

110TH CONGRESS
1ST SESSION

S. 4

AN ACT

To make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, 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 “Improving America’s
5 Security Act of 2007”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) DEPARTMENT.—The term “Department”
4 means the Department of Homeland Security.

5 (2) SECRETARY.—The term “Secretary” means
6 the Secretary of Homeland Security.

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

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

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

TITLE I—IMPROVING INTELLIGENCE AND INFORMATION SHAR-
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- Sec. 111. Homeland Security Advisory System and information sharing.
- Sec. 112. Information sharing.
- Sec. 113. Intelligence training development for State and local government offi-
cials.
- Sec. 114. Information sharing incentives.

Subtitle B—Homeland Security Information Sharing Partnerships

- Sec. 121. State, Local, and Regional Fusion Center Initiative.
- Sec. 122. Homeland Security Information Sharing Fellows Program.
- Sec. 123. Rural Policing Institute.

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- Sec. 131. Interagency Threat Assessment and Coordination Group.

TITLE II—HOMELAND SECURITY GRANTS

- Sec. 201. Short title.
- Sec. 202. Homeland Security Grant Program.
- Sec. 203. Equipment technical assistance training.
- Sec. 204. Technical and conforming amendments.

TITLE III—COMMUNICATIONS OPERABILITY AND
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- Sec. 301. Dedicated funding to achieve emergency communications operability
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- Sec. 302. Border Interoperability Demonstration Project.

TITLE IV—EMERGENCY MANAGEMENT PERFORMANCE GRANTS
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Sec. 401. Emergency Management Performance Grants Program.

TITLE V—ENHANCING SECURITY OF INTERNATIONAL TRAVEL

- Sec. 501. Modernization of the visa waiver program.
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 Sec. 503. Enhancements to the Terrorist Travel Program.
 Sec. 504. Enhanced driver's license.
 Sec. 505. Western Hemisphere Travel Initiative.
 Sec. 506. Model ports-of-entry.

TITLE VI—PRIVACY AND CIVIL LIBERTIES MATTERS

- Sec. 601. Modification of authorities relating to Privacy and Civil Liberties Oversight Board.
 Sec. 602. Privacy and civil liberties officers.
 Sec. 603. Department Privacy Officer.
 Sec. 604. Federal Agency Data Mining Reporting Act of 2007.

TITLE VII—ENHANCED DEFENSES AGAINST WEAPONS OF MASS
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- Sec. 701. National Biosurveillance Integration Center.
 Sec. 702. Biosurveillance efforts.
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TITLE VIII—PRIVATE SECTOR PREPAREDNESS

- Sec. 801. Definitions.
 Sec. 802. Responsibilities of the private sector office of the department.
 Sec. 803. Voluntary national preparedness standards compliance; accreditation and certification program for the private sector.
 Sec. 804. Sense of Congress regarding promoting an international standard for private sector preparedness.
 Sec. 805. Demonstration project.
 Sec. 806. Report to Congress.
 Sec. 807. Rule of construction.

TITLE IX—TRANSPORTATION SECURITY PLANNING AND
INFORMATION SHARING

- Sec. 901. Transportation security strategic planning.
 Sec. 902. Transportation security information sharing.
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 Sec. 904. Appeal rights and employee engagement mechanism for passenger and property screeners.
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TITLE X—INCIDENT COMMAND SYSTEM

- Sec. 1001. Preidentifying and evaluating multijurisdictional facilities to strengthen incident command; private sector preparedness.
 Sec. 1002. Credentialing and typing to strengthen incident command.

TITLE XI—CRITICAL INFRASTRUCTURE PROTECTION

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- Sec. 1202. Response of intelligence community to requests from Congress.
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- See. 1455. Prohibition of issuance of transportation security cards to convicted felons.

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SUBTITLE C—ADVISORY COMMITTEE ON DEMOCRACY PROMOTION AND THE INTERNET WEBSITE OF THE DEPARTMENT OF STATE

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1 **TITLE I—IMPROVING INTEL-**
2 **LIGENCE AND INFORMATION**
3 **SHARING WITHIN THE FED-**
4 **ERAL GOVERNMENT AND**
5 **WITH STATE, LOCAL, AND**
6 **TRIBAL GOVERNMENTS**

7 **Subtitle A—Homeland Security**
8 **Information Sharing Enhancement**

9 **SEC. 111. HOMELAND SECURITY ADVISORY SYSTEM AND IN-**
10 **FORMATION SHARING.**

11 (a) **ADVISORY SYSTEM AND INFORMATION SHAR-**
12 **ING.—**

13 (1) **IN GENERAL.—**Subtitle A of title II of the
14 Homeland Security Act of 2002 (6 U.S.C. 121 et
15 seq.) is amended by adding at the end the following:

16 **“SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.**

17 **“(a) REQUIREMENT.—**The Secretary shall administer
18 the Homeland Security Advisory System in accordance
19 with this section to provide warnings regarding the risk
20 of terrorist attacks on the homeland to Federal, State,
21 local, and tribal government authorities and to the people
22 of the United States, as appropriate. The Secretary shall
23 exercise primary responsibility for providing such warn-
24 ings.

1 “(b) **REQUIRED ELEMENTS.**—In administering the
2 Homeland Security Advisory System, the Secretary
3 shall—

4 “(1) establish criteria for the issuance and rev-
5 ocation of such warnings;

6 “(2) develop a methodology, relying on the cri-
7 teria established under paragraph (1), for the
8 issuance and revocation of such warnings;

9 “(3) provide, in each such warning, specific in-
10 formation and advice regarding appropriate protec-
11 tive measures and countermeasures that may be
12 taken in response to that risk, at the maximum level
13 of detail practicable to enable individuals, govern-
14 ment entities, emergency response providers, and the
15 private sector to act appropriately; and

16 “(4) whenever possible, limit the scope of each
17 such warning to a specific region, locality, or eco-
18 nomic sector believed to be at risk.

19 **“SEC. 204. HOMELAND SECURITY INFORMATION SHARING.**

20 “(a) **INFORMATION SHARING.**—Consistent with sec-
21 tion 1016 of the Intelligence Reform and Terrorism Pre-
22 vention Act of 2004 (6 U.S.C. 485), the Secretary shall
23 integrate and standardize the information of the intel-
24 ligence components of the Department, except for any in-

1 ternal protocols of such intelligence components, to be ad-
2 ministered by the Chief Intelligence Officer.

3 “(b) INFORMATION SHARING AND KNOWLEDGE
4 MANAGEMENT OFFICERS.—For each intelligence compo-
5 nent of the Department, the Secretary shall designate an
6 information sharing and knowledge management officer
7 who shall report to the Chief Intelligence Officer regarding
8 coordinating the different systems used in the Department
9 to gather and disseminate homeland security information.

10 “(c) STATE, LOCAL, AND PRIVATE-SECTOR SOURCES
11 OF INFORMATION.—

12 “(1) ESTABLISHMENT OF BUSINESS PROC-
13 ESSES.—The Chief Intelligence Officer shall—

14 “(A) establish Department-wide procedures
15 for the review and analysis of information gath-
16 ered from sources in State, local, and tribal
17 government and the private sector;

18 “(B) as appropriate, integrate such infor-
19 mation into the information gathered by the
20 Department and other departments and agen-
21 cies of the Federal Government; and

22 “(C) make available such information, as
23 appropriate, within the Department and to
24 other departments and agencies of the Federal
25 Government.

1 “(2) FEEDBACK.—The Secretary shall develop
2 mechanisms to provide feedback regarding the anal-
3 ysis and utility of information provided by any entity
4 of State, local, or tribal government or the private
5 sector that gathers information and provides such
6 information to the Department.

7 “(d) TRAINING AND EVALUATION OF EMPLOYEES.—

8 “(1) TRAINING.—The Chief Intelligence Officer
9 shall provide to employees of the Department oppor-
10 tunities for training and education to develop an un-
11 derstanding of—

12 “(A) the definition of homeland security
13 information; and

14 “(B) how information available to such
15 employees as part of their duties—

16 “(i) might qualify as homeland secu-
17 rity information; and

18 “(ii) might be relevant to the intel-
19 ligence components of the Department.

20 “(2) EVALUATIONS.—The Chief Intelligence Of-
21 ficer shall—

22 “(A) on an ongoing basis, evaluate how
23 employees of the Office of Intelligence and
24 Analysis and the intelligence components of the
25 Department are utilizing homeland security in-

1 formation, sharing information within the De-
2 partment, as described in this subtitle, and par-
3 ticipating in the information sharing environ-
4 ment established under section 1016 of the In-
5 telligence Reform and Terrorism Prevention Act
6 of 2004 (6 U.S.C. 485); and

7 “(B) provide a report regarding any eval-
8 uation under subparagraph (A) to the appro-
9 priate component heads.

10 **“SEC. 205. COORDINATION WITH INFORMATION SHARING**
11 **ENVIRONMENT.**

12 “All activities to comply with sections 203 and 204
13 shall be—

14 “(1) implemented in coordination with the pro-
15 gram manager for the information sharing environ-
16 ment established under section 1016 of the Intel-
17 ligence Reform and Terrorism Prevention Act of
18 2004 (6 U.S.C. 485); and

19 “(2) consistent with and support the establish-
20 ment of that environment, and any policies, guide-
21 lines, procedures, instructions, or standards estab-
22 lished by the President or, as appropriate, the pro-
23 gram manager for the implementation and manage-
24 ment of that environment.”.

1 (2) TECHNICAL AND CONFORMING AMEND-
2 MENTS.—

3 (A) IN GENERAL.—Section 201(d) of the
4 Homeland Security Act of 2002 (6 U.S.C.
5 121(d)) is amended—

6 (i) by striking paragraph (7); and

7 (ii) by redesignating paragraphs (8)
8 through (19) as paragraphs (7) through
9 (18), respectively.

10 (B) TABLE OF CONTENTS.—The table of
11 contents in section 1(b) of the Homeland Secu-
12 rity Act of 2002 (6 U.S.C. 101 et seq.) is
13 amended by inserting after the item relating to
14 section 202 the following:

“Sec. 203. Homeland Security Advisory System.

“Sec. 204. Homeland Security Information Sharing.

“Sec. 205. Coordination with information sharing environment.”.

15 (b) INTELLIGENCE COMPONENT DEFINED.—

16 (1) IN GENERAL.—Section 2 of the Homeland
17 Security Act of 2002 (6 U.S.C. 101) is amended—

18 (A) by redesignating paragraphs (9)
19 through (16) as paragraphs (10) through (17),
20 respectively; and

21 (B) by inserting after paragraph (8) the
22 following:

23 “(9) The term ‘intelligence component of the
24 Department’ means any directorate, agency, or other

1 element or entity of the Department that gathers,
2 receives, analyzes, produces, or disseminates home-
3 land security information.”.

4 (2) TECHNICAL AND CONFORMING AMEND-
5 MENTS.—

6 (A) HOMELAND SECURITY ACT OF 2002.—
7 Section 501(11) of the Homeland Security Act
8 of 2002 (6 U.S.C. 311(11)) is amended by
9 striking “section 2(10)(B)” and inserting “sec-
10 tion 2(11)(B)”.

11 (B) OTHER LAW.—Section 712(a) of title
12 14, United States Code, is amended by striking
13 “section 2(15) of the Homeland Security Act of
14 2002 (6 U.S.C. 101(15))” and inserting “sec-
15 tion 2(16) of the Homeland Security Act of
16 2002 (6 U.S.C. 101(16))”.

17 (c) RESPONSIBILITIES OF THE UNDER SECRETARY
18 FOR INFORMATION ANALYSIS AND INFRASTRUCTURE
19 PROTECTION.—Section 201(d) of the Homeland Security
20 Act of 2002 (6 U.S.C. 121(d)) is amended—

21 (1) in paragraph (1), by inserting “, in support
22 of the mission responsibilities of the Department
23 and consistent with the functions of the National
24 Counterterrorism Center established under section
25 119 of the National Security Act of 1947 (50 U.S.C.

1 50 U.S.C. 404o),” after “and to integrate such in-
2 formation”; and

3 (2) by striking paragraph (7), as redesignated
4 by subsection (a)(2)(A) of this section, and inserting
5 the following:

6 “(7) To review, analyze, and make rec-
7 ommendations for improvements in the policies and
8 procedures governing the sharing of intelligence in-
9 formation, intelligence-related information, and other
10 information relating to homeland security within the
11 Federal Government and among the Federal Govern-
12 ment and State, local, and tribal government agen-
13 cies and authorities, consistent with the information
14 sharing environment established under section 1016
15 of the Intelligence Reform and Terrorism Prevention
16 Act of 2004 (6 U.S.C. 485) and any policies, guide-
17 lines, procedures, instructions or standards estab-
18 lished by the President or, as appropriate, the pro-
19 gram manager for the implementation and manage-
20 ment of that environment.”.

21 **SEC. 112. INFORMATION SHARING.**

22 Section 1016 of the Intelligence Reform and Ter-
23 rorist Prevention Act of 2004 (6 U.S.C. 485) is
24 amended—

25 (1) in subsection (a)—

1 (A) by redesignating paragraphs (1)
2 through (4) as paragraphs (2) through (5), re-
3 spectively;

4 (B) by inserting before paragraph (2), as
5 so redesignated, the following:

6 “(1) HOMELAND SECURITY INFORMATION.—
7 The term ‘homeland security information’ has the
8 meaning given that term in section 892 of the
9 Homeland Security Act of 2002 (6 U.S.C. 482).”;

10 (C) in paragraph (5), as so redesignated—

11 (i) by redesignating subparagraphs
12 (A) through (D) as clauses (i) through
13 (iv), respectively, and adjusting the margin
14 accordingly;

15 (ii) by striking “‘terrorism informa-
16 tion’ means” and inserting the following:
17 “‘terrorism information’—
18 “(A) means”;

19 (iii) in subparagraph (A)(iv), as so re-
20 designated, by striking the period at the
21 end and inserting “; and”; and

22 (iv) by adding at the end the fol-
23 lowing:

1 “(B) includes homeland security informa-
2 tion and weapons of mass destruction informa-
3 tion.”; and

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

5 “(6) WEAPONS OF MASS DESTRUCTION INFOR-
6 MATION.—The term ‘weapons of mass destruction
7 information’ means information that could reason-
8 ably be expected to assist in the development, pro-
9 liferation, or use of a weapon of mass destruction
10 (including chemical, biological, radiological, and nu-
11 clear weapons) that could be used by a terrorist or
12 a terrorist organization against the United States,
13 including information about the location of any
14 stockpile of nuclear materials that could be exploited
15 for use in such a weapon that could be used by a
16 terrorist or a terrorist organization against the
17 United States.”;

18 (2) in subsection (b)(2)—

19 (A) in subparagraph (H), by striking
20 “and” at the end;

21 (B) in subparagraph (I), by striking the
22 period at the end and inserting a semicolon;
23 and

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

1 “(J) integrates the information within the
2 scope of the information sharing environment,
3 including any such information in legacy tech-
4 nologies;

5 “(K) integrates technologies, including all
6 legacy technologies, through Internet-based
7 services;

8 “(L) allows the full range of analytic and
9 operational activities without the need to cen-
10 tralize information within the scope of the in-
11 formation sharing environment;

12 “(M) permits analysts to collaborate both
13 independently and in a group (commonly known
14 as ‘collective and noncollective collaboration’),
15 and across multiple levels of national security
16 information and controlled unclassified informa-
17 tion;

18 “(N) provides a resolution process that en-
19 ables changes by authorized officials regarding
20 rules and policies for the access, use, and reten-
21 tion of information within the scope of the in-
22 formation sharing environment; and

23 “(O) incorporates continuous, real-time,
24 and immutable audit capabilities, to the max-
25 imum extent practicable.”;

1 (3) in subsection (f)—

2 (A) in paragraph (1)—

3 (i) by striking “during the two-year
4 period beginning on the date of designation
5 under this paragraph unless sooner” and
6 inserting “until”; and

7 (ii) by striking “The program man-
8 ager shall have and exercise government-
9 wide authority.” and inserting “Except as
10 otherwise expressly provided by law, the
11 program manager, in consultation with the
12 head of any affected department or agency,
13 shall have and exercise governmentwide
14 authority over the sharing of information
15 within the scope of the information sharing
16 environment by all Federal departments,
17 agencies, and components, irrespective of
18 the Federal department, agency, or compo-
19 nent in which the program manager may
20 be administratively located.”; and

21 (B) in paragraph (2)(A)—

22 (i) by redesignating clause (iii) as
23 clause (v); and

24 (ii) by striking clause (ii) and insert-
25 ing the following:

1 “(ii) assist in the development of poli-
2 cies, as appropriate, to foster the develop-
3 ment and proper operation of the ISE;

4 “(iii) issue governmentwide proce-
5 dures, guidelines, instructions, and func-
6 tional standards, as appropriate, for the
7 management, development, and proper op-
8 eration of the ISE;

9 “(iv) identify and resolve information
10 sharing disputes between Federal depart-
11 ments, agencies, and components; and”;

12 (4) in subsection (g)—

13 (A) in paragraph (1), by striking “during
14 the two-year period beginning on the date of
15 the initial designation of the program manager
16 by the President under subsection (f)(1), unless
17 sooner” and inserting “until”;

18 (B) in paragraph (2)—

19 (i) in subparagraph (F), by striking
20 “and” at the end;

21 (ii) by redesignating subparagraph
22 (G) as subparagraph (I); and

23 (iii) by inserting after subparagraph
24 (F) the following:

1 “(G) assist the program manager in identi-
2 fying and resolving information sharing dis-
3 putes between Federal departments, agencies,
4 and components;

5 “(H) identify appropriate personnel for as-
6 signment to the program manager to support
7 staffing needs identified by the program man-
8 ager; and”;

9 (C) in paragraph (4), by inserting “(in-
10 cluding any subsidiary group of the Information
11 Sharing Council)” before “shall not be subject”;
12 and

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

14 “(5) DETAILEES.—Upon a request by the Di-
15 rector of National Intelligence, the departments and
16 agencies represented on the Information Sharing
17 Council shall detail to the program manager, on a
18 reimbursable basis, appropriate personnel identified
19 under paragraph (2)(H).”;

20 (5) in subsection (h)(1), by striking “and annu-
21 ally thereafter” and inserting “and not later than
22 June 30 of each year thereafter”; and

23 (6) by striking subsection (j) and inserting the
24 following:

1 “(j) REPORT ON THE INFORMATION SHARING ENVI-
2 RONMENT.—

3 “(1) IN GENERAL.—Not later than 180 days
4 after the date of enactment of the Improving Amer-
5 ica’s Security Act of 2007, the President shall report
6 to the Committee on Homeland Security and Gov-
7 ernmental Affairs of the Senate, the Select Com-
8 mittee on Intelligence of the Senate, the Committee
9 on Homeland Security of the House of Representa-
10 tives, and the Permanent Select Committee on Intel-
11 ligence of the House of Representatives on the feasi-
12 bility of—

13 “(A) eliminating the use of any marking or
14 process (including ‘Originator Control’) in-
15 tended to, or having the effect of, restricting
16 the sharing of information within the scope of
17 the information sharing environment between
18 and among participants in the information
19 sharing environment, unless the President
20 has—

21 “(i) specifically exempted categories of
22 information from such elimination; and

23 “(ii) reported that exemption to the
24 committees of Congress described in the
25 matter preceding this subparagraph; and

1 “(B) continuing to use Federal agency
2 standards in effect on such date of enactment
3 for the collection, sharing, and access to infor-
4 mation within the scope of the information
5 sharing environment relating to citizens and
6 lawful permanent residents;

7 “(C) replacing the standards described in
8 subparagraph (B) with a standard that would
9 allow mission-based or threat-based permission
10 to access or share information within the scope
11 of the information sharing environment for a
12 particular purpose that the Federal Govern-
13 ment, through an appropriate process, has de-
14 termined to be lawfully permissible for a par-
15 ticular agency, component, or employee (com-
16 monly known as an ‘authorized use’ standard);
17 and

18 “(D) the use of anonymized data by Fed-
19 eral departments, agencies, or components col-
20 lecting, possessing, disseminating, or handling
21 information within the scope of the information
22 sharing environment, in any cases in which—

23 “(i) the use of such information is
24 reasonably expected to produce results ma-
25 terially equivalent to the use of information

1 that is transferred or stored in a non-
2 anonymized form; and

3 “(ii) such use is consistent with any
4 mission of that department, agency, or
5 component (including any mission under a
6 Federal statute or directive of the Presi-
7 dent) that involves the storage, retention,
8 sharing, or exchange of personally identifi-
9 able information.

10 “(2) DEFINITION.—In this subsection, the term
11 ‘anonymized data’ means data in which the indi-
12 vidual to whom the data pertains is not identifiable
13 with reasonable efforts, including information that
14 has been encrypted or hidden through the use of
15 other technology.

16 “(k) ADDITIONAL POSITIONS.—The program man-
17 ager is authorized to hire not more than 40 full-time em-
18 ployees to assist the program manager in—

19 “(1) identifying and resolving information shar-
20 ing disputes between Federal departments, agencies,
21 and components under subsection (f)(2)(A)(iv); and

22 “(2) other activities associated with the imple-
23 mentation of the information sharing environment,
24 including—

1 “(A) implementing the requirements under
2 subsection (b)(2); and

3 “(B) any additional implementation initia-
4 tives to enhance and expedite the creation of
5 the information sharing environment.

6 “(1) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated to carry out this section
8 \$30,000,000 for each of fiscal years 2008 and 2009.”.

9 **SEC. 113. INTELLIGENCE TRAINING DEVELOPMENT FOR**
10 **STATE AND LOCAL GOVERNMENT OFFICIALS.**

11 (a) CURRICULUM.—The Secretary, acting through
12 the Chief Intelligence Officer, shall—

13 (1) develop curriculum for the training of State,
14 local, and tribal government officials relating to the
15 handling, review, and development of intelligence
16 material; and

17 (2) ensure that the curriculum includes execu-
18 tive level training.

19 (b) TRAINING.—To the extent possible, the Federal
20 Law Enforcement Training Center and other existing
21 Federal entities with the capacity and expertise to train
22 State, local, and tribal government officials based on the
23 curriculum developed under subsection (a) shall be used
24 to carry out the training programs created under this sec-
25 tion. If such entities do not have the capacity, resources,

1 or capabilities to conduct such training, the Secretary may
2 approve another entity to conduct the training.

3 (c) CONSULTATION.—In carrying out the duties de-
4 scribed in subsection (a), the Chief Intelligence Officer
5 shall consult with the Director of the Federal Law En-
6 forcement Training Center, the Attorney General, the Di-
7 rector of National Intelligence, the Administrator of the
8 Federal Emergency Management Agency, and other ap-
9 propriate parties, such as private industry, institutions of
10 higher education, nonprofit institutions, and other intel-
11 ligence agencies of the Federal Government.

12 (d) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated such sums as are nec-
14 essary to carry out this section.

15 **SEC. 114. INFORMATION SHARING INCENTIVES.**

16 (a) AWARDS.—In making cash awards under chapter
17 45 of title 5, United States Code, the President or the
18 head of an agency, in consultation with the program man-
19 ager designated under section 1016 of the Intelligence Re-
20 form and Terrorist Prevention Act of 2004 (6 U.S.C.
21 485), may consider the success of an employee in sharing
22 information within the scope of the information sharing
23 environment established under that section in a manner
24 consistent with any policies, guidelines, procedures, in-
25 structions, or standards established by the President or,

1 as appropriate, the program manager of that environment
 2 for the implementation and management of that environ-
 3 ment.

4 (b) OTHER INCENTIVES.—The head of each depart-
 5 ment or agency described in section 1016(i) of the Intel-
 6 ligence Reform and Terrorist Prevention Act of 2004 (6
 7 U.S.C. 485(i)), in consultation with the program manager
 8 designated under section 1016 of the Intelligence Reform
 9 and Terrorist Prevention Act of 2004 (6 U.S.C. 485),
 10 shall adopt best practices regarding effective ways to edu-
 11 cate and motivate officers and employees of the Federal
 12 Government to engage in the information sharing environ-
 13 ment, including—

14 (1) promotions and other nonmonetary awards;

15 and

16 (2) publicizing information sharing accomplish-
 17 ments by individual employees and, where appro-
 18 priate, the tangible end benefits that resulted.

