federal
18 information infrastructure; and

19 “(B) any agency in possession of law en-
20 forcement information, intelligence information,
21 and terrorism information (as defined in section
22 1016 of the Intelligence Reform and Terrorism
23 Prevention Act of 2004 (6 U.S.C. 485)) rel-
24 evant to the security of the Federal information

1 infrastructure shall provide that information to
2 the Director in a timely manner.

3 “(2) BREACH OF ANY GOVERNMENT INFORMA-
4 TION TECHNOLOGY SYSTEM.—Unless otherwise di-
5 rected by the President, upon notification or detec-
6 tion of any act or omission by any person or entity
7 that substantially jeopardizes the security of the
8 Federal information infrastructure, the entities de-
9 scribed under subsection (e)(2) shall immediately in-
10 form the Director of such act or omission.

11 “(3) DEVELOPMENT OF BUDGETS.—Based on
12 standards and guidelines developed under subsection
13 (e)(1)(D) and any other relevant information, the
14 Director shall—

15 “(A) provide to the head of each agency
16 that operates a Federal computer system, guid-
17 ance for developing the budget pertaining to the
18 information security activities of each agency;

19 “(B) provide such guidance to the Director
20 of the Office of Management and Budget who
21 shall, to the maximum extent practicable, en-
22 sure that each agency budget conforms with
23 such guidance;

24 “(C) regularly evaluate each agency budget
25 to determine if that budget is adequate to meet

1 the performance measures established under
2 subsection (e)(1)(E); and

3 “(D) provide copies of that evaluation to—

4 “(i) the head of each relevant agency;

5 “(ii) the Director of the Office of
6 Management and Budget;

7 “(iii) the Committee on Appropria-
8 tions of the Senate;

9 “(iv) the Committee on Appropria-
10 tions of the House of Representatives;

11 “(v) the Committee on Homeland Se-
12 curity and Governmental Affairs of the
13 Senate;

14 “(vi) the Committee on Oversight and
15 Government Reform of the House of Rep-
16 resentatives; and

17 “(vii) and the Committee on Home-
18 land Security of the House of Representa-
19 tives.

20 “(4) REVIEW AND INSPECTION.—

21 “(A) IN GENERAL.—The Director may—

22 “(i) review the enterprise architecture,
23 acquisition plans, contracts, policies, and
24 procedures of any agency relevant to the

1 information security of the Federal infor-
2 mation infrastructure; and

3 “(ii) physically inspect any facility to
4 determine if the performance measures es-
5 tablished by the National Cyber Security
6 Center have been satisfied.

7 “(B) REMEDIAL MEASURES.—If the Direc-
8 tor determines, through review, inspection, or
9 audit, that the applicable security performance
10 measures have not been satisfied, the Director,
11 in coordination with the Director of the Office
12 of Management and Budget, may recommend
13 remedial measures to be taken to prevent any
14 damage, loss of information, or other threat to
15 information security as a result of the failure to
16 satisfy the applicable performance measures.
17 Such measures shall be implemented or the
18 head of the agency shall certify that, and ex-
19 plain how, the identified vulnerability has been
20 mitigated.

21 “(5) OPERATIONAL EVALUATIONS.—Unless oth-
22 erwise directed by the President, the Director, in co-
23 ordination with the Director of the National Security
24 Agency, shall support strategic planning for the
25 operational evaluation of the security of the Federal

1 information infrastructure. Such planning may in-
2 clude the determination of objectives to be achieved,
3 tasks to be performed, interagency coordination of
4 operational activities, and the assignment of roles
5 and responsibilities, but the Director shall not, un-
6 less otherwise directed by the Secretary, direct the
7 execution of operational evaluations.

8 “(6) INFORMATION SHARING.—The Director
9 shall provide information to the Director of the Na-
10 tional Cyber Security Division on potential
11 vulnerabilities, attacks, and exploitations of the Fed-
12 eral information infrastructure to the extent that
13 such information might assist State, local, tribal,
14 private, and other entities in securing their own in-
15 formation systems.

16 “(g) REPORTS.—

17 “(1) IN GENERAL.—Not less than once in each
18 calendar year, the National Cyber Security Center
19 shall submit a report to Congress.

20 “(2) CONTENTS.—

21 “(A) IN GENERAL.—Each report submitted
22 under this subsection shall include—

23 “(i) a general assessment of the secu-
24 rity of the information technology infra-
25 structure of the Federal Government;

1 “(ii) a description of the activities of
2 the National Cyber Security Center in the
3 preceding year;

4 “(iii) a description of all
5 vulnerabilities, attacks, and exploitations of
6 Federal Government information tech-
7 nology infrastructure in the preceding year
8 and actions taken in response; and

9 “(iv) an assessment of the amount
10 and frequency of information shared with
11 the Center by the entities described under
12 subsection (e)(2).

13 “(B) CLASSIFIED ANNEX.—To the extent
14 that any information in a report submitted
15 under this subsection is classified, the report
16 may include a classified annex.

17 “(h) RULE OF CONSTRUCTION.—Nothing in this sec-
18 tion shall be construed to create any new authority to col-
19 lect, maintain, or disseminate personally identifiable infor-
20 mation concerning United States citizens.

21 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to carry out this sec-
23 tion—

24 “(1) \$30,000,000 for fiscal year 2009; and

1 tions are necessary to carry out the cyber security func-
2 tions of the Department.

3 “(b) CLASSIFICATION AND PAY RANGES.—In coordi-
4 nation with the Director of the National Cyber Security
5 Center and the Assistant Secretary for Cyber Security and
6 Communications, the Secretary may establish the classi-
7 fication and ranges of rates of basic pay for any position
8 established under subsection (a), notwithstanding other-
9 wise applicable laws governing the classification and rates
10 of basic pay for such positions.

11 “(c) APPOINTMENT AND COMPENSATION.—The Sec-
12 retary may appoint individuals for service in positions es-
13 tablished under subsection (a) without regard to the provi-
14 sions of chapter 33 of title 5, United States Code, gov-
15 erning appointments in the competitive service, and to fix
16 the compensation of such individuals within the applicable
17 ranges of rates of basic pay established under subsection
18 (b).

19 “(d) MAXIMUM RATE OF BASIC PAY.—The max-
20 imum rate of basic pay the Secretary may establish under
21 this section is the rate for level III of the Executive Sched-
22 ule under section 5314 of title 5, United States Code.”.

23 (b) TECHNICAL AND CONFORMING AMENDMENT.—
24 The table of contents in section 1(b) of the Homeland Se-
25 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by

1 inserting after the item relating to section 846, as added
2 by section 401 of this Act, the following:

“Sec. 847. Authority for flexible personnel management for cyber security positions at the department.”.

3 **SEC. 604. CYBER THREAT.**

4 (a) DEFINITION.—In this section, the term “critical
5 infrastructure” has the meaning given that term in section
6 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

7 (b) SHARING OF CYBER THREAT INFORMATION.—
8 The Inspector General of the Department, in coordination
9 with the Inspector General of the Office of the Director
10 of National Intelligence, shall—

11 (1) assess the sharing of cyber threat informa-
12 tion, including—

13 (A) how cyber threat information, includ-
14 ing classified information, is shared with the
15 owners and operators of United States critical
16 infrastructure;

17 (B) the mechanisms by which classified
18 cyber threat information is distributed; and

19 (C) the effectiveness of the sharing of
20 cyber threat information; and

21 (2) not later than 180 days after the date of
22 enactment of this Act, submit a report regarding the
23 assessment under paragraph (1) to—

1 (A) the Committee on Homeland Security
2 and Governmental Affairs of the Senate; and

3 (B) the Committee on Homeland Security
4 of the House of Representatives.

5 (c) CYBER THREAT ASSESSMENT.—The Secretary,
6 in coordination with the Director of National Intelligence,
7 shall—

8 (1) perform a comprehensive, up-to-date assess-
9 ment of the cyber threat to critical infrastructure,
10 including threats to electric power command and
11 control systems in the United States; and

12 (2) not later than 180 days after the date of
13 enactment of this Act, submit a report regarding the
14 assessment under paragraph (1) to—

15 (A) the Committee on Homeland Security
16 and Governmental Affairs of the Senate; and

17 (B) the Committee on Homeland Security
18 of the House of Representatives.

19 **SEC. 605. CYBER SECURITY RESEARCH AND DEVELOP-**
20 **MENT.**

21 (a) IN GENERAL.—Title III of the Homeland Secu-
22 rity Act of 2002 (6 U.S.C. 181 et seq.) is amended by
23 adding at the end the following:

1 **“SEC. 318. CYBER SECURITY RESEARCH AND DEVELOP-**
2 **MENT.**

3 “(a) **ESTABLISHMENT OF RESEARCH AND DEVELOP-**
4 **MENT PROGRAM.**—The Under Secretary for Science and
5 Technology, in coordination with the Assistant Secretary
6 for Cyber Security and Communications and the Director
7 of the National Cyber Security Center, shall carry out a
8 research and development program for the purpose of im-
9 proving the security of information systems.

10 “(b) **ELIGIBLE PROJECTS.**—The research and devel-
11 opment program under this section may include projects
12 to—

13 “(1) advance the development and accelerate
14 the deployment of more secure versions of funda-
15 mental Internet protocols and architectures, includ-
16 ing for the domain name system and routing proto-
17 cols;

18 “(2) improve and create technologies for detect-
19 ing attacks or intrusions, including monitoring tech-
20 nologies;

21 “(3) improve and create mitigation and recov-
22 ery methodologies, including techniques for contain-
23 ment of attacks and development of resilient net-
24 works and systems that degrade gracefully;

25 “(4) develop and support infrastructure and
26 tools to support cyber security research and develop-

1 ment efforts, including modeling, testbeds, and data
2 sets for assessment of new cyber security tech-
3 nologies;

4 “(5) assist the development and support of
5 technologies to reduce vulnerabilities in process con-
6 trol systems;

7 “(6) test, evaluate, and facilitate the transfer of
8 technologies associated with the engineering of less
9 vulnerable software and securing the information
10 technology software development lifecycle; and

11 “(7) address other vulnerabilities and risks
12 identified by the Secretary.

13 “(c) COORDINATION WITH OTHER RESEARCH INI-
14 TIATIVES.—The Under Secretary for Science and Tech-
15 nology—

16 “(1) shall ensure that the research and develop-
17 ment program is consistent with the National Strat-
18 egy to Secure Cyberspace, or any succeeding strat-
19 egy;

20 “(2) shall, to the extent practicable, coordinate
21 the research and development activities of the De-
22 partment with other ongoing research and develop-
23 ment security-related initiatives, including research
24 being conducted by—

1 “(A) the National Institutes of Standards
2 and Technology;

3 “(B) the National Academy of Sciences;

4 “(C) other Federal departments and agen-
5 cies; and

6 “(D) other Federal and private research
7 laboratories, research entities, and universities
8 and institutions of higher education;

9 “(3) shall carry out any research and develop-
10 ment project authorized by this section through a re-
11 imbursable agreement with an appropriate Federal
12 agency, if the agency—

13 “(A) is sponsoring a research and develop-
14 ment project in a similar area; or

15 “(B) has a unique facility or capability
16 that would be useful in carrying out the project;
17 and

18 “(4) may award grants, or enter into coopera-
19 tive agreements, contracts, other transactions, or re-
20 imbursable agreements to the entities described in
21 paragraph (2).

22 “(d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIB-
23 ERTIES ISSUES.—

24 “(1) CONSULTATION.—In carrying out research
25 and development projects under this section, the

1 Secretary shall consult with the Privacy Officer of
2 the Department and the Officer for Civil Rights and
3 Civil Liberties of the Department.

4 “(2) PRIVACY IMPACT ASSESSMENTS.—In ac-
5 cordance with sections 222 and 705, the Privacy Of-
6 ficer shall conduct privacy impact assessments and
7 the Officer for Civil Rights and Civil Liberties shall
8 conduct reviews, as appropriate, for research and de-
9 velopment initiatives developed under this section
10 that the Secretary determines could have an impact
11 on privacy, civil rights, or civil liberties.

12 “(e) AUTHORIZATION OF APPROPRIATIONS.—

13 “(1) IN GENERAL.—From funds appropriated
14 under section 114(w) of title 49, United States
15 Code, there shall be made available to the Secretary
16 to carry out this section \$50,000,000 for each fiscal
17 year 2009 through 2012.

18 “(2) AVAILABILITY OF FUNDS.—Funds appro-
19 priated pursuant to the authorization under this
20 subsection shall remain available until expended.”.

21 (b) TECHNICAL AND CONFORMING AMENDMENT.—

22 The table of contents in section 1(b) of the Homeland Se-
23 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
24 inserting after the item relating to section 317 the fol-
25 lowing:

“Sec. 318. Cyber security research and development.”.

1 **SEC. 606. COMPREHENSIVE NATIONAL CYBER SECURITY**
2 **INITIATIVE.**

3 Not later than 90 days after the date of enactment
4 of this Act, the Secretary, in coordination with the Direc-
5 tor of National Intelligence, shall submit a report con-
6 taining comprehensive and detailed program and budget
7 information and delineating plans for and linking expendi-
8 tures to the goals of the Comprehensive National Cyber
9 Security Initiative, as described in National Security Pol-
10 icy Directive 54/Homeland Security Policy Directive 23
11 signed by the President on January 8, 2008, as modified
12 by the President under this Act and the amendments
13 made by this Act, including implementation guidance and
14 personnel recruiting, retention, and assignment goals to—

15 (1) the Committee on Homeland Security and
16 Governmental Affairs of the Senate; and

17 (2) the Committee on Homeland Security of the
18 House of Representatives.

19 **SEC. 607. NATIONAL CYBER SECURITY PRIVATE SECTOR**
20 **ADVISORY BOARD.**

21 (a) DEFINITION.—In this section, the term “Board”
22 means the National Cyber Security Private Sector Advi-
23 sory Board established under subsection (b).

24 (b) ESTABLISHMENT.—There is established the Na-
25 tional Cyber Security Private Sector Advisory Board.

26 (c) FUNCTIONS.—

1 (1) IN GENERAL.—The Board shall provide ad-
2 vice and comment to the Secretary on—

3 (A) the cyber security standards, practices,
4 and policies of the Department;

5 (B) the state of security of information
6 technology infrastructure in the United States;
7 and

8 (C) any other issue relating to cyber secu-
9 rity that the members of the Board determine
10 is relevant.

11 (2) THE FEDERAL ADVISORY COMMITTEE
12 ACT.—The Federal Advisory Committee Act (5
13 U.S.C. App.) shall not apply to the Board.

14 (d) CHAIRPERSON.—

15 (1) IN GENERAL.—The chairperson of the
16 Board shall be the Secretary.

17 (2) DELEGATION.—Through the Secretary, the
18 Board shall provide advice to both the National
19 Cyber Security Division and the National Cyber Se-
20 curity Center. The chairpersonship of the Board
21 shall not be delegated solely to 1 of these entities.

22 (e) VICE CHAIRPERSON.—The vice chairperson of the
23 Board shall be selected from among the private sector
24 members of the Private-Sector Advisory Board by means
25 determined by the members of the Board.

1 (f) MEMBERS.—The Board shall be composed of aca-
2 demics, business leaders, and other nongovernment indi-
3 viduals with relevant expertise in the area of cyber security
4 appointed by the Secretary.

5 (g) MEETINGS.—The Board shall meet not less than
6 twice each calendar year.

7 **SEC. 608. INFRASTRUCTURE PROTECTION.**

8 Section 201 of the Homeland Security Act of 2002
9 (6 U.S.C. 121) is amended—

10 (1) in subsection (b)(3), by adding at the end
11 the following: “The Assistant Secretary for Infra-
12 structure Protection shall report to the Under Sec-
13 retary with responsibility for overseeing critical in-
14 frastructure protection established in section
15 103(a)(8).”; and

16 (2) in subsection (d)—

17 (A) by redesignating paragraphs (2)
18 through (25) as paragraphs (3) through (26),
19 respectively;

20 (B) by inserting after paragraph (1) the
21 following:

22 “(2) To promote, prioritize, coordinate, and
23 plan for the protection, security, resiliency, and
24 postdisaster restoration of critical infrastructure and
25 key resources of the United States against or in the

1 event of an act of terrorism, natural disaster, or
2 other manmade disaster, in coordination with other
3 agencies of the Federal Government and in coopera-
4 tion with State and local government agencies and
5 authorities, the private sector, and other entities.”;

6 (C) in paragraph (6), as so redesignated—

7 (i) by inserting “, implement, and co-
8 ordinate” after “develop”; and

9 (ii) by inserting “, in partnership with
10 the private sector,” after “comprehensive
11 national plan”;

12 (D) in paragraph (7), as so redesignated,
13 by inserting “and facilitate the implementation
14 of” after “recommend”; and

15 (E) in paragraph (9), as so redesignated,
16 by inserting “, including owners and operators
17 of critical infrastructure, in a timely and effec-
18 tive manner” after “such responsibilities”.

19 **TITLE VII—BIOLOGICAL, MED-**
20 **ICAL, AND SCIENCE AND**
21 **TECHNOLOGY PROVISIONS**

22 **SEC. 701. CHIEF MEDICAL OFFICER AND OFFICE OF**
23 **HEALTH AFFAIRS.**

24 Section 516 of the Homeland Security Act of 2002
25 (6 U.S.C. 321e) is amended to read as follows:

1 **“SEC. 516. CHIEF MEDICAL OFFICER.**

2 “(a) IN GENERAL.—There is in the Department an
3 Office of Health Affairs, which shall be headed by a Chief
4 Medical Officer, who shall be appointed by the President,
5 by and with the advice and consent of the Senate. The
6 Chief Medical Officer shall also have the title of Assistant
7 Secretary for Health Affairs.

8 “(b) QUALIFICATIONS.—The individual appointed as
9 the Chief Medical Officer shall possess a demonstrated
10 ability in and knowledge of medicine and public health.

11 “(c) RESPONSIBILITIES.—

12 “(1) IN GENERAL.—The Chief Medical Officer
13 shall have the primary responsibility within the De-
14 partment for medical and public health issues relat-
15 ing to the mission and operations of the Depart-
16 ment, including medical and public health issues re-
17 lating to natural disasters, acts of terrorism, and
18 other man-made disasters.

19 “(2) SPECIFIC RESPONSIBILITIES.—The re-
20 sponsibilities of the Chief Medical Officer shall in-
21 clude—

22 “(A) serving as the principal advisor to the
23 Secretary and the Administrator on the medical
24 care, public health, and agrodefense responsibil-
25 ities of the Department;

1 “(B) providing oversight of all medically
2 related actions and of protocols of the medical
3 personnel of the Department;

4 “(C) administering the responsibilities of
5 the Department for medical readiness, including
6 providing guidance to support State and local
7 training, equipment, and exercises funded by
8 the Department;

9 “(D) serving as the primary point of con-
10 tact in the Department with the Department of
11 Agriculture, the Department of Defense, the
12 Department of Health and Human Services, the
13 Department of Transportation, the Department
14 of Veterans Affairs, and other Federal depart-
15 ments and agencies, on medical and public
16 health matters;

17 “(E) serving as the primary point of con-
18 tact in the Department for State, local, and
19 tribal governments, the medical community, and
20 the private sector, with respect to medical and
21 public health matters;

22 “(F) coordinating the biodefense and bio-
23 surveillance activities of the Department, in-
24 cluding managing the National Biosurveillance
25 Integration Center under section 316;

1 “(G) discharging, in coordination with the
2 Under Secretary for Science and Technology,
3 the responsibilities of the Department under
4 Project BioShield under sections 319F–1 and
5 319F–2 of the Public Health Service Act (42
6 U.S.C. 247d–6a and 247d–6b);

7 “(H) ensuring that the workforce of the
8 Department has science-based policy, stand-
9 ards, requirements, and metrics for occupa-
10 tional safety and health;

11 “(I) providing medical expertise for the
12 components of the Department with respect to
13 prevention, preparedness, protection, response,
14 and recovery for medical and public health mat-
15 ters;

16 “(J) working in conjunction with appro-
17 priate Department entities and other appro-
18 priate Federal departments and agencies to de-
19 velop guidance for prevention, preparedness,
20 protection, response, and recovery from cata-
21 strophic events with human, animal, agricul-
22 tural, or environmental health consequences;
23 and

24 “(K) performing such other duties as the
25 Secretary may require.”.

1 **SEC. 702. TEST, EVALUATION, AND STANDARDS DIVISION.**

2 (a) TEST, EVALUATION, AND STANDARDS DIVI-
3 SION.—Section 308 of the Homeland Security Act of 2002
4 (6 U.S.C. 188) is amended—

5 (1) in subsection (a), by inserting “and through
6 the Test, Evaluation, and Standards Division of the
7 Directorate” after “programs”; and

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

9 “(d) TEST, EVALUATION, AND STANDARDS DIVI-
10 SION.—

11 “(1) ESTABLISHMENT.—There is established in
12 the Directorate of Science and Technology a Test,
13 Evaluation, and Standards Division.

14 “(2) LEADERSHIP.—The Test, Evaluation, and
15 Standards Division shall be headed by a Director of
16 Test, Evaluation, and Standards.

17 “(3) RESPONSIBILITIES, AUTHORITIES, AND
18 FUNCTIONS.—The Secretary, acting through the Di-
19 rector of Test, Evaluation, and Standards, shall—

20 “(A) ensure the effectiveness, reliability,
21 and suitability of testing and evaluation activi-
22 ties conduct by or on behalf of components and
23 agencies of the Department in acquisition pro-
24 grams that are designated as high-risk major
25 acquisition programs;

1 “(B) provide the Department with inde-
2 pendent and objective assessments of the ade-
3 quacy of testing and evaluation activities con-
4 ducted in support of acquisition programs that
5 are designed as high-risk major acquisition pro-
6 grams;

7 “(C) review and approve all Testing and
8 Evaluation Master Plans, test plans, and test-
9 ing evaluation procedures for acquisition pro-
10 grams that are designated as high-risk major
11 acquisition programs;

12 “(D) develop testing and evaluation poli-
13 cies for the Department;

14 “(E) develop a testing and evaluation in-
15 frastructure investment plan to modernize de-
16 partmental test-bed facilities that conduct de-
17 velopmental, performance, or operational testing
18 in support of acquisition programs that are des-
19 ignated as high-risk major acquisition pro-
20 grams;

21 “(F) accredit test facilities or test-beds, as
22 necessary, that will be used by the Department
23 for testing and evaluation activities; and

24 “(G) support the development and adop-
25 tion of voluntary standards in accordance with

1 section 12(d) of the National Technology
2 Transfer and Advancement Act of 1995 (15
3 U.S.C. 272 note).

4 “(4) DEFINITION.—In this subsection, the term
5 ‘high-risk major acquisition program’ means any ac-
6 quisition program that is—

7 “(A) designated as a Level 1 acquisition
8 under the policies of the Acquisition Review
9 Board of the Department established under sec-
10 tion 707; or

11 “(B) otherwise designated by the Secretary
12 as a complex, high-risk, or major acquisition
13 programs requiring enhanced oversight by the
14 Department.”.

15 (b) OVERSIGHT.—Not later than 60 days after the
16 date of enactment of this Act, the Secretary shall submit
17 to the Committee on Homeland Security and Govern-
18 mental Affairs of the Senate and the Committee on Home-
19 land Security of the House of Representatives a report
20 that identifies each current or planned high-risk major ac-
21 quisition program, as defined in this section.

22 **SEC. 703. DIRECTOR OF OPERATIONAL TESTING.**

23 (a) IN GENERAL.—Title III of the Homeland Secu-
24 rity Act of 2002 (6 U.S.C. 181 et seq.), as amended by

1 section 605 of this Act, is amended by adding at the end
2 the following:

3 **“SEC. 319. DIRECTOR OF OPERATIONAL TESTING.**

4 “(a) DEFINITIONS.—In this section—

5 “(1) the term ‘high-risk major acquisition pro-
6 gram’ has the meaning given that term in section
7 308(d)(4); and

8 “(2) the term ‘operational test and evaluation’
9 means testing conducted under realistic operational
10 conditions of any item or key component of a high-
11 risk major acquisition program for the purpose of
12 determining the operational effectiveness, perform-
13 ance, suitability, reliability, availability, and mainte-
14 nance of the system for the intended mission.

15 “(b) ESTABLISHMENT.—There is in the Department
16 a Director of Operational Testing, who shall report to the
17 Under Secretary for Science and Technology and the
18 Under Secretary for Management on the operational test-
19 ing and evaluation of all high-risk major acquisition pro-
20 grams.

21 “(c) ACCESS TO RECORDS AND DATA.—

22 “(1) IN GENERAL.—The Director of Oper-
23 ational Testing shall have prompt and full access to
24 test and evaluation documents, data, and test results
25 of the Department that the Director considers nec-

1 essary to review in order to carry out the duties of
2 the Director under this section.

3 “(2) OBSERVERS.—The Director of Operational
4 Testing may require that observers designated by
5 the Director shall be present during the preparation
6 for and the conduct of any operational test and eval-
7 uation conducted of a high-risk major acquisition
8 program.

9 “(3) REPORTING BY PROGRAM MANAGERS.—
10 The program manager of a high-risk major acquisi-
11 tion program shall promptly report to the Director
12 of Operational Testing the results of any operational
13 test and evaluation conducted for a system in that
14 program.

15 “(d) SAFETY CONCERNS.—The Director of Oper-
16 ational Testing shall ensure that any safety concern devel-
17 oped during the test and evaluation of a system in a high-
18 risk major acquisition program are communicated in a
19 timely manner to the Program Manager and Component
20 Head for the applicable program.

21 “(e) REPORTING TO CONGRESS.—The Director shall
22 promptly comply with any request made by the Committee
23 on Homeland Security and Governmental Affairs of the
24 Senate or the Committee on Homeland Security of the
25 House of Representatives for information or reports relat-

1 ing to the operational test and evaluation of a high-risk
2 major acquisition program.”.

3 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
4 The table of contents in section 1(b) of the Homeland Se-
5 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
6 inserting after the item relating to section 318, as added
7 by section 605 of this Act, the following:

“Sec. 319. Director of Operational Testing.”.

8 **SEC. 704. AVAILABILITY OF TESTING FACILITIES AND**
9 **EQUIPMENT.**

10 (a) **AUTHORITY.**—The Under Secretary for Science
11 and Technology may make available to any person or enti-
12 ty, for an appropriate fee, the services of any center or
13 other testing facility owned and operated by the Depart-
14 ment for the testing of materials, equipment, models, com-
15 puter software, and other items designed to advance the
16 homeland security mission.

17 (b) **INTERFERENCE WITH FEDERAL PROGRAMS.**—
18 The Under Secretary for Science and Technology shall en-
19 sure that the testing of materials, equipment, models,
20 computer software, or other items not owned by the Fed-
21 eral Government shall not cause personnel or other re-
22 sources of the Federal Government to be diverted from
23 scheduled Federal Government tests or otherwise interfere
24 with Federal Government mission requirements.

1 (c) CONFIDENTIALITY OF TEST RESULTS.—The re-
2 sults of tests performed with services made available under
3 subsection (a) and any associated data provided by the
4 person or entity for the conduct of the tests—

5 (1) are trade secrets and commercial or finan-
6 cial information that is privileged or confidential
7 within the meaning of section 552(b)(4) of title 5,
8 United States Code; and

9 (2) may not be disclosed outside the Federal
10 Government without the consent of the person or en-
11 tity for whom the tests are performed.

12 (d) FEES.—The fee for using the services of a center
13 or facility under subsection (a) may not exceed the amount
14 necessary to recoup the direct and indirect costs involved,
15 such as direct costs of utilities, contractor support, and
16 salaries of personnel, that are incurred by the Federal
17 Government to provide for the testing.

18 (e) USE OF FEES.—Any fee collected under sub-
19 section (a) shall be credited to the appropriations or other
20 funds of the Directorate of Science and Technology and
21 shall be used to directly support the research and develop-
22 ment activities of the Department.

23 (f) OPERATIONAL PLAN.—

24 (1) IN GENERAL.—Not later than 90 days after
25 the date of enactment of this Act, the Under Sec-

1 retary for Science and Technology shall submit to
2 Congress a report detailing a plan for exercising the
3 authority to make available a center or other testing
4 facility under this section.

5 (2) CONTENTS.—The plan submitted under
6 paragraph (1) shall include—

7 (A) a list of the facilities and equipment
8 that could be made available to a person or en-
9 tity under this section;

10 (B) a 5-year budget plan, including the
11 costs for facility construction, staff training,
12 contract and legal fees, equipment maintenance
13 and operation, and any incidental costs associ-
14 ated with exercising the authority to make
15 available a center or other testing facility under
16 this section;

17 (C) a 5-year estimate of the number of
18 persons and entities that may use a center or
19 other testing facility and fees to be collected
20 under this section;

21 (D) a list of criteria to be used by the
22 Under Secretary for Science and Technology in
23 selecting persons and entities to use a center or
24 other testing facility under this section, includ-

1 ing any special requirements for foreign appli-
2 cants; and

3 (E) an assessment of the effect the author-
4 ity to make available a center or other testing
5 facility under this section would have on the
6 ability of a center or testing facility to meet its
7 obligations under other Federal programs.

8 (g) REPORT TO CONGRESS.—The Under Secretary
9 for Science and Technology shall submit to Congress an
10 annual report containing a list of the centers and testing
11 facilities that have collected fees under this section, the
12 amount of fees collected, a brief description of each use
13 of a center or facility under this section, and the purpose
14 for which the testing was conducted.

15 **SEC. 705. HOMELAND SECURITY SCIENCE AND TECH-**
16 **NOLOGY ADVISORY COMMITTEE.**

17 (a) IN GENERAL.—Section 311(j) of the Homeland
18 Security Act of 2002 (6 U.S.C. 191(j)) is amended by
19 striking “December 31, 2008” and inserting “December
20 31, 2012”.

21 (b) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that the Department should fully use the Homeland
23 Security Science and Technology Advisory Committee to
24 address the science and technology challenges of the De-
25 partment.

1 **SEC. 706. NATIONAL ACADEMY OF SCIENCES REPORT.**

2 (a) IN GENERAL.—The Under Secretary for Science
3 and Technology shall enter into an agreement with the
4 National Research Council of the National Academy of
5 Sciences to produce a report updating the 2002 report of
6 the National Research Council entitled “Making the Na-
7 tion Safer” (in this section referred to as the “2002 re-
8 port”).

9 (b) CONTENT OF REPORT.—The report produced
10 under subsection (a) shall—

11 (1) reexamine the framework in the 2002 re-
12 port for the application of science and technology for
13 countering terrorism and homeland security;

14 (2) reassess the research agendas in the 9 areas
15 addressed in the 2002 report, and in any new areas
16 the National Research Council determines to ad-
17 dress;

18 (3) define priority research areas that have not
19 been sufficiently addressed by Federal Government
20 research and development activities since 2002;

21 (4) assess the efficacy of the organizational
22 structure and processes of the Federal Government
23 for conducting research and development relating to
24 counterterrorism and homeland security;

25 (5) assess the efficacy of the science and tech-
26 nology workforce in the United States in terms of

1 supporting research and development relating to
2 counterterrorism and homeland security; and

3 (6) address other related topics that the Na-
4 tional Research Council determines to examine.