19 **Subtitle B—Homeland Security**
 20 **Information Sharing Partnerships**

21 **SEC. 121. STATE, LOCAL, AND REGIONAL FUSION CENTER**
 22 **INITIATIVE.**

23 (a) IN GENERAL.—Subtitle A of title II of the Home-
 24 land Security Act of 2002 (6 U.S.C. 121 et seq.), as

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

3 **“SEC. 206. STATE, LOCAL, AND REGIONAL FUSION CENTER**
4 **INITIATIVE.**

5 “(a) DEFINITIONS.—In this section—

6 “(1) the term ‘Chief Intelligence Officer’ means
7 the Chief Intelligence Officer of the Department;

8 “(2) the term ‘fusion center’ means a collabo-
9 rative effort of 2 or more Federal, State, local, or
10 tribal government agencies that combines resources,
11 expertise, or information with the goal of maxi-
12 mizing the ability of such agencies to detect, pre-
13 vent, investigate, apprehend, and respond to criminal
14 or terrorist activity;

15 “(3) the term ‘information sharing environ-
16 ment’ means the information sharing environment
17 established under section 1016 of the Intelligence
18 Reform and Terrorism Prevention Act of 2004 (6
19 U.S.C. 485);

20 “(4) the term ‘intelligence analyst’ means an
21 individual who regularly advises, administers, super-
22 vises, or performs work in the collection, analysis,
23 evaluation, reporting, production, or dissemination
24 of information on political, economic, social, cultural,
25 physical, geographical, scientific, or military condi-

1 tions, trends, or forces in foreign or domestic areas
2 that directly or indirectly affect national security;

3 “(5) the term ‘intelligence-led policing’ means
4 the collection and analysis of information to produce
5 an intelligence end product designed to inform law
6 enforcement decision making at the tactical and
7 strategic levels; and

8 “(6) the term ‘terrorism information’ has the
9 meaning given that term in section 1016 of the In-
10 telligence Reform and Terrorist Prevention Act of
11 2004 (6 U.S.C. 485).

12 “(b) ESTABLISHMENT.—The Secretary, in consulta-
13 tion with the program manager of the information sharing
14 environment established under section 1016 of the Intel-
15 ligence Reform and Terrorist Prevention Act of 2004 (6
16 U.S.C. 485), the Attorney General, the Privacy Officer of
17 the Department, the Officer for Civil Rights and Civil Lib-
18 erties of the Department, and the Privacy and Civil Lib-
19 erties Oversight Board established under section 1061 of
20 the Intelligence Reform and Terrorist Prevention Act of
21 2004 (5 U.S.C. 601 note), shall establish a State, Local,
22 and Regional Fusion Center Initiative to establish part-
23 nerships with State, local, and regional fusion centers.

1 “(c) DEPARTMENT SUPPORT AND COORDINATION.—
2 Through the State, Local, and Regional Fusion Center
3 Initiative, the Secretary shall—

4 “(1) coordinate with the principal officer of
5 each State, local, or regional fusion center and the
6 officer designated as the Homeland Security Advisor
7 of the State;

8 “(2) provide operational and intelligence advice
9 and assistance to State, local, and regional fusion
10 centers;

11 “(3) support efforts to include State, local, and
12 regional fusion centers into efforts to establish an
13 information sharing environment;

14 “(4) conduct exercises, including live training
15 exercises, to regularly assess the capability of indi-
16 vidual and regional networks of State, local, and re-
17 gional fusion centers to integrate the efforts of such
18 networks with the efforts of the Department;

19 “(5) coordinate with other relevant Federal en-
20 tities engaged in homeland security-related activities;

21 “(6) provide analytic and reporting advice and
22 assistance to State, local, and regional fusion cen-
23 ters;

24 “(7) review homeland security information
25 gathered by State, local, and regional fusion centers

1 and incorporate relevant information with homeland
2 security information of the Department;

3 “(8) provide management assistance to State,
4 local, and regional fusion centers;

5 “(9) serve as a point of contact to ensure the
6 dissemination of relevant homeland security informa-
7 tion;

8 “(10) facilitate close communication and coordi-
9 nation between State, local, and regional fusion cen-
10 ters and the Department;

11 “(11) provide State, local, and regional fusion
12 centers with expertise on Department resources and
13 operations;

14 “(12) provide training to State, local, and re-
15 gional fusion centers and encourage such fusion cen-
16 ters to participate in terrorist threat-related exer-
17 cises conducted by the Department; and

18 “(13) carry out such other duties as the Sec-
19 retary determines are appropriate.

20 “(d) PERSONNEL ASSIGNMENT.—

21 “(1) IN GENERAL.—The Chief Intelligence Offi-
22 cer may, to the maximum extent practicable, assign
23 officers and intelligence analysts from components of
24 the Department to State, local, and regional fusion
25 centers.

1 “(2) PERSONNEL SOURCES.—Officers and intel-
2 ligence analysts assigned to fusion centers under this
3 subsection may be assigned from the following De-
4 partment components, in consultation with the re-
5 spective component head:

6 “(A) Office of Intelligence and Analysis, or
7 its successor.

8 “(B) Office of Infrastructure Protection.

9 “(C) Transportation Security Administra-
10 tion.

11 “(D) United States Customs and Border
12 Protection.

13 “(E) United States Immigration and Cus-
14 toms Enforcement.

15 “(F) United States Coast Guard.

16 “(G) Other intelligence components of the
17 Department, as determined by the Secretary.

18 “(3) PARTICIPATION.—

19 “(A) IN GENERAL.—The Secretary may
20 develop qualifying criteria for a fusion center to
21 participate in the assigning of Department offi-
22 cers or intelligence analysts under this section.

23 “(B) CRITERIA.—Any criteria developed
24 under subparagraph (A) may include—

1 “(i) whether the fusion center,
2 through its mission and governance struc-
3 ture, focuses on a broad counterterrorism
4 approach, and whether that broad ap-
5 proach is pervasive through all levels of the
6 organization;

7 “(ii) whether the fusion center has
8 sufficient numbers of adequately trained
9 personnel to support a broad
10 counterterrorism mission;

11 “(iii) whether the fusion center has—

12 “(I) access to relevant law en-
13 forcement, emergency response, pri-
14 vate sector, open source, and national
15 security data; and

16 “(II) the ability to share and
17 analytically exploit that data for au-
18 thorized purposes;

19 “(iv) whether the fusion center is ade-
20 quately funded by the State, local, or re-
21 gional government to support its
22 counterterrorism mission; and

23 “(v) the relevancy of the mission of
24 the fusion center to the particular source

1 component of Department officers or intel-
2 ligence analysts.

3 “(4) PREREQUISITE.—

4 “(A) INTELLIGENCE ANALYSIS, PRIVACY,
5 AND CIVIL LIBERTIES TRAINING.—Before being
6 assigned to a fusion center under this section,
7 an officer or intelligence analyst shall
8 undergo—

9 “(i) appropriate intelligence analysis
10 or information sharing training using an
11 intelligence-led policing curriculum that is
12 consistent with—

13 “(I) standard training and edu-
14 cation programs offered to Depart-
15 ment law enforcement and intelligence
16 personnel; and

17 “(II) the Criminal Intelligence
18 Systems Operating Policies under part
19 23 of title 28, Code of Federal Regu-
20 lations (or any corresponding similar
21 regulation or ruling);

22 “(ii) appropriate privacy and civil lib-
23 erties training that is developed, supported,
24 or sponsored by the Privacy Officer ap-
25 pointed under section 222 and the Officer

1 for Civil Rights and Civil Liberties of the
2 Department, in partnership with the Pri-
3 vacy and Civil Liberties Oversight Board
4 established under section 1061 of the In-
5 telligence Reform and Terrorism Preven-
6 tion Act of 2004 (5 U.S.C. 601 note); and

7 “(iii) such other training prescribed
8 by the Chief Intelligence Officer.

9 “(B) PRIOR WORK EXPERIENCE IN
10 AREA.—In determining the eligibility of an offi-
11 cer or intelligence analyst to be assigned to a
12 fusion center under this section, the Chief Intel-
13 ligence Officer shall consider the familiarity of
14 the officer or intelligence analyst with the
15 State, locality, or region, as determined by such
16 factors as whether the officer or intelligence
17 analyst—

18 “(i) has been previously assigned in
19 the geographic area; or

20 “(ii) has previously worked with intel-
21 ligence officials or emergency response pro-
22 viders from that State, locality, or region.

23 “(5) EXPEDITED SECURITY CLEARANCE PROC-
24 ESSING.—The Chief Intelligence Officer—

1 “(A) shall ensure that each officer or intel-
2 ligence analyst assigned to a fusion center
3 under this section has the appropriate clearance
4 to contribute effectively to the mission of the
5 fusion center; and

6 “(B) may request that security clearance
7 processing be expedited for each such officer or
8 intelligence analyst.

9 “(6) FURTHER QUALIFICATIONS.—Each officer
10 or intelligence analyst assigned to a fusion center
11 under this section shall satisfy any other qualifica-
12 tions the Chief Intelligence Officer may prescribe.

13 “(e) RESPONSIBILITIES.—An officer or intelligence
14 analyst assigned to a fusion center under this section
15 shall—

16 “(1) assist law enforcement agencies and other
17 emergency response providers of State, local, and
18 tribal governments and fusion center personnel in
19 using Federal homeland security information to de-
20 velop a comprehensive and accurate threat picture;

21 “(2) review homeland security-relevant informa-
22 tion from law enforcement agencies and other emer-
23 gency response providers of State, local, and tribal
24 government;

1 “(3) create intelligence and other information
2 products derived from such information and other
3 homeland security-relevant information provided by
4 the Department;

5 “(4) assist in the dissemination of such prod-
6 ucts, under the coordination of the Chief Intelligence
7 Officer, to law enforcement agencies and other emer-
8 gency response providers of State, local, and tribal
9 government; and

10 “(5) assist in the dissemination of such prod-
11 ucts to the Chief Intelligence Officer for collection
12 and dissemination to other fusion centers.

13 “(f) DATABASE ACCESS.—In order to fulfill the ob-
14 jectives described under subsection (e), each officer or in-
15 telligence analyst assigned to a fusion center under this
16 section shall have direct access to all relevant Federal
17 databases and information systems, consistent with any
18 policies, guidelines, procedures, instructions, or standards
19 established by the President or, as appropriate, the pro-
20 gram manager of the information sharing environment for
21 the implementation and management of that environment.

22 “(g) CONSUMER FEEDBACK.—

23 “(1) IN GENERAL.—The Secretary shall create
24 a mechanism for any State, local, or tribal emer-
25 gency response provider who is a consumer of the in-

1 intelligence or other information products described
2 under subsection (e) to voluntarily provide feedback
3 to the Department on the quality and utility of such
4 intelligence products.

5 “(2) RESULTS.—The results of the voluntary
6 feedback under paragraph (1) shall be provided elec-
7 tronically to Congress and appropriate personnel of
8 the Department.

9 “(h) RULE OF CONSTRUCTION.—

10 “(1) IN GENERAL.—The authorities granted
11 under this section shall supplement the authorities
12 granted under section 201(d) and nothing in this
13 section shall be construed to abrogate the authorities
14 granted under section 201(d).

15 “(2) PARTICIPATION.—Nothing in this section
16 shall be construed to require a State, local, or re-
17 gional government or entity to accept the assign-
18 ment of officers or intelligence analysts of the De-
19 partment into the fusion center of that State, local-
20 ity, or region.

21 “(i) GUIDELINES.—The Secretary, in consultation
22 with the Attorney General of the United States, shall es-
23 tablish guidelines for fusion centers operated by State and
24 local governments, to include standards that any such fu-
25 sion center shall—

1 “(1) collaboratively develop a mission state-
2 ment, identify expectations and goals, measure per-
3 formance, and determine effectiveness for that fu-
4 sion center;

5 “(2) create a representative governance struc-
6 ture that includes emergency response providers and,
7 as appropriate, the private sector;

8 “(3) create a collaborative environment for the
9 sharing of information and intelligence among Fed-
10 eral, State, tribal, and local government agencies
11 (including emergency response providers), the pri-
12 vate sector, and the public, consistent with any poli-
13 cies, guidelines, procedures, instructions, or stand-
14 ards established by the President or, as appropriate,
15 the program manager of the information sharing en-
16 vironment;

17 “(4) leverage the databases, systems, and net-
18 works available from public and private sector enti-
19 ties to maximize information sharing;

20 “(5) develop, publish, and adhere to a privacy
21 and civil liberties policy consistent with Federal,
22 State, and local law;

23 “(6) ensure appropriate security measures are
24 in place for the facility, data, and personnel;

1 “(7) select and train personnel based on the
2 needs, mission, goals, and functions of that fusion
3 center;

4 “(8) offer a variety of intelligence services and
5 products to recipients of fusion center intelligence
6 and information; and

7 “(9) incorporate emergency response providers,
8 and, as appropriate, the private sector, into all rel-
9 evant phases of the intelligence and fusion process
10 through full time representatives or liaison officers.

11 “(j) AUTHORIZATION OF APPROPRIATIONS.—Except
12 for subsection (i), there are authorized to be appropriated
13 \$10,000,000 for each of fiscal years 2008 through 2012,
14 to carry out this section, including for hiring officers and
15 intelligence analysts to replace officers and intelligence an-
16 alysts who are assigned to fusion centers under this sec-
17 tion.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 The table of contents in section 1(b) of the Homeland Se-
20 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
21 inserting after the item relating to section 205, as added
22 by this Act, the following:

 “Sec. 206. State, Local, and Regional Information Fusion Center Initiative.”.

23 (c) REPORTS.—

24 (1) CONCEPT OF OPERATIONS.—Not later than
25 90 days after the date of enactment of this Act and

1 before the State, Local, and Regional Fusion Center
2 Initiative under section 206 of the Homeland Security
3 Act of 2002, as added by subsection (a), (in this
4 section referred to as the “program”) has been im-
5 plemented, the Secretary, in consultation with the
6 Privacy Officer of the Department, the Officer for
7 Civil Rights and Civil Liberties of the Department,
8 and the Privacy and Civil Liberties Oversight Board
9 established under section 1061 of the Intelligence
10 Reform and Terrorist Prevention Act of 2004 (5
11 U.S.C. 601 note), shall submit to the Committee on
12 Homeland Security and Governmental Affairs of the
13 Senate and the Committee on Homeland Security of
14 the House of Representatives a report that contains
15 a concept of operations for the program, which
16 shall—

17 (A) include a clear articulation of the pur-
18 poses, goals, and specific objectives for which
19 the program is being developed;

20 (B) identify stakeholders in the program
21 and provide an assessment of their needs;

22 (C) contain a developed set of quantitative
23 metrics to measure, to the extent possible, pro-
24 gram output;

1 (D) contain a developed set of qualitative
2 instruments (including surveys and expert inter-
3 views) to assess the extent to which stake-
4 holders believe their needs are being met; and
5 (E) include a privacy and civil liberties im-
6 pact assessment.

7 (2) PRIVACY AND CIVIL LIBERTIES.—Not later
8 than 1 year after the date on which the program is
9 implemented, the Privacy and Civil Liberties Over-
10 sight Board established under section 1061 of the
11 Intelligence Reform and Terrorist Prevention Act of
12 2004 (5 U.S.C. 601 note), in consultation with the
13 Privacy Officer of the Department and the Officer
14 for Civil Rights and Civil Liberties of the Depart-
15 ment, shall submit to Congress, the Secretary, and
16 the Chief Intelligence Officer of the Department a
17 report on the privacy and civil liberties impact of the
18 program.

19 **SEC. 122. HOMELAND SECURITY INFORMATION SHARING**
20 **FELLOWS PROGRAM.**

21 (a) ESTABLISHMENT OF PROGRAM.—Subtitle A of
22 title II of the Homeland Security Act of 2002 (6 U.S.C.
23 121 et seq.), as amended by this Act, is amended by add-
24 ing at the end the following:

1 **“SEC. 207. HOMELAND SECURITY INFORMATION SHARING**
2 **FELLOWS PROGRAM.**

3 “(a) ESTABLISHMENT.—

4 “(1) IN GENERAL.—The Secretary, acting
5 through the Chief Intelligence Officer, and in con-
6 sultation with the Chief Human Capital Officer,
7 shall establish a fellowship program in accordance
8 with this section for the purpose of—

9 “(A) detailing State, local, and tribal law
10 enforcement officers and intelligence analysts to
11 the Department in accordance with subchapter
12 VI of chapter 33 of title 5, United States Code,
13 to participate in the work of the Office of Intel-
14 ligence and Analysis in order to become familiar
15 with—

16 “(i) the relevant missions and capa-
17 bilities of the Department and other Fed-
18 eral agencies; and

19 “(ii) the role, programs, products, and
20 personnel of the Office of Intelligence and
21 Analysis; and

22 “(B) promoting information sharing be-
23 tween the Department and State, local, and
24 tribal law enforcement officers and intelligence
25 analysts by assigning such officers and analysts
26 to—

1 “(i) serve as a point of contact in the
2 Department to assist in the representation
3 of State, local, and tribal homeland secu-
4 rity information needs;

5 “(ii) identify homeland security infor-
6 mation of interest to State, local, and trib-
7 al law enforcement officers, emergency re-
8 sponse providers, and intelligence analysts;
9 and

10 “(iii) assist Department analysts in
11 preparing and disseminating terrorism-re-
12 lated products that are tailored to State,
13 local, and tribal emergency response pro-
14 viders, law enforcement officers, and intel-
15 ligence analysts and designed to prepare
16 for and thwart terrorist attacks.

17 “(2) PROGRAM NAME.—The program under
18 this section shall be known as the ‘Homeland Secu-
19 rity Information Sharing Fellows Program’.

20 “(b) ELIGIBILITY.—

21 “(1) IN GENERAL.—In order to be eligible for
22 selection as an Information Sharing Fellow under
23 the program under this section, an individual shall—

24 “(A) have homeland security-related re-
25 sponsibilities;

1 “(B) be eligible for an appropriate national
2 security clearance;

3 “(C) possess a valid need for access to
4 classified information, as determined by the
5 Chief Intelligence Officer;

6 “(D) be an employee of an eligible entity;
7 and

8 “(E) have undergone appropriate privacy
9 and civil liberties training that is developed,
10 supported, or sponsored by the Privacy Officer
11 and the Officer for Civil Rights and Civil Lib-
12erties, in partnership with the Privacy and Civil
13Liberties Oversight Board established under
14section 1061 of the Intelligence Reform and
15Terrorist Prevention Act of 2004 (5 U.S.C. 601
16note).

17 “(2) ELIGIBLE ENTITIES.—In this subsection,
18 the term ‘eligible entity’ means—

19 “(A) a State, local, or regional fusion cen-
20ter;

21 “(B) a State or local law enforcement or
22other government entity that serves a major
23metropolitan area, suburban area, or rural area,
24as determined by the Secretary;

1 “(C) a State or local law enforcement or
2 other government entity with port, border, or
3 agricultural responsibilities, as determined by
4 the Secretary;

5 “(D) a tribal law enforcement or other au-
6 thority; or

7 “(E) such other entity as the Secretary de-
8 termines is appropriate.

9 “(c) OPTIONAL PARTICIPATION.—No State, local, or
10 tribal law enforcement or other government entity shall
11 be required to participate in the Homeland Security Infor-
12 mation Sharing Fellows Program.

13 “(d) PROCEDURES FOR NOMINATION AND SELEC-
14 TION.—

15 “(1) IN GENERAL.—The Chief Intelligence Offi-
16 cer shall establish procedures to provide for the
17 nomination and selection of individuals to participate
18 in the Homeland Security Information Sharing Fel-
19 lows Program.

20 “(2) LIMITATIONS.—The Chief Intelligence Of-
21 ficer shall—

22 “(A) select law enforcement officers and
23 intelligence analysts representing a broad cross-
24 section of State, local, and tribal agencies; and

1 “(B) ensure that the number of Informa-
2 tion Sharing Fellows selected does not impede
3 the activities of the Office of Intelligence and
4 Analysis.

5 “(e) DEFINITIONS.—In this section—

6 “(1) the term ‘Chief Intelligence Officer’ means
7 the Chief Intelligence Officer of the Department;
8 and

9 “(2) the term ‘Office of Intelligence and Anal-
10 ysis’ means the office of the Chief Intelligence Offi-
11 cer.”.

12 (b) TECHNICAL AND CONFORMING AMENDMENT.—
13 The table of contents in section 1(b) of the Homeland Se-
14 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
15 inserting after the item relating to section 206, as added
16 by this Act, the following:

 “Sec. 207. Homeland Security Information Sharing Fellows Program.”.

17 (c) REPORTS.—

18 (1) CONCEPT OF OPERATIONS.—Not later than
19 90 days after the date of enactment of this Act, and
20 before the implementation of the Homeland Security
21 Information Sharing Fellows Program under section
22 207 of the Homeland Security Act of 2002, as
23 added by subsection (a), (in this section referred to
24 as the “Program”) the Secretary, in consultation
25 with the Privacy Officer of the Department, the Of-

1 ficer for Civil Rights and Civil Liberties of the De-
2 partment, and the Privacy and Civil Liberties Over-
3 sight Board established under section 1061 of the
4 Intelligence Reform and Terrorist Prevention Act of
5 2004 (5 U.S.C. 601 note), shall submit to the Com-
6 mittee on Homeland Security and Governmental Af-
7 fairs of the Senate and the Committee on Homeland
8 Security of the House of Representatives a report
9 that contains a concept of operations for the Pro-
10 gram, which shall include a privacy and civil liberties
11 impact assessment.

12 (2) REVIEW OF PRIVACY IMPACT.—Not later
13 than 1 year after the date on which the Program is
14 implemented, the Privacy and Civil Liberties Over-
15 sight Board established under section 1061 of the
16 Intelligence Reform and Terrorist Prevention Act of
17 2004 (5 U.S.C. 601 note), in consultation with the
18 Privacy Officer of the Department and the Officer
19 for Civil Rights and Civil Liberties of the Depart-
20 ment, shall submit to Congress, the Secretary, and
21 the Chief Intelligence Officer of the Department a
22 report on the privacy and civil liberties impact of the
23 Program.

1 **SEC. 123. RURAL POLICING INSTITUTE.**

2 (a) IN GENERAL.—There is established a Rural Po-
3 licing Institute, which shall be administered by the Office
4 of State and Local Training of the Federal Law Enforce-
5 ment Training Center (based in Glynco, Georgia), to—

6 (1) evaluate the needs of law enforcement agen-
7 cies of units of local government and tribal govern-
8 ments located in rural areas;

9 (2) develop expert training programs designed
10 to address the needs of rural law enforcement agen-
11 cies regarding combating methamphetamine addic-
12 tion and distribution, domestic violence, law enforce-
13 ment response related to school shootings, and other
14 topics identified in the evaluation conducted under
15 paragraph (1);

16 (3) provide the training programs described in
17 paragraph (2) to law enforcement agencies of units
18 of local government and tribal governments located
19 in rural areas; and

20 (4) conduct outreach efforts to ensure that
21 training programs under the Rural Policing Institute
22 reach law enforcement officers of units of local gov-
23 ernment and tribal governments located in rural
24 areas.

25 (b) CURRICULA.—The training at the Rural Policing
26 Institute established under subsection (a) shall be config-

1 ured in a manner so as to not duplicate or displace any
 2 law enforcement program of the Federal Law Enforce-
 3 ment Training Center in existence on the date of enact-
 4 ment of this Act.

5 (c) DEFINITION.—In this section, the term “rural”
 6 means area that is not located in a metropolitan statistical
 7 area, as defined by the Office of Management and Budget.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—There
 9 are authorized to be appropriated to carry out this section
 10 (including for contracts, staff, and equipment)—

11 (1) \$10,000,000 for fiscal year 2008; and

12 (2) \$5,000,000 for each of fiscal years 2009
 13 through 2013.

14 **Subtitle C—Interagency Threat As-**
 15 **essment and Coordination**
 16 **Group**

17 **SEC. 131. INTERAGENCY THREAT ASSESSMENT AND CO-**
 18 **ORDINATION GROUP.**

19 (a) IN GENERAL.—As part of efforts to establish the
 20 information sharing environment established under section
 21 1016 of the Intelligence Reform and Terrorism Prevention
 22 Act of 2004 (6 U.S.C. 485), the program manager shall
 23 oversee and coordinate the creation and ongoing operation
 24 of an Interagency Threat Assessment and Coordination
 25 Group (in this section referred to as the “ITACG”).

1 (b) RESPONSIBILITIES.—The ITACG shall facilitate
2 the production of federally coordinated products derived
3 from information within the scope of the information shar-
4 ing environment established under section 1016 of the In-
5 telligence Reform and Terrorism Prevention Act of 2004
6 (6 U.S.C. 485) and intended for distribution to State,
7 local, and tribal government officials and the private sec-
8 tor.

9 (c) OPERATIONS.—

10 (1) IN GENERAL.—The ITACG shall be located
11 at the facilities of the National Counterterrorism
12 Center of the Office of the Director of National In-
13 telligence.

14 (2) MANAGEMENT.—

15 (A) IN GENERAL.—The Secretary shall as-
16 sign a senior level officer to manage and direct
17 the administration of the ITACG.

18 (B) DISTRIBUTION.—The Secretary, in
19 consultation with the Attorney General and the
20 heads of other agencies, as appropriate, shall
21 determine how specific products shall be distrib-
22 uted to State, local, and tribal officials and pri-
23 vate sector partners under this section.

24 (C) STANDARDS FOR ADMISSION.—The
25 Secretary, acting through the Chief Intelligence

1 Officer and in consultation with the Director of
2 National Intelligence, the Attorney General, and
3 the program manager of the information shar-
4 ing environment established under section 1016
5 of the Intelligence Reform and Terrorist Pre-
6 vention Act of 2004 (6 U.S.C. 485), shall es-
7 tablish standards for the admission of law en-
8 forcement and intelligence officials from a
9 State, local, or tribal government into the
10 ITACG.

11 (d) MEMBERSHIP.—

12 (1) IN GENERAL.—The ITACG shall include
13 representatives of—

14 (A) the Department;

15 (B) the Federal Bureau of Investigation;

16 (C) the Department of Defense;

17 (D) the Department of Energy;

18 (E) law enforcement and intelligence offi-
19 cials from State, local, and tribal governments,
20 as appropriate; and

21 (F) other Federal entities as appropriate.

22 (2) CRITERIA.—The program manager for the
23 information sharing environment, in consultation
24 with the Secretary of Defense, the Secretary, the Di-
25 rector of National Intelligence, and the Director of

1 the Federal Bureau of Investigation shall develop
 2 qualifying criteria and establish procedures for se-
 3 lecting personnel assigned to the ITACG and for the
 4 proper handling and safeguarding of information re-
 5 lated to terrorism.

6 (e) INAPPLICABILITY OF THE FEDERAL ADVISORY
 7 COMMITTEE ACT.—The ITACG and any subsidiary
 8 groups thereof shall not be subject to the requirements
 9 of the Federal Advisory Committee Act (5 U.S.C. App.).

10 **TITLE II—HOMELAND SECURITY** 11 **GRANTS**

12 **SEC. 201. SHORT TITLE.**

13 This title may be cited as the “Homeland Security
 14 Grant Enhancement Act of 2007”.

15 **SEC. 202. HOMELAND SECURITY GRANT PROGRAM.**

16 The Homeland Security Act of 2002 (6 U.S.C. 101
 17 et seq.) is amended by adding at the end the following:

18 **“TITLE XX—HOMELAND** 19 **SECURITY GRANTS**

20 **“SEC. 2001. DEFINITIONS.**

21 “In this title, the following definitions shall apply:

22 “(1) ADMINISTRATOR.—The term ‘Adminis-
 23 trator’ means the Administrator of the Federal
 24 Emergency Management Agency.

1 “(2) COMBINED STATISTICAL AREA.—The term
2 ‘combined statistical area’ means a combined statis-
3 tical area, as defined by the Office of Management
4 and Budget.

5 “(3) DIRECTLY ELIGIBLE TRIBE.—The term
6 ‘directly eligible tribe’ means—

7 “(A) any Indian tribe that—

8 “(i) is located in the continental
9 United States;

10 “(ii) operates a law enforcement or
11 emergency response agency with the capac-
12 ity to respond to calls for law enforcement
13 or emergency services;

14 “(iii) is located—

15 “(I) on, or within 50 miles of, an
16 international border or a coastline
17 bordering an ocean or international
18 waters;

19 “(II) within 10 miles of critical
20 infrastructure or has critical infra-
21 structure within its territory; or

22 “(III) within or contiguous to 1
23 of the 50 largest metropolitan statis-
24 tical areas in the United States; and

1 “(iv) certifies to the Secretary that a
2 State is not making funds distributed
3 under this title available to the Indian
4 tribe or consortium of Indian tribes for the
5 purpose for which the Indian tribe or con-
6 sortium of Indian tribes is seeking grant
7 funds; and

8 “(B) a consortium of Indian tribes, if each
9 tribe satisfies the requirements of subparagraph
10 (A).

11 “(4) ELIGIBLE METROPOLITAN AREA.—The
12 term ‘eligible metropolitan area’ means the fol-
13 lowing:

14 “(A) IN GENERAL.—A combination of 2 or
15 more incorporated municipalities, counties, par-
16 ishes, or Indian tribes that—

17 “(i) is within—

18 “(I) any of the 100 largest met-
19 ropolitan statistical areas in the
20 United States; or

21 “(II) any combined statistical
22 area, of which any metropolitan sta-
23 tistical area described in subpara-
24 graph (A) is a part; and

1 “(ii) includes the city with the largest
2 population in that metropolitan statistical
3 area.

4 “(B) OTHER COMBINATIONS.—Any other
5 combination of contiguous local or tribal gov-
6 ernments that are formally certified by the Ad-
7 ministrator as an eligible metropolitan area for
8 purposes of this title with the consent of the
9 State or States in which such local or tribal
10 governments are located.

11 “(C) INCLUSION OF ADDITIONAL LOCAL
12 GOVERNMENTS.—An eligible metropolitan area
13 may include additional local or tribal govern-
14 ments outside the relevant metropolitan statis-
15 tical area or combined statistical area that are
16 likely to be affected by, or be called upon to re-
17 spond to, a terrorist attack within the metro-
18 politan statistical area.

19 “(5) INDIAN TRIBE.—The term ‘Indian tribe’
20 has the meaning given that term in section 4(e) of
21 the Indian Self-Determination Act (25 U.S.C.
22 450b(e)).

23 “(6) METROPOLITAN STATISTICAL AREA.—The
24 term ‘metropolitan statistical area’ means a metro-

1 politan statistical area, as defined by the Office of
2 Management and Budget.

3 “(7) NATIONAL SPECIAL SECURITY EVENT.—
4 The term ‘National Special Security Event’ means a
5 designated event that, by virtue of its political, eco-
6 nomic, social, or religious significance, may be the
7 target of terrorism or other criminal activity.

8 “(8) POPULATION.—The term ‘population’
9 means population according to the most recent
10 United States census population estimates available
11 at the start of the relevant fiscal year.

12 “(9) POPULATION DENSITY.—The term ‘popu-
13 lation density’ means population divided by land
14 area in square miles.

15 “(10) TARGET CAPABILITIES.—The term ‘tar-
16 get capabilities’ means the target capabilities for
17 Federal, State, local, and tribal government pre-
18 paredness for which guidelines are required to be es-
19 tablished under section 646(a) of the Post-Katrina
20 Emergency Management Reform Act of 2006 (6
21 U.S.C. 746(a)).

22 “(11) TRIBAL GOVERNMENT.—The term ‘tribal
23 government’ means the government of an Indian
24 tribe.

1 **“SEC. 2002. HOMELAND SECURITY GRANT PROGRAM.**

2 “(a) GRANTS AUTHORIZED.—The Secretary, through
3 the Administrator, may award grants to State, local, and
4 tribal governments for the purposes of this title.

5 “(b) PROGRAMS NOT AFFECTED.—This title shall
6 not be construed to affect any authority to award grants
7 under any of the following Federal programs:

8 “(1) The firefighter assistance programs au-
9 thORIZED under section 33 and 34 of the Federal
10 Fire Prevention and Control Act of 1974 (15 U.S.C.
11 2229 and 2229a).

12 “(2) The Urban Search and Rescue Grant Pro-
13 gram authorized under the Robert T. Stafford Dis-
14 aster Relief and Emergency Assistance Act (42
15 U.S.C. 5121 et seq.).

16 “(3) Grants to protect critical infrastructure,
17 including port security grants authorized under sec-
18 tion 70107 of title 46, United States Code, and the
19 grants authorized in title XIV and XV of the Im-
20 proving America’s Security Act of 2007.

21 “(4) The Metropolitan Medical Response Sys-
22 tem authorized under section 635 of the Post-
23 Katrina Emergency Management Reform Act of
24 2006 (6 U.S.C. 723).

25 “(5) Grant programs other than those adminis-
26 tered by the Department.

1 “(c) RELATIONSHIP TO OTHER LAWS.—

2 “(1) IN GENERAL.—The grant programs au-
3 thorized under this title shall supercede all grant
4 programs authorized under section 1014 of the USA
5 PATRIOT Act (42 U.S.C. 3714).

6 “(2) PROGRAM INTEGRITY.—Each grant pro-
7 gram under this title, section 1809 of this Act, or
8 section 662 of the Post-Katrina Emergency Manage-
9 ment Reform Act of 2006 (6 U.S.C. 763) shall in-
10 clude, consistent with the Improper Payments Infor-
11 mation Act of 2002 (31 U.S.C. 3321 note), policies
12 and procedures for—

13 “(A) identifying activities funded under
14 any such grant program that are susceptible to
15 significant improper payments; and

16 “(B) reporting the incidence of improper
17 payments to the Department.

18 “(3) ALLOCATION.—Except as provided under
19 paragraph (2) of this subsection, the allocation of
20 grants authorized under this title shall be governed
21 by the terms of this title and not by any other provi-
22 sion of law.

23 “(d) MINIMUM PERFORMANCE REQUIREMENTS.—

24 “(1) IN GENERAL.—The Administrator shall—

1 “(A) establish minimum performance re-
2 quirements for entities that receive homeland
3 security grants;

4 “(B) conduct, in coordination with State,
5 regional, local, and tribal governments receiving
6 grants under this title, section 1809 of this Act,
7 or section 662 of the Post-Katrina Emergency
8 Management Reform Act of 2006 (6 U.S.C.
9 763), simulations and exercises to test the min-
10 imum performance requirements established
11 under subparagraph (A) for—

12 “(i) emergencies (as that term is de-
13 fined in section 102 of the Robert T. Staf-
14 ford Disaster Relief and Emergency Assist-
15 ance Act (42 U.S.C. 5122)) and major dis-
16 asters not less than twice each year; and

17 “(ii) catastrophic incidents (as that
18 term is defined in section 501) not less
19 than once each year; and

20 “(C) ensure that entities that the Adminis-
21 trator determines are failing to demonstrate
22 minimum performance requirements established
23 under subparagraph (A) shall remedy the areas
24 of failure, not later than the end of the second

1 full fiscal year after the date of such determina-
2 tion by—

3 “(i) establishing a plan for the
4 achievement of the minimum performance
5 requirements under subparagraph (A),
6 including—

7 “(I) developing intermediate indi-
8 cators for the 2 fiscal years following
9 the date of such determination; and

10 “(II) conducting additional sim-
11 ulations and exercises; and

12 “(ii) revising an entity’s homeland se-
13 curity plan, if necessary, to achieve the
14 minimum performance requirements under
15 subparagraph (A).

16 “(2) WAIVER.—At the discretion of the Admin-
17 istrator, the occurrence of an actual emergency,
18 major disaster, or catastrophic incident in an area
19 may be deemed as a simulation under paragraph
20 (1)(B).

21 “(3) REPORT TO CONGRESS.—Not later than
22 the end of the first full fiscal year after the date of
23 enactment of the Improving America’s Security Act
24 of 2007, and each fiscal year thereafter, the Admin-
25 istrator shall submit to the Committee on Homeland

1 Security and Governmental Affairs of the Senate
2 and to the Committee on Homeland Security of the
3 House of Representatives a report describing—

4 “(A) the performance of grantees under
5 paragraph (1)(A);

6 “(B) lessons learned through the simula-
7 tions and exercises under paragraph (1)(B);
8 and

9 “(C) efforts being made to remedy failed
10 performance under paragraph (1)(C).

11 **“SEC. 2003. URBAN AREA SECURITY INITIATIVE.**

12 “(a) ESTABLISHMENT.—There is established an
13 Urban Area Security Initiative to provide grants to assist
14 high-risk metropolitan areas in preventing, preparing for,
15 protecting against, responding to, and recovering from
16 acts of terrorism.

17 “(b) APPLICATION.—

18 “(1) IN GENERAL.—An eligible metropolitan
19 area may apply for grants under this section.

20 “(2) ANNUAL APPLICATIONS.—Applicants for
21 grants under this section shall apply or reapply on
22 an annual basis for grants distributed under the
23 program.

1 “(3) INFORMATION.—In an application for a
2 grant under this section, an eligible metropolitan
3 area shall submit—

4 “(A) a plan describing the proposed divi-
5 sion of responsibilities and distribution of fund-
6 ing among the local and tribal governments in
7 the eligible metropolitan area;

8 “(B) the name of an individual to serve as
9 a metropolitan area liaison with the Depart-
10 ment and among the various jurisdictions in the
11 metropolitan area; and

12 “(C) such information in support of the
13 application as the Administrator may reason-
14 ably require.

15 “(c) STATE REVIEW AND TRANSMISSION.—

16 “(1) IN GENERAL.—To ensure consistency with
17 State homeland security plans, an eligible metropoli-
18 tan area applying for a grant under this section
19 shall submit its application to each State within
20 which any part of the eligible metropolitan area is
21 located for review before submission of such applica-
22 tion to the Department.

23 “(2) DEADLINE.—Not later than 30 days after
24 receiving an application from an eligible metropoli-

1 tan area under paragraph (1), each such State shall
2 transmit the application to the Department.

3 “(3) STATE DISAGREEMENT.—If the Governor
4 of any such State determines that an application of
5 an eligible metropolitan area is inconsistent with the
6 State homeland security plan of that State, or other-
7 wise does not support the application, the Governor
8 shall—

9 “(A) notify the Administrator, in writing,
10 of that fact; and

11 “(B) provide an explanation of the reason
12 for not supporting the application at the time
13 of transmission of the application.

14 “(d) PRIORITIZATION.—In allocating funds among
15 metropolitan areas applying for grants under this section,
16 the Administrator shall consider—

17 “(1) the relative threat, vulnerability, and con-
18 sequences faced by the eligible metropolitan area
19 from a terrorist attack, including consideration of—

20 “(A) the population of the eligible metro-
21 politan area, including appropriate consider-
22 ation of military, tourist, and commuter popu-
23 lations;

24 “(B) the population density of the eligible
25 metropolitan area;

1 “(C) the history of threats faced by the eli-
2 gible metropolitan area, including—

3 “(i) whether there has been a prior
4 terrorist attack in the eligible metropolitan
5 area; and

6 “(ii) whether any part of the eligible
7 metropolitan area, or any critical infra-
8 structure or key resource within the eligi-
9 ble metropolitan area, has ever experienced
10 a higher threat level under the Homeland
11 Security Advisory System than other parts
12 of the United States;

13 “(D) the degree of threat, vulnerability,
14 and consequences to the eligible metropolitan
15 area related to critical infrastructure or key re-
16 sources identified by the Secretary or the State
17 homeland security plan, including threats,
18 vulnerabilities, and consequences from critical
19 infrastructure in nearby jurisdictions;

20 “(E) whether the eligible metropolitan area
21 is located at or near an international border;

22 “(F) whether the eligible metropolitan area
23 has a coastline bordering ocean or international
24 waters;

1 “(G) threats, vulnerabilities, and con-
2 sequences faced by the eligible metropolitan
3 area related to at-risk sites or activities in near-
4 by jurisdictions, including the need to respond
5 to terrorist attacks arising in those jurisdic-
6 tions;

7 “(H) the most current threat assessments
8 available to the Department;

9 “(I) the extent to which the eligible metro-
10 politan area has unmet target capabilities;

11 “(J) the extent to which the eligible metro-
12 politan area includes—

13 “(i) all incorporated municipalities,
14 counties, parishes, and Indian tribes within
15 the relevant metropolitan statistical area or
16 combined statistical area the inclusion of
17 which will enhance regional efforts to pre-
18 vent, prepare for, protect against, respond
19 to, and recover from acts of terrorism; and

20 “(ii) other local governments and
21 tribes that are likely to be called upon to
22 respond to a terrorist attack within the eli-
23 gible metropolitan area; and

24 “(K) such other factors as are specified in
25 writing by the Administrator; and

1 “(2) the anticipated effectiveness of the pro-
2 posed spending plan for the eligible metropolitan
3 area in increasing the ability of that eligible metro-
4 politan area to prevent, prepare for, protect against,
5 respond to, and recover from terrorism, to meet its
6 target capabilities, and to otherwise reduce the over-
7 all risk to the metropolitan area, the State, and the
8 Nation.

9 “(e) OPPORTUNITY TO AMEND.—In considering ap-
10 plications for grants under this section, the Administrator
11 shall provide applicants with a reasonable opportunity to
12 correct defects in the application, if any, before making
13 final awards.

14 “(f) ALLOWABLE USES.—Grants awarded under this
15 section may be used to achieve target capabilities, con-
16 sistent with a State homeland security plan and relevant
17 local and regional homeland security plans, through—

18 “(1) developing and enhancing State, local, or
19 regional plans, risk assessments, or mutual aid
20 agreements;

21 “(2) purchasing, upgrading, storing, or main-
22 taining equipment;

23 “(3) designing, conducting, and evaluating
24 training and exercises, including exercises of mass
25 evacuation plans under section 512 and including

1 the payment of overtime and backfill costs in sup-
2 port of such activities;

3 “(4) responding to an increase in the threat
4 level under the Homeland Security Advisory System,
5 or to the needs resulting from a National Special Se-
6 curity Event, including payment of overtime and
7 backfill costs;

8 “(5) establishing, enhancing, and staffing with
9 appropriately qualified personnel State and local fu-
10 sion centers that comply with the guidelines estab-
11 lished under section 206(i);

12 “(6) protecting critical infrastructure and key
13 resources identified in the Critical Infrastructure
14 List established under section 1101 of the Improving
15 America’s Security Act of 2007, including the pay-
16 ment of appropriate personnel costs;

17 “(7) any activity permitted under the Fiscal
18 Year 2007 Program Guidance of the Department for
19 the Urban Area Security Initiative or the Law En-
20 forcement Terrorism Prevention Grant Program, in-
21 cluding activities permitted under the full-time
22 counterterrorism staffing pilot; and

23 “(8) any other activity relating to achieving tar-
24 get capabilities approved by the Administrator.

1 “(g) DISTRIBUTION OF AWARDS TO METROPOLITAN
2 AREAS.—

3 “(1) IN GENERAL.—If the Administrator ap-
4 proves the application of an eligible metropolitan
5 area for a grant under this section, the Adminis-
6 trator shall distribute the grant funds to the State
7 or States in which the eligible metropolitan area is
8 located.

9 “(2) STATE DISTRIBUTION OF FUNDS.—

10 “(A) IN GENERAL.—Each State shall pro-
11 vide the eligible metropolitan area not less than
12 80 percent of the grant funds. Any funds re-
13 tained by a State shall be expended on items or
14 services approved by the Administrator that
15 benefit the eligible metropolitan area.

16 “(B) FUNDS RETAINED.—A State shall
17 provide each relevant eligible metropolitan area
18 with an accounting of the items or services on
19 which any funds retained by the State under
20 subparagraph (A) were expended.

21 “(3) MULTISTATE REGIONS.—If parts of an eli-
22 gible metropolitan area awarded a grant are located
23 in 2 or more States, the Secretary shall distribute to
24 each such State—

1 “(A) a portion of the grant funds in ac-
2 cordance with the proposed distribution set
3 forth in the application; or

4 “(B) if no agreement on distribution has
5 been reached, a portion of the grant funds in
6 proportion to each State’s share of the popu-
7 lation of the eligible metropolitan area.

8 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated for grants under this
10 section—

11 “(1) for fiscal year 2007, such sums as are nec-
12 essary;

13 “(2) for each of fiscal years 2008, 2009, and
14 2010, \$1,278,639,000; and

15 “(3) for fiscal year 2011, and each fiscal year
16 thereafter, such sums as are necessary.

17 **“SEC. 2004. STATE HOMELAND SECURITY GRANT PROGRAM.**

18 “(a) ESTABLISHMENT.—There is established a State
19 Homeland Security Grant Program to assist State, local,
20 and tribal governments in preventing, preparing for, pro-
21 tecting against, responding to, and recovering from acts
22 of terrorism.

23 “(b) APPLICATION.—

24 “(1) IN GENERAL.—Each State may apply for
25 a grant under this section, and shall submit such in-

1 formation in support of the application as the Ad-
2 ministrator may reasonably require.

3 “(2) ANNUAL APPLICATIONS.—Applicants for
4 grants under this section shall apply or reapply on
5 an annual basis for grants distributed under the
6 program.

7 “(c) PRIORITIZATION.—In allocating funds among
8 States applying for grants under this section, the Adminis-
9 trator shall consider—

10 “(1) the relative threat, vulnerability, and con-
11 sequences faced by a State from a terrorist attack,
12 including consideration of—

13 “(A) the size of the population of the
14 State, including appropriate consideration of
15 military, tourist, and commuter populations;

16 “(B) the population density of the State;

17 “(C) the history of threats faced by the
18 State, including—

19 “(i) whether there has been a prior
20 terrorist attack in an urban area that is
21 wholly or partly in the State, or in the
22 State itself; and

23 “(ii) whether any part of the State, or
24 any critical infrastructure or key resource
25 within the State, has ever experienced a

1 higher threat level under the Homeland
2 Security Advisory System than other parts
3 of the United States;

4 “(D) the degree of threat, vulnerability,
5 and consequences related to critical infrastruc-
6 ture or key resources identified by the Secretary
7 or the State homeland security plan;

8 “(E) whether the State has an inter-
9 national border;

10 “(F) whether the State has a coastline bor-
11 dering ocean or international waters;

12 “(G) threats, vulnerabilities, and con-
13 sequences faced by a State related to at-risk
14 sites or activities in adjacent States, including
15 the State’s need to respond to terrorist attacks
16 arising in adjacent States;

17 “(H) the most current threat assessments
18 available to the Department;

19 “(I) the extent to which the State has
20 unmet target capabilities; and

21 “(J) such other factors as are specified in
22 writing by the Administrator;

23 “(2) the anticipated effectiveness of the pro-
24 posed spending plan of the State in increasing the
25 ability of the State to—

1 “(A) prevent, prepare for, protect against,
2 respond to, and recover from terrorism;

3 “(B) meet the target capabilities of the
4 State; and

5 “(C) otherwise reduce the overall risk to
6 the State and the Nation; and

7 “(3) the need to balance the goal of ensuring
8 the target capabilities of the highest risk areas are
9 achieved quickly and the goal of ensuring that basic
10 levels of preparedness, as measured by the attain-
11 ment of target capabilities, are achieved nationwide.

12 “(d) MINIMUM ALLOCATION.—In allocating funds
13 under subsection (c), the Administrator shall ensure that,
14 for each fiscal year—

15 “(1) except as provided for in paragraph (2), no
16 State receives less than an amount equal to 0.45
17 percent of the total funds appropriated for the State
18 Homeland Security Grant Program; and

19 “(2) American Samoa, the Commonwealth of
20 the Northern Mariana Islands, Guam, and the Vir-
21 gin Islands each receive not less than 0.08 percent
22 of the amounts appropriated for the State Homeland
23 Security Grant Program.

24 “(e) MULTISTATE PARTNERSHIPS.—

1 “(1) IN GENERAL.—Instead of, or in addition
2 to, any application for funds under subsection (b), 2
3 or more States may submit an application under this
4 paragraph for multistate efforts to prevent, prepare
5 for, protect against, respond to, or recover from acts
6 of terrorism.

7 “(2) GRANTEES.—Multistate grants may be
8 awarded to either—

9 “(A) an individual State acting on behalf
10 of a consortium or partnership of States with
11 the consent of all member States; or

12 “(B) a group of States applying as a con-
13 sortium or partnership.

14 “(3) ADMINISTRATION OF GRANT.—If a group
15 of States apply as a consortium or partnership such
16 States shall submit to the Secretary at the time of
17 application a plan describing—

18 “(A) the division of responsibilities for ad-
19 ministering the grant; and

20 “(B) the distribution of funding among the
21 various States and entities that are party to the
22 application.