5 (c) PUBLICATION.—Not later than 1 year after the
6 date of enactment of this Act, the National Research
7 Council shall release the report produced under subsection
8 (a) and make the report available free of charge on the
9 website of the National Academies.

10 (d) AUTHORIZATION.—Of the total authorized in sec-
11 tion 101 of this Act for fiscal year 2009, \$1,000,000 is
12 authorized to carry out this section.

13 **SEC. 707. MATERIAL THREATS.**

14 (a) IN GENERAL.—

15 (1) MATERIAL THREATS.—Section 319F-
16 2(c)(2)(A) of the Public Health Service Act (42
17 U.S.C. 247d-6b(c)(2)(A)) is amended—

18 (A) by redesignating clauses (i) and (ii) as
19 subclauses (I) and (II), respectively;

20 (B) by moving each of such subclauses 2
21 ems to the right;

22 (C) by striking “(A) MATERIAL THREAT.—
23 The Homeland Security Secretary” and insert-
24 ing the following:

25 “(A) MATERIAL THREAT.—

1 “(i) IN GENERAL.—The Homeland
2 Security Secretary”; and

3 (D) by adding at the end the following
4 clauses:

5 “(ii) GROUPINGS TO FACILITATE AS-
6 SESSMENT OF COUNTERMEASURES.—

7 “(I) IN GENERAL.—In con-
8 ducting threat assessments and deter-
9 minations under clause (i) of chem-
10 ical, biological, radiological, and nu-
11 clear agents, the Homeland Security
12 Secretary may consider the completion
13 of such assessments and determina-
14 tions for groups of agents toward the
15 goal of facilitating the assessment of
16 countermeasures under paragraph (3)
17 by the Secretary.

18 “(II) CATEGORIES OF COUNTER-
19 MEASURES.—The grouping of agents
20 under subclause (I) by the Homeland
21 Security Secretary shall be designed,
22 in consultation with the Secretary, to
23 facilitate assessments under para-
24 graph (3) by the Secretary regarding

1 the following two categories of coun-
2 termeasures:

3 “(aa) Countermeasures that
4 may address more than one
5 agent identified under clause
6 (i)(II).

7 “(bb) Countermeasures that
8 may address adverse health con-
9 sequences that are common to
10 exposure to different agents.

11 “(III) RULE OF CONSTRUC-
12 TION.—A particular grouping of
13 agents pursuant to subclause (II) is
14 not required under such subclause to
15 facilitate assessments of both cat-
16 egories of countermeasures described
17 in such subclause. A grouping may
18 concern one category and not the
19 other.

20 “(iii) TIMEFRAME FOR COMPLETION
21 OF CERTAIN NATIONAL SECURITY DETER-
22 MINATIONS.—With respect to chemical and
23 biological agents and particular radio-
24 logical isotopes and nuclear materials, or
25 appropriate groupings of such agents,

1 known to the Homeland Security Secretary
2 as of the day before the date of the enact-
3 ment of this clause, and which such Sec-
4 retary considers to be capable of signifi-
5 cantly affecting national security, such
6 Secretary shall complete the determina-
7 tions under clause (i)(II) not later than
8 December 31, 2009.

9 “(iv) REPORT TO CONGRESS.—Not
10 later than 30 days after the date on which
11 the Homeland Security Secretary com-
12 pletes a material threat assessment under
13 clause (i) or a risk assessment for the pur-
14 pose of satisfying such clause, such Sec-
15 retary shall submit to Congress a report
16 containing the results of such assessment.

17 “(v) DEFINITION.—For purposes of
18 this subparagraph, the term ‘risk assess-
19 ment’ means a scientific, technically based
20 analysis of agents that incorporates threat,
21 vulnerability, and consequence informa-
22 tion.”.

23 (2) TECHNICAL AND CONFORMING AMEND-
24 MENTS.—Section 319F-2(c) of the Public Health
25 Service Act (42 U.S.C. 247d-6b(c)) is amended—

1 (A) in paragraph (1)(B)(i)(I), by striking
2 “paragraph (2)(A)(ii)” and inserting “para-
3 graph (2)(A)(i)(II)”; and

4 (B) in paragraph (2)—

5 (i) in subparagraph (B)—

6 (I) in clause (i), by striking “sub-
7 paragraph (A)(ii)” and inserting
8 “subparagraph (A)(i)(II)”; and

9 (II) in clause (ii), by striking
10 “subparagraph (A)(ii)” and inserting
11 “subparagraph (A)(i)(II)”; and

12 (ii) in subparagraph (C), by striking
13 “subparagraph (A)” and inserting “sub-
14 paragraph (A)(i)”; and

15 (iii) in subparagraph (D), by striking
16 “subparagraph (A)” and inserting “sub-
17 paragraph (A)(i)”.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
19 521(d) of the Homeland Security Act of 2002 (6 U.S.C.
20 321–j(d)) is amended—

21 (1) in paragraph (1), by striking “2006,” and
22 inserting “2010,”; and

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

24 “(3) ADDITIONAL AUTHORIZATION OF APPRO-
25 PRIATIONS REGARDING CERTAIN THREAT ASSESS-

1 MENTS.—For the purpose of providing an additional
 2 amount to the Secretary to assist the Secretary in
 3 meeting the requirements of clause (iii) of section
 4 319F–2(c)(2)(A)) of the Public Health Service Act
 5 (relating to time frames), there are authorized to be
 6 appropriated such sums as may be necessary for fis-
 7 cal year 2009, in addition to the authorization of ap-
 8 propriations established in paragraph (1). The pur-
 9 poses for which such additional amount may be ex-
 10 pended include conducting risk assessments regard-
 11 ing clause (i)(II) of such section when there are no
 12 existing risk assessments that the Secretary con-
 13 siders credible.”.

14 **TITLE VIII—BORDER SECURITY**
 15 **PROVISIONS**

16 **Subtitle A—Border Security**
 17 **Generally**

18 **SEC. 801. INCREASE OF CUSTOMS AND BORDER PROTEC-**
 19 **TION OFFICERS AND SUPPORT STAFF AT**
 20 **PORTS OF ENTRY.**

21 (a) CUSTOMS AND BORDER PROTECTION OFFI-
 22 CERS.—For each of the fiscal years 2009 through 2011,
 23 the Secretary shall, subject to the availability of appro-
 24 priations for such purpose and in accordance with sub-
 25 section (c), increase annually by not less than 1,000, the

1 total number of full-time, active-duty Customs and Border
2 Protection Officers within U.S. Customs and Border Pro-
3 tection for posting at United States ports of entry over
4 the number of such Officers authorized on the last day
5 of the previous fiscal year.

6 (b) BORDER SECURITY SUPPORT PERSONNEL.—For
7 each of the fiscal years 2009 through 2011, the Secretary
8 shall, subject to the availability of appropriations for such
9 purpose, increase annually by not less than a total of 171,
10 the number of full-time border security support personnel
11 assigned to United States ports of entry over the number
12 of such support personnel authorized on the last day of
13 the previous fiscal year.

14 (c) WORKFORCE STAFFING MODEL.—

15 (1) IN GENERAL.—Not later than December 31,
16 2008, and every 2 years thereafter, the Secretary
17 shall submit to the Committee on Homeland Secu-
18 rity and Governmental Affairs of the Senate and the
19 Committee on Homeland Security of the House of
20 Representatives a workforce staffing model—

21 (A) detailing the optimal level of staffing
22 required to carry out the responsibilities of U.S.
23 Customs and Border Protection; and

1 (B) describing the process through which
2 U.S. Customs and Border Protection makes
3 workforce allocation decisions.

4 (2) REVIEW BY GOVERNMENT ACCOUNTABILITY
5 OFFICE.—Not later than 45 days after the date on
6 which the Secretary submits the workforce staffing
7 model under paragraph (1), the Comptroller General
8 of the United States shall review and submit an as-
9 sessment of the workforce staffing model to the
10 Committee on Homeland Security and Governmental
11 Affairs of the Senate and the Committee on Home-
12 land Security of the House of Representatives.

13 (d) AUTHORIZATION OF APPROPRIATIONS FOR ADDI-
14 TIONAL PERSONNEL.—

15 (1) IN GENERAL.—There are authorized to be
16 appropriated to the Secretary for the purpose of
17 meeting the staffing requirements provided for in
18 subsections (a) and (b) such sums as are necessary.

19 (2) SUPPLEMENT NOT SUPPLANT.—Amounts
20 appropriated pursuant to paragraph (1) shall sup-
21 plement and not supplant any other amounts au-
22 thorized to be appropriated to U.S. Customs and
23 Border Protection for staffing.

1 **SEC. 802. CUSTOMS AND BORDER PROTECTION OFFICER**
2 **TRAINING.**

3 (a) ENSURING CUSTOMS AND BORDER PROTECTION
4 OFFICER TRAINING.—The Commissioner responsible for
5 U.S. Customs and Border Protection (in this section re-
6 ferred to as the “Commissioner”) shall incorporate into
7 an existing database or develop a database system, by
8 June 30, 2009, that identifies for each Customs and Bor-
9 der Protection Officer—

- 10 (1) the assigned port placement location;
- 11 (2) the specific assignment and responsibilities;
- 12 (3) the required initial training courses com-
13 pleted;
- 14 (4) the required ongoing training courses avail-
15 able and completed;
- 16 (5) for each training course completed, the
17 method by which the training was delivered (class-
18 room, internet/computer, on-the-job, CD-ROM);
- 19 (6) for each training course, the time allocated
20 during on-duty hours within which training must be
21 completed;
- 22 (7) for each training course offered, the dura-
23 tion of training and the amount of time an employee
24 must be absent from work to complete the training;
- 25 (8) if training has been postponed, the basis for
26 postponing training;

1 (9) the date training was completed;

2 (10) certification or evidence of completion of
3 each training course; and

4 (11) certification by a supervising officer that
5 the Officer is able to carry out the function for
6 which the training was provided.

7 (b) IDENTIFYING AND ENHANCING ON-THE-JOB
8 TRAINING.—Not later than June 30, 2009, the Commis-
9 sioner shall—

10 (1) review the mission and responsibilities of
11 Customs and Border Protection Officers carried out
12 at air, land, and sea ports of entry in both primary
13 and secondary inspections areas;

14 (2) develop an inventory of specific tasks that
15 must be performed by Customs and Border Protec-
16 tion Officers throughout the entire inspection proc-
17 ess at ports of entry, including tasks to be per-
18 formed in primary and secondary inspections areas;

19 (3) ensure that on-the-job training includes su-
20 pervised and evaluated performance of those tasks
21 identified in paragraph (2) or a supervised and eval-
22 uated practical training exercise that simulates the
23 on-the-job experience; and

24 (4) develop criteria to measure officer pro-
25 ficiency in performing those tasks identified in para-

1 graph (2) and for providing feedback to officers on
2 a regular basis.

3 (c) USE OF DATA.—The Commissioner shall use the
4 information developed under subsection (a) and subsection
5 (b)(2) to—

6 (1) develop specific training requirements for
7 Customs and Border Protection Officers to ensure
8 that Officers have sufficient training to conduct pri-
9 mary and secondary inspections at land, air, and sea
10 ports of entry;

11 (2) measure progress toward achieving those
12 training requirements; and

13 (3) make staffing allocation decisions.

14 (d) COMPETENCY.—Supervisors of on-the-job train-
15 ing shall—

16 (1) attest to the competency of Customs and
17 Border Protection Officers to carry out the functions
18 for which the Officers received training; and

19 (2) provide feedback to the Officers on perform-
20 ance.

21 **SEC. 803. MOBILE ENROLLMENT TEAMS PILOT PROJECT.**

22 Section 7209(b) of the Intelligence Reform and Ter-
23 rorism Prevention Act of 2004 (8 U.S.C. 1185 note) is
24 amended by adding at the end the following:

25 “(3) MOBILE ENROLLMENT TEAMS.—

1 “(A) IN GENERAL.—

2 “(i) ESTABLISHMENT.—Not later
3 than November 1, 2008, the Secretary of
4 Homeland Security, in conjunction with
5 the Secretary of State, shall establish 20
6 temporary mobile enrollment teams along
7 the international borders to assist United
8 States citizens in applying for passport
9 cards and passports. Not more than a total
10 of 40 personnel shall be assigned to par-
11 ticipate on the teams.

12 “(ii) AUTHORIZATION OF APPROPRIA-
13 TIONS FOR ADDITIONAL PERSONNEL.—

14 “(I) IN GENERAL.—There are
15 authorized to be appropriated to the
16 Secretary of Homeland Security for
17 the purpose of meeting the staffing
18 requirements under this paragraph
19 such sums as may be necessary.

20 “(II) SUPPLEMENT NOT SUP-
21 PLANT.—Amounts appropriated pur-
22 suant to subclause (I) shall supple-
23 ment and not supplant any other
24 amounts authorized to be appro-

1 priated to the U.S. Customs and Bor-
2 der Protection for staffing.

3 “(B) DEPLOYMENT.—Enrollment teams
4 established under subparagraph (A) shall be de-
5 ployed to communities in each State that has a
6 land or maritime border with Canada or Mex-
7 ico. In allocating teams among the States, con-
8 sideration shall be given to the number of pass-
9 port acceptance facilities in the State and the
10 length of the international border of the State.

11 “(C) COORDINATION; OUTREACH.—In de-
12 ploying enrollment teams under subparagraph
13 (B), the Secretary shall—

14 “(i) implement this provision in con-
15 junction with the Secretary of State;

16 “(ii) develop an awareness and out-
17 reach campaign for the mobile enrollment
18 program; and

19 “(iii) coordinate with Federal, State,
20 and local government officials in strategic
21 locations along the northern and southern
22 international borders to temporarily secure
23 suitable space to conduct enrollments.

24 “(D) FEES.—

1 “(i) EXECUTION FEES.—Notwith-
2 standing any other provision of law, the
3 Secretary of Homeland Security and the
4 Secretary of State may not charge an exe-
5 cution fee for a passport or a passport
6 card obtained through a mobile enrollment
7 team established under this paragraph.

8 “(ii) APPLICATION FEES.—The Sec-
9 retary of State may charge an application
10 fee for a passport card obtained through a
11 mobile enrollment team in an amount not
12 to exceed—

13 “(I) \$20 for individuals who are
14 16 years of age or older; and

15 “(II) \$10 for individuals who are
16 younger than 16 years of age.

17 “(E) REPORT.—Not later than November
18 1, 2008, the Secretary of Homeland Security
19 shall submit a report to the appropriate con-
20 gressional committees that describes—

21 “(i) the status of the implementation
22 of the mobile enrollment team pilot project;

23 “(ii) the number and location of the
24 enrollment teams that have been deployed;
25 and

1 “(iii) the amount of Federal appro-
 2 priations needed to expand the number of
 3 mobile enrollment teams.

4 “(F) SUNSET.—The mobile enrollment
 5 team pilot project established under this para-
 6 graph shall terminate on July 1, 2010.”.