23 “(f) FUNDING FOR LOCAL AND TRIBAL GOVERN-
24 MENTS.—

1 “(1) IN GENERAL.—The Administrator shall re-
2 quire that, not later than 60 days after receiving
3 grant funding, any State receiving a grant under
4 this section shall make available to local and tribal
5 governments and emergency response providers, con-
6 sistent with the applicable State homeland security
7 plan—

8 “(A) not less than 80 percent of the grant
9 funds;

10 “(B) with the consent of local and tribal
11 governments, the resources purchased with such
12 grant funds having a value equal to not less
13 than 80 percent of the amount of the grant; or

14 “(C) grant funds combined with resources
15 purchased with the grant funds having a value
16 equal to not less than 80 percent of the amount
17 of the grant.

18 “(2) EXTENSION OF PERIOD.—The Governor of
19 a State may request in writing that the Adminis-
20 trator extend the period under paragraph (1) for an
21 additional period of time. The Administrator may
22 approve such a request, and may extend such period
23 for an additional period, if the Administrator deter-
24 mines that the resulting delay in providing grant
25 funding to the local and tribal governments and

1 emergency response providers is necessary to pro-
2 mote effective investments to prevent, prepare for,
3 protect against, respond to, and recover from ter-
4 rorism, or to meet the target capabilities of the
5 State.

6 “(3) INDIAN TRIBES.—States shall be respon-
7 sible for allocating grant funds received under this
8 section to tribal governments in order to help those
9 tribal communities achieve target capabilities. Indian
10 tribes shall be eligible for funding directly from the
11 States, and shall not be required to seek funding
12 from any local government.

13 “(4) EXCEPTION.—Paragraph (1) shall not
14 apply to the District of Columbia, the Common-
15 wealth of Puerto Rico, American Samoa, the Com-
16 monwealth of the Northern Mariana Islands, Guam,
17 or the Virgin Islands.

18 “(g) GRANTS TO DIRECTLY ELIGIBLE TRIBES.—

19 “(1) IN GENERAL.—Notwithstanding subsection
20 (b), the Secretary may award grants to directly eligi-
21 ble tribes under this section.

22 “(2) TRIBAL APPLICATIONS.—A directly eligible
23 tribe may apply for a grant under this section by
24 submitting an application to the Administrator that

1 includes the information required for an application
2 by a State under subsection (b).

3 “(3) STATE REVIEW.—

4 “(A) IN GENERAL.—To ensure consistency
5 with State homeland security plans, a directly
6 eligible tribe applying for a grant under this
7 section shall submit its application to each
8 State within which any part of the tribe is lo-
9 cated for review before submission of such ap-
10 plication to the Department.

11 “(B) DEADLINE.—Not later than 30 days
12 after receiving an application from a directly el-
13 igible tribe under subparagraph (A), each such
14 State shall transmit the application to the De-
15 partment.

16 “(C) STATE DISAGREEMENT.—If the Gov-
17 ernor of any such State determines that the ap-
18 plication of a directly eligible tribe is incon-
19 sistent with the State homeland security plan of
20 that State, or otherwise does not support the
21 application, the Governor shall—

22 “(i) notify the Administrator, in writ-
23 ing, of that fact; and

24 “(ii) provide an explanation of the
25 reason for not supporting the application

1 at the time of transmission of the applica-
2 tion.

3 “(4) DISTRIBUTION OF AWARDS TO DIRECTLY
4 ELIGIBLE TRIBES.—If the Administrator awards
5 funds to a directly eligible tribe under this section,
6 the Administrator shall distribute the grant funds
7 directly to the directly eligible tribe. The funds shall
8 not be distributed to the State or States in which
9 the directly eligible tribe is located.

10 “(5) TRIBAL LIAISON.—A directly eligible tribe
11 applying for a grant under this section shall des-
12 ignate a specific individual to serve as the tribal liai-
13 son who shall—

14 “(A) coordinate with Federal, State, local,
15 regional, and private officials concerning ter-
16 rorism preparedness;

17 “(B) develop a process for receiving input
18 from Federal, State, local, regional, and private
19 officials to assist in the development of the ap-
20 plication of such tribe and to improve the ac-
21 cess of such tribe to grants; and

22 “(C) administer, in consultation with
23 State, local, regional, and private officials,
24 grants awarded to such tribe.

1 “(6) TRIBES RECEIVING DIRECT GRANTS.—A
2 directly eligible tribe that receives a grant directly
3 under this section is eligible to receive funds for
4 other purposes under a grant from the State or
5 States within the boundaries of which any part of
6 such tribe is located, consistent with the homeland
7 security plan of the State.

8 “(7) RULE OF CONSTRUCTION.—Nothing in
9 this section shall be construed to affect the authority
10 of an Indian tribe that receives funds under this sec-
11 tion.

12 “(h) OPPORTUNITY TO AMEND.—In considering ap-
13 plications for grants under this section, the Administrator
14 shall provide applicants with a reasonable opportunity to
15 correct defects in the application, if any, before making
16 final awards.

17 “(i) ALLOWABLE USES.—Grants awarded under this
18 section may be used to achieve target capabilities, con-
19 sistent with a State homeland security plan, through—

20 “(1) developing and enhancing State, local,
21 tribal, or regional plans, risk assessments, or mutual
22 aid agreements;

23 “(2) purchasing, upgrading, storing, or main-
24 taining equipment;

1 “(3) designing, conducting, and evaluating
2 training and exercises, including exercises of mass
3 evacuation plans under section 512 and including
4 the payment of overtime and backfill costs in sup-
5 port of such activities;

6 “(4) responding to an increase in the threat
7 level under the Homeland Security Advisory System,
8 including payment of overtime and backfill costs;

9 “(5) establishing, enhancing, and staffing with
10 appropriately qualified personnel State and local fu-
11 sion centers, that comply with the guidelines estab-
12 lished under section 206(i);

13 “(6) protecting critical infrastructure and key
14 resources identified in the Critical Infrastructure
15 List established under section 1101 of the Improving
16 America’s Security Act of 2007, including the pay-
17 ment of appropriate personnel costs;

18 “(7) any activity permitted under the Fiscal
19 Year 2007 Program Guidance of the Department for
20 the State Homeland Security Grant Program or the
21 Law Enforcement Terrorism Prevention Grant Pro-
22 gram, including activities permitted under the full-
23 time counterterrorism staffing pilot; and

24 “(8) any other activity relating to achieving tar-
25 get capabilities approved by the Administrator.

1 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated for grants under this
3 section—

4 “(1) for fiscal year 2007, such sums as are nec-
5 essary;

6 “(2) for each of fiscal years 2008, 2009, and
7 2010, \$913,180,500; and

8 “(3) for fiscal year 2011, and each fiscal year
9 thereafter, such sums as are necessary.

10 **“SEC. 2005. TERRORISM PREVENTION.**

11 “(a) LAW ENFORCEMENT TERRORISM PREVENTION
12 PROGRAM.—

13 “(1) IN GENERAL.—The Administrator shall
14 designate not less than 25 percent of the combined
15 amount appropriated for grants under sections 2003
16 and 2004 to be used for law enforcement terrorism
17 prevention activities.

18 “(2) USE OF FUNDS.—Grants awarded under
19 this subsection may be used for—

20 “(A) information sharing to preempt ter-
21 rorist attacks;

22 “(B) target hardening to reduce the vul-
23 nerability of selected high value targets;

24 “(C) threat recognition to recognize the
25 potential or development of a threat;

1 “(D) intervention activities to interdict ter-
2 rorists before they can execute a threat;

3 “(E) overtime expenses related to a State
4 homeland security plan, including overtime
5 costs associated with providing enhanced law
6 enforcement operations in support of Federal
7 agencies for increased border security and bor-
8 der crossing enforcement;

9 “(F) establishing, enhancing, and staffing
10 with appropriately qualified personnel State and
11 local fusion centers that comply with the guide-
12 lines established under section 206(i);

13 “(G) any other activity permitted under
14 the Fiscal Year 2007 Program Guidance of the
15 Department for the Law Enforcement Ter-
16 rorism Prevention Program; and

17 “(H) any other terrorism prevention activ-
18 ity authorized by the Administrator.

19 “(b) OFFICE FOR THE PREVENTION OF TER-
20 RORISM.—

21 “(1) ESTABLISHMENT.—There is established in
22 the Department an Office for the Prevention of Ter-
23 rorism, which shall be headed by a Director.

24 “(2) DIRECTOR.—

1 “(A) REPORTING.—The Director of the
2 Office for the Prevention of Terrorism shall re-
3 port directly to the Secretary.

4 “(B) QUALIFICATIONS.—The Director of
5 the Office for the Prevention of Terrorism shall
6 have an appropriate background with experi-
7 ence in law enforcement, intelligence, and other
8 antiterrorist functions.

9 “(3) ASSIGNMENT OF PERSONNEL.—

10 “(A) IN GENERAL.—The Secretary shall
11 assign to the Office for the Prevention of Ter-
12 rorism permanent staff and other appropriate
13 personnel detailed from other components of
14 the Department to carry out the responsibilities
15 under this section.

16 “(B) LIAISONS.—The Secretary shall des-
17 ignate senior employees from each component
18 of the Department that has significant
19 antiterrorism responsibilities to act as liaisons
20 between that component and the Office for the
21 Prevention of Terrorism.

22 “(4) RESPONSIBILITIES.—The Director of the
23 Office for the Prevention of Terrorism shall—

24 “(A) coordinate policy and operations be-
25 tween the Department and State, local, and

1 tribal government agencies relating to pre-
2 venting acts of terrorism within the United
3 States;

4 “(B) serve as a liaison between State,
5 local, and tribal law enforcement agencies and
6 the Department;

7 “(C) in coordination with the Office of In-
8 telligence and Analysis, develop better methods
9 for the sharing of intelligence with State, local,
10 and tribal law enforcement agencies;

11 “(D) work with the Administrator to en-
12 sure that homeland security grants to State,
13 local, and tribal government agencies, including
14 grants under this title, the Commercial Equip-
15 ment Direct Assistance Program, and grants to
16 support fusion centers and other law enforce-
17 ment-oriented programs are adequately focused
18 on terrorism prevention activities, including
19 through review of budget requests for those
20 programs; and

21 “(E) coordinate with the Federal Emer-
22 gency Management Agency, the Department of
23 Justice, the National Institute of Justice, law
24 enforcement organizations, and other appro-
25 priate entities to support the development, pro-

1 mulgation, and updating, as necessary, of na-
2 tional voluntary consensus standards for train-
3 ing and personal protective equipment to be
4 used in a tactical environment by law enforce-
5 ment officers.

6 “(5) PILOT PROJECT.—

7 “(A) IN GENERAL.—The Director of the
8 Office for the Prevention of Terrorism, in co-
9 ordination with the Administrator, shall estab-
10 lish a pilot project to determine the efficacy and
11 feasibility of establishing law enforcement de-
12 ployment teams.

13 “(B) FUNCTION.—The law enforcement
14 deployment teams participating in the pilot pro-
15 gram under this paragraph shall form the basis
16 of a national network of standardized law en-
17 forcement resources to assist State, local, and
18 tribal governments in responding to natural dis-
19 asters, acts of terrorism, or other man-made
20 disaster.

21 “(6) CONSTRUCTION.—Nothing in this section
22 may be construed to affect the roles or responsibil-
23 ities of the Department of Justice.

24 **“SEC. 2006. RESTRICTIONS ON USE OF FUNDS.**

25 “(a) LIMITATIONS ON USE.—

1 “(1) CONSTRUCTION.—

2 “(A) IN GENERAL.—Grants awarded under
3 this title may not be used to acquire land or to
4 construct buildings or other physical facilities.

5 “(B) EXCEPTIONS.—

6 “(i) IN GENERAL.—Notwithstanding
7 subparagraph (A), nothing in this para-
8 graph shall prohibit the use of grants
9 awarded under this title to achieve target
10 capabilities through—

11 “(I) the construction of facilities
12 described in section 611 of the Robert
13 T. Stafford Disaster Relief and Emer-
14 gency Assistance Act (42 U.S.C.
15 5196); or

16 “(II) the alteration or remodeling
17 of existing buildings for the purpose
18 of making such buildings secure
19 against terrorist attacks or able to
20 withstand or protect against chemical,
21 radiological, or biological attacks.

22 “(ii) REQUIREMENTS FOR EXCEP-
23 TION.—No grant awards may be used for
24 the purposes under clause (i) unless—

1 “(I) specifically approved by the
2 Administrator;

3 “(II) the construction occurs
4 under terms and conditions consistent
5 with the requirements under section
6 611(j)(9) of the Robert T. Stafford
7 Disaster Relief and Emergency Assist-
8 ance Act (42 U.S.C. 5196(j)(9)); and

9 “(III) the amount allocated for
10 purposes under clause (i) does not ex-
11 ceed 20 percent of the grant award.

12 “(2) PERSONNEL.—

13 “(A) IN GENERAL.—For any grant award-
14 ed under section 2003 or 2004—

15 “(i) not more than 25 percent of the
16 amount awarded to a grant recipient may
17 be used to pay overtime and backfill costs;
18 and

19 “(ii) not more than 25 percent of the
20 amount awarded to the grant recipient
21 may be used to pay personnel costs not de-
22 scribed in clause (i).

23 “(B) WAIVER.—At the request of the re-
24 cipient of a grant under section 2003 or section

1 2004, the Administrator may grant a waiver of
2 any limitation under subparagraph (A).

3 “(C) EXCEPTION. The limitations under
4 subparagraph (A) shall not apply to activities
5 permitted under the full-time counterterrorism
6 staffing pilot, as described in the Fiscal Year
7 2007 Program Guidance of the Department for
8 the Urban Area Security Initiative.

9 “(3) RECREATION.—Grants awarded under this
10 title may not be used for recreational or social pur-
11 poses.

12 “(b) MULTIPLE-PURPOSE FUNDS.—Nothing in this
13 title shall be construed to prohibit State, local, or tribal
14 governments from using grant funds under sections 2003
15 and 2004 in a manner that enhances preparedness for dis-
16 asters unrelated to acts of terrorism, if such use assists
17 such governments in achieving capabilities for terrorism
18 preparedness established by the Administrator.

19 “(c) EQUIPMENT STANDARDS.—If an applicant for
20 a grant under this title proposes to upgrade or purchase,
21 with assistance provided under that grant, new equipment
22 or systems that do not meet or exceed any applicable na-
23 tional voluntary consensus standards developed under sec-
24 tion 647 of the Post-Katrina Emergency Management Re-
25 form Act of 2006 (6 U.S.C. 747), the applicant shall in-

1 clude in its application an explanation of why such equip-
2 ment or systems will serve the needs of the applicant bet-
3 ter than equipment or systems that meet or exceed such
4 standards.

5 “(d) SUPPLEMENT NOT SUPPLANT.—Amounts ap-
6 propriated for grants under this title shall be used to sup-
7 plement and not supplant other State, local, and tribal
8 government public funds obligated for the purposes pro-
9 vided under this title.

10 **“SEC. 2007. ADMINISTRATION AND COORDINATION.**

11 “(a) ADMINISTRATOR.—The Administrator shall, in
12 consultation with other appropriate offices within the De-
13 partment, have responsibility for administering all home-
14 land security grant programs administered by the Depart-
15 ment and for ensuring coordination among those pro-
16 grams and consistency in the guidance issued to recipients
17 across those programs.

18 “(b) NATIONAL ADVISORY COUNCIL.—To ensure
19 input from and coordination with State, local, and tribal
20 governments and emergency response providers, the Ad-
21 ministrator shall regularly consult and work with the Na-
22 tional Advisory Council established under section 508 on
23 the administration and assessment of grant programs ad-
24 ministered by the Department, including with respect to

1 the development of program guidance and the development
2 and evaluation of risk-assessment methodologies.

3 “(c) REGIONAL COORDINATION.—The Administrator
4 shall ensure that—

5 “(1) all recipients of homeland security grants
6 administered by the Department, as a condition of
7 receiving those grants, coordinate their prevention,
8 preparedness, and protection efforts with neigh-
9 boring State, local, and tribal governments, as ap-
10 propriate; and

11 “(2) all metropolitan areas and other recipients
12 of homeland security grants administered by the De-
13 partment that include or substantially affect parts or
14 all of more than 1 State, coordinate across State
15 boundaries, including, where appropriate, through
16 the use of regional working groups and requirements
17 for regional plans, as a condition of receiving De-
18 partmentally administered homeland security grants.

19 “(d) PLANNING COMMITTEES.—

20 “(1) IN GENERAL.—Any State or metropolitan
21 area receiving grants under section 2003 or 2004
22 shall establish a planning committee to assist in
23 preparation and revision of the State, regional, or
24 local homeland security plan and to assist in deter-
25 mining effective funding priorities.

1 “(2) COMPOSITION.—

2 “(A) IN GENERAL.—The planning com-
3 mittee shall include representatives of signifi-
4 cant stakeholders, including—

5 “(i) local and tribal government offi-
6 cials; and

7 “(ii) emergency response providers,
8 which shall include representatives of the
9 fire service, law enforcement, emergency
10 medical response, and emergency man-
11 agers.

12 “(B) GEOGRAPHIC REPRESENTATION.—

13 The members of the planning committee shall
14 be a representative group of individuals from
15 the counties, cities, towns, and Indian tribes
16 within the State or metropolitan areas, includ-
17 ing, as appropriate, representatives of rural,
18 high-population, and high-threat jurisdictions.

19 “(3) EXISTING PLANNING COMMITTEES.—Noth-
20 ing in this subsection may be construed to require
21 that any State or metropolitan area create a plan-
22 ning committee if that State or metropolitan area
23 has established and uses a multijurisdictional plan-
24 ning committee or commission that meets the re-
25 quirements of this subsection.

1 “(e) INTERAGENCY COORDINATION.—The Secretary,
2 through the Administrator, in coordination with the Attor-
3 ney General, the Secretary of Health and Human Services,
4 and other agencies providing assistance to State, local,
5 and tribal governments for preventing, preparing for, pro-
6 tecting against, responding to, and recovering from nat-
7 ural disasters, acts of terrorism, and other man-made dis-
8 asters, and not later than 12 months after the date of
9 enactment of the Improving America’s Security Act of
10 2007, shall—

11 “(1) compile a comprehensive list of Federal
12 programs that provide assistance to State, local, and
13 tribal governments for preventing, preparing for,
14 and responding to, natural disasters, acts of ter-
15 rorism, and other man-made disasters;

16 “(2) develop a proposal to coordinate, to the
17 greatest extent practicable, the planning, reporting,
18 application, and other requirements and guidance
19 for homeland security assistance programs to—

20 “(A) eliminate redundant and duplicative
21 requirements, including onerous application and
22 ongoing reporting requirements;

23 “(B) ensure accountability of the programs
24 to the intended purposes of such programs;

1 “(C) coordinate allocation of grant funds
2 to avoid duplicative or inconsistent purchases
3 by the recipients; and

4 “(D) make the programs more accessible
5 and user friendly to applicants; and

6 “(3) submit the information and proposals
7 under paragraphs (1) and (2) to the Committee on
8 Homeland Security and Governmental Affairs of the
9 Senate and the Committee on Homeland Security of
10 the House of Representatives.

11 **“SEC. 2008. ACCOUNTABILITY.**

12 “(a) REPORTS TO CONGRESS.—

13 “(1) FUNDING EFFICACY.—The Administrator
14 shall submit to Congress, as a component of the an-
15 nual Federal Preparedness Report required under
16 section 652 of the Post-Katrina Emergency Manage-
17 ment Reform Act of 2006 (6 U.S.C. 752), an eval-
18 uation of the extent to which grants Administered by
19 the Department, including the grants established by
20 this title—

21 “(A) have contributed to the progress of
22 State, local, and tribal governments in achieving
23 target capabilities; and

1 “(B) have led to the reduction of risk na-
2 tionally and in State, local, and tribal jurisdic-
3 tions.

4 “(2) RISK ASSESSMENT.—

5 “(A) IN GENERAL.—For each fiscal year,
6 the Administrator shall provide to the Com-
7 mittee on Homeland Security and Govern-
8 mental Affairs of the Senate and the Committee
9 on Homeland Security of the House of Rep-
10 resentatives a detailed and comprehensive ex-
11 planation of the methodology used to calculate
12 risk and compute the allocation of funds under
13 sections 2003 and 2004 of this title,
14 including—

15 “(i) all variables included in the risk
16 assessment and the weights assigned to
17 each;

18 “(ii) an explanation of how each such
19 variable, as weighted, correlates to risk,
20 and the basis for concluding there is such
21 a correlation; and

22 “(iii) any change in the methodology
23 from the previous fiscal year, including
24 changes in variables considered, weighting

1 of those variables, and computational
2 methods.

3 “(B) CLASSIFIED ANNEX.—The informa-
4 tion required under subparagraph (A) shall be
5 provided in unclassified form to the greatest ex-
6 tent possible, and may include a classified
7 annex if necessary.

8 “(C) DEADLINE.—For each fiscal year, the
9 information required under subparagraph (A)
10 shall be provided on the earlier of—

11 “(i) October 31; or

12 “(ii) 30 days before the issuance of
13 any program guidance for grants under
14 sections 2003 and 2004.

15 “(b) REVIEWS AND AUDITS.—

16 “(1) DEPARTMENT REVIEW.—The Adminis-
17 trator shall conduct periodic reviews of grants made
18 under this title to ensure that recipients allocate
19 funds consistent with the guidelines established by
20 the Department.

21 “(2) GOVERNMENT ACCOUNTABILITY OFFICE.—

22 “(A) ACCESS TO INFORMATION.—Each re-
23 cipient of a grant under this title and the De-
24 partment shall provide the Government Ac-
25 countability Office with full access to informa-

1 tion regarding the activities carried out under
2 this title.

3 “(B) AUDITS AND REPORTS.—

4 “(i) AUDIT.—Not later than 12
5 months after the date of enactment of the
6 Improving America’s Security Act of 2007,
7 and periodically thereafter, the Comptroller
8 General of the United States shall conduct
9 an audit of grants made under this title.

10 “(ii) REPORT.—The Comptroller Gen-
11 eral of the United States shall submit a re-
12 port to the Committee on Homeland Secu-
13 rity and Governmental Affairs of the Sen-
14 ate and the Committee on Homeland Secu-
15 rity of the House of Representatives on—

16 “(I) the results of any audit con-
17 ducted under clause (i), including an
18 analysis of the purposes for which the
19 grant funds authorized under this title
20 are being spent; and

21 “(II) whether the grant recipi-
22 ents have allocated funding consistent
23 with the State homeland security plan
24 and the guidelines established by the
25 Department.

1 “(3) AUDIT REQUIREMENT.—Grant recipients
2 that expend \$500,000 or more in grant funds re-
3 ceived under this title during any fiscal year shall
4 submit to the Administrator an organization-wide fi-
5 nancial and compliance audit report in conformance
6 with the requirements of chapter 75 of title 31,
7 United States Code.

8 “(4) RECOVERY AUDITS.—The Secretary shall
9 conduct a recovery audit (as that term is defined by
10 the Director of the Office of Management and Budg-
11 et under section 3561 of title 31, United States
12 Code) for any grant administered by the Depart-
13 ment with a total value of \$1,000,000 or greater.

14 “(c) REMEDIES FOR NONCOMPLIANCE.—

15 “(1) IN GENERAL.—If the Administrator finds,
16 after reasonable notice and an opportunity for a
17 hearing, that a recipient of a grant under this title
18 has failed to substantially comply with any provision
19 of this title, or with any regulations or guidelines of
20 the Department regarding eligible expenditures, the
21 Administrator shall—

22 “(A) terminate any payment of grant
23 funds to be made to the recipient under this
24 title;

1 “(B) reduce the amount of payment of
2 grant funds to the recipient by an amount equal
3 to the amount of grants funds that were not ex-
4 pended by the recipient in accordance with this
5 title; or

6 “(C) limit the use of grant funds received
7 under this title to programs, projects, or activi-
8 ties not affected by the failure to comply.

9 “(2) DURATION OF PENALTY.—The Adminis-
10 trator shall apply an appropriate penalty under
11 paragraph (1) until such time as the Secretary de-
12 termines that the grant recipient is in full compli-
13 ance with this title or with applicable guidelines or
14 regulations of the Department.