7 **SEC. 804. FEDERAL-STATE BORDER SECURITY COOPERA-**
 8 **TION.**

9 (a) IN GENERAL.—Title XX of the Homeland Secu-
 10 rity Act of 2002 (6 U.S.C. 601 et seq.) is amended by
 11 adding at the end the following:

12 **“Subtitle C—Other Grant Programs**

13 **“SEC. 2041. BORDER SECURITY ASSISTANCE PROGRAM.**

14 “(a) BORDER SECURITY TASK FORCES.—The Com-
 15 missioner responsible for U.S. Customs and Border Pro-
 16 tection (in this section referred to as the ‘Commissioner’),
 17 in conjunction with appropriate State, local, and tribal of-
 18 ficials, may establish State or regional task forces to facili-
 19 tate the coordination of the activities of State, local, or
 20 tribal law enforcement and other officials with Federal ef-
 21 forts to enhance the Nation’s border security.

22 “(b) FINANCIAL ASSISTANCE.—

23 “(1) IN GENERAL.—In support of the task
 24 forces authorized under subsection (a), the Sec-
 25 retary, through the Administrator, and in consulta-

1 tion with the Commissioner, is authorized to make
2 grants to States to facilitate and enhance State,
3 local, and tribal participation in border security ef-
4 forts.

5 “(2) ELIGIBILITY.—A State is eligible to apply
6 for a grant under this section if—

7 “(A) the State is located on the inter-
8 national border between the United States and
9 Mexico or the United States and Canada; and

10 “(B) the State, local, or tribal governments
11 within the State, participate in a task force de-
12 scribed in subsection (a).

13 “(3) AVAILABILITY OF FUNDS TO LOCAL AND
14 TRIBAL GOVERNMENTS.—Not later than 45 days
15 after receiving grant funds, any State that receives
16 a grant under this section shall obligate or otherwise
17 make available to local and tribal governments—

18 “(A) not less than 80 percent of the grant
19 funds;

20 “(B) with the consent of local and tribal
21 governments, eligible expenditures having a
22 value of not less than 80 percent of the amount
23 of the grant; or

24 “(C) with the consent of local and tribal
25 governments, grant funds combined with other

1 eligible expenditures having a total value of not
2 less than 80 percent of the amount of the
3 grant.

4 “(4) LIMITATIONS ON USE OF FUNDS.—Funds
5 provided under this section may not be used—

6 “(A) to supplant State, local, or tribal gov-
7 ernment funds;

8 “(B) to pay salaries and benefits for per-
9 sonnel, other than overtime expenses;

10 “(C) to purchase vehicles, vessels or air-
11 craft; and

12 “(D) to construct and renovate buildings
13 or other physical facilities.

14 “(5) PRIORITIZATION.—In allocating funds
15 among eligible States applying for grants under this
16 section, the Administrator shall consider for each eli-
17 gible State—

18 “(A) the relative threat, vulnerability, and
19 consequences from acts of terrorism to that
20 State, including consideration of—

21 “(i) the most current threat assess-
22 ments available to the Department relevant
23 to the border of that State;

24 “(ii) the length of the international
25 border of that State; and

1 “(iii) such other factors as the Admin-
2 istrator may provide; and

3 “(B) the anticipated effectiveness of the
4 proposed use of the grant by the State to en-
5 hance border security capabilities.

6 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated for grants under this
8 section \$20,000,000 for each of the fiscal years 2009
9 through 2013.”.

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—
11 The table of contents in section 1(b) of the Homeland Se-
12 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
13 inserting after the item relating to section 2022 the fol-
14 lowing:

“Subtitle C—Other Grant Programs

“Sec. 2041. Border security assistance program.”.

15 **Subtitle B—Customs and Border**
16 **Protection Agriculture Specialists**

17 **SEC. 811. SENSE OF THE SENATE.**

18 It is the sense of the Senate that—

19 (1) agriculture specialists in U.S. Customs and
20 Border Protection at the Department serve a critical
21 role in protecting the United States from both the
22 unintentional and the intentional introduction of dis-
23 eases or pests that threaten the economy and human
24 health of the United States through—

1 (A) applying advanced scientific education
2 and expertise to the examination of foreign ag-
3 riculture products;

4 (B) identifying and intercepting harmful
5 pests and plant and animal diseases; and

6 (C) seizing and destroying infested prod-
7 ucts that would result in harm to the United
8 States;

9 (2) customs and border protection agriculture
10 specialists enhance the security of the United States
11 and are an integral part of the border protection
12 force of the Department by working synergistically
13 and sharing information with others in the Depart-
14 ment who are responsible for protecting the borders
15 and keeping dangerous people and things out of the
16 United States; and

17 (3) there should be continued and additional
18 support for customs and border protection agri-
19 culture specialists and their unique mission.

20 **SEC. 812. INCREASE IN NUMBER OF U.S. CUSTOMS AND**
21 **BORDER PROTECTION AGRICULTURE SPE-**
22 **CIALISTS.**

23 (a) IN GENERAL.—Subject to the availability of ap-
24 propriations, the Secretary shall increase the number of
25 full-time customs and border protection agriculture spe-

1 cialists for United States ports of entry by not fewer than
2 195 each fiscal year, for fiscal years 2009 through 2013,
3 over the number of customs and border protection agri-
4 culture specialists authorized on the last day of the pre-
5 vious fiscal year.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Department for
8 the purpose of increasing the number of customs and bor-
9 der protection agriculture specialists such sums as nec-
10 essary for fiscal years 2009 through 2013.

11 **SEC. 813. AGRICULTURE SPECIALIST CAREER TRACK.**

12 (a) IN GENERAL.—The Secretary, acting through the
13 Commissioner responsible for U.S. Customs and Border
14 Protection—

15 (1) shall ensure that appropriate career paths
16 for customs and border protection agriculture spe-
17 cialists are identified, including the education, train-
18 ing, experience, and assignments necessary for ca-
19 reer progression within U.S. Customs and Border
20 Protection;

21 (2) shall publish information on the career
22 paths described in paragraph (1); and

23 (3) may establish criteria by which appro-
24 priately qualified U.S. Customs and Border Protec-

1 tion technicians may be promoted to customs and
2 border protection agriculture specialists.

3 (b) EDUCATION, TRAINING, AND EXPERIENCE.—The
4 Secretary, acting through the Commissioner responsible
5 for U.S. Customs and Border Protection, shall ensure that
6 all customs and border protection agriculture specialists
7 are provided the opportunity to acquire the education,
8 training, and experience necessary to qualify for pro-
9 motion within U.S. Customs and Border Protection.

10 **SEC. 814. AGRICULTURE SPECIALIST RECRUITMENT AND**
11 **RETENTION.**

12 Not later than 270 days after the date of enactment
13 of this Act, the Secretary, acting through the Commis-
14 sioner responsible for U.S. Customs and Border Protec-
15 tion, shall develop a plan for more effective recruitment
16 and retention of qualified customs and border protection
17 agriculture specialists, including numerical goals for in-
18 creased recruitment and retention and the use of bonuses
19 and other incentives where appropriate and permissible
20 under existing laws and regulations.

21 **SEC. 815. RETIREMENT PROVISIONS FOR AGRICULTURE**
22 **SPECIALISTS AND SEIZED PROPERTY SPE-**
23 **CIALISTS.**

24 (a) AMENDMENTS RELATING TO THE CIVIL SERVICE
25 RETIREMENT SYSTEM.—

1 (1) DEFINITIONS.—Section 8331 of title 5,
2 United States Code, is amended—

3 (A) by striking “and” at the end of para-
4 graph (30);

5 (B) by striking the period at the end of
6 paragraph (31) and inserting a semicolon; and

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

8 “(32) ‘customs and border protection agri-
9 culture specialist’ means an employee in the Depart-
10 ment of Homeland Security—

11 “(A) who holds a position within the GS-
12 0401 job series (determined by applying the cri-
13 teria in effect as of September 1, 2008) or any
14 successor position; and

15 “(B) whose duties include activities relat-
16 ing to preventing the introduction of harmful
17 pests, plant and animal diseases, and other bio-
18 logical threats at ports of entry, including any
19 such employee who is transferred directly to a
20 supervisory or administrative position in the
21 Department of Homeland Security after per-
22 forming such duties in 1 or more positions (as
23 described in subparagraph (A)) for at least 3
24 years;

1 “(33) ‘customs and border protection seized
2 property specialist’ means an employee in the De-
3 partment of Homeland Security—

4 “(A) who holds a position within the GS-
5 1801 job series (determined by applying the cri-
6 teria in effect as of September 1, 2008) or any
7 successor position; and

8 “(B) whose duties include activities relat-
9 ing to the efficient and effective custody, man-
10 agement, and disposition of seized or forfeited
11 property, including any such employee who is
12 transferred directly to a supervisory or adminis-
13 trative position in the Department of Homeland
14 Security after performing such duties in 1 or
15 more positions (as described in subparagraph
16 (A)) for at least 3 years; and”.

17 (2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOS-
18 ITS.—Section 8334 of title 5, United States Code, is
19 amended—

20 (A) in subsection (a)(1)(A), by striking “or
21 customs and border protection officer,” and in-
22 serting “or customs and border protection offi-
23 cer, customs and border protection agriculture
24 specialist, or customs and border protection
25 seized property specialist”; and

1 (B) in the table contained in subsection
 2 (c), by adding at the end the following:

“Customs and border protection agriculture specialist and customs and border protection seized property specialist	7.5 After April 1, 2009.”.
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3 (3) MANDATORY SEPARATION.—The first sen-
 4 tence of section 8335(b)(1) of title 5, United States
 5 Code, is amended by striking “or customs and bor-
 6 der protection officer” and inserting “or customs
 7 and border protection officer, customs and border
 8 protection agriculture specialist, or customs and bor-
 9 der protection seized property specialist”.

10 (4) IMMEDIATE RETIREMENT.—Section 8336 of
 11 title 5, United States Code, is amended—

12 (A) in subsection (c)(1), by striking “or
 13 customs and border protection officer” and in-
 14 serting “or customs and border protection offi-
 15 cer, customs and border protection agriculture
 16 specialist, or customs and border protection
 17 seized property specialist”; and

18 (B) in subsections (m) and (n), by striking
 19 “or as a customs and border protection officer”
 20 and inserting “or as a customs and border pro-
 21 tection officer, customs and border protection
 22 agriculture specialist, or customs and border
 23 protection seized property specialist”.

1 (b) AMENDMENTS RELATING TO THE FEDERAL EM-
2 PLOYEES' RETIREMENT SYSTEM.—

3 (1) DEFINITIONS.—Section 8401 of title 5,
4 United States Code, is amended—

5 (A) in paragraph (35), by striking “and”
6 at the end;

7 (B) in paragraph (36), by striking the pe-
8 riod and inserting a semicolon; and

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

10 “(37) ‘customs and border protection agri-
11 culture specialist’ means an employee in the Depart-
12 ment of Homeland Security—

13 “(A) who holds a position within the GS-
14 0401 job series (determined by applying the cri-
15 teria in effect as of September 1, 2008) or any
16 successor position; and

17 “(B) whose duties include activities relat-
18 ing to preventing the introduction of harmful
19 pests, plant and animal diseases, and other bio-
20 logical threats at ports of entry, including any
21 such employee who is transferred directly to a
22 supervisory or administrative position in the
23 Department of Homeland Security after per-
24 forming such duties (as described in subpara-

1 graph (B)) in 1 or more positions (as described
2 in subparagraph (A)) for at least 3 years;

3 “(38) ‘customs and border protection seized
4 property specialist’ means an employee in the De-
5 partment of Homeland Security—

6 “(A) who holds a position within the GS-
7 1801 job series (determined by applying the cri-
8 teria in effect as of September 1, 2008) or any
9 successor position; and

10 “(B) whose duties include activities relat-
11 ing to the efficient and effective custody, man-
12 agement, and disposition of seized or forfeited
13 property, including any such employee who is
14 transferred directly to a supervisory or adminis-
15 trative position in the Department of Homeland
16 Security after performing such duties (as de-
17 scribed in subparagraph (B)) in 1 or more posi-
18 tions (as described in subparagraph (A)) for at
19 least 3 years; and”.

20 (2) IMMEDIATE RETIREMENT.—Paragraphs (1)
21 and (2) of section 8412(d) of title 5, United States
22 Code, are amended by striking “or customs and bor-
23 der protection officer” and inserting “or customs
24 and border protection officer, customs and border

1 protection agriculture specialist, or customs and bor-
 2 der protection seized property specialist”.

3 (3) COMPUTATION OF BASIC ANNUITY.—Section
 4 8415(h)(2) of title 5, United States Code, is amend-
 5 ed by striking “or customs and border protection of-
 6 ficer”; and inserting “or customs and border protec-
 7 tion officer, customs and border protection agri-
 8 culture specialist, or customs and border protection
 9 seized property specialist”.

10 (4) DEDUCTIONS FROM PAY.—The table con-
 11 tained in section 8422(a)(3) of title 5, United States
 12 Code, is amended by adding at the end the fol-
 13 lowing:

Customs and border protection
 agriculture specialist and
 customs and border protec-
 tion seized property specialist

7.5 After April 1, 2009.

14 (5) GOVERNMENT CONTRIBUTIONS.—Para-
 15 graphs (1)(B)(i) and (3) of section 8423(a) of title
 16 5, United States Code, are amended by inserting
 17 “customs and border protection agriculture special-
 18 ists, and customs and border protection seized prop-
 19 erty specialists” after “customs and border protec-
 20 tion officers,” each place it appears.

21 (6) MANDATORY SEPARATION.—Section
 22 8425(b)(1) of title 5, United States Code, is amend-
 23 ed—

1 (A) by striking “or customs and border
2 protection officer who” and inserting “or cus-
3 toms and border protection officer, customs and
4 border protection agriculture specialist, or cus-
5 toms and border protection seized property spe-
6 cialist who”; and

7 (B) by striking “or customs and border
8 protection officer as the case may be” and in-
9 serting “or customs and border protection offi-
10 cer, customs and border protection agriculture
11 specialist, or customs and border protection
12 seized property specialist as the case may be”.

13 (c) MAXIMUM AGE FOR ORIGINAL APPOINTMENT.—
14 Section 3307(g) of title 5, United States Code, is amended
15 by striking “customs and border protection officer, as de-
16 fined by section 8401(36)” and inserting “customs and
17 border protection officer, customs and border protection
18 agriculture specialist, and customs and border protection
19 seized property specialist, as defined by section 8401 (36),
20 (37), and (38), respectively”.

21 (d) REGULATIONS.—Any regulations necessary to
22 carry out the amendments made by this section shall be
23 prescribed by the Director of the Office of Personnel Man-
24 agement in consultation with the Secretary.

25 (e) EFFECTIVE DATE; TRANSITION RULES.—

1 (1) EFFECTIVE DATE.—The amendments made
2 by this section shall become effective on the first day
3 of the first pay period beginning at least 6 months
4 after the date of the enactment of this Act.

5 (2) TRANSITION RULES.—

6 (A) NONAPPLICABILITY OF MANDATORY
7 SEPARATION PROVISIONS TO CERTAIN INDIVID-
8 UALS.—The amendments made by subsections
9 (a)(3) and (b)(6), respectively, shall not apply
10 to an individual first appointed as a customs
11 and border protection agriculture specialist or
12 customs and border protection seized property
13 officer before the effective date under para-
14 graph (1).

15 (B) TREATMENT OF PRIOR SERVICE.—

16 (i) GENERAL RULE.—Except as pro-
17 vided in clause (ii), nothing in this section
18 or any amendment made by this section
19 shall be considered to apply with respect to
20 any service performed as a customs and
21 border protection agriculture specialist or
22 customs and border protection seized prop-
23 erty specialist before the effective date
24 under paragraph (1).

25 (ii) EXCEPTIONS.—

1 (I) Service described in section
2 8331(32) or 8401(37) of title 5,
3 United States Code (as amended by
4 this section) rendered before the effec-
5 tive date under paragraph (1) may be
6 taken into account to determine if an
7 individual who is serving on or after
8 such effective date then qualifies as a
9 customs and border protection agri-
10 culture specialist by virtue of holding
11 a supervisory or administrative posi-
12 tion in the Department.

13 (II) Service described in section
14 8331(33) or 8401(38) of title 5,
15 United States Code (as amended by
16 this section) rendered before the effec-
17 tive date under paragraph (1) may be
18 taken into account to determine if an
19 individual who is serving on or after
20 such effective date then qualifies as a
21 customs and border protection agri-
22 culture specialist by virtue of holding
23 a supervisory or administrative posi-
24 tion in the Department.

1 (C) MINIMUM ANNUITY AMOUNT.—The an-
2 nuity of an individual serving as a customs and
3 border protection agriculture specialist or cus-
4 toms and border protection seized property spe-
5 cialist on the effective date under paragraph (1)
6 pursuant to an appointment made before that
7 date shall, to the extent that its computation is
8 based on service rendered as a customs and
9 border protection agriculture specialist or cus-
10 toms and border protection seized property spe-
11 cialist, respectively, on or after that date, be at
12 least equal to the amount that would be pay-
13 able—

14 (i) to the extent that such service is
15 subject to the Civil Service Retirement
16 System, by applying section 8339(d) of
17 title 5, United States Code, with respect to
18 such service; and

19 (ii) to the extent such service is sub-
20 ject to the Federal Employees Retirement
21 System, by applying section 8415(d) of
22 title 5, United States Code, with respect to
23 such service.

24 (D) RULE OF CONSTRUCTION.—Nothing in
25 the amendment made by subsection (c) shall be

1 considered to apply with respect to any appoint-
2 ment made before the effective date under para-
3 graph (1).

4 (3) ELECTION.—

5 (A) INCUMBENT DEFINED.—For purposes
6 of this paragraph, the term “incumbent” means
7 an individual who is serving as a customs and
8 border protection agriculture specialist or cus-
9 toms and border protection seized property spe-
10 cialist on the date of the enactment of this Act.

11 (B) NOTICE REQUIREMENT.—Not later
12 than 30 days after the date of the enactment of
13 this Act, the Director of the Office of Personnel
14 Management shall take measures reasonably de-
15 signed to ensure that incumbents are notified
16 as to their election rights under this paragraph,
17 and the effect of making or not making a time-
18 ly election.

19 (C) ELECTION AVAILABLE TO INCUM-
20 BENTS.—

21 (i) IN GENERAL.—An incumbent may
22 elect, for all purposes, either—

23 (I) to be treated in accordance
24 with the amendments made by sub-
25 section (a) or (b), as applicable; or

1 (II) to be treated as if sub-
2 sections (a) and (b) had never been
3 enacted.

4 Failure to make a timely election under
5 this paragraph shall be treated in the same
6 way as an election made under subclause
7 (I) on the last day allowable under clause
8 (ii).

9 (ii) DEADLINE.—An election under
10 this paragraph shall not be effective unless
11 it is made at least 14 days before the ef-
12 fective date under paragraph (1).

13 (4) DEFINITIONS.—For purposes of this sub-
14 section—

15 (A) the term “customs and border protec-
16 tion agriculture specialist” has the meaning
17 given such term by section 8331(32) or
18 8401(37) of title 5, United States Code (as
19 amended by this section).

20 (B) the term “customs and border protec-
21 tion seized property specialist” has the meaning
22 given such term by section 8331(33) or
23 8401(38) of title 5, United States Code (as
24 amended by this section).

1 (5) EXCLUSION.—Nothing in this section or
2 any amendment made by this section shall be consid-
3 ered to afford any election or to otherwise apply with
4 respect to any individual who, as of the day before
5 the date of the enactment of this Act—

6 (A) holds a position within U.S. Customs
7 and Border Protection; and

8 (B) is considered a law enforcement officer
9 for purposes of subchapter III of chapter 83 or
10 chapter 84 of title 5, United States Code, by
11 virtue of such position.

12 **SEC. 816. EQUIPMENT SUPPORT.**

13 Not later than 90 days after the date of enactment
14 of this Act, the Commissioner responsible for U.S. Cus-
15 toms and Border Protection shall—

16 (1) determine the minimum equipment and
17 other resources at U.S. Customs and Border Protec-
18 tion agriculture inspection stations and facilities that
19 are necessary for customs and border protection ag-
20 riculture specialists to carry out their mission fully
21 and effectively;

22 (2) complete an inventory of the equipment and
23 other resources available at each U.S. Customs and
24 Border Protection agriculture inspection station and
25 facility;

1 (3) identify the gaps between the necessary
2 level of equipment and other resources and those
3 available at agriculture inspection stations and facili-
4 ties; and

5 (4) develop a plan to address any gaps identi-
6 fied under paragraph (3).

7 **SEC. 817. REPORTS.**

8 (a) IMPLEMENTATION OF ACTION PLANS AND
9 EQUIPMENT SUPPORT.—Not later than 90 days after the
10 date of enactment of this Act, the Secretary, acting
11 through the Commissioner responsible for U.S. Customs
12 and Border Protection, shall submit to the Committee on
13 Homeland Security and Governmental Affairs of the Sen-
14 ate and the Committee on Homeland Security of the
15 House of Representatives a report on—

16 (1) the status of the implementation of action
17 plans developed by the Animal and Plant Health In-
18 spection Service-U.S. Customs and Border Protec-
19 tion Joint Task Force on Improved Agriculture In-
20 spection;

21 (2) the findings of the Commissioner under sec-
22 tion 816; and

23 (3) the plan described in section 816(4).

24 (b) IMPLEMENTATION OF SUBTITLE.—Not later than
25 1 year after the date of enactment of this Act, the Sec-

1 retary, acting through the Commissioner responsible for
 2 U.S. Customs and Border Protection, shall submit to the
 3 Committee on Homeland Security and Governmental Af-
 4 fairs of the Senate and the Committee on Homeland Secu-
 5 rity of the House of Representatives a report on—

6 (1) the implementation of the requirements of
 7 this subtitle not addressed in the report required
 8 under subsection (a); and

9 (2) any additional legal authority believed nec-
 10 essary to carry out the Department’s agriculture in-
 11 spection mission effectively.

12 **TITLE IX—PREPAREDNESS AND** 13 **RESPONSE PROVISIONS**

14 **SEC. 901. NATIONAL PLANNING.**

15 Title V of the Homeland Security Act of 2002 (6
 16 U.S.C. 311) is amended by adding at the end the fol-
 17 lowing:

18 **“SEC. 525. NATIONAL PLANNING.**

19 “(a) DEFINITIONS.—In this section—

20 “(1) the term ‘operations plan’ means a plan
 21 that—

22 “(A) identifies the resource, personnel, and
 23 asset allocations necessary to execute the objec-
 24 tives of a strategic plan and turn strategic pri-
 25 orities into operational execution; and

1 “(B) contains a full description of specific
2 roles, responsibilities, tasks, integration, and ac-
3 tions required under the plan; and

4 “(2) the term ‘strategic plan’ means a plan
5 that—

6 “(A) outlines strategic priorities and broad
7 national strategic objectives, and describes in-
8 tended outcomes; and

9 “(B) defines the mission, identifies au-
10 thorities, delineates roles, responsibilities, and
11 essential tasks, and determines and prioritizes
12 required capabilities.

13 “(b) NATIONAL PLANNING SYSTEM.—The President,
14 through the Secretary and the Administrator, in conjunc-
15 tion with the heads of appropriate Federal departments
16 and agencies, and in consultation with the National Advi-
17 sory Council established under section 508, shall develop
18 a national planning system that—

19 “(1) provides common processes across Federal
20 departments and agencies for developing plans to
21 prevent, prepare for, protect against, respond to,
22 and recover from natural disasters, acts of ter-
23 rorism, and other man-made disasters;

24 “(2) includes a process for modifying plans de-
25 scribed under paragraph (1) to reflect developments

1 in risk, capabilities, or policies and incorporate les-
2 sons learned from exercises and events;

3 “(3) provides for the development of—

4 “(A) strategic guidance that outlines broad
5 national strategic objectives and priorities and
6 is intended to guide the development of stra-
7 tegic and operations plans;

8 “(B) strategic plans to address those haz-
9 ards that pose the greatest risk, including nat-
10 ural disasters, acts of terrorism, and other
11 man-made disasters, and, where appropriate,
12 the national planning scenarios prescribed in
13 section 645 of the Post-Katrina Emergency
14 Management Reform Act of 2006 (6 U.S.C.
15 745); and

16 “(C) operations plans by all relevant Fed-
17 eral departments and agencies, including oper-
18 ations plans required under section 653(b) of
19 the Post-Katrina Emergency Management Re-
20 form Act of 2006 (6 U.S.C. 753(b)) and such
21 other operations plans as necessary for the exe-
22 cution of the roles and responsibilities identified
23 by such strategic plans; and

24 “(D) such other plans as the Secretary de-
25 termines necessary;

1 “(4) includes practical planning instruction and
2 planning templates that may be voluntarily used or
3 adapted by State, local, and tribal governments, in
4 order to promote consistent planning for all hazards,
5 including natural disasters, acts of terrorism, and
6 other man-made disasters, across Federal, State,
7 local, and tribal governments; and

8 “(5) includes processes for linking Federal
9 plans with those of State, local, and tribal govern-
10 ments.

11 “(c) STATE, LOCAL, AND TRIBAL PLANNING.—The
12 Secretary, through the Administrator, shall—

13 “(1) promote the planning system developed
14 under subsection (b) to State and local governments
15 and provide assistance, as appropriate, with the de-
16 velopment of plans to prevent, prepare for, protect
17 against, respond to, and recover from all hazards,
18 including natural disasters, acts of terrorism and
19 other man-made disasters; and

20 “(2) develop a means by which strategic and
21 operations plans developed by State, local, and tribal
22 governments and Federal strategic and operations
23 plans developed under the national planning system
24 required under subsection (b), may be coordinated
25 and aligned.

1 “(d) REPORT.—Not later than 1 year after the date
2 of enactment of this section, and every year thereafter
3 until the date that is 11 years after such date of enact-
4 ment, the Secretary shall submit to the Committee on
5 Homeland Security and Governmental Affairs of the Sen-
6 ate and the Committee on Homeland Security of the
7 House of Representatives a report on—

8 “(1) the status of the national planning system
9 required under subsections (b), and a document de-
10 scribing the system;

11 “(2) the status of strategic guidance and stra-
12 tegic and operations plans and other plans developed
13 under the national planning system;

14 “(3) the current ability of Federal departments
15 and agencies to execute the plans developed under
16 the national planning system and any additional re-
17 sources required to enable execution of such plans;
18 and

19 “(4) the extent to which State, local, and tribal
20 planning efforts and Federal planning efforts are
21 being coordinated.”.

22 **SEC. 902. PREDISASTER HAZARD MITIGATION.**

23 (a) IN GENERAL.—

24 (1) ALLOCATION OF FUNDS.—Section 203(f) of
25 the Robert T. Stafford Disaster Relief and Emer-

1 agency Assistance Act (42 U.S.C. 5133(f)) is amend-
2 ed to read as follows:

3 “(f) ALLOCATION OF FUNDS.—

4 “(1) IN GENERAL.—The President shall award
5 financial assistance under this section on a competi-
6 tive basis and in accordance with the criteria in sub-
7 section (g).

8 “(2) MINIMUM AND MAXIMUM AMOUNTS.—In
9 providing financial assistance under this section, the
10 President shall ensure that the amount of financial
11 assistance made available to a State (including
12 amounts made available to local governments of the
13 State) for a fiscal year—

14 “(A) is not less than the lesser of—

15 “(i) \$575,000; and

16 “(ii) the amount that is equal to 1
17 percent of the total funds appropriated to
18 carry out this section for the fiscal year;
19 and

20 “(B) does not exceed the amount that is
21 equal to 15 percent of the total funds appro-
22 priated to carry out this section for the fiscal
23 year.”.

24 (2) AUTHORIZATION OF APPROPRIATIONS.—

25 Section 203(m) of the Robert T. Stafford Disaster

1 Relief and Emergency Assistance Act (42 U.S.C.
2 5133(m)) is amended to read as follows:

3 “(m) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this sec-
5 tion—

6 “(1) \$210,000,000 for fiscal year 2009;

7 “(2) \$220,000,000 for fiscal year 2010;

8 “(3) \$230,000,000 for fiscal year 2011;

9 “(4) \$240,000,000 for fiscal year 2012; and

10 “(5) \$250,000,000 for fiscal year 2013.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

12 The Robert T. Stafford Disaster Relief and Emergency
13 Assistance Act (42 U.S.C. 5121 et seq.) is amended—

14 (1) in section 204(b) (42 U.S.C. 5134(b)), by
15 striking “Director” and inserting “Administrator”;

16 (2) in section 303(b) (42 U.S.C. 5144(b)), by
17 striking “Director” each place it appears and insert-
18 ing “Administrator”;

19 (3) in section 326(c)(3) (42 U.S.C.
20 5165d(c)(3)), by striking “Director” and inserting
21 “Administrator”;

22 (4) in section 404(b) (42 U.S.C. 5170c(b)), by
23 striking “Director” each place it appears and insert-
24 ing “Administrator”;

1 (5) in section 406 (42 U.S.C. 5172), by striking
2 “Director” each place it appears and inserting “Ad-
3 ministrator”;

4 (6) in section 602(a) (42 U.S.C. 5195a(a))—

5 (A) in paragraph (4), by striking “Direc-
6 tor” and inserting “Administrator”; and

7 (B) by striking paragraph (7) and insert-
8 ing the following:

9 “(7) ADMINISTRATOR.—The term ‘Adminis-
10 trator’ means the Administrator of the Federal
11 Emergency Management Agency.”;

12 (7) in sections 603 through 613 (42 U.S.C.
13 5195b et seq.), by striking “Director” each place it
14 appears and inserting “Administrator”;

15 (8) in sections 616 and 621 (42 U.S.C. 5196f
16 and 5197), by striking “Director” each place it ap-
17 pears and inserting “Administrator”;

18 (9) in section 622 (42 U.S.C. 5197a)—

19 (A) in subsection (a), by striking “Direc-
20 tor” each place it appears and inserting “Ad-
21 ministrator”;

22 (B) in subsection (b), by striking “Direc-
23 tor” and inserting “Administrator”; and

24 (C) in subsection (c)—

1 (i) by striking “Director” the first
2 place it appears and inserting “Adminis-
3 trator”; and

4 (ii) by striking “Director of the Fed-
5 eral Emergency Management Agency”
6 each place it appears and inserting “Ad-
7 ministrator”;

8 (10) in sections 623 and 624 (42 U.S.C. 5197b
9 and 5197c), by striking “Director” each place it ap-
10 pears and inserting “Administrator”; and

11 (11) in section 629 (42 U.S.C. 5197h), by
12 striking “Director” each place it appears and insert-
13 ing “Administrator”.

14 (c) PROGRAM ELIGIBILITY.—Section 203(e) of the
15 Robert T. Stafford Disaster Relief and Emergency Assist-
16 ance Act (42 U.S.C. 5133(e)) is amended—

17 (1) by redesignating paragraph (2) as para-
18 graph (3); and

19 (2) by inserting after paragraph (1) the fol-
20 lowing:

21 “(2) FLOOD CONTROL PROJECTS.—

22 “(A) IN GENERAL.—A State may use not
23 more than 25 percent of the financial assistance
24 under this section made available to the State
25 in a fiscal year (including any such financial as-

1 sistance made available to local governments of
2 the State) for flood control projects.