15 “(3) DIRECT FUNDING.—If a State fails to sub-
16 stantially comply with any provision of this title or
17 with applicable guidelines or regulations of the De-
18 partment, including failing to provide local or tribal
19 governments with grant funds or resources pur-
20 chased with grant funds in a timely fashion, a local
21 or tribal government entitled to receive such grant
22 funds or resources may petition the Administrator,
23 at such time and in such manner as determined by
24 the Administrator, to request that grant funds or re-

1 sources be provided directly to the local or tribal
2 government.

3 **“SEC. 2009. AUDITING.**

4 “(a) AUDITS OF GRANTS.—

5 “(1) IN GENERAL.—Not later than the date de-
6 scribed in paragraph (2), and every 2 years there-
7 after, the Inspector General of the Department shall
8 conduct an audit of each entity that receives a grant
9 under the Urban Area Security Initiative, the State
10 Homeland Security Grant Program, or the Emer-
11 gency Management Performance Grant Program to
12 evaluate the use of funds under such grant program
13 by such entity.

14 “(2) TIMING.—The date described in this para-
15 graph is the later of 2 years after—

16 “(A) the date of enactment of the Improv-
17 ing America’s Security Act of 2007; and

18 “(B) the date that an entity first receives
19 a grant under the Urban Area Security Initia-
20 tive, the State Homeland Security Grant Pro-
21 gram, or the Emergency Management Perform-
22 ance Grant Program, as the case may be.

23 “(3) CONTENTS.—Each audit under this sub-
24 section shall evaluate—

1 “(A) the use of funds under the relevant
2 grant program by an entity during the 2 full
3 fiscal years before the date of that audit;

4 “(B) whether funds under that grant pro-
5 gram were used by that entity as required by
6 law; and

7 “(C)(i) for each grant under the Urban
8 Area Security Initiative or the State Homeland
9 Security Grant Program, the extent to which
10 funds under that grant were used to prepare
11 for, protect against, respond to, or recover from
12 acts of terrorism; and

13 “(ii) for each grant under the Emergency
14 Management Performance Grant Program, the
15 extent to which funds under that grant were
16 used to prevent, prepare for, protect against,
17 respond to, recover from, or mitigate against all
18 hazards, including natural disasters, acts of ter-
19 rorism, and other man-made disasters.

20 “(4) PUBLIC AVAILABILITY ON WEBSITE.—The
21 Inspector General of the Department shall make
22 each audit under this subsection available on the
23 website of the Inspector General.

24 “(5) REPORTING.—

1 “(A) IN GENERAL.—Not later than 2 years
2 and 60 days after the date of enactment of the
3 Improving America’s Security Act of 2007, and
4 annually thereafter, the Inspector General of
5 the Department shall submit to Congress a con-
6 solidated report regarding the audits conducted
7 under this subsection.

8 “(B) CONTENTS.—Each report submitted
9 under this paragraph shall describe—

10 “(i)(I) for the first such report, the
11 audits conducted under this subsection
12 during the 2-year period beginning on the
13 date of enactment of the Improving Amer-
14 ica’s Security Act of 2007; and

15 “(II) for each subsequent such report,
16 the audits conducted under this subsection
17 during the fiscal year before the date of
18 the submission of that report;

19 “(ii) whether funds under each grant
20 audited during the period described in
21 clause (i) that is applicable to such report
22 were used as required by law; and

23 “(iii)(I) for grants under the Urban
24 Area Security Initiative or the State
25 Homeland Security Grant Program au-

1 dited, the extent to which, during the pe-
2 riod described in clause (i) that is applica-
3 ble to such report, funds under such
4 grants were used to prepare for, protect
5 against, respond to, or recover from acts of
6 terrorism; and

7 “(II) for grants under the Emergency
8 Management Performance Grant Program
9 audited, the extent to which funds under
10 such grants were used during the period
11 described in clause (i) applicable to such
12 report to prevent, prepare for, protect
13 against, respond to, recover from, or miti-
14 gate against all hazards, including natural
15 disasters, acts of terrorism, and other
16 man-made disasters.

17 “(b) AUDIT OF OTHER PREPAREDNESS GRANTS.—

18 “(1) IN GENERAL.—Not later than the date de-
19 scribed in paragraph (2), the Inspector General of
20 the Department shall conduct an audit of each enti-
21 ty that receives a grant under the Urban Area Secu-
22 rity Initiative, the State Homeland Security Grant
23 Program, or the Emergency Management Perform-
24 ance Grant Program to evaluate the use by that en-
25 tity of any grant for preparedness administered by

1 the Department that was awarded before the date of
2 enactment of the Improving America’s Security Act
3 of 2007.

4 “(2) TIMING.—The date described in this para-
5 graph is the later of 2 years after—

6 “(A) the date of enactment of the Improv-
7 ing America’s Security Act of 2007; and

8 “(B) the date that an entity first receives
9 a grant under the Urban Area Security Initia-
10 tive, the State Homeland Security Grant Pro-
11 gram, or the Emergency Management Perform-
12 ance Grant Program, as the case may be.

13 “(3) CONTENTS.—Each audit under this sub-
14 section shall evaluate—

15 “(A) the use of funds by an entity under
16 any grant for preparedness administered by the
17 Department that was awarded before the date
18 of enactment of the Improving America’s Secu-
19 rity Act of 2007;

20 “(B) whether funds under each such grant
21 program were used by that entity as required
22 by law; and

23 “(C) the extent to which such funds were
24 used to enhance preparedness.

1 “(4) PUBLIC AVAILABILITY ON WEBSITE.—The
2 Inspector General of the Department shall make
3 each audit under this subsection available on the
4 website of the Inspector General.

5 “(5) REPORTING.—

6 “(A) IN GENERAL.—Not later than 2 years
7 and 60 days after the date of enactment of the
8 Improving America’s Security Act of 2007, and
9 annually thereafter, the Inspector General of
10 the Department shall submit to Congress a con-
11 solidated report regarding the audits conducted
12 under this subsection.

13 “(B) CONTENTS.—Each report submitted
14 under this paragraph shall describe—

15 “(i)(I) for the first such report, the
16 audits conducted under this subsection
17 during the 2-year period beginning on the
18 date of enactment of the Improving Amer-
19 ica’s Security Act of 2007; and

20 “(II) for each subsequent such report,
21 the audits conducted under this subsection
22 during the fiscal year before the date of
23 the submission of that report;

24 “(ii) whether funds under each grant
25 audited were used as required by law; and

1 “(iii) the extent to which funds under
2 each grant audited were used to enhance
3 preparedness.

4 “(c) FUNDING FOR AUDITS.—

5 “(1) IN GENERAL.—The Administrator shall
6 withhold 1 percent of the total amount of each grant
7 under the Urban Area Security Initiative, the State
8 Homeland Security Grant Program, and the Emer-
9 gency Management Performance Grant Program for
10 audits under this section.

11 “(2) AVAILABILITY OF FUNDS.—The Adminis-
12 trator shall make amounts withheld under this sub-
13 section available as follows:

14 “(A) Amounts withheld from grants under
15 the Urban Area Security Initiative shall be
16 made available for audits under this section of
17 entities receiving grants under the Urban Area
18 Security Initiative.

19 “(B) Amounts withheld from grants under
20 the State Homeland Security Grant Program
21 shall be made available for audits under this
22 section of entities receiving grants under the
23 State Homeland Security Grant Program.

24 “(C) Amounts withheld from grants under
25 the Emergency Management Performance

1 Grant Program shall be made available for au-
2 dits under this section of entities receiving
3 grants under the Emergency Management Per-
4 formance Grant Program.

5 “(d) DEFINITION.—In this section, the term ‘Emer-
6 gency Management Performance Grants Program’ means
7 the Emergency Management Performance Grants Pro-
8 gram under section 662 of the Post-Katrina Emergency
9 Management Reform Act of 2006 (6 U.S.C. 763; Public
10 Law 109–295).

11 **“SEC. 2010. SENSE OF THE SENATE.**

12 “It is the sense of the Senate that, in order to ensure
13 that the Nation is most effectively able to prevent, prepare
14 for, protect against, respond to, recovery from, and miti-
15 gate against all hazards, including natural disasters, acts
16 of terrorism, and other man-made disasters—

17 “(1) the Department should administer a coher-
18 ent and coordinated system of both terrorism-fo-
19 cused and all-hazards grants, the essential building
20 blocks of which include—

21 “(A) the Urban Area Security Initiative
22 and State Homeland Security Grant Program
23 established under this title (including funds
24 dedicated to law enforcement terrorism preven-
25 tion activities);

1 “(B) the Emergency Communications
2 Operability and Interoperable Communications
3 Grants established under section 1809; and

4 “(C) the Emergency Management Per-
5 formance Grants Program authorized under
6 section 662 of the Post-Katrina Emergency
7 Management Reform Act of 2006 (6 U.S.C.
8 763); and

9 “(2) to ensure a continuing and appropriate
10 balance between terrorism-focused and all-hazards
11 preparedness, the amounts appropriated for grants
12 under the Urban Area Security Initiative, State
13 Homeland Security Grant Program, and Emergency
14 Management Performance Grants Program in any
15 fiscal year should be in direct proportion to the
16 amounts authorized for those programs for fiscal
17 year 2008 under the amendments made by titles II
18 and IV, as applicable, of the Improving America’s
19 Security Act of 2007.”.

20 **SEC. 203. EQUIPMENT TECHNICAL ASSISTANCE TRAINING.**

21 (a) SENSE OF THE SENATE.—It is the sense of the
22 Senate that the Department of Homeland Security shall
23 conduct no fewer than 7,500 trainings annually through
24 the Domestic Preparedness Equipment Technical Assist-
25 ance Program.

1 (b) REPORT.—The Secretary of Homeland Security
2 shall report no later than September 30 annually to the
3 Senate Homeland Security and Governmental Affairs
4 Committee, the House Homeland Security Committee,
5 Senate Appropriations Subcommittee on Homeland Secu-
6 rity, and the House Appropriations Subcommittee on
7 Homeland Security—

8 (a) on the number of trainings conducted that year
9 through the Domestic Preparedness Equipment Technical
10 Assistance Program; and

11 (b) if the number of trainings conducted that year
12 is less than 7,500, an explanation of why fewer trainings
13 were needed.

14 **SEC. 204. TECHNICAL AND CONFORMING AMENDMENTS.**

15 (a) IN GENERAL.—The Homeland Security Act of
16 2002 (6 U.S.C. 101 et seq.) is amended—

17 (1) by redesignating title XVIII, as added by
18 the SAFE Port Act (Public Law 109–347; 120 Stat.
19 1884), as title XIX;

20 (2) by redesignating sections 1801 through
21 1806, as added by the SAFE Port Act (Public Law
22 109–347; 120 Stat. 1884), as sections 1901 through
23 1906, respectively;

1 (3) in section 1904(a), as so redesignated, by
 2 striking “section 1802” and inserting “section
 3 1902”; and

4 (4) in section 1906, as so redesignated, by
 5 striking “section 1802(a)” each place that term ap-
 6 pears and inserting “section 1902(a)”.

7 (b) TABLE OF CONTENTS.—The table of contents in
 8 section 1(b) of the Homeland Security Act of 2002 (6
 9 U.S.C. 101 note) is amended by striking the items relating
 10 to title XVIII and sections 1801 through 1806, as added
 11 by the SAFE Port Act (Public Law 109–347; 120 Stat.
 12 1884), and inserting the following:

“TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE

“Sec. 1901. Domestic Nuclear Detection Office.

“Sec. 1902. Mission of Office.

“Sec. 1903. Hiring authority.

“Sec. 1904. Testing authority.

“Sec. 1905. Relationship to other Department entities and Federal agencies.

“Sec. 1906. Contracting and grant making authorities.

“TITLE XX—HOMELAND SECURITY GRANTS

“Sec. 2001. Definitions.

“Sec. 2002. Homeland Security Grant Program.

“Sec. 2003. Urban Area Security Initiative.

“Sec. 2004. State Homeland Security Grant Program.

“Sec. 2005. Terrorism prevention.

“Sec. 2006. Restrictions on use of funds.

“Sec. 2007. Administration and coordination.

“Sec. 2008. Accountability.

“Sec. 2009. Auditing.

“Sec. 2010. Sense of the Senate.”.

1 **TITLE III—COMMUNICATIONS**
 2 **OPERABILITY AND INTER-**
 3 **OPERABILITY**

4 **SEC. 301. DEDICATED FUNDING TO ACHIEVE EMERGENCY**
 5 **COMMUNICATIONS OPERABILITY AND INTER-**
 6 **OPERABLE COMMUNICATIONS.**

7 (a) EMERGENCY COMMUNICATIONS OPERABILITY
 8 AND INTEROPERABLE COMMUNICATIONS.—

9 (1) IN GENERAL.—Title XVIII of the Home-
 10 land Security Act of 2002 (6 U.S.C. 571 et seq.)
 11 (relating to emergency communications) is amended
 12 by adding at the end the following:

13 **“SEC. 1809. EMERGENCY COMMUNICATIONS OPERABILITY**
 14 **AND INTEROPERABLE COMMUNICATIONS**
 15 **GRANTS.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) ADMINISTRATOR.—The term ‘Adminis-
 18 trator’ means the Administrator of the Federal
 19 Emergency Management Agency.

20 “(2) EMERGENCY COMMUNICATIONS OPER-
 21 ABILITY.—The term ‘emergency communications
 22 operability’ means the ability to provide and main-
 23 tain, throughout an emergency response operation, a
 24 continuous flow of information among emergency re-
 25 sponse providers, agencies, and government officers

1 from multiple disciplines and jurisdictions and at all
2 levels of government, in the event of a natural dis-
3 aster, act of terrorism, or other man-made disaster,
4 including where there has been significant damage
5 to, or destruction of, critical infrastructure, includ-
6 ing substantial loss of ordinary telecommunications
7 infrastructure and sustained loss of electricity.

8 “(b) IN GENERAL.—The Administrator shall make
9 grants to States for initiatives necessary to achieve, main-
10 tain, or enhance Statewide, regional, national and, as ap-
11 propriate, international emergency communications oper-
12 ability and interoperable communications.

13 “(c) STATEWIDE INTEROPERABLE COMMUNICATIONS
14 PLANS.—

15 “(1) SUBMISSION OF PLANS.—The Adminis-
16 trator shall require any State applying for a grant
17 under this section to submit a Statewide Interoper-
18 able Communications Plan as described under sec-
19 tion 7303(f) of the Intelligence Reform and Ter-
20 rorism Prevention Act of 2004 (6 U.S.C. 194(f)).

21 “(2) COORDINATION AND CONSULTATION.—The
22 Statewide plan submitted under paragraph (1) shall
23 be developed—

1 “(A) in coordination with local and tribal
2 governments, emergency response providers,
3 and other relevant State officers; and

4 “(B) in consultation with and subject to
5 appropriate comment by the applicable Regional
6 Emergency Communications Coordination
7 Working Group as described under section
8 1805.

9 “(3) APPROVAL.—The Administrator may not
10 award a grant to a State unless the Administrator,
11 in consultation with the Director for Emergency
12 Communications, has approved the applicable State-
13 wide plan.

14 “(4) REVISIONS.—A State may revise the appli-
15 cable Statewide plan approved by the Administrator
16 under this subsection, subject to approval of the re-
17 vision by the Administrator.

18 “(d) CONSISTENCY.—The Administrator shall ensure
19 that each grant is used to supplement and support, in a
20 consistent and coordinated manner, any applicable State,
21 regional, or urban area homeland security plan.

22 “(e) USE OF GRANT FUNDS.—Grants awarded under
23 subsection (b) may be used for initiatives to achieve, main-
24 tain, or enhance emergency communications operability
25 and interoperable communications, including—

- 1 “(1) Statewide or regional communications
2 planning, including governance related activities;
3 “(2) system design and engineering;
4 “(3) system procurement and installation;
5 “(4) exercises;
6 “(5) modeling and simulation exercises for
7 operational command and control functions;
8 “(6) technical assistance;
9 “(7) training; and
10 “(8) other appropriate activities determined by
11 the Administrator to be integral to achieve, main-
12 tain, or enhance emergency communications oper-
13 ability and interoperable communications.

14 “(f) APPLICATION.—

15 “(1) IN GENERAL.—A State desiring a grant
16 under this section shall submit an application at
17 such time, in such manner, and accompanied by
18 such information as the Administrator may reason-
19 ably require.

20 “(2) MINIMUM CONTENTS.—At a minimum,
21 each application submitted under paragraph (1)
22 shall—

23 “(A) identify the critical aspects of the
24 communications life cycle, including planning,
25 system design and engineering, procurement

1 and installation, and training for which funding
2 is requested;

3 “(B) describe how—

4 “(i) the proposed use of funds—

5 “(I) would be consistent with and
6 address the goals in any applicable
7 State, regional, or urban homeland se-
8 curity plan; and

9 “(II) unless the Administrator
10 determines otherwise, are—

11 “(aa) consistent with the
12 National Emergency Communica-
13 tions Plan under section 1802;
14 and

15 “(bb) compatible with the
16 national infrastructure and na-
17 tional voluntary consensus stand-
18 ards;

19 “(ii) the applicant intends to spend
20 funds under the grant, to administer such
21 funds, and to allocate such funds among
22 participating local and tribal governments
23 and emergency response providers;

24 “(iii) the State plans to allocate the
25 grant funds on the basis of risk and effec-

1 tiveness to regions, local and tribal govern-
2 ments to promote meaningful investments
3 for achieving, maintaining, or enhancing
4 emergency communications operability and
5 interoperable communications;

6 “(iv) the State intends to address the
7 emergency communications operability and
8 interoperable communications needs at the
9 city, county, regional, State, and interstate
10 level; and

11 “(v) the State plans to emphasize re-
12 gional planning and cooperation, both
13 within the jurisdictional borders of that
14 State and with neighboring States;

15 “(C) be consistent with the Statewide
16 Interoperable Communications Plan required
17 under section 7303(f) of the Intelligence Re-
18 form and Terrorism Prevention Act of 2004 (6
19 U.S.C. 194(f)); and

20 “(D) include a capital budget and timeline
21 showing how the State intends to allocate and
22 expend the grant funds.

23 “(g) AWARD OF GRANTS.—

1 “(1) CONSIDERATIONS.—In approving applica-
2 tions and awarding grants under this section, the
3 Administrator shall consider—

4 “(A) the nature of the threat to the State
5 from a natural disaster, act of terrorism, or
6 other man-made disaster;

7 “(B) the location, risk, or vulnerability of
8 critical infrastructure and key national assets,
9 including the consequences from damage to
10 critical infrastructure in nearby jurisdictions as
11 a result of natural disasters, acts of terrorism,
12 or other man-made disasters;

13 “(C) the size of the population of the
14 State, including appropriate consideration of
15 military, tourist, and commuter populations;

16 “(D) the population density of the State;

17 “(E) the extent to which grants will be uti-
18 lized to implement emergency communications
19 operability and interoperable communications
20 solutions—

21 “(i) consistent with the National
22 Emergency Communications Plan under
23 section 1802 and compatible with the na-
24 tional infrastructure and national vol-
25 untary consensus standards; and

1 “(ii) more efficient and cost effective
2 than current approaches;

3 “(F) the extent to which a grant would ex-
4 pedite the achievement, maintenance, or en-
5 hancement of emergency communications oper-
6 ability and interoperable communications in the
7 State with Federal, State, local, and tribal gov-
8 ernments;

9 “(G) the extent to which a State, given its
10 financial capability, demonstrates its commit-
11 ment to achieve, maintain, or enhance emer-
12 gency communications operability and inter-
13 operable communications by supplementing
14 Federal funds with non-Federal funds;

15 “(H) whether the State is on or near an
16 international border;

17 “(I) whether the State encompasses an
18 economically significant border crossing;

19 “(J) whether the State has a coastline bor-
20 dering an ocean, a major waterway used for
21 interstate commerce, or international waters;

22 “(K) the extent to which geographic bar-
23 riers pose unusual obstacles to achieving, main-
24 taining, or enhancing emergency communica-

1 tions operability or interoperable communica-
2 tions;

3 “(L) the threats, vulnerabilities, and con-
4 sequences faced by the State related to at-risk
5 sites or activities in nearby jurisdictions, includ-
6 ing the need to respond to natural disasters,
7 acts of terrorism, and other man-made disasters
8 arising in those jurisdictions;

9 “(M) the need to achieve, maintain, or en-
10 hance nationwide emergency communications
11 operability and interoperable communications,
12 consistent with the National Emergency Com-
13 munications Plan under section 1802;

14 “(N) whether the activity for which a
15 grant is requested is being funded under an-
16 other Federal or State emergency communica-
17 tions grant program; and

18 “(O) such other factors as are specified by
19 the Administrator in writing.

20 “(2) REVIEW PANEL.—

21 “(A) IN GENERAL.—The Secretary shall
22 establish a review panel under section 871(a) to
23 assist in reviewing grant applications under this
24 section.

1 “(B) RECOMMENDATIONS.—The review
2 panel established under subparagraph (A) shall
3 make recommendations to the Administrator re-
4 garding applications for grants under this sec-
5 tion.

6 “(C) MEMBERSHIP.—The review panel es-
7 tablished under subparagraph (A) shall
8 include—

9 “(i) individuals with technical exper-
10 tise in emergency communications oper-
11 ability and interoperable communications;

12 “(ii) emergency response providers;
13 and

14 “(iii) other relevant State and local
15 officers.

16 “(3) MINIMUM GRANT AMOUNTS.—The Admin-
17 istrator shall ensure that for each fiscal year—

18 “(A) no State receives less than an amount
19 equal to 0.75 percent of the total funds appro-
20 priated for grants under this section; and

21 “(B) American Samoa, the Commonwealth
22 of the Northern Mariana Islands, Guam, and
23 the Virgin Islands each receive no less than
24 0.25 percent of the amounts appropriated for
25 grants under this section.

1 “(4) AVAILABILITY OF FUNDS.—Any grant
2 funds awarded that may be used to support emer-
3 gency communications operability or interoperable
4 communications shall, as the Administrator may de-
5 termine, remain available for up to 3 years, con-
6 sistent with section 7303(e) of the Intelligence Re-
7 form and Terrorism Prevention Act of 2004 (6
8 U.S.C. 194(e)).

9 “(h) STATE RESPONSIBILITIES.—

10 “(1) PASS-THROUGH OF FUNDS TO LOCAL AND
11 TRIBAL GOVERNMENTS.—The Administrator shall
12 determine a date by which a State that receives a
13 grant shall obligate or otherwise make available to
14 local and tribal governments and emergency re-
15 sponse providers—

16 “(A) not less than 80 percent of the funds
17 of the amount of the grant;

18 “(B) resources purchased with the grant
19 funds having a value equal to not less than 80
20 percent of the total amount of the grant; or

21 “(C) grant funds combined with resources
22 purchased with the grant funds having a value
23 equal to not less than 80 percent of the total
24 amount of the grant.

1 “(2) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL AND TRIBAL GOVERNMENTS.—Any State that receives a grant shall
2 certify to the Administrator, by not later than 30
3 days after the date described under paragraph (1)
4 with respect to the grant, that the State has made
5 available for expenditure by local or tribal govern-
6 ments and emergency response providers the re-
7 quired amount of grant funds under paragraph (1).
8

9 “(3) REPORT ON GRANT SPENDING.—

10 “(A) IN GENERAL.—Any State that re-
11 ceives a grant shall submit a spending report to
12 the Administrator at such time, in such man-
13 ner, and accompanied by such information as
14 the Administrator may reasonably require.
15

16 “(B) MINIMUM CONTENTS.—At a min-
17 imum, each report under this paragraph shall
18 include—

19 “(i) the amount, ultimate recipients,
20 and dates of receipt of all funds received
21 under the grant;

22 “(ii) the amount and the dates of dis-
23 bursements of all such funds expended in
24 compliance with paragraph (1) or under
25 mutual aid agreements or other intrastate

1 and interstate sharing arrangements, as
2 applicable;

3 “(iii) how the funds were used by each
4 ultimate recipient or beneficiary;

5 “(iv) the extent to which emergency
6 communications operability and interoper-
7 able communications identified in the ap-
8 plicable Statewide plan and application
9 have been achieved, maintained, or en-
10 hanced as the result of the expenditure of
11 grant funds; and

12 “(v) the extent to which emergency
13 communications operability and interoper-
14 able communications identified in the ap-
15 plicable Statewide plan and application re-
16 main unmet.

17 “(C) PUBLIC AVAILABILITY ON
18 WEBSITE.—The Administrator shall make each
19 report submitted under subparagraph (A) pub-
20 licly available on the website of the Federal
21 Emergency Management Agency. The Adminis-
22 trator may redact such information from the re-
23 ports as the Administrator determines nec-
24 essary to protect national security.

1 “(4) PENALTIES FOR REPORTING DELAY.—If a
2 State fails to provide the information required by
3 the Administrator under paragraph (3), the Admin-
4 istrator may—

5 “(A) reduce grant payments to the State
6 from the portion of grant funds that are not re-
7 quired to be passed through under paragraph
8 (1);

9 “(B) terminate payment of funds under
10 the grant to the State, and transfer the appro-
11 priate portion of those funds directly to local
12 and tribal governments and emergency response
13 providers that were intended to receive funding
14 under that grant; or

15 “(C) impose additional restrictions or bur-
16 dens on the use of funds by the State under the
17 grant, which may include—

18 “(i) prohibiting use of such funds to
19 pay the grant-related expenses of the
20 State; or

21 “(ii) requiring the State to distribute
22 to local and tribal government and emer-
23 gency response providers all or a portion of
24 grant funds that are not required to be
25 passed through under paragraph (1).

1 “(i) PROHIBITED USES.—Grants awarded under this
2 section may not be used for recreational or social pur-
3 poses.

4 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated for grants under this
6 section—

7 “(1) \$400,000,000 for fiscal year 2008;

8 “(2) \$500,000,000 for fiscal year 2009;

9 “(3) \$600,000,000 for fiscal year 2010;

10 “(4) \$800,000,000 for fiscal year 2011;

11 “(5) \$1,000,000,000 for fiscal year 2012; and

12 “(6) such sums as necessary for each fiscal year
13 thereafter.

14 “(k) RULE OF CONSTRUCTION.—Nothing in this sec-
15 tion shall be construed or interpreted to preclude the use
16 of funds under this section by a State for interim or long-
17 term Internet Protocol-based interoperable solutions, not-
18 withstanding compliance with the Project 25 standard.”.

19 (2) TECHNICAL AND CONFORMING AMEND-
20 MENT.—The table of contents under section 1(b) of
21 the Homeland Security Act of 2002 (6 U.S.C. 101)
22 is amended by inserting after the item relating to
23 section 1808 the following:

“Sec. 1809. Emergency communications operability and interoperable commu-
nications grants.”

1 (b) INTEROPERABLE COMMUNICATIONS PLANS.—
2 Section 7303 of the Intelligence Reform and Terrorist
3 Prevention Act of 2004 (6 U.S.C. 194) is amended—

4 (1) in subsection (f)—

5 (A) in paragraph (4), by striking “and” at
6 the end;

7 (B) in paragraph (5), by striking the pe-
8 riod at the end and inserting a semicolon; and

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

10 “(6) include information on the governance
11 structure used to develop the plan, such as all agen-
12 cies and organizations that participated in devel-
13 oping the plan and the scope and timeframe of the
14 plan; and

15 “(7) describe the method by which multi-juris-
16 dictional, multi-disciplinary input was provided from
17 all regions of the jurisdiction and the process for
18 continuing to incorporate such input.”; and

19 (2) in subsection (g)(1), by striking “or video”
20 and inserting “and video”.

21 (c) NATIONAL EMERGENCY COMMUNICATIONS
22 PLAN.—Section 1802(c) of the Homeland Security Act of
23 2002 (6 U.S.C. 652(c)) is amended—

24 (1) in paragraph (8), by striking “and” at the
25 end;

1 (2) in paragraph (9), by striking the period at
2 the end and inserting a semicolon; and

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

4 “(10) set a date, including interim benchmarks,
5 as appropriate, by which State, local, and tribal gov-
6 ernments, Federal departments and agencies, emer-
7 gency response providers, and the private sector will
8 achieve interoperable communications as that term
9 is defined under section 7303(g)(1) of the Intel-
10 ligence Reform and Terrorism Prevention Act of
11 2004 (6 U.S.C. 194(g)(1)).”

12 **SEC. 302. BORDER INTEROPERABILITY DEMONSTRATION**
13 **PROJECT.**

14 (a) IN GENERAL.—

15 (1) ESTABLISHMENT.—There is established in
16 the Department an International Border Community
17 Interoperable Communications Demonstration
18 Project (referred to in this section as “demonstra-
19 tion project”).

20 (2) MINIMUM NUMBER OF COMMUNITIES.—The
21 Secretary shall select no fewer than 6 communities
22 to participate in a demonstration project.

23 (3) LOCATION OF COMMUNITIES.—No fewer
24 than 3 of the communities selected under paragraph
25 (2) shall be located on the northern border of the

1 United States and no fewer than 3 of the commu-
2 nities selected under paragraph (2) shall be located
3 on the southern border of the United States.

4 (b) PROGRAM REQUIREMENTS.—The demonstration
5 projects shall—

6 (1) address the interoperable communications
7 needs of emergency response providers and the Na-
8 tional Guard;

9 (2) foster interoperable emergency communica-
10 tions systems—

11 (A) among Federal, State, local, and tribal
12 government agencies in the United States in-
13 volved in preventing or responding to a natural
14 disaster, act of terrorism, or other man-made
15 disaster; and

16 (B) with similar agencies in Canada or
17 Mexico;

18 (3) identify common international cross-border
19 frequencies for communications equipment, including
20 radio or computer messaging equipment;

21 (4) foster the standardization of interoperable
22 emergency communications equipment;

23 (5) identify solutions that will facilitate inter-
24 operable communications across national borders ex-
25 peditiously;

1 (6) ensure that emergency response providers
2 can communicate with each other and the public at
3 disaster sites;

4 (7) provide training and equipment to enable
5 emergency response providers to deal with threats
6 and contingencies in a variety of environments;

7 (8) identify and secure appropriate joint-use
8 equipment to ensure communications access; and

9 (9) identify solutions to facilitate communica-
10 tions between emergency response providers in com-
11 munities of differing population densities.

12 (c) DISTRIBUTION OF FUNDS.—

13 (1) IN GENERAL.—The Secretary shall dis-
14 tribute funds under this section to each community
15 participating in a demonstration project through the
16 State, or States, in which each community is lo-
17 cated.

18 (2) OTHER PARTICIPANTS.—Not later than 60
19 days after receiving funds under paragraph (1), a
20 State shall make the funds available to the local and
21 tribal governments and emergency response pro-
22 viders selected by the Secretary to participate in a
23 demonstration project.

24 (d) REPORTING.—

1 (1) IN GENERAL.—Not later than December 31,
2 2007, and each year thereafter in which funds are
3 appropriated for a demonstration project, the Sec-
4 retary shall submit to the Committee on Homeland
5 Security and Governmental Affairs of the Senate
6 and the Committee on Homeland Security of the
7 House of Representatives a report on the demonstra-
8 tion projects.

9 (2) CONTENTS.—Each report under this sub-
10 section shall contain the following:

11 (A) The name and location of all commu-
12 nities involved in the demonstration project.

13 (B) The amount of funding provided to
14 each State for the demonstration project.

15 (C) An evaluation of the usefulness of the
16 demonstration project towards developing an ef-
17 fective interoperable communications system at
18 the borders.

19 (D) The factors that were used in deter-
20 mining how to distribute the funds in a risk-
21 based manner.

22 (E) The specific risks inherent to a border
23 community that make interoperable communica-
24 tions more difficult than in non-border commu-
25 nities.

1 (F) The optimal ways to prioritize funding
2 for interoperable communication systems based
3 upon risk.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated such sums as are nec-
6 essary in each of fiscal years 2007, 2008, and 2009 to
7 carry out this section.

8 **TITLE IV—EMERGENCY MAN-**
9 **AGEMENT PERFORMANCE**
10 **GRANTS PROGRAM**

11 **SEC. 401. EMERGENCY MANAGEMENT PERFORMANCE**
12 **GRANTS PROGRAM.**

13 Section 622 of the Post-Katrina Emergency Manage-
14 ment Reform Act of 2006 (6 U.S.C. 763) is amended to
15 read as follows:

16 **“SEC. 622. EMERGENCY MANAGEMENT PERFORMANCE**
17 **GRANTS PROGRAM.**

18 “(a) DEFINITIONS.—In this section:

19 “(1) POPULATION.—The term ‘population’
20 means population according to the most recent
21 United States census population estimates available
22 at the start of the relevant fiscal year.

23 “(2) STATE.—The term ‘State’ has the mean-
24 ing given that term in section 101 of the Homeland
25 Security Act of 2002 (6 U.S.C. 101).

1 “(b) IN GENERAL.—There is an Emergency Manage-
2 ment Performance Grants Program to make grants to
3 States to assist State, local, and tribal governments in pre-
4 paring for, responding to, recovering from, and mitigating
5 against all hazards.

6 “(c) APPLICATION.—

7 “(1) IN GENERAL.—Each State may apply for
8 a grant under this section, and shall submit such in-
9 formation in support of an application as the Ad-
10 ministrator may reasonably require.

11 “(2) ANNUAL APPLICATIONS.—Applicants for
12 grants under this section shall apply or reapply on
13 an annual basis for grants distributed under the
14 program.

15 “(d) ALLOCATION.—Funds available under the
16 Emergency Management Performance Grants Program
17 shall be allocated as follows:

18 “(1) BASELINE AMOUNT.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), each State shall receive an
21 amount equal to 0.75 percent of the total funds
22 appropriated for grants under this section.

23 “(B) TERRITORIES.—American Samoa,
24 the Commonwealth of the Northern Mariana Is-
25 lands, Guam, and the Virgin Islands each shall

1 receive an amount equal to 0.25 percent of the
2 amounts appropriated for grants under this sec-
3 tion.

4 “(2) PER CAPITA ALLOCATION.—The funds re-
5 maining for grants under this section after allocation
6 of the baseline amounts under paragraph (1) shall
7 be allocated to each State in proportion to its popu-
8 lation.

9 “(3) CONSISTENCY IN ALLOCATION.—Notwith-
10 standing paragraphs (1) and (2), in any fiscal year
11 in which the appropriation for grants under this sec-
12 tion is equal to or greater than the appropriation for
13 Emergency Management Performance Grants in fis-
14 cal year 2007, no State shall receive an amount
15 under this section for that fiscal year less than the
16 amount that State received in fiscal year 2007.

17 “(e) ALLOWABLE USES.—Grants awarded under this
18 section may be used to prepare for, respond to, recover
19 from, and mitigate against all hazards through—

20 “(1) any activity authorized under title VI or
21 section 201 of the Robert T. Stafford Disaster Relief
22 and Emergency Assistance Act (42 U.S.C. 5195 et
23 seq. and 5131);

1 “(2) any activity permitted under the Fiscal
2 Year 2007 Program Guidance of the Department for
3 Emergency Management Performance Grants; and

4 “(3) any other activity approved by the Admin-
5 istrator that will improve the emergency manage-
6 ment capacity of State, local, or tribal governments
7 to coordinate, integrate, and enhance preparedness
8 for, response to, recovery from, or mitigation against
9 all-hazards.

10 “(f) COST SHARING.—

11 “(1) IN GENERAL.—Except as provided in sub-
12 section (i), the Federal share of the costs of an ac-
13 tivity carried out with a grant under this section
14 shall not exceed 50 percent.

15 “(2) IN-KIND MATCHING.—Each recipient of a
16 grant under this section may meet the matching re-
17 quirement under paragraph (1) by making in-kind
18 contributions of goods or services that are directly
19 linked with the purpose for which the grant is made.

20 “(g) DISTRIBUTION OF FUNDS.—The Administrator
21 shall not delay distribution of grant funds to States under
22 this section solely because of delays in or timing of awards
23 of other grants administered by the Department.

24 “(h) LOCAL AND TRIBAL GOVERNMENTS.—

1 “(1) IN GENERAL.—In allocating grant funds
2 received under this section, a State shall take into
3 account the needs of local and tribal governments.

4 “(2) INDIAN TRIBES.—States shall be respon-
5 sible for allocating grant funds received under this
6 section to tribal governments in order to help those
7 tribal communities improve their capabilities in pre-
8 paring for, responding to, recovering from, or miti-
9 gating against all hazards. Tribal governments shall
10 be eligible for funding directly from the States, and
11 shall not be required to seek funding from any local
12 government.

13 “(i) EMERGENCY OPERATIONS CENTERS IMPROVE-
14 MENT PROGRAM.—

15 “(1) IN GENERAL.—The Administrator may
16 award grants to States under this section to plan
17 for, equip, upgrade, or construct all-hazards State,
18 local, or regional emergency operations centers.

19 “(2) REQUIREMENTS.—No grant awards under
20 this section (including for the activities specified
21 under this subsection) shall be used for construction
22 unless such construction occurs under terms and
23 conditions consistent with the requirements under
24 section 611(j)(9) of the Robert T. Stafford Disaster

1 Relief and Emergency Assistance Act (42 U.S.C.
2 5196(j)(9).

3 “(3) COST SHARING.—

4 “(A) IN GENERAL.—The Federal share of
5 the costs of an activity carried out with a grant
6 under this subsection shall not exceed 75 per-
7 cent.

8 “(B) IN KIND MATCHING.—Each recipient
9 of a grant for an activity under this section
10 may meet the matching requirement under sub-
11 paragraph (A) by making in-kind contributions
12 of goods or services that are directly linked with
13 the purpose for which the grant is made.

14 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated for grants under this
16 section—

17 “(1) for fiscal year 2007, such sums as are nec-
18 essary;

19 “(2) for each of fiscal years 2008, 2009, and
20 2010, \$913,180,500; and

21 “(3) for fiscal year 2011, and each fiscal year
22 thereafter, such sums as are necessary.”

1 **TITLE V—ENHANCING SECURITY**
2 **OF INTERNATIONAL TRAVEL**

3 **SEC. 501. MODERNIZATION OF THE VISA WAIVER PRO-**
4 **GRAM.**

5 (a) **SHORT TITLE.**—This section may be cited as the
6 “Secure Travel and Counterterrorism Partnership Act”.

7 (b) **SENSE OF CONGRESS.**—It is the sense of Con-
8 gress that—

9 (1) the United States should modernize the visa
10 waiver program by simultaneously—

11 (A) enhancing program security require-
12 ments; and

13 (B) extending visa-free travel privileges to
14 nationals of foreign countries that are allies in
15 the war on terrorism; and

16 (2) the expansion described in paragraph (1)
17 will—

18 (A) enhance bilateral cooperation on crit-
19 ical counterterrorism and information sharing
20 initiatives;

21 (B) support and expand tourism and busi-
22 ness opportunities to enhance long-term eco-
23 nomic competitiveness; and

24 (C) strengthen bilateral relationships.

1 (c) DISCRETIONARY VISA WAIVER PROGRAM EXPAN-
2 SION.—Section 217(c) of the Immigration and Nationality
3 Act (8 U.S.C. 1187(c)) is amended by adding at the end
4 the following:

5 “(8) NONIMMIGRANT VISA REFUSAL RATE
6 FLEXIBILITY.—

7 “(A) CERTIFICATION.—On the date on
8 which an air exit system is in place that can
9 verify the departure of not less than 97 percent
10 of foreign nationals that exit through airports
11 of the United States, the Secretary of Home-
12 land Security shall certify to Congress that
13 such air exit system is in place.

14 “(B) WAIVER.—After certification by the
15 Secretary under subparagraph (A), the Sec-
16 retary of Homeland Security, in consultation
17 with the Secretary of State, may waive the ap-
18 plication of paragraph (2)(A) for a country—

19 “(i) if the country meets all security
20 requirements of this section;

21 “(ii) if the Secretary of Homeland Se-
22 curity determines that the totality of the
23 country’s security risk mitigation measures
24 provide assurance that the country’s par-
25 ticipation in the program would not com-

1 promise the law enforcement, security in-
2 terests, or enforcement of the immigration
3 laws of the United States;

4 “(iii) if there has been a sustained re-
5 duction in the rate of refusals for non-
6 immigrant visitor visas for nationals of the
7 country and conditions exist to continue
8 such reduction;

9 “(iv) the country cooperated with the
10 Government of the United States on
11 counterterrorism initiatives and informa-
12 tion sharing before the date of its designa-
13 tion as a program country, and the Sec-
14 retary of Homeland Security and the Sec-
15 retary of State expect such cooperation will
16 continue; and

17 “(v)(I) if the rate of refusals for non-
18 immigrant visitor visas for nationals of the
19 country during the previous full fiscal year
20 was not more than 10 percent; or

21 “(II) if the visa overstay rate for the
22 country for the previous full fiscal year
23 does not exceed the maximum visa overstay
24 rate, once it is established under subpara-
25 graph (C).

1 “(C) MAXIMUM VISA OVERSTAY RATE.—

2 “(i) REQUIREMENT TO ESTABLISH.—

3 After certification by the Secretary under
4 subparagraph (A), the Secretary of Home-
5 land Security and the Secretary of State
6 jointly shall use information from the air
7 exit system referred to in subparagraph
8 (A) to establish a maximum visa overstay
9 rate for countries participating in the pro-
10 gram pursuant to a waiver under subpara-
11 graph (B).

12 “(ii) VISA OVERSTAY RATE DE-
13 FINED.—In this paragraph the term ‘visa
14 overstay rate’ means, with respect to a
15 country, the ratio of—

16 “(I) the total number of nation-
17 als of that country who were admitted
18 to the United States on the basis of a
19 nonimmigrant visitor visa for which
20 the period of stay authorized by such
21 visa ended during a fiscal year and
22 who remained in the United States
23 unlawfully beyond the such period of
24 stay; to

1 “(II) the total number of nation-
2 als of that country who were admitted
3 to the United States on the basis of a
4 nonimmigrant visitor visa for which
5 the period of stay authorized by such
6 visa ended during such fiscal year.

7 “(iii) REPORT AND PUBLICATION.—
8 Secretary of Homeland Security shall sub-
9 mit to Congress and publish in the Federal
10 Register a notice of the maximum visa
11 overstay rate proposed to be established
12 under clause (i). Not less than 60 days
13 after the date such notice is submitted and
14 published, the Secretary shall issue a final
15 maximum visa overstay rate.

16 “(9) DISCRETIONARY SECURITY-RELATED CON-
17 SIDERATIONS.—In determining whether to waive the
18 application of paragraph (2)(A) for a country, pur-
19 suant to paragraph (8), the Secretary of Homeland
20 Security, in consultation with the Secretary of State,
21 shall take into consideration other factors affecting
22 the security of the United States, including—

23 “(A) airport security standards in the
24 country;

1 “(B) whether the country assists in the op-
2 eration of an effective air marshal program;

3 “(C) the standards of passports and travel
4 documents issued by the country; and

5 “(D) other security-related factors.”.

6 (d) SECURITY ENHANCEMENTS TO THE VISA WAIV-
7 ER PROGRAM.—

8 (1) IN GENERAL.—Section 217 of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1187) is
10 amended—

11 (A) in subsection (a)—

12 (i) by striking “Operators of aircraft”
13 and inserting the following:

14 “(10) ELECTRONIC TRANSMISSION OF IDENTI-
15 FICATION INFORMATION.—Operators of aircraft”;
16 and

17 (ii) by adding at the end the fol-
18 lowing:

19 “(11) ELIGIBILITY DETERMINATION UNDER
20 THE ELECTRONIC TRAVEL AUTHORIZATION SYS-
21 TEM.—Beginning on the date on which the elec-
22 tronic travel authorization system developed under
23 subsection (h)(3) is fully operational, each alien
24 traveling under the program shall, before applying
25 for admission, electronically provide basic biographi-

1 cal information to the system. Upon review of such
2 biographical information, the Secretary of Homeland
3 Security shall determine whether the alien is eligible
4 to travel to the United States under the program.”;

5 (B) in subsection (c), as amended by sub-
6 section (c) of this section—

7 (i) in paragraph (2)—

8 (I) by amending subparagraph

9 (D) to read as follows:

10 “(D) REPORTING LOST AND STOLEN PASS-
11 PORTS.—The government of the country enters
12 into an agreement with the United States to re-
13 port, or make available through Interpol, to the
14 United States Government information about
15 the theft or loss of passports within a strict
16 time limit and in a manner specified in the
17 agreement.”; and

18 (II) by adding at the end the fol-

19 lowing:

20 “(E) REPATRIATION OF ALIENS.—The
21 government of a country accepts for repatri-
22 ation any citizen, former citizen, or national
23 against whom a final executable order of re-
24 moval is issued not later than 3 weeks after the
25 issuance of the final order of removal. Nothing

1 in this subparagraph creates any duty for the
2 United States or any right for any alien with
3 respect to removal or release. Nothing in this
4 subparagraph gives rise to any cause of action
5 or claim under this paragraph or any other law
6 against any official of the United States or of
7 any State to compel the release, removal, or
8 consideration for release or removal of any
9 alien.

10 “(F) PASSENGER INFORMATION EX-
11 CHANGE.—The government of the country en-
12 ters into an agreement with the United States
13 to share information regarding whether nation-
14 als of that country traveling to the United
15 States represent a threat to the security or wel-
16 fare of the United States or its citizens.”;

17 (ii) in paragraph (5)—

18 (I) by striking “Attorney Gen-
19 eral” each place it appears and insert-
20 ing “Secretary of Homeland Secu-
21 rity”; and

22 (II) in subparagraph (A)(i)—

23 (aa) in subclause (II), by
24 striking “and” at the end;

1 (bb) in subclause (III), by
2 striking the period at the end
3 and inserting “; and”; and

4 (cc) by adding at the end
5 the following:

6 “(IV) shall submit to Congress a
7 report regarding the implementation
8 of the electronic travel authorization
9 system under subsection (h)(3) and
10 the participation of new countries in
11 the program through a waiver under
12 paragraph (8).”; and

13 (iii) by adding at the end the fol-
14 lowing:

15 “(10) TECHNICAL ASSISTANCE.—The Secretary
16 of Homeland Security, in consultation with the Sec-
17 retary of State, shall provide technical assistance to
18 program countries to assist those countries in meet-
19 ing the requirements under this section.”;

20 (C) in subsection (d), by adding at the end
21 the following: “The Secretary of Homeland Se-
22 curity may not waive any eligibility requirement
23 under this section unless the Secretary notifies
24 the appropriate congressional committees not

1 later than 30 days before the effective date of
2 such waiver.”;

3 (D) in subsection (f)(5), by striking “of
4 blank” and inserting “or loss of”; and

5 (E) in subsection (h), by adding at the end
6 the following:

7 “(3) ELECTRONIC TRAVEL AUTHORIZATION
8 SYSTEM.—

9 “(A) SYSTEM.—The Secretary of Home-
10 land Security, in consultation with the Sec-
11 retary of State, is authorized to develop and im-
12 plement a fully automated electronic travel au-
13 thorization system (referred to in this para-
14 graph as the ‘System’) to collect such basic bio-
15 graphical information as the Secretary of
16 Homeland Security determines to be necessary
17 to determine, in advance of travel, the eligibility
18 of an alien to travel to the United States under
19 the program.

20 “(B) FEES.—The Secretary of Homeland
21 Security may charge a fee for the use of the
22 System, which shall be—

23 “(i) set at a level that will ensure re-
24 covery of the full costs of providing and
25 administering the System; and

1 “(ii) available to pay the costs in-
2 curred to administer the System.

3 “(C) VALIDITY.—

4 “(i) PERIOD.—The Secretary of
5 Homeland Security, in consultation with
6 the Secretary of State shall prescribe regu-
7 lations that provide for a period, not to ex-
8 ceed 3 years, during which a determination
9 of eligibility to travel under the program
10 will be valid. Notwithstanding any other
11 provision under this section, the Secretary
12 of Homeland Security may revoke any
13 such determination at any time and for
14 any reason.

15 “(ii) LIMITATION.—A determination
16 that an alien is eligible to travel to the
17 United States under the program is not a
18 determination that the alien is admissible
19 to the United States.

20 “(iii) JUDICIAL REVIEW.—Notwith-
21 standing any other provision of law, no
22 court shall have jurisdiction to review an
23 eligibility determination under the System.