3 “(B) DEFINITION.—In this paragraph, the
4 term ‘flood control project’—

5 “(i) means—

6 “(I) a project relating to the con-
7 struction, demolition, repair, or im-
8 provement of a dam, dike, levee,
9 floodwall, seawall, groin, jetty, or
10 breakwater;

11 “(II) a waterway channelization;
12 or

13 “(III) an erosion project relating
14 to beach nourishment or renourish-
15 ment; and

16 “(ii) does not include any project the
17 maintenance of which is the responsibility
18 of a Federal department or agency, includ-
19 ing the Corps of Engineers.”.

20 **SEC. 903. COMMUNITY PREPAREDNESS.**

21 Title V of the Homeland Security Act of 2002 (6
22 U.S.C. 311), as amended by section 901 of this Act, is
23 amended by adding at the end the following:

1 **“SEC. 526. COMMUNITY PREPAREDNESS.**

2 “(a) IN GENERAL.—The Administrator shall assist
3 State, local, and tribal governments in enhancing and pro-
4 moting the preparedness of individuals and communities
5 for natural disasters, acts of terrorism, and other man-
6 made disasters.

7 “(b) COORDINATION.—Where appropriate, the Ad-
8 ministrator shall coordinate with private sector and non-
9 governmental organizations to promote community pre-
10 paredness.

11 “(c) DIRECTOR.—The Administrator shall appoint a
12 Director of Community Preparedness to coordinate and
13 oversee the Agency’s community preparedness activities.”.

14 **SEC. 904. METROPOLITAN MEDICAL RESPONSE SYSTEM.**

15 (a) IN GENERAL.—Title XX of the Homeland Secu-
16 rity Act of 2002 (6 U.S.C. 311 et seq.), as amended by
17 section 804 of this Act, is amended by adding at the end
18 the following:

19 **“SEC. 2042. METROPOLITAN MEDICAL RESPONSE SYSTEM.**

20 “(a) IN GENERAL.—There is in the Department a
21 Metropolitan Medical Response System, which shall assist
22 State, local, and tribal governments in preparing for and
23 responding to mass casualty incidents resulting from nat-
24 ural disasters, acts of terrorism and other man-made dis-
25 asters.

26 “(b) FINANCIAL ASSISTANCE.—

1 “(1) AUTHORIZATION OF GRANTS.—

2 “(A) IN GENERAL.—The Secretary,
3 through the Administrator, may make grants
4 under this section to State, local, and tribal
5 governments to assist in preparing for and re-
6 sponding to mass casualty incidents resulting
7 from natural disasters, acts of terrorism, and
8 other man-made disasters.

9 “(B) CONSULTATION.—In developing guid-
10 ance for grants authorized under this section,
11 the Administrator shall consult with the Chief
12 Medical Officer.

13 “(2) USE OF FUNDS.—

14 “(A) IN GENERAL.—A grant made under
15 this section may be used in support of public
16 health and medical preparedness, including—

17 “(i) medical surge capacity;

18 “(ii) mass prophylaxis;

19 “(iii) chemical, biological, radiological,
20 nuclear, and explosive detection, response,
21 and decontamination capabilities;

22 “(iv) mass triage;

23 “(v) planning;

24 “(vi) information sharing and collabo-
25 ration capabilities;

- 1 “(vii) medicinal stockpiling;
2 “(viii) fatality management;
3 “(ix) training and exercises;
4 “(x) integration and coordination of
5 the activities and capabilities of public
6 health personnel and medical care pro-
7 viders with those of other emergency re-
8 sponse providers as well as private sector
9 and nonprofit organizations; and
10 “(xi) such other activities as the Ad-
11 ministrator may provide.

12 “(3) ELIGIBILITY.—

13 “(A) IN GENERAL.—Any jurisdiction that
14 received funds through the Metropolitan Med-
15 ical Response System in fiscal year 2008 shall
16 be eligible to receive a grant under this section.

17 “(B) ADDITIONAL JURISDICTIONS.—

18 “(i) UNREPRESENTED STATES.—

19 “(I) IN GENERAL.—For any
20 State in which no jurisdiction received
21 funds through the Metropolitan Med-
22 ical Response System in fiscal year
23 2008, or in which funding was re-
24 ceived only through another State, the
25 metropolitan statistical area in such

1 State with the largest population shall
2 be eligible to receive a grant under
3 this section.

4 “(II) LIMITATION.—For each of
5 fiscal years 2009 through 2011, no
6 jurisdiction that would otherwise be
7 eligible to receive grants under sub-
8 clause (I) shall receive a grant under
9 this section if it would result in any
10 jurisdiction under subparagraph (A)
11 receiving less funding than such juris-
12 diction received in fiscal year 2008.

13 “(ii) OTHER JURISDICTIONS.—

14 “(I) IN GENERAL.—The Admin-
15 istrator, at the discretion of the Ad-
16 ministrator, may determine that addi-
17 tional jurisdictions are eligible to re-
18 ceive grants under this section.

19 “(II) LIMITATION.—For each of
20 fiscal years 2009 through 2011, the
21 eligibility of any additional jurisdic-
22 tion to receive grants under this sec-
23 tion is subject to the availability of
24 appropriations beyond that necessary
25 to—

1 “(aa) ensure that each juris-
2 diction eligible to receive a grant
3 under subparagraph (A) does not
4 receive less funding than such ju-
5 risdiction received in fiscal year
6 2008; and

7 “(bb) provide grants to ju-
8 risdictions eligible under clause
9 (i).

10 “(C) REGIONAL COORDINATION.—The Ad-
11 ministrators shall ensure that each recipient of a
12 grant under this section, as a condition of re-
13 ceiving such grant, is actively coordinating its
14 preparedness efforts with surrounding jurisdic-
15 tions, with the government of the State in
16 which the jurisdiction is located, and with emer-
17 gency response providers from all relevant dis-
18 ciplines, to effectively enhance regional pre-
19 paredness.

20 “(4) DISTRIBUTION OF FUNDS.—

21 “(A) ALLOCATION.—For each fiscal year,
22 the Administrator shall allocate funds for
23 grants under this section among eligible juris-
24 dictions in the same manner that such alloca-
25 tions were made in fiscal year 2008.

1 “(B) STATE DISTRIBUTION OF FUNDS.—

2 “(i) IN GENERAL.—The Administrator
3 shall distribute grant funds under this sec-
4 tion to the State in which the jurisdiction
5 receiving a grant under this section is lo-
6 cated.

7 “(ii) PASS THROUGH.—Subject to
8 clause (iii), not later than 45 days after
9 the date on which a State receives grant
10 funds under clause (i), the State shall pro-
11 vide the jurisdiction receiving the grant
12 100 percent of the grant funds.

13 “(iii) EXCEPTION.—The Adminis-
14 trator, in the discretion of the Adminis-
15 trator, may permit a State to provide to a
16 jurisdiction receiving a grant under this
17 section 90 percent of the grant funds
18 awarded if doing so would not result in
19 any jurisdiction eligible for a grant under
20 paragraph (3)(A) receiving less funding
21 than such jurisdiction received in fiscal
22 year 2008.

23 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out the pro-
25 gram—

1 “(1) \$75,000,000 for each of fiscal years 2009
2 through 2013; and

3 “(2) such sums as may be necessary for each
4 of fiscal years 2014 and 2015.”.

5 (b) PROGRAM REVIEW.—

6 (1) IN GENERAL.—The Administrator and the
7 Chief Medical Officer shall conduct a review of the
8 Metropolitan Medical Response System authorized
9 under section 2042 of the Homeland Security Act of
10 2002, as added by subsection (a), including an ex-
11 amination of—

12 (A) the goals and objectives of the Metro-
13 politan Medical Response System;

14 (B) the extent to which the goals and ob-
15 jectives are being met;

16 (C) the performance metrics that can best
17 help assess whether the Metropolitan Medical
18 Response System is succeeding;

19 (D) how the Metropolitan Medical Re-
20 sponse System can be improved;

21 (E) how the Metropolitan Medical Re-
22 sponse System does or does not relate to other
23 Department-supported preparedness programs;

24 (F) how eligibility for financial assistance,
25 and the allocation of financial assistance, under

1 the Metropolitan Medical Response System,
2 should be determined; and

3 (G) the resource requirements of the Met-
4 ropolitan Medical Response System.

5 (2) REPORT.—Not later than 1 year after the
6 date of enactment of this Act, the Administrator and
7 the Chief Medical Officer shall submit to the Com-
8 mittee on Homeland Security and Governmental Af-
9 fairs of the Senate and the Committee on Homeland
10 Security of the House of Representatives a report on
11 the results of the review under this subsection.

12 (c) TECHNICAL AND CONFORMING AMENDMENT.—
13 Section 635 of the Post-Katrina Management Reform Act
14 of 2006 (6 U.S.C. 723) is repealed.

15 **SEC. 905. EMERGENCY MANAGEMENT ASSISTANCE COM-**
16 **PACT.**

17 Section 661(d) of the Post-Katrina Emergency Man-
18 agement Reform Act of 2006 (6 U.S.C. 761(d)) is amend-
19 ed by striking “2008” and inserting “2009”.

20 **SEC. 906. CLARIFICATION ON USE OF FUNDS.**

21 Section 2008 of the Homeland Security Act of 2002
22 (6 U.S.C. 609) is amended—

23 (1) in subsection (a)—

24 (A) in the matter preceding paragraph (1),
25 by striking “Grants” and all that follows

1 through “used” and inserting the following:
2 “The Administrator shall permit the recipient
3 of a grant under section 2003 or 2004 to use
4 grant funds”; and

5 (B) in paragraph (10), by inserting “, re-
6 gardless of whether such analysts are current or
7 new full-time employees or contract employees”
8 after “analysts”; and

9 (2) in subsection (b)—

10 (A) by redesignating paragraphs (3) and
11 (4) as paragraphs (4) and (5), respectively; and

12 (B) by inserting after paragraph (2) the
13 following:

14 “(3) LIMITATIONS ON DISCRETION.—

15 “(A) IN GENERAL.—With respect to the
16 use of amounts awarded to a grant recipient
17 under section 2003 or 2004 for personnel costs
18 in accordance with paragraph (2) of this sub-
19 section, the Administrator may not—

20 “(i) impose a limit on the amount of
21 the award that may be used to pay for per-
22 sonnel, or personnel-related, costs that is
23 higher or lower than the percent limit im-
24 posed in paragraph (2)(A); or

1 against, responding to, and recovering from natural disas-
2 ters, acts of terrorism, and other man-made disasters.

3 “(b) ELIGIBILITY.—A law enforcement agency, fire
4 department, emergency medical service, emergency man-
5 agement agency, public safety agency, or other emergency
6 response agency shall be eligible to apply for direct equip-
7 ment, training, and technical assistance under this section,
8 if such an applicant—

9 “(1) has not received equipment funding or
10 other assistance under a grant under the Assistance
11 to Firefighters Grant Program during the 2-year pe-
12 riod ending on the application deadline for the Com-
13 mercial Equipment Direct Assistance Program in
14 any fiscal year; and

15 “(2) has not received equipment funding, or
16 other assistance under a grant under section 2003
17 during the 2-year period ending on the application
18 deadline for the Commercial Equipment Direct As-
19 sistance Program in any fiscal year.

20 “(c) APPLICATION.—

21 “(1) IN GENERAL.—An applicant for direct
22 equipment, training, or technical assistance under
23 this section shall submit such information in support
24 of the application as the Administrator may require,
25 including an explanation of how any requested

1 equipment will be used to support a system of mu-
2 tual aid among neighboring jurisdictions.

3 “(2) STATE CONCURRENCE.—

4 “(A) IN GENERAL.—An emergency re-
5 sponse agency submitting an application for di-
6 rect equipment, training, or technical assistance
7 under this section shall provide a copy of the
8 application to the State within which the agency
9 is located not later than the date on which the
10 agency submits the application to the Adminis-
11 trator.

12 “(B) NOTICE.—If the Governor of a State
13 determines that the application of an emergency
14 response agency provided under subparagraph
15 (A) is inconsistent with the homeland security
16 plan of that State, or otherwise does not sup-
17 port the application, not later than 30 days
18 after receipt of that application the Governor
19 shall—

20 “(i) notify the Administrator, in writ-
21 ing, of that fact; and

22 “(ii) provide an explanation of the
23 reason for not supporting the application.

24 “(d) LIMITATIONS ON DIRECT ASSISTANCE.—

1 “(1) TRAINING AND TECHNICAL ASSISTANCE.—
2 Not more than 40 percent of the amount appro-
3 priated pursuant to the authorization of appropria-
4 tions under this section in any fiscal year may be
5 used to pay for training and technical assistance.

6 “(2) VOLUNTARY CONSENSUS STANDARDS.—
7 The Administrator may not directly provide to a law
8 enforcement or other emergency response agency
9 under this section equipment that does not meet ap-
10 plicable voluntary consensus standards, unless the
11 agency demonstrates that there are compelling rea-
12 sons for such provision of equipment.

13 “(3) PROHIBITION AND OTHER USE.—No
14 amount appropriated pursuant to the authorization
15 of appropriations under this section may be used for
16 an assessment and validation program or for any
17 other purpose or program not provided for in this
18 section.

19 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
20 is authorized to be appropriated to carry out this section
21 \$50,000,000 for each of fiscal years 2009 through 2012.”.

22 **SEC. 908. TASK FORCE FOR EMERGENCY READINESS.**

23 Title V of the Homeland Security Act of 2002 (6
24 U.S.C. 311 et seq.), as amended by section 903 of this
25 Act, is amended by adding at the end the following:

1 **“SEC. 527. TASK FORCE FOR EMERGENCY READINESS.**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘national planning scenarios’
4 means the national planning scenarios developed
5 under section 645 of the Post Katrina Emergency
6 Management Reform Act of 2006 (6 U.S.C. 745);
7 and

8 “(2) the term ‘operational readiness’ has the
9 meaning given that term in section 641 of the Post-
10 Katrina Emergency Management Reform Act of
11 2006 (6 U.S.C. 741).

12 “(b) PILOT PROGRAM.—

13 “(1) IN GENERAL.—The Administrator, in co-
14 ordination with the Secretary of Defense, shall es-
15 tablish, for the purposes set out in subsection (c), a
16 Task Force for Emergency Readiness pilot program
17 for fiscal years 2010, 2011, and 2012.

18 “(2) TASK FORCE ESTABLISHMENT.—Under
19 the program described in paragraph (1), the Admin-
20 istrator shall establish a Task Force for Emergency
21 Readiness in not fewer than 5 States.

22 “(3) TASK FORCE MEMBERSHIP.—Each task
23 force established under the program under this sub-
24 section shall consist of—

25 “(A) State and local emergency planners
26 from the applicable State, including National

1 Guard planners in State status, appointed by
2 the Governor of the applicable State;

3 “(B) experienced emergency planners from
4 the Agency, designated by the Administrator, in
5 conjunction with the Regional Administrator for
6 the applicable State; and

7 “(C) experienced emergency planners from
8 the Department of Defense, designated by the
9 Secretary of Defense, which may include civil-
10 ian and military personnel.