24 “(D) REPORT.—Not later than 60 days
25 before publishing notice regarding the imple-

1 mentation of the System in the Federal Reg-
2 ister, the Secretary of Homeland Security shall
3 submit a report regarding the implementation
4 of the System to—

5 “(i) the Committee on Homeland Se-
6 curity and Governmental Affairs of the
7 Senate;

8 “(ii) the Committee on the Judiciary
9 of the Senate;

10 “(iii) the Select Committee on Intel-
11 ligence of the Senate;

12 “(iv) the Committee on Appropria-
13 tions of the Senate;

14 “(v) the Committee on Homeland Se-
15 curity of the House of Representatives;

16 “(vi) the Committee on the Judiciary
17 of the House of Representatives;

18 “(vii) the Permanent Select Com-
19 mittee on Intelligence of the House of Rep-
20 resentatives; and

21 “(viii) the Committee on Appropria-
22 tions of the House of Representatives.”.

23 (2) EFFECTIVE DATE.—Section 217(a)(11) of
24 the Immigration and Nationality Act, as added by
25 paragraph (1)(A)(ii) shall take effect on the date

1 which is 60 days after the date on which the Sec-
2 retary of Homeland Security publishes notice in the
3 Federal Register of the requirement under such
4 paragraph.

5 (e) EXIT SYSTEM.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date of enactment of this Act, the Secretary of
8 Homeland Security shall establish an exit system
9 that records the departure on a flight leaving the
10 United States of every alien participating in the visa
11 waiver program established under section 217 of the
12 Immigration and Nationality Act (8 U.S.C. 1187).

13 (2) SYSTEM REQUIREMENTS.—The system es-
14 tablished under paragraph (1) shall—

15 (A) match biometric information of the
16 alien against relevant watch lists and immigra-
17 tion information; and

18 (B) compare such biometric information
19 against manifest information collected by air
20 carriers on passengers departing the United
21 States to confirm such individuals have de-
22 parted the United States.

23 (3) REPORT.—Not later than 180 days after
24 the date of enactment of this Act, the Secretary
25 shall submit a report to Congress that describes—

1 (A) the progress made in developing and
2 deploying the exit system established under this
3 subsection; and

4 (B) the procedures by which the Secretary
5 will improve the manner of calculating the rates
6 of nonimmigrants who violate the terms of their
7 visas by remaining in the United States after
8 the expiration of such visas.

9 (f) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as may be
11 necessary to carry out this section and the amendments
12 made by this section.

13 **SEC. 502. STRENGTHENING THE CAPABILITIES OF THE**
14 **HUMAN SMUGGLING AND TRAFFICKING CEN-**
15 **TER.**

16 (a) IN GENERAL.—Section 7202 of the Intelligence
17 Reform and Terrorism Prevention Act of 2004 (8 U.S.C.
18 1777) is amended—

19 (1) in subsection (c)(1), by striking “address”
20 and inserting “integrate and disseminate intelligence
21 and information related to”;

22 (2) by redesignating subsections (d) and (e) as
23 subsections (g) and (h), respectively; and

24 (3) by inserting after subsection (c) the fol-
25 lowing new subsections:

1 “(d) DIRECTOR.—The Secretary of Homeland Secu-
2 rity shall nominate an official of the Government of the
3 United States to serve as the Director of the Center, in
4 accordance with the requirements of the memorandum of
5 understanding entitled the ‘Human Smuggling and Traf-
6 ficking Center (HSTC) Charter’.

7 “(e) STAFFING OF THE CENTER.—

8 “(1) IN GENERAL.—The Secretary of Homeland
9 Security, in cooperation with heads of other relevant
10 agencies and departments, shall ensure that the
11 Center is staffed with not fewer than 40 full-time
12 equivalent positions, including, as appropriate,
13 detailees from the following:

14 “(A) The Office of Intelligence and Anal-
15 ysis.

16 “(B) The Transportation Security Admin-
17 istration.

18 “(C) The United States Citizenship and
19 Immigration Services.

20 “(D) The United States Customs and Bor-
21 der Protection.

22 “(E) The United States Coast Guard.

23 “(F) The United States Immigration and
24 Customs Enforcement.

25 “(G) The Central Intelligence Agency.

1 “(H) The Department of Defense.

2 “(I) The Department of the Treasury.

3 “(J) The National Counterterrorism Cen-
4 ter.

5 “(K) The National Security Agency.

6 “(L) The Department of Justice.

7 “(M) The Department of State.

8 “(N) Any other relevant agency or depart-
9 ment.

10 “(2) EXPERTISE OF DETAILEES.—The Sec-
11 retary of Homeland Security, in cooperation with the
12 head of each agency, department, or other entity set
13 out under paragraph (1), shall ensure that the
14 detailees provided to the Center under paragraph (1)
15 include an adequate number of personnel with expe-
16 rience in the area of—

17 “(A) consular affairs;

18 “(B) counterterrorism;

19 “(C) criminal law enforcement;

20 “(D) intelligence analysis;

21 “(E) prevention and detection of document
22 fraud;

23 “(F) border inspection; or

24 “(G) immigration enforcement.

1 “(3) REIMBURSEMENT FOR DETAILEES.—To
2 the extent that funds are available for such purpose,
3 the Secretary of Homeland Security shall provide re-
4 imbursement to each agency or department that pro-
5 vides a detailee to the Center, in such amount or
6 proportion as is appropriate for costs associated with
7 the provision of such detailee, including costs for
8 travel by, and benefits provided to, such detailee.

9 “(f) ADMINISTRATIVE SUPPORT AND FUNDING.—
10 The Secretary of Homeland Security shall provide to the
11 Center the administrative support and funding required
12 for its maintenance, including funding for personnel, leas-
13 ing of office space, supplies, equipment, technology, train-
14 ing, and travel expenses necessary for the Center to carry
15 out its functions.”.

16 (b) REPORT.—Subsection (g) of section 7202 of the
17 Intelligence Reform and Terrorism Prevention Act of
18 2004 (8 U.S.C. 1777), as redesignated by subsection
19 (a)(2), is amended—

20 (1) in the heading, by striking “REPORT” and
21 inserting “INITIAL REPORT”;

22 (2) by redesignating such subsection (g) as
23 paragraph (1);

24 (3) by indenting such paragraph, as so des-
25 ignated, four ems from the left margin;

1 (4) by inserting before such paragraph, as so
2 designated, the following:

3 “(g) REPORT.—”; and

4 (5) by inserting after such paragraph, as so
5 designated, the following new paragraph:

6 “(2) FOLLOW-UP REPORT.—Not later than 180
7 days after the date of enactment of the Improving
8 America’s Security Act of 2007, the President shall
9 transmit to Congress a report regarding the oper-
10 ation of the Center and the activities carried out by
11 the Center, including a description of—

12 “(A) the roles and responsibilities of each
13 agency or department that is participating in
14 the Center;

15 “(B) the mechanisms used to share infor-
16 mation among each such agency or department;

17 “(C) the staff provided to the Center by
18 each such agency or department;

19 “(D) the type of information and reports
20 being disseminated by the Center; and

21 “(E) any efforts by the Center to create a
22 centralized Federal Government database to
23 store information related to illicit travel of for-
24 eign nationals, including a description of any
25 such database and of the manner in which in-

1 formation utilized in such a database would be
2 collected, stored, and shared.”.

3 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
4 are authorized to be appropriated to the Secretary to carry
5 out section 7202 of the Intelligence Reform and Terrorism
6 Prevention Act of 2004 (8 U.S.C. 1777), as amended by
7 this section, \$20,000,000 for fiscal year 2008.

8 **SEC. 503. ENHANCEMENTS TO THE TERRORIST TRAVEL**
9 **PROGRAM.**

10 Section 7215 of the Intelligence Reform and Ter-
11 rorism Prevention Act of 2004 (6 U.S.C. 123) is amended
12 to read as follows:

13 **“SEC. 7215. TERRORIST TRAVEL PROGRAM.**

14 “(a) **REQUIREMENT TO ESTABLISH.**—Not later than
15 90 days after the date of enactment of the Improving
16 America’s Security Act of 2007, the Secretary of Home-
17 land Security, in consultation with the Director of the Na-
18 tional Counterterrorism Center and consistent with the
19 strategy developed under section 7201, shall establish a
20 program to oversee the implementation of the Secretary’s
21 responsibilities with respect to terrorist travel.

22 “(b) **HEAD OF THE PROGRAM.**—The Secretary of
23 Homeland Security shall designate an official of the De-
24 partment of Homeland Security to be responsible for car-
25 rying out the program. Such official shall be—

1 “(1) the Assistant Secretary for Policy of the
2 Department of Homeland Security; or

3 “(2) an official appointed by the Secretary who
4 reports directly to the Secretary.

5 “(c) DUTIES.—The official designated under sub-
6 section (b) shall assist the Secretary of Homeland Security
7 in improving the Department’s ability to prevent terrorists
8 from entering the United States or remaining in the
9 United States undetected by—

10 “(1) developing relevant strategies and policies;

11 “(2) reviewing the effectiveness of existing pro-
12 grams and recommending improvements, if nec-
13 essary;

14 “(3) making recommendations on budget re-
15 quests and on the allocation of funding and per-
16 sonnel;

17 “(4) ensuring effective coordination, with re-
18 spect to policies, programs, planning, operations,
19 and dissemination of intelligence and information re-
20 lated to terrorist travel—

21 “(A) among appropriate subdivisions of the
22 Department of Homeland Security, as deter-
23 mined by the Secretary and including—

24 “(i) the United States Customs and
25 Border Protection;

1 “(ii) the United States Immigration
2 and Customs Enforcement;

3 “(iii) the United States Citizenship
4 and Immigration Services;

5 “(iv) the Transportation Security Ad-
6 ministration; and

7 “(v) the United States Coast Guard;
8 and

9 “(B) between the Department of Home-
10 land Security and other appropriate Federal
11 agencies; and

12 “(5) serving as the Secretary’s primary point of
13 contact with the National Counterterrorism Center
14 for implementing initiatives related to terrorist trav-
15 el and ensuring that the recommendations of the
16 Center related to terrorist travel are carried out by
17 the Department.

18 “(d) REPORT.—Not later than 180 days after the
19 date of enactment of the Improving America’s Security
20 Act of 2007, the Secretary of Homeland Security shall
21 submit to the Committee on Homeland Security and Gov-
22 ernmental Affairs of the Senate and the Committee on
23 Homeland Security of the House of Representatives a re-
24 port on the implementation of this section.”.

1 **SEC. 504. ENHANCED DRIVER'S LICENSE.**

2 Section 7209(b)(1) of the Intelligence Reform and
3 Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note)
4 is amended—

5 (1) in subparagraph (B)—

6 (A) in clause (vi), by striking “and” at the
7 end;

8 (B) in clause (vii), by striking the period
9 at the end and inserting “; and”; and

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

11 “(viii) the signing of a memorandum
12 of agreement to initiate a pilot program
13 with not less than 1 State to determine if
14 an enhanced driver’s license, which is ma-
15 chine-readable and tamper proof, not valid
16 for certification of citizenship for any pur-
17 pose other than admission into the United
18 States from Canada, and issued by such
19 State to an individual, may permit the in-
20 dividual to use the driver’s license to meet
21 the documentation requirements under
22 subparagraph (A) for entry into the United
23 States from Canada at the land and sea
24 ports of entry.”; and

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

1 “(C) REPORT.—Not later than 180 days
2 after the initiation of the pilot program de-
3 scribed in subparagraph (B)(viii), the Secretary
4 of Homeland Security and Secretary of State
5 shall submit to the appropriate congressional
6 committees a report, which includes—

7 “(i) an analysis of the impact of the
8 pilot program on national security;

9 “(ii) recommendations on how to ex-
10 pand the pilot program to other States;

11 “(iii) any appropriate statutory
12 changes to facilitate the expansion of the
13 pilot program to additional States and to
14 citizens of Canada;

15 “(iv) a plan to scan individuals par-
16 ticipating in the pilot program against
17 United States terrorist watch lists; and

18 “(v) a recommendation for the type of
19 machine-readable technology that should
20 be used in enhanced driver’s licenses,
21 based on individual privacy considerations
22 and the costs and feasibility of incor-
23 porating any new technology into existing
24 driver’s licenses.”.

1 **SEC. 505. WESTERN HEMISPHERE TRAVEL INITIATIVE.**

2 Before publishing a final rule in the Federal Register,
3 the Secretary shall conduct—

4 (1) a complete cost-benefit analysis of the West-
5 ern Hemisphere Travel Initiative, authorized under
6 section 7209 of the Intelligence Reform and Ter-
7 rorism Prevention Act of 2004 (Public Law 108–
8 458; 8 U.S.C. 1185 note); and

9 (2) a study of the mechanisms by which the
10 execution fee for a PASS Card could be reduced,
11 considering the potential increase in the number of
12 applications.

13 **SEC. 506. MODEL PORTS-OF-ENTRY.**

14 (a) IN GENERAL.—The Secretary of Homeland Secu-
15 rity shall—

16 (1) establish a model ports-of-entry program for
17 the purpose of providing a more efficient and wel-
18 coming international arrival process in order to fa-
19 cilitate and promote business and tourist travel to
20 the United States, while also improving security; and

21 (2) implement the program initially at the 20
22 United States international airports with the great-
23 est average annual number of arriving foreign visi-
24 tors.

25 (b) PROGRAM ELEMENTS.—The program shall
26 include—

1 (1) enhanced queue management in the Federal
2 Inspection Services area leading up to primary in-
3 spection;

4 (2) assistance for foreign travelers once they
5 have been admitted to the United States, in con-
6 sultation, as appropriate, with relevant governmental
7 and nongovernmental entities; and

8 (3) instructional videos, in English and such
9 other languages as the Secretary determines appro-
10 prium, in the Federal Inspection Services area that
11 explain the United States inspection process and fea-
12 ture national, regional, or local welcome videos.

13 (c) **ADDITIONAL CUSTOMS AND BORDER PROTEC-**
14 **TION OFFICERS FOR HIGH VOLUME PORTS.**—Subject to
15 the availability of appropriations, before the end of fiscal
16 year 2008 the Secretary of Homeland Security shall em-
17 ploy not less than an additional 200 Customs and Border
18 Protection officers to address staff shortages at the 20
19 United States international airports with the highest aver-
20 age number of foreign visitors arriving annually.

1 **TITLE VI—PRIVACY AND CIVIL**
2 **LIBERTIES MATTERS**

3 **SEC. 601. MODIFICATION OF AUTHORITIES RELATING TO**
4 **PRIVACY AND CIVIL LIBERTIES OVERSIGHT**
5 **BOARD.**

6 (a) MODIFICATION OF AUTHORITIES.—Section 1061
7 of the National Security Intelligence Reform Act of 2004
8 (title I of Public Law 108–458; 5 U.S.C. 601 note) is
9 amended to read as follows:

10 **“SEC. 1061. PRIVACY AND CIVIL LIBERTIES OVERSIGHT**
11 **BOARD.**

12 “(a) IN GENERAL.—There is established within the
13 Executive Office of the President a Privacy and Civil Lib-
14 erties Oversight Board (referred to in this section as the
15 ‘Board’).

16 “(b) FINDINGS.—Consistent with the report of the
17 National Commission on Terrorist Attacks Upon the
18 United States, Congress makes the following findings:

19 “(1) In conducting the war on terrorism, the
20 Government may need additional powers and may
21 need to enhance the use of its existing powers.

22 “(2) This shift of power and authority to the
23 Government calls for an enhanced system of checks
24 and balances to protect the precious liberties that
25 are vital to our way of life and to ensure that the

1 Government uses its powers for the purposes for
2 which the powers were given.

3 “(c) PURPOSE.—The Board shall—

4 “(1) analyze and review actions the executive
5 branch takes to protect the Nation from terrorism,
6 ensuring that the need for such actions is balanced
7 with the need to protect privacy and civil liberties;
8 and

9 “(2) ensure that liberty concerns are appro-
10 priately considered in the development and imple-
11 mentation of laws, regulations, and policies related
12 to efforts to protect the Nation against terrorism.

13 “(d) FUNCTIONS.—

14 “(1) ADVICE AND COUNSEL ON POLICY DEVEL-
15 OPMENT AND IMPLEMENTATION.—The Board
16 shall—

17 “(A) review proposed legislation, regula-
18 tions, and policies related to efforts to protect
19 the Nation from terrorism, including the devel-
20 opment and adoption of information sharing
21 guidelines under subsections (d) and (f) of sec-
22 tion 1016;

23 “(B) review the implementation of new and
24 existing legislation, regulations, and policies re-
25 lated to efforts to protect the Nation from ter-

1 rorism, including the implementation of infor-
2 mation sharing guidelines under subsections (d)
3 and (f) of section 1016;

4 “(C) advise the President and the depart-
5 ments, agencies, and elements of the executive
6 branch to ensure that privacy and civil liberties
7 are appropriately considered in the development
8 and implementation of such legislation, regula-
9 tions, policies, and guidelines; and

10 “(D) in providing advice on proposals to
11 retain or enhance a particular governmental
12 power, consider whether the department, agen-
13 cy, or element of the executive branch has
14 established—

15 “(i) that the need for the power is
16 balanced with the need to protect privacy
17 and civil liberties;

18 “(ii) that there is adequate super-
19 vision of the use by the executive branch of
20 the power to ensure protection of privacy
21 and civil liberties; and

22 “(iii) that there are adequate guide-
23 lines and oversight to properly confine its
24 use.

1 “(2) OVERSIGHT.—The Board shall continually
2 review—

3 “(A) the regulations, policies, and proce-
4 dures, and the implementation of the regula-
5 tions, policies, and procedures, of the depart-
6 ments, agencies, and elements of the executive
7 branch to ensure that privacy and civil liberties
8 are protected;

9 “(B) the information sharing practices of
10 the departments, agencies, and elements of the
11 executive branch to determine whether they ap-
12 propriately protect privacy and civil liberties
13 and adhere to the information sharing guide-
14 lines issued or developed under subsections (d)
15 and (f) of section 1016 and to other governing
16 laws, regulations, and policies regarding privacy
17 and civil liberties; and

18 “(C) other actions by the executive branch
19 related to efforts to protect the Nation from
20 terrorism to determine whether such actions—

21 “(i) appropriately protect privacy and
22 civil liberties; and

23 “(ii) are consistent with governing
24 laws, regulations, and policies regarding
25 privacy and civil liberties.

1 “(3) RELATIONSHIP WITH PRIVACY AND CIVIL
2 LIBERTIES OFFICERS.—The Board shall—

3 “(A) review and assess reports and other
4 information from privacy officers and civil lib-
5 erties officers under section 1062;

6 “(B) when appropriate, make recommenda-
7 tions to such privacy officers and civil liberties
8 officers regarding their activities; and

9 “(C) when appropriate, coordinate the ac-
10 tivities of such privacy officers and civil liberties
11 officers on relevant interagency matters.

12 “(4) TESTIMONY.—The members of the Board
13 shall appear and testify before Congress upon re-
14 quest.

15 “(e) REPORTS.—

16 “(1) IN GENERAL.—The Board shall—

17 “(A) receive and review reports from pri-
18 vacy officers and civil liberties officers under
19 section 1062; and

20 “(B) periodically submit, not less than
21 semiannually, reports—

22 “(i)(I) to the appropriate committees
23 of Congress, including the Committee on
24 the Judiciary of the Senate, the Committee
25 on the Judiciary of the House of Rep-

1 representatives, the Committee on Homeland
2 Security and Governmental Affairs of the
3 Senate, the Committee on Oversight and
4 Government Reform of the House of Rep-
5 resentatives, the Select Committee on In-
6 telligence of the Senate, and the Perma-
7 nent Select Committee on Intelligence of
8 the House of Representatives; and

9 “(II) to the President; and

10 “(ii) which shall be in unclassified
11 form to the greatest extent possible, with a
12 classified annex where necessary.

13 “(2) CONTENTS.—Not less than 2 reports sub-
14 mitted each year under paragraph (1)(B) shall
15 include—

16 “(A) a description of the major activities
17 of the Board during the preceding period;

18 “(B) information on the findings, conclu-
19 sions, and recommendations of the Board re-
20 sulting from its advice and oversight functions
21 under subsection (d);

22 “(C) the minority views on any findings,
23 conclusions, and recommendations of the Board
24 resulting from its advice and oversight func-
25 tions under subsection (d);

1 “(D) each proposal reviewed by the Board
2 under subsection (d)(1) that—

3 “(i) the Board advised against imple-
4 mentation; and

5 “(ii) notwithstanding such advice, ac-
6 tions were taken to implement; and

7 “(E) for the preceding period, any requests
8 submitted under subsection (g)(1)(D) for the
9 issuance of subpoenas that were modified or de-
10 nied by the Attorney General.

11 “(f) INFORMING THE PUBLIC.—The Board shall—

12 “(1) make its reports, including its reports to
13 Congress, available to the public to the greatest ex-
14 tent that is consistent with the protection of classi-
15 fied information and applicable law; and

16 “(2) hold public hearings and otherwise inform
17 the public of its activities, as appropriate and in a
18 manner consistent with the protection of classified
19 information and applicable law.

20 “(g) ACCESS TO INFORMATION.—

21 “(1) AUTHORIZATION.—If determined by the
22 Board to be necessary to carry out its responsibil-
23 ities under this section, the Board is authorized to—

24 “(A) have access from any department,
25 agency, or element of the executive branch, or

1 any Federal officer or employee, to all relevant
2 records, reports, audits, reviews, documents, pa-
3 pers, recommendations, or other relevant mate-
4 rial, including classified information consistent
5 with applicable law;

6 “(B) interview, take statements from, or
7 take public testimony from personnel of any de-
8 partment, agency, or element of the executive
9 branch, or any Federal officer or employee;

10 “(C) request information or assistance
11 from any State, tribal, or local government; and

12 “(D) at the direction of a majority of the
13 members of the Board, submit a written re-
14 quest to the Attorney General of the United
15 States that the Attorney General require, by
16 subpoena, persons (other than departments,
17 agencies, and elements of the executive branch)
18 to produce any relevant information, docu-
19 ments, reports, answers, records, accounts, pa-
20 pers, and other documentary or testimonial evi-
21 dence.

22 “(2) REVIEW OF SUBPOENA REQUEST.—

23 “(A) IN GENERAL.—Not later than 30
24 days after the date of receipt of a request by

1 the Board under paragraph (1)(D), the Attor-
2 ney General shall—

3 “(i) issue the subpoena as requested;

4 or

5 “(ii) provide the Board, in writing,
6 with an explanation of the grounds on
7 which the subpoena request has been modi-
8 fied or denied.

9 “(B) NOTIFICATION.—If a subpoena re-
10 quest is modified or denied under subparagraph
11 (A)(ii), the Attorney General shall, not later
12 than 30 days after the date of that modification
13 or denial, notify the Committee on the Judici-
14 ary of the Senate and the Committee on the
15 Judiciary of the House of Representatives.

16 “(3) ENFORCEMENT OF SUBPOENA.—In the
17 case of contumacy or failure to obey a subpoena
18 issued pursuant to paragraph (1)(D), the United
19 States district court for the judicial district in which
20 the subpoenaed person resides, is served, or may be
21 found may issue an order requiring such person to
22 produce the evidence required by such subpoena.

23 “(4) AGENCY COOPERATION.—Whenever infor-
24 mation or assistance requested under subparagraph
25 (A) or (B) of paragraph (1) is, in the judgment of

1 the Board, unreasonably refused or not provided, the
2 Board shall report the circumstances to the head of
3 the department, agency, or element concerned with-
4 out delay. The head of the department, agency, or
5 element concerned shall ensure that the Board is
6 given access to the information, assistance, material,
7 or personnel the Board determines to be necessary
8 to carry out its functions.

9 “(h) MEMBERSHIP.—

10 “(1) MEMBERS.—The Board shall be composed
11 of a full-time chairman and 4 additional members,
12 who shall be appointed by the President, by and
13 with the advice and consent of the Senate.

14 “(2) QUALIFICATIONS.—Members of the Board
15 shall be selected solely on the basis of their profes-
16 sional qualifications, achievements, public stature,
17 expertise in civil liberties and privacy, and relevant
18 experience, and without regard to political affiliation,
19 but in no event shall more than 3 members of the
20 Board be members of the same political party.

21 “(3) INCOMPATIBLE OFFICE.—An individual
22 appointed to the Board may not, while serving on
23 the Board, be an elected official, officer, or employee
24 of the Federal Government, other than in the capac-
25 ity as a member of the Board.