11 “(c) PURPOSES.—The purpose of the Task Force for
12 Emergency Readiness pilot program authorized under
13 subsection (b) is to assist each State participating in the
14 pilot program in—

15 “(1) planning to prevent, prepare for, protect
16 against, respond to, and recover from catastrophic
17 incidents, including, as appropriate, incidents identi-
18 fied in the national planning scenarios;

19 “(2) coordinating the planning efforts of the
20 State with those of other States;

21 “(3) coordinating planning efforts of the State
22 with those of the Federal Government;

23 “(4) using plans developed to respond to cata-
24 strophic incidents for training and exercises con-
25 sistent with section 648 of the Post-Katrina Emer-

1 agency Management Reform Act of 2006 (6 U.S.C.
2 748); and

3 “(5) monitoring and improving the operational
4 readiness of the State, consistent with the national
5 preparedness system required by chapter 1 of sub-
6 title C of title VI of the Post Katrina Emergency
7 Management Reform Act of 2006 (6 U.S.C. 741 et
8 seq.).

9 “(d) DIRECTION.—The planning activities of a task
10 force established under this section shall be directed by
11 the Governor of the applicable State.

12 “(e) PARTICIPATING STATES.—The States partici-
13 pating in the Task Force for Emergency Readiness pilot
14 program shall be selected—

15 “(1) by the Administrator, with the consent of
16 the Governor of the applicable State and in coordi-
17 nation with the Regional Administrator of the appli-
18 cable region of the Agency; and

19 “(2) to the maximum extent practicable, from
20 different regions of the Agency.

21 “(f) REPORT.—Not later than 2 years after the date
22 of enactment of the Department of Homeland Security
23 Authorization Act of 2008 and 2009, the Administrator,
24 in conjunction with the Assistant Secretary of Defense for
25 Homeland Defense, shall submit to the Committee on

1 Homeland Security and Governmental Affairs of the Sen-
 2 ate and the Committee on Homeland Security of the
 3 House of Representatives a report on the implementation
 4 and effectiveness of the Task Force for Emergency Readiness
 5 pilot program, and shall provide recommendations for
 6 modifications to or expansion of the program.

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

10 **SEC. 909. TECHNICAL AND CONFORMING AMENDMENTS.**

11 (a) IN GENERAL.—Section 514 of the Homeland Se-
 12 curity Act of 2002 (6 U.S.C. 321c) is amended by adding
 13 at the end the following:

14 “(d) DIRECTOR OF GRANT PROGRAMS.—There shall
 15 be in the Agency a Director of Grant Programs, who shall
 16 be appointed by the President by and with the advice and
 17 consent of the Senate.”.

18 (b) TABLE OF CONTENTS.—The table of contents in
 19 section 1(b) of the Homeland Security Act of 2002 (6
 20 U.S.C. 101 et seq.) is amended—

21 (1) by inserting after the item relating to sec-
 22 tion 524 the following:

“Sec. 525. National planning.

“Sec. 526. Community Preparedness.

“Sec. 527. Task force for emergency readiness.”; and

1 (2) by adding after the item relating to section
2 2041, as added by section 804 of this Act, the fol-
3 lowing:

“Sec. 2042. Metropolitan Medical Response System.

“Sec. 2043. Commercial Equipment Direct Assistance Program.”.

4 **TITLE X—NATIONAL BOMBING**
5 **PREVENTION ACT**

6 **SEC. 1001. BOMBING PREVENTION.**

7 (a) IN GENERAL.—Subtitle A of title II of the Home-
8 land Security Act of 2002 (6 U.S.C. 121 et seq.), as
9 amended by section 501 of this Act, is amended by adding
10 at the end the following:

11 **“SEC. 210G. OFFICE FOR BOMBING PREVENTION.**

12 “(a) IN GENERAL.—There is in the Department an
13 Office for Bombing Prevention (in this section referred to
14 as ‘the Office’) within the Office of Infrastructure Protec-
15 tion.

16 “(b) RESPONSIBILITIES.—The Office shall have the
17 primary responsibility within the Department for enhanc-
18 ing the ability, and coordinating the efforts, of the Nation
19 to deter, detect, prevent, protect against, and respond to
20 terrorist explosive attacks, including by—

21 “(1) serving as the lead agency of the Depart-
22 ment for ensuring that programs designed to
23 counter terrorist explosive attacks nationwide, func-

1 tion together efficiently to meet the evolving threat
2 from explosives and improvised explosive devices;

3 “(2) coordinating, in consultation with the Na-
4 tional Domestic Preparedness Consortium of the De-
5 partment and in coordination with the Attorney
6 General, national and intergovernmental bombing
7 prevention training activities to ensure those activi-
8 ties work toward achieving common national goals;

9 “(3) conducting, in coordination with the Attor-
10 ney General, analysis of the capabilities and require-
11 ments necessary for State and local governments to
12 deter, prevent, detect, protect against, and assist in
13 any response to terrorist explosive attacks by—

14 “(A) maintaining a national analysis data-
15 base on the capabilities of bomb squads, explo-
16 sive detection canine teams, tactics teams, and
17 public safety dive teams; and

18 “(B) applying the analysis derived from
19 the database described in subparagraph (A)
20 in—

21 “(i) evaluating progress toward clos-
22 ing identified gaps relating to applicable
23 national strategic goals and standards; and

24 “(ii) informing decisions relating to
25 homeland security policy, assistance, train-

1 ing, research, development efforts, and
2 testing and evaluation, and related require-
3 ments;

4 “(4) promoting secure information sharing of
5 sensitive material relating to terrorist explosives and
6 promoting security awareness, including by—

7 “(A) operating and maintaining a secure
8 information sharing system that allows the
9 sharing of critical information relating to ter-
10 rorist explosive attack tactics, techniques, and
11 procedures;

12 “(B) in consultation with the Attorney
13 General, educating the public and private sec-
14 tors about explosive precursor chemicals;

15 “(C) working with international partners,
16 in coordination with the Office for International
17 Affairs of the Department and the Attorney
18 General, to develop and share effective practices
19 to deter, prevent, detect, protect, and respond
20 to terrorist explosive attacks; and

21 “(D) executing national public awareness
22 and vigilance campaigns relating to terrorist ex-
23 plosive threats, preventing explosive attacks,
24 and activities and measures underway to safe-
25 guard the Nation;

1 “(5) assisting, in consultation with the Admin-
2 istrator of the Federal Emergency Management
3 Agency, State and local governments in developing
4 multijurisdictional improvised explosive devices secu-
5 rity plans for high-risk jurisdictions;

6 “(6) helping to ensure, in coordination with the
7 Under Secretary for Science and Technology and the
8 Administrator of the Federal Emergency Manage-
9 ment Agency, the identification and availability of
10 effective technology applications through field pilot
11 testing and acquisition of such technology applica-
12 tions by Federal, State, and local governments to
13 deter, prevent, detect, protect, and respond to ter-
14 rorist explosive attacks;

15 “(7) coordinating, in consultation with the At-
16 torney General, other departments and agencies of
17 Federal, State, and local government, and the pri-
18 vate sector, the efforts of the Department to assist
19 in the development and promulgation of national ex-
20 plosives detection canine training, certification, and
21 performance standards;

22 “(8) coordinating the efforts to implement with-
23 in the Department applicable explosives detection
24 training, certification, and performance standards;

1 “(9) ensuring the implementation of any rec-
2 ommendations and responsibilities of the Depart-
3 ment contained in the national strategy described in
4 section 210H, including developing, maintaining,
5 and tracking progress toward achieving objectives to
6 reduce the Nation’s vulnerability to terrorist attacks
7 using explosives or improvised explosive devices; and

8 “(10) developing, in coordination with the Ad-
9 ministrator of the Federal Emergency Management
10 Agency, programmatic guidance and permitted uses
11 for bombing prevention activities funded by home-
12 land security assistance administered by the Depart-
13 ment.

14 “(c) AUTHORIZATION OF APPROPRIATIONS.—

15 “(1) IN GENERAL.—There are authorized to be
16 appropriated to carry out this section—

17 “(A) \$25,000,000 for each of fiscal years
18 2009 through 2010; and

19 “(B) such sums as are necessary for each
20 fiscal year thereafter.

21 “(2) AVAILABILITY.—Amounts made available
22 pursuant to this subsection shall remain available
23 until expended.

1 **“SEC. 210H. NATIONAL STRATEGY.**

2 “(a) IN GENERAL.—The President shall develop and
3 periodically update a national strategy to prevent and pre-
4 pare for terrorist attacks in the United States using explo-
5 sives or improvised explosive devices.

6 “(b) DEVELOPMENT.—Not later than 90 days after
7 the date of enactment of this section, the President shall
8 develop the national strategy described in subsection (a).

9 “(c) REPORTING.—Not later than 6 months after the
10 date of submission of the report regarding each quadren-
11 nial homeland security review conducted under section
12 621(c), the President shall submit to the Committee on
13 Homeland Security and Governmental Affairs of the Sen-
14 ate and the Committee on Homeland Security of the
15 House of Representatives a report regarding the national
16 strategy described in subsection (a), which shall include
17 recommendations, if any, for deterring, preventing, detect-
18 ing, protecting against, and responding to terrorist attacks
19 in the United States using explosives or improvised explo-
20 sive devices, including any such recommendations relating
21 to coordinating the efforts of Federal, State, local, and
22 tribal governments, emergency response providers, and the
23 private sector.”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—
25 The table of contents in section 1(b) of the Homeland Se-
26 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by

1 inserting after the item relating to section 210F, as added
2 by section 501 of this Act, the following:

“Sec. 210G. Office for Bombing Prevention.
“Sec. 210H. National strategy.”.

3 **SEC. 1002. EXPLOSIVES TECHNOLOGY DEVELOPMENT AND**
4 **TRANSFER.**

5 (a) IN GENERAL.—Title III of the Homeland Secu-
6 rity Act of 2002 (6 U.S.C. 181 et seq.), as amended by
7 section 703 of this Act, is amended by adding at the end
8 the following:

9 **“SEC. 320. EXPLOSIVES RESEARCH AND DEVELOPMENT.**

10 “(a) IN GENERAL.—The Secretary, acting through
11 the Under Secretary for Science and Technology, and in
12 coordination with the Under Secretary for National Pro-
13 tection and Programs, the Attorney General, the Secretary
14 of Defense, and the head of any other relevant Federal
15 department or agency, shall—

16 “(1) evaluate and assess nonmilitary research,
17 development, testing, and evaluation activities of the
18 Federal Government relating to the detection and
19 prevention of, protection against, and response to ex-
20 plosive attacks within the United States; and

21 “(2) make recommendations for enhancing co-
22 ordination of the research, development, testing, and
23 evaluation activities described in paragraph (1).

1 “(b) **MILITARY RESEARCH.**—The Secretary, acting
2 through the Under Secretary for Science and Technology,
3 and in coordination with the Under Secretary for National
4 Protection and Programs, shall coordinate with the Sec-
5 retary of Defense, the Attorney General, and the head of
6 any other relevant Federal department or agency to en-
7 sure that, to the maximum extent possible, military infor-
8 mation and research, development, testing, and evaluation
9 activities relating to the detection and prevention of, pro-
10 tection against, and response to explosive attacks, and the
11 development of tools and technologies necessary to neu-
12 tralize and disable explosive devices, are applied to non-
13 military uses.

14 **“SEC. 321. TECHNOLOGY TRANSFER.**

15 “(a) **IN GENERAL.**—The Secretary, acting through
16 the Under Secretary for Science and Technology, and in
17 coordination with the Under Secretary for National Pro-
18 tection and Programs and the Attorney General, shall es-
19 tablish a technology transfer program to facilitate the
20 identification, modification, and commercialization of tech-
21 nology and equipment for use by State and local govern-
22 mental agencies, emergency response providers, and the
23 private sector to deter, prevent, detect, protect, and re-
24 spond to explosive attacks within the United States.

1 “(b) PROGRAM.—The activities under the program
2 established under subsection (a) shall include—

3 “(1) applying the analysis conducted under sec-
4 tion 210G(b)(3) of the capabilities and requirements
5 of bomb squads, explosive detection canine teams,
6 tactical teams, and public safety dive teams of State
7 and local governments, to assist in the determination
8 of training and technology requirements for State
9 and local governments, emergency response pro-
10 viders, and the private sector;

11 “(2) identifying available technologies designed
12 to deter, prevent, detect, protect, or respond to ex-
13 plosive attacks that have been, or are in the process
14 of being, developed, tested, evaluated, or dem-
15 onstrated by the Department, other Federal agen-
16 cies, the private sector, foreign governments, or
17 international organizations;

18 “(3) reviewing whether a technology described
19 in paragraph (2) may be useful in assisting Federal,
20 State, or local governments, emergency response
21 providers, or the private sector in detecting, deter-
22 ring, preventing, or responding to explosive attacks;

23 “(4) communicating, in coordination with the
24 Attorney General, to Federal, State, and local gov-
25 ernments, emergency response providers, and the

1 private sector the availability of any technology de-
2 scribed in paragraph (2), including providing the
3 specifications of such technology, indicating whether
4 such technology satisfies applicable standards, and
5 identifying grants, if any, available from the Depart-
6 ment to purchase such technology; and

7 “(5) developing and assisting in the deployment
8 of electronic countermeasures to protect high-risk
9 critical infrastructure and key resources.

10 “(c) WORKING GROUP.—To facilitate the transfer of
11 military technologies, the Secretary, acting through the
12 Under Secretary for Science and Technology, in coordina-
13 tion with the Attorney General and the Secretary of De-
14 fense, and in a manner consistent with protection of sen-
15 sitive sources and methods, shall establish a working
16 group, or use an appropriate interagency body in existence
17 on the date of enactment of this section, to advise and
18 assist in the identification of military technologies de-
19 signed to deter, prevent, detect, protect, or respond to ex-
20 plosive attacks that are in the process of being developed,
21 or are developed, by the Department of Defense or the
22 private sector.”.

23 (b) TECHNICAL AND CONFORMING AMENDMENT.—
24 The table of contents in section 1(b) of the Homeland Se-
25 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by

1 inserting after the item relating to section 319, as added
 2 by section 703 of this Act, the following:

“Sec. 320. Explosives research and development.
 “Sec. 321. Technology transfer.”.

3 **SEC. 1003. SAVINGS CLAUSE.**

4 Nothing in this title or the amendments made by this
 5 title may be construed to limit or otherwise affect the au-
 6 thorities or responsibilities of the Attorney General.

7 **TITLE XI—FEDERAL PROTEC-**
 8 **TIVE SERVICE AUTHORIZA-**
 9 **TION**

10 **SEC. 1101. AUTHORIZATION OF FEDERAL PROTECTIVE**
 11 **SERVICE PERSONNEL.**

12 (a) IN GENERAL.—The Secretary shall ensure that—

13 (1) in fiscal year 2009 the Federal Protective
 14 Service maintains not fewer than 1,200 full-time
 15 equivalent employees, including not fewer than 900
 16 full-time equivalent police officers, inspectors, area
 17 commanders, and criminal investigators who, while
 18 working, are directly engaged on a daily basis pro-
 19 tecting and enforcing laws at Federal buildings; and

20 (2) in fiscal year 2010 the Federal Protective
 21 Service maintains not fewer than 1,300 full-time
 22 equivalent employees, including not fewer than 950
 23 full-time equivalent police officers, inspectors, area
 24 commanders, and criminal investigators who, while

1 working, are directly engaged on a daily basis pro-
2 tecting and enforcing laws at Federal buildings.

3 (b) REPORT.—

4 (1) IN GENERAL.—Not later than 270 days
5 after the date of enactment of this Act, the Sec-
6 retary shall submit a report on recommendations for
7 a funding structure for the Federal Protective Serv-
8 ice to—

9 (A) the Committee on Appropriations of
10 the Senate;

11 (B) the Committee on Homeland Security
12 and Governmental Affairs of the Senate;

13 (C) the Committee on Appropriations of
14 the House of Representatives;

15 (D) the Committee on Homeland Security
16 of the House of Representatives; and

17 (E) the Committee on Transportation and
18 Infrastructure of the House of Representatives.

19 (2) CONTENTS.—The report submitted under
20 this subsection shall include—

21 (A) an evaluation of whether all, part, or
22 none of the Federal Protective Service should
23 be funded by fee collections, direct appropria-
24 tions, or an alternative funding mechanism;

1 (B) an evaluation of the basis for assessing
2 any security fees charged to agencies which uti-
3 lize the Federal Protective Service, including
4 whether such fees should be assessed based on
5 square footage of facilities or by some other
6 means; and

7 (C) an evaluation of assessing an enhanced
8 security fee, in addition to a basic security fee,
9 to facilities or agencies which require an en-
10 hanced level of service from the Federal Protec-
11 tive Service.

12 (c) ADJUSTMENT OF FEES.—The Federal Protective
13 Service shall adjust fees as necessary to ensure collections
14 are sufficient to carry out subsection (a).

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to carry out subsection
17 (a)—

18 (1) \$650,000,000 for fiscal year 2009; and

19 (2) \$675,000,000 for fiscal year 2010.

20 (e) SAVINGS CLAUSE.—Nothing in this section shall
21 prohibit the Federal Protective Service from continuing to
22 provide reimbursable security and law enforcement serv-
23 ices as requested by other Federal agencies and organiza-
24 tions, without limitation to the appropriations authorized
25 by this section.

1 **SEC. 1102. REPORT ON PERSONNEL NEEDS OF THE FED-**
2 **ERAL PROTECTIVE SERVICE.**

3 (a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of this Act, the Secretary shall enter
5 into a contract with an independent consultant to—

6 (1) prepare a report that recommends the ap-
7 propriate level and composition of staffing required
8 to accomplish the law enforcement response,
9 proactive patrols, 24-hour service in major metro-
10 politan areas, support to building security commit-
11 tees, assistance with emergency plans, supervision
12 and monitoring of contract guards, implementation
13 and maintenance of security systems and counter-
14 measures, and other missions of the Federal Protec-
15 tive Service, including recommendations for full-time
16 equivalent police officers, inspectors, area com-
17 manders, criminal investigators, canine units, ad-
18 ministrative and support staff, and contract security
19 guards; and

20 (2) submit the report to—

21 (A) the Secretary;

22 (B) the Committee on Homeland Security
23 and Governmental Affairs of the Senate;

24 (C) the Committee on Homeland Security
25 of the House of Representatives;

1 (D) the Committee on Transportation and
2 Infrastructure of the House of Representatives;
3 and

4 (E) the Committees on Appropriations of
5 the Senate and the House of Representatives.

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

9 **SEC. 1103. AUTHORITY FOR FEDERAL PROTECTIVE SERV-**
10 **ICE OFFICERS AND INVESTIGATORS TO**
11 **CARRY WEAPONS DURING OFF-DUTY TIMES.**

12 Section 1315(b)(2) of title 40, United States Code,
13 is amended by striking “While engaged in the performance
14 of official duties, an” and inserting “An”.

15 **SEC. 1104. AMENDMENTS RELATING TO THE CIVIL SERVICE**
16 **RETIREMENT SYSTEM.**

17 (a) AMENDMENTS RELATING TO THE CIVIL SERVICE
18 RETIREMENT SYSTEM.—

19 (1) DEFINITIONS.—Section 8331 of title 5,
20 United States Code, as amended by section 815 of
21 this Act, is amended by adding at the end the fol-
22 lowing:

23 “(34) ‘Federal protective service officer’ means
24 an employee in the Federal Protective Service, De-
25 partment of Homeland Security—

1 “(A) who holds a position within the GS–
2 0083, GS–0080, GS–1801, or GS–1811 job se-
3 ries (determined applying the criteria in effect
4 as of September 1, 2007 or any successor posi-
5 tion; and

6 “(B) who are authorized to carry firearms
7 and empowered to make arrests in the perform-
8 ance of duties related to the protection of build-
9 ings, grounds and property that are owned, oc-
10 cupied, or secured by the Federal Government
11 (including any agency, instrumentality or wholly
12 owned or mixed-ownership corporation thereof)
13 and the persons on the property, including any
14 such employee who is transferred directly to a
15 supervisory or administrative position in the
16 Department of Homeland Security after per-
17 forming such duties in 1 or more positions (as
18 described under subparagraph (A)) for at least
19 3 years.”.

20 (2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOS-
21 ITS.—Section 8334 of title 5, United States Code, as
22 amended by section 815 of this Act, is amended—

23 (A) in subsection (a)(1)(A), by inserting
24 “Federal protective service officer,” before “or
25 customs and border protection officer,”; and

1 (B) in the table contained in subsection
2 (c), by adding at the end the following:

“Federal Protective Service Officer 7.5 After June 29, 2009.”.

3 (3) MANDATORY SEPARATION.—The first sen-
4 tence of section 8335(b)(1) of title 5, United States
5 Code, as amended by section 815 of this Act, is
6 amended by inserting “Federal protective service of-
7 ficer,” before “or customs and border protection of-
8 ficer,”.

9 (4) IMMEDIATE RETIREMENT.—Section 8336 of
10 title 5, United States Code, as amended by section
11 815 of this Act, is amended—

12 (A) in subsection (c)(1), by inserting “Fed-
13 eral protective service officer,” before “or cus-
14 toms and border protection officer,”; and

15 (B) in subsections (m) and (n), by insert-
16 ing “as a Federal protective service officer,” be-
17 fore “or as a customs and border protection of-
18 ficer,”.

19 (b) AMENDMENTS RELATING TO THE FEDERAL EM-
20 PLOYEES RETIREMENT SYSTEM.—

21 (1) DEFINITIONS.—Section 8401 of title 5,
22 United States Code, as amended by section 815 of
23 this Act, is amended by adding at the end the fol-
24 lowing:

1 “(39) ‘Federal protective service officer’ means
2 an employee in the Federal Protective Service, De-
3 partment of Homeland Security—

4 “(A) who holds a position within the GS-
5 0083, GS-0080, GS-1801, or GS-1811 job se-
6 ries (determined applying the criteria in effect
7 as of September 1, 2007 or any successor posi-
8 tion; and

9 “(B) who are authorized to carry firearms
10 and empowered to make arrests in the perform-
11 ance of duties related to the protection of build-
12 ings, grounds and property that are owned, oc-
13 cupied, or secured by the Federal Government
14 (including any agency, instrumentality or wholly
15 owned or mixed-ownership corporation thereof)
16 and the persons on the property, including any
17 such employee who is transferred directly to a
18 supervisory or administrative position in the
19 Department of Homeland Security after per-
20 forming such duties in 1 or more positions (as
21 described under subparagraph (A)) for at least
22 3 years.”.

23 (2) IMMEDIATE RETIREMENT.—Paragraphs (1)
24 and (2) of section 8412(d) of title 5, United States
25 Code, as amended by section 815 of this Act, are

1 amended by inserting “Federal protective service of-
 2 ficer,” before “or customs and border protection of-
 3 ficer,”.

4 (3) COMPUTATION OF BASIC ANNUITY.—Section
 5 8415(h)(2) of title 5, United States Code, as amend-
 6 ed by section 815 of this Act, is amended by insert-
 7 ing “Federal protective service officer,” before “or
 8 customs and border protection officer,”.

9 (4) DEDUCTIONS FROM PAY.—The table con-
 10 tained in section 8422(a)(3) of title 5, United States
 11 Code, as amended by section 815 of this Act, is
 12 amended by adding at the end the following:

“Federal Protective Service Officer 7.5 After June 29, 2009.”.

13 (5) GOVERNMENT CONTRIBUTIONS.—Para-
 14 graphs (1)(B)(i) and (3) of section 8423(a) of title
 15 5, United States Code, as amended by section 815
 16 of this Act, are amended by inserting “Federal pro-
 17 tective service officer,” before “customs and border
 18 protection officer,” each place it appears.

19 (6) MANDATORY SEPARATION.—Section
 20 8425(b)(1) of title 5, United States Code, as amend-
 21 ed by section 815 of this Act, is amended—

22 (A) by inserting “Federal protective service
 23 officer who,” before “or customs and border

1 protection officer,” the first place it appears;
2 and

3 (B) inserting “Federal protective service
4 officer,” before “or customs and border protec-
5 tion officer,” the second place it appears.

6 (c) MAXIMUM AGE FOR ORIGINAL APPOINTMENT.—
7 Section 3307 of title 5, United States Code, is amended
8 by adding at the end the following:

9 “(h) The Secretary of Homeland Security may deter-
10 mine and fix the maximum age limit for an original ap-
11 pointment to a position as a Federal protective service of-
12 ficer, as defined by section 8401(39).”.

13 (d) REGULATIONS.—Any regulations necessary to
14 carry out the amendments made by this section shall be
15 prescribed by the Director of the Office of Personnel Man-
16 agement in consultation with the Secretary.

17 (e) EFFECTIVE DATE; TRANSITION RULES; FUND-
18 ING.—

19 (1) EFFECTIVE DATE.—The amendments made
20 by this section shall become effective on the later of
21 June 30, 2009, or the first day of the first pay pe-
22 riod beginning at least 6 months after the date of
23 the enactment of this Act.

24 (2) TRANSITION RULES.—

1 (A) NONAPPLICABILITY OF MANDATORY
2 SEPARATION PROVISIONS TO CERTAIN INDIVID-
3 UALS.—The amendments made by subsections
4 (a)(3) and (b)(6), respectively, shall not apply
5 to an individual first appointed as a Federal
6 protective service officer before the effective
7 date under paragraph (1).

8 (B) TREATMENT OF PRIOR FEDERAL PRO-
9 TECTIVE SERVICE OFFICER SERVICE.—

10 (i) GENERAL RULE.—Except as pro-
11 vided in clause (ii), nothing in this section
12 shall be considered to apply with respect to
13 any service performed as a Federal protec-
14 tive service officer before the effective date
15 under paragraph (1).

16 (ii) EXCEPTION.—Service described in
17 section 8331(34) and 8401(39) of title 5,
18 United States Code (as amended by this
19 section) rendered before the effective date
20 under paragraph (1) may be taken into ac-
21 count to determine if an individual who is
22 serving on or after such effective date then
23 qualifies as a Federal protective service of-
24 ficer by virtue of holding a supervisory or

1 administrative position in the Department
2 of Homeland Security.

3 (C) MINIMUM ANNUITY AMOUNT.—The an-
4 nuity of an individual serving as a Federal pro-
5 tective service officer on the effective date
6 under paragraph (1) pursuant to an appoint-
7 ment made before that date shall, to the extent
8 that its computation is based on service ren-
9 dered as a Federal protective service officer on
10 or after that date, be at least equal to the
11 amount that would be payable to the extent
12 that such service is subject to the Civil Service
13 Retirement System or Federal Employees Re-
14 tirement System, as appropriate, by applying
15 section 8339(d) of title 5, United States Code,
16 with respect to such service.

17 (D) RULE OF CONSTRUCTION.—Nothing in
18 the amendment made by subsection (c) shall be
19 considered to apply with respect to any appoint-
20 ment made before the effective date under para-
21 graph (1).

22 (3) FEES AND AUTHORIZATIONS OF APPROPRIA-
23 TIONS.—

24 (A) FEES.—The Federal Protective Service
25 shall adjust fees as necessary to ensure collec-

1 tions are sufficient to carry out amendments
2 made in this section.

3 (B) AUTHORIZATION OF APPROPRIA-
4 TIONS.—There are authorized to be appro-
5 priated such sums as are necessary to carry out
6 this section.

7 (4) ELECTION.—

8 (A) INCUMBENT DEFINED.—For purposes
9 of this paragraph, the term “incumbent” means
10 an individual who is serving as an Federal pro-
11 tective service officer on the date of the enact-
12 ment of this Act.

13 (B) NOTICE REQUIREMENT.—Not later
14 than 30 days after the date of the enactment of
15 this Act, the Director of the Office of Personnel
16 Management shall take measures reasonably de-
17 signed to ensure that incumbents are notified
18 as to their election rights under this paragraph,
19 and the effect of making or not making a time-
20 ly election.

21 (C) ELECTION AVAILABLE TO INCUM-
22 BENTS.—

23 (i) IN GENERAL.—An incumbent may
24 elect, for all purposes, either—

1 (I) to be treated in accordance
2 with the amendments made by sub-
3 section (a) or (b), as applicable; or

4 (II) to be treated as if sub-
5 sections (a) and (b) had never been
6 enacted.

7 (ii) FAILURE TO MAKE A TIMELY
8 ELECTION.—Failure to make a timely elec-
9 tion under clause (i) shall be treated in the
10 same way as an election made under clause
11 (i)(I) on the last day allowable under
12 clause (iii).

13 (iii) DEADLINE.—An election under
14 this subparagraph shall not be effective
15 unless it is made at least 14 days before
16 the effective date under paragraph (1).

17 (5) DEFINITION.—For the purposes of this sub-
18 section, the term “Federal protective service officer”
19 has the meaning given such term by section
20 8331(34) or 8401(39) of title 5, United States Code
21 (as amended by this section).

22 (6) EXCLUSION.—Nothing in this section or
23 any amendment made by this section shall be consid-
24 ered to afford any election or to otherwise apply with

1 respect to any individual who, as of the day before
2 the date of the enactment of this Act—

3 (A) holds a positions within the Federal
4 Protective Service; and

5 (B) is considered a law enforcement offi-
6 cers for purposes of subchapter III of chapter
7 83 or chapter 84 of title 5, United States Code,
8 by virtue of such position.

9 **SEC. 1105. FEDERAL PROTECTIVE SERVICE CONTRACTS.**

10 (a) PROHIBITION ON AWARD OF CONTRACTS TO ANY
11 BUSINESS CONCERN OWNED, CONTROLLED, OR OPER-
12 ATED BY AN INDIVIDUAL CONVICTED OF A FELONY.—

13 (1) IN GENERAL.—The Secretary, acting
14 through the Assistant Secretary of U.S. Immigration
15 and Customs Enforcement—

16 (A) shall promulgate regulations estab-
17 lishing guidelines for the prohibition of contract
18 awards for the provision of guard services
19 under the contract security guard program of
20 the Federal Protective Service to any business
21 concern that is owned, controlled, or operated
22 by an individual who has been convicted of a
23 felony; and

24 (B) may consider permanent or interim
25 prohibitions when promulgating the regulations.

1 (2) CONTENTS.—The regulations under this
2 subsection shall—

3 (A) identify which serious felonies may
4 prohibit a contractor from being awarded a con-
5 tract;

6 (B) require contractors to provide informa-
7 tion regarding any relevant felony convictions
8 when submitting bids or proposals; and

9 (C) provide guidelines for the contracting
10 officer to assess present responsibility, miti-
11 gating factors, and the risk associated with the
12 previous conviction, and allow the contracting
13 officer to award a contract under certain cir-
14 cumstances.

15 (b) REGULATIONS.—Not later than 6 months after
16 the date of the enactment of this Act, the Secretary shall
17 issue regulations to carry out this section.

18 (c) REPORT ON GOVERNMENT-WIDE APPLICA-
19 BILITY.—Not later than 18 months after the date of en-
20 actment of the Act, the Administrator for Federal Pro-
21 curement Policy shall submit a report on establishing simi-
22 lar guidelines government-wide to—

23 (1) the Committee on Homeland Security and
24 Governmental Affairs of the Senate; and

- 1 (2) the Committee on Oversight and Govern-
- 2 ment Reform of the House of Representatives.

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