1 “(4) TERM.—Each member of the Board shall
2 serve a term of 6 years, except that—

3 “(A) a member appointed to a term of of-
4 fice after the commencement of such term may
5 serve under such appointment only for the re-
6 mainder of such term;

7 “(B) upon the expiration of the term of of-
8 fice of a member, the member shall continue to
9 serve until the member’s successor has been ap-
10 pointed and qualified, except that no member
11 may serve under this subparagraph—

12 “(i) for more than 60 days when Con-
13 gress is in session unless a nomination to
14 fill the vacancy shall have been submitted
15 to the Senate; or

16 “(ii) after the adjournment sine die of
17 the session of the Senate in which such
18 nomination is submitted; and

19 “(C) the members first appointed under
20 this subsection after the date of enactment of
21 the Improving America’s Security Act of 2007
22 shall serve terms of two, three, four, five, and
23 six years, respectively, with the term of each
24 such member to be designated by the President.

1 “(5) QUORUM AND MEETINGS.—After its initial
2 meeting, the Board shall meet upon the call of the
3 chairman or a majority of its members. Three mem-
4 bers of the Board shall constitute a quorum.

5 “(i) COMPENSATION AND TRAVEL EXPENSES.—

6 “(1) COMPENSATION.—

7 “(A) CHAIRMAN.—The chairman of the
8 Board shall be compensated at the rate of pay
9 payable for a position at level III of the Execu-
10 tive Schedule under section 5314 of title 5,
11 United States Code.

12 “(B) MEMBERS.—Each member of the
13 Board shall be compensated at a rate of pay
14 payable for a position at level IV of the Execu-
15 tive Schedule under section 5315 of title 5,
16 United States Code, for each day during which
17 that member is engaged in the actual perform-
18 ance of the duties of the Board.

19 “(2) TRAVEL EXPENSES.—Members of the
20 Board shall be allowed travel expenses, including per
21 diem in lieu of subsistence, at rates authorized for
22 persons employed intermittently by the Government
23 under section 5703(b) of title 5, United States Code,
24 while away from their homes or regular places of

1 business in the performance of services for the
2 Board.

3 “(j) STAFF.—

4 “(1) APPOINTMENT AND COMPENSATION.—The
5 chairman of the Board, in accordance with rules
6 agreed upon by the Board, shall appoint and fix the
7 compensation of a full-time executive director and
8 such other personnel as may be necessary to enable
9 the Board to carry out its functions, without regard
10 to the provisions of title 5, United States Code, gov-
11 erning appointments in the competitive service, and
12 without regard to the provisions of chapter 51 and
13 subchapter III of chapter 53 of such title relating to
14 classification and General Schedule pay rates, except
15 that no rate of pay fixed under this subsection may
16 exceed the equivalent of that payable for a position
17 at level V of the Executive Schedule under section
18 5316 of title 5, United States Code.

19 “(2) DETAILEES.—Any Federal employee may
20 be detailed to the Board without reimbursement
21 from the Board, and such detailee shall retain the
22 rights, status, and privileges of the detailee’s regular
23 employment without interruption.

24 “(3) CONSULTANT SERVICES.—The Board may
25 procure the temporary or intermittent services of ex-

1 perts and consultants in accordance with section
2 3109 of title 5, United States Code, at rates that do
3 not exceed the daily rate paid a person occupying a
4 position at level IV of the Executive Schedule under
5 section 5315 of such title.

6 “(k) SECURITY CLEARANCES.—The appropriate de-
7 partments, agencies, and elements of the executive branch
8 shall cooperate with the Board to expeditiously provide the
9 Board members and staff with appropriate security clear-
10 ances to the extent possible under existing procedures and
11 requirements.

12 “(l) TREATMENT AS AGENCY, NOT AS ADVISORY
13 COMMITTEE.—The Board—

14 “(1) is an agency (as defined in section 551(1)
15 of title 5, United States Code); and

16 “(2) is not an advisory committee (as defined in
17 section 3(2) of the Federal Advisory Committee Act
18 (5 U.S.C. App.)).

19 “(m) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to carry out this section
21 amounts as follows:

22 “(1) For fiscal year 2008, \$5,000,000.

23 “(2) For fiscal year 2009, \$6,650,000.

24 “(3) For fiscal year 2010, \$8,300,000.

25 “(4) For fiscal year 2011, \$10,000,000.

1 “(5) For fiscal year 2012, and each fiscal year
2 thereafter, such sums as may be necessary.”.

3 (b) CONTINUATION OF SERVICE OF CURRENT MEM-
4 BERS OF PRIVACY AND CIVIL LIBERTIES BOARD.—The
5 members of the Privacy and Civil Liberties Oversight
6 Board as of the date of enactment of this Act may con-
7 tinue to serve as members of that Board after that date,
8 and to carry out the functions and exercise the powers
9 of that Board as specified in section 1061 of the National
10 Security Intelligence Reform Act of 2004 (as amended by
11 subsection (a)), until—

12 (1) in the case of any individual serving as a
13 member of the Board under an appointment by the
14 President, by and with the advice and consent of the
15 Senate, the expiration of a term designated by the
16 President under section 1061(h)(4)(C) of such Act
17 (as so amended);

18 (2) in the case of any individual serving as a
19 member of the Board other than under an appoint-
20 ment by the President, by and with the advice and
21 consent of the Senate, the confirmation or rejection
22 by the Senate of that member’s nomination to the
23 Board under such section 1061 (as so amended), ex-
24 cept that no such individual may serve as a member
25 under this paragraph—

1 (A) for more than 60 days when Congress
2 is in session unless a nomination of that indi-
3 vidual to be a member of the Board has been
4 submitted to the Senate; or

5 (B) after the adjournment sine die of the
6 session of the Senate in which such nomination
7 is submitted; or

8 (3) the appointment of members of the Board
9 under such section 1061 (as so amended), except
10 that no member may serve under this paragraph—

11 (A) for more than 60 days when Congress
12 is in session unless a nomination to fill the posi-
13 tion on the Board shall have been submitted to
14 the Senate; or

15 (B) after the adjournment sine die of the
16 session of the Senate in which such nomination
17 is submitted.

18 **SEC. 602. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

19 (a) IN GENERAL.—Section 1062 of the National Se-
20 curity Intelligence Reform Act of 2004 (title I of Public
21 Law 108–458; 118 Stat. 3688) is amended to read as fol-
22 lows:

23 **“SEC. 1062. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

24 “(a) DESIGNATION AND FUNCTIONS.—The Attorney
25 General, the Secretary of Defense, the Secretary of State,

1 the Secretary of the Treasury, the Secretary of Health and
2 Human Services, the Secretary of Homeland Security, the
3 Director of National Intelligence, the Director of the Cen-
4 tral Intelligence Agency, and the head of any other depart-
5 ment, agency, or element of the executive branch des-
6 ignated by the Privacy and Civil Liberties Oversight
7 Board under section 1061 to be appropriate for coverage
8 under this section shall designate not less than 1 senior
9 officer to—

10 “(1) assist the head of such department, agen-
11 cy, or element and other officials of such depart-
12 ment, agency, or element in appropriately consid-
13 ering privacy and civil liberties concerns when such
14 officials are proposing, developing, or implementing
15 laws, regulations, policies, procedures, or guidelines
16 related to efforts to protect the Nation against ter-
17 rorism;

18 “(2) periodically investigate and review depart-
19 ment, agency, or element actions, policies, proce-
20 dures, guidelines, and related laws and their imple-
21 mentation to ensure that such department, agency,
22 or element is adequately considering privacy and
23 civil liberties in its actions;

24 “(3) ensure that such department, agency, or
25 element has adequate procedures to receive, inves-

1 tigate, respond to, and redress complaints from indi-
2 viduals who allege such department, agency, or ele-
3 ment has violated their privacy or civil liberties; and

4 “(4) in providing advice on proposals to retain
5 or enhance a particular governmental power the offi-
6 cer shall consider whether such department, agency,
7 or element has established—

8 “(A) that the need for the power is bal-
9 anced with the need to protect privacy and civil
10 liberties;

11 “(B) that there is adequate supervision of
12 the use by such department, agency, or element
13 of the power to ensure protection of privacy and
14 civil liberties; and

15 “(C) that there are adequate guidelines
16 and oversight to properly confine its use.

17 “(b) EXCEPTION TO DESIGNATION AUTHORITY.—

18 “(1) PRIVACY OFFICERS.—In any department,
19 agency, or element referred to in subsection (a) or
20 designated by the Privacy and Civil Liberties Over-
21 sight Board, which has a statutorily created privacy
22 officer, such officer shall perform the functions spec-
23 ified in subsection (a) with respect to privacy.

24 “(2) CIVIL LIBERTIES OFFICERS.—In any de-
25 partment, agency, or element referred to in sub-

1 section (a) or designated by the Board, which has a
2 statutorily created civil liberties officer, such officer
3 shall perform the functions specified in subsection
4 (a) with respect to civil liberties.

5 “(c) SUPERVISION AND COORDINATION.—Each pri-
6 vacy officer or civil liberties officer described in subsection
7 (a) or (b) shall—

8 “(1) report directly to the head of the depart-
9 ment, agency, or element concerned; and

10 “(2) coordinate their activities with the Inspec-
11 tor General of such department, agency, or element
12 to avoid duplication of effort.

13 “(d) AGENCY COOPERATION.—The head of each de-
14 partment, agency, or element shall ensure that each pri-
15 vacy officer and civil liberties officer—

16 “(1) has the information, material, and re-
17 sources necessary to fulfill the functions of such offi-
18 cer;

19 “(2) is advised of proposed policy changes;

20 “(3) is consulted by decision makers; and

21 “(4) is given access to material and personnel
22 the officer determines to be necessary to carry out
23 the functions of such officer.

24 “(e) REPRISAL FOR MAKING COMPLAINT.—No ac-
25 tion constituting a reprisal, or threat of reprisal, for mak-

1 ing a complaint or for disclosing information to a privacy
2 officer or civil liberties officer described in subsection (a)
3 or (b), or to the Privacy and Civil Liberties Oversight
4 Board, that indicates a possible violation of privacy protec-
5 tions or civil liberties in the administration of the pro-
6 grams and operations of the Federal Government relating
7 to efforts to protect the Nation from terrorism shall be
8 taken by any Federal employee in a position to take such
9 action, unless the complaint was made or the information
10 was disclosed with the knowledge that it was false or with
11 willful disregard for its truth or falsity.

12 “(f) PERIODIC REPORTS.—

13 “(1) IN GENERAL.—The privacy officers and
14 civil liberties officers of each department, agency, or
15 element referred to or described in subsection (a) or
16 (b) shall periodically, but not less than quarterly,
17 submit a report on the activities of such officers—

18 “(A)(i) to the appropriate committees of
19 Congress, including the Committee on the Judi-
20 ciary of the Senate, the Committee on the Judi-
21 ciary of the House of Representatives, the Com-
22 mittee on Homeland Security and Govern-
23 mental Affairs of the Senate, the Committee on
24 Oversight and Government Reform of the
25 House of Representatives, the Select Committee

1 on Intelligence of the Senate, and the Perma-
2 nent Select Committee on Intelligence of the
3 House of Representatives;

4 “(ii) to the head of such department, agen-
5 cy, or element; and

6 “(iii) to the Privacy and Civil Liberties
7 Oversight Board; and

8 “(B) which shall be in unclassified form to
9 the greatest extent possible, with a classified
10 annex where necessary.

11 “(2) CONTENTS.—Each report submitted under
12 paragraph (1) shall include information on the dis-
13 charge of each of the functions of the officer con-
14 cerned, including—

15 “(A) information on the number and types
16 of reviews undertaken;

17 “(B) the type of advice provided and the
18 response given to such advice;

19 “(C) the number and nature of the com-
20 plaints received by the department, agency, or
21 element concerned for alleged violations; and

22 “(D) a summary of the disposition of such
23 complaints, the reviews and inquiries conducted,
24 and the impact of the activities of such officer.

1 “(g) INFORMING THE PUBLIC.—Each privacy officer
2 and civil liberties officer shall—

3 “(1) make the reports of such officer, including
4 reports to Congress, available to the public to the
5 greatest extent that is consistent with the protection
6 of classified information and applicable law; and

7 “(2) otherwise inform the public of the activi-
8 ties of such officer, as appropriate and in a manner
9 consistent with the protection of classified informa-
10 tion and applicable law.

11 “(h) SAVINGS CLAUSE.—Nothing in this section shall
12 be construed to limit or otherwise supplant any other au-
13 thorities or responsibilities provided by law to privacy offi-
14 cers or civil liberties officers.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 for the Intelligence Reform and Terrorism Prevention Act
17 of 2004 (Public Law 108–458) is amended by striking the
18 item relating to section 1062 and inserting the following
19 new item:

“Sec. 1062. Privacy and civil liberties officers.”.

20 **SEC. 603. DEPARTMENT PRIVACY OFFICER.**

21 Section 222 of the Homeland Security Act of 2002
22 (6 U.S.C. 142) is amended—

23 (1) by inserting “(a) APPOINTMENT AND RE-
24 SPONSIBILITIES.—” before “The Secretary”; and

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

1 “(b) AUTHORITY TO INVESTIGATE.—

2 “(1) IN GENERAL.—The senior official ap-
3 pointed under subsection (a) may—

4 “(A) have access to all records, reports,
5 audits, reviews, documents, papers, rec-
6 ommendations, and other materials available to
7 the Department that relate to programs and op-
8 erations with respect to the responsibilities of
9 the senior official under this section;

10 “(B) make such investigations and reports
11 relating to the administration of the programs
12 and operations of the Department that are nec-
13 essary or desirable as determined by that senior
14 official;

15 “(C) subject to the approval of the Sec-
16 retary, require by subpoena the production, by
17 any person other than a Federal agency, of all
18 information, documents, reports, answers,
19 records, accounts, papers, and other data and
20 documentary evidence necessary to performance
21 of the responsibilities of the senior official
22 under this section; and

23 “(D) administer to or take from any per-
24 son an oath, affirmation, or affidavit, whenever

1 necessary to performance of the responsibilities
2 of the senior official under this section.

3 “(2) ENFORCEMENT OF SUBPOENAS.—Any sub-
4 poena issued under paragraph (1)(C) shall, in the
5 case of contumacy or refusal to obey, be enforceable
6 by order of any appropriate United States district
7 court.

8 “(3) EFFECT OF OATHS.—Any oath, affirma-
9 tion, or affidavit administered or taken under para-
10 graph (1)(D) by or before an employee of the Pri-
11 vacy Office designated for that purpose by the senior
12 official appointed under subsection (a) shall have the
13 same force and effect as if administered or taken by
14 or before an officer having a seal of office.

15 “(c) SUPERVISION AND COORDINATION.—

16 “(1) IN GENERAL.—The senior official ap-
17 pointed under subsection (a) shall—

18 “(A) report to, and be under the general
19 supervision of, the Secretary; and

20 “(B) coordinate activities with the Inspec-
21 tor General of the Department in order to avoid
22 duplication of effort.

23 “(2) NOTIFICATION TO CONGRESS ON RE-
24 MOVAL.—If the Secretary removes the senior official
25 appointed under subsection (a) or transfers that sen-

1 ior official to another position or location within the
2 Department, the Secretary shall—

3 “(A) promptly submit a written notifica-
4 tion of the removal or transfer to Houses of
5 Congress; and

6 “(B) include in any such notification the
7 reasons for the removal or transfer.

8 “(d) REPORTS BY SENIOR OFFICIAL TO CON-
9 GRESS.—The senior official appointed under subsection
10 (a) shall—

11 “(1) submit reports directly to the Congress re-
12 garding performance of the responsibilities of the
13 senior official under this section, without any prior
14 comment or amendment by the Secretary, Deputy
15 Secretary, or any other officer or employee of the
16 Department or the Office of Management and Budget;
17 and

18 “(2) inform the Committee on Homeland Secu-
19 rity and Governmental Affairs of the Senate and the
20 Committee on Homeland Security of the House of
21 Representatives not later than—

22 “(A) 30 days after the Secretary dis-
23 approves the senior official’s request for a sub-
24 poena under subsection (b)(1)(C) or the Sec-

1 retary substantively modifies the requested sub-
2 poena; or

3 “(B) 45 days after the senior official’s re-
4 quest for a subpoena under subsection
5 (b)(1)(C), if that subpoena has not either been
6 approved or disapproved by the Secretary.”.

7 **SEC. 604. FEDERAL AGENCY DATA MINING REPORTING ACT**
8 **OF 2007.**

9 (a) **SHORT TITLE.**—This section may be cited as the
10 “Federal Agency Data Mining Reporting Act of 2007”.

11 (b) **DEFINITIONS.**—In this section:

12 (1) **DATA MINING.**—The term “data mining”
13 means a program involving pattern-based queries,
14 searches, or other analyses of 1 or more electronic
15 databases, where—

16 (A) a department or agency of the Federal
17 Government, or a non-Federal entity acting on
18 behalf of the Federal Government, is con-
19 ducting the queries, searches, or other analyses
20 to discover or locate a predictive pattern or
21 anomaly indicative of terrorist or criminal activ-
22 ity on the part of any individual or individuals;

23 (B) the queries, searches, or other analyses
24 are not subject-based and do not use personal
25 identifiers of a specific individual, or inputs as-

1 sociated with a specific individual or group of
2 individuals, to retrieve information from the
3 database or databases; and

4 (C) the purpose of the queries, searches, or
5 other analyses is not solely—

6 (i) the detection of fraud, waste, or
7 abuse in a Government agency or program;

8 or

9 (ii) the security of a Government com-
10 puter system.

11 (2) DATABASE.—The term “database” does not
12 include telephone directories, news reporting, infor-
13 mation publicly available to any member of the pub-
14 lic without payment of a fee, or databases of judicial
15 and administrative opinions or other legal research
16 sources.

17 (c) REPORTS ON DATA MINING ACTIVITIES BY FED-
18 ERAL AGENCIES.—

19 (1) IN GENERAL.—Subsection (d) of this sec-
20 tion shall have no force or effect.

21 (2) REPORTS.—

22 (A) REQUIREMENT FOR REPORT.—The
23 head of each department or agency of the Fed-
24 eral Government that is engaged in any activity
25 to use or develop data mining shall submit a re-

1 port to Congress on all such activities of the de-
2 partment or agency under the jurisdiction of
3 that official. The report shall be produced in co-
4 ordination with the privacy officer of that de-
5 partment or agency, if applicable, and shall be
6 made available to the public, except for an
7 annex described in subparagraph (C).

8 (B) CONTENT OF REPORT.—Each report
9 submitted under subparagraph (A) shall in-
10 clude, for each activity to use or develop data
11 mining, the following information:

12 (i) A thorough description of the data
13 mining activity, its goals, and, where ap-
14 propriate, the target dates for the deploy-
15 ment of the data mining activity.

16 (ii) A thorough description of the data
17 mining technology that is being used or
18 will be used, including the basis for deter-
19 mining whether a particular pattern or
20 anomaly is indicative of terrorist or crimi-
21 nal activity.

22 (iii) A thorough description of the
23 data sources that are being or will be used.

24 (iv) An assessment of the efficacy or
25 likely efficacy of the data mining activity

1 in providing accurate information con-
2 sistent with and valuable to the stated
3 goals and plans for the use or development
4 of the data mining activity.

5 (v) An assessment of the impact or
6 likely impact of the implementation of the
7 data mining activity on the privacy and
8 civil liberties of individuals, including a
9 thorough description of the actions that
10 are being taken or will be taken with re-
11 gard to the property, privacy, or other
12 rights or privileges of any individual or in-
13 dividuals as a result of the implementation
14 of the data mining activity.

15 (vi) A list and analysis of the laws
16 and regulations that govern the informa-
17 tion being or to be collected, reviewed,
18 gathered, analyzed, or used in conjunction
19 with the data mining activity, to the extent
20 applicable in the context of the data min-
21 ing activity.

22 (vii) A thorough discussion of the poli-
23 cies, procedures, and guidelines that are in
24 place or that are to be developed and ap-

1 plied in the use of such data mining activ-
2 ity in order to—

3 (I) protect the privacy and due
4 process rights of individuals, such as
5 redress procedures; and

6 (II) ensure that only accurate
7 and complete information is collected,
8 reviewed, gathered, analyzed, or used,
9 and guard against any harmful con-
10 sequences of potential inaccuracies.

11 (C) ANNEX.—

12 (i) IN GENERAL.—A report under sub-
13 paragraph (A) shall include in an annex
14 any necessary—

15 (I) classified information;

16 (II) law enforcement sensitive in-
17 formation;

18 (III) proprietary business infor-
19 mation; or

20 (IV) trade secrets (as that term
21 is defined in section 1839 of title 18,
22 United States Code).

23 (ii) AVAILABILITY.—Any annex de-
24 scribed in clause (i)—

1 (I) shall be available, as appro-
2 priate, and consistent with the Na-
3 tional Security Act of 1947 (50
4 U.S.C. 401 et seq.), to the Committee
5 on Homeland Security and Govern-
6 mental Affairs, the Committee on the
7 Judiciary, the Select Committee on
8 Intelligence, the Committee on Appro-
9 priations, and the Committee on
10 Banking, Housing, and Urban Affairs
11 of the Senate and the Committee on
12 Homeland Security, the Committee on
13 the Judiciary, the Permanent Select
14 Committee on Intelligence, the Com-
15 mittee on Appropriations, and the
16 Committee on Financial Services of
17 the House of Representatives; and

18 (II) shall not be made available
19 to the public.

20 (D) TIME FOR REPORT.—Each report re-
21 quired under subparagraph (A) shall be—

22 (i) submitted not later than 180 days
23 after the date of enactment of this Act;
24 and

1 (ii) updated not less frequently than
2 annually thereafter, to include any activity
3 to use or develop data mining engaged in
4 after the date of the prior report submitted
5 under subparagraph (A).

6 (d) REPORTS ON DATA MINING ACTIVITIES BY FED-
7 ERAL AGENCIES.—

8 (1) REQUIREMENT FOR REPORT.—The head of
9 each department or agency of the Federal Govern-
10 ment that is engaged in any activity to use or de-
11 velop data mining shall submit a report to Congress
12 on all such activities of the department or agency
13 under the jurisdiction of that official. The report
14 shall be made available to the public, except for a
15 classified annex described paragraph (2)(H).

16 (2) CONTENT OF REPORT.—Each report sub-
17 mitted under paragraph (1) shall include, for each
18 activity to use or develop data mining, the following
19 information:

20 (A) A thorough description of the data
21 mining activity, its goals, and, where appro-
22 priate, the target dates for the deployment of
23 the data mining activity.

24 (B) A thorough description, without reveal-
25 ing existing patents, proprietary business proc-

1 esses, trade secrets, and intelligence sources
2 and methods, of the data mining technology
3 that is being used or will be used, including the
4 basis for determining whether a particular pat-
5 tern or anomaly is indicative of terrorist or
6 criminal activity.

7 (C) A thorough description of the data
8 sources that are being or will be used.

9 (D) An assessment of the efficacy or likely
10 efficacy of the data mining activity in providing
11 accurate information consistent with and valu-
12 able to the stated goals and plans for the use
13 or development of the data mining activity.

14 (E) An assessment of the impact or likely
15 impact of the implementation of the data min-
16 ing activity on the privacy and civil liberties of
17 individuals, including a thorough description of
18 the actions that are being taken or will be taken
19 with regard to the property, privacy, or other
20 rights or privileges of any individual or individ-
21 uals as a result of the implementation of the
22 data mining activity.

23 (F) A list and analysis of the laws and reg-
24 ulations that govern the information being or to

1 be collected, reviewed, gathered, analyzed, or
2 used with the data mining activity.

3 (G) A thorough discussion of the policies,
4 procedures, and guidelines that are in place or
5 that are to be developed and applied in the use
6 of such technology for data mining in order
7 to—

8 (i) protect the privacy and due process
9 rights of individuals, such as redress proce-
10 dures; and

11 (ii) ensure that only accurate informa-
12 tion is collected, reviewed, gathered, ana-
13 lyzed, or used.

14 (H) Any necessary classified information in
15 an annex that shall be available, as appropriate,
16 to the Committee on Homeland Security and
17 Governmental Affairs, the Committee on the
18 Judiciary, the Select Committee on Intelligence,
19 and the Committee on Appropriations of the
20 Senate and the Committee on Homeland Secu-
21 rity, the Committee on the Judiciary, the Per-
22 manent Select Committee on Intelligence, and
23 the Committee on Appropriations of the House
24 of Representatives.

1 (3) TIME FOR REPORT.—Each report required
2 under paragraph (1) shall be—

3 (A) submitted not later than 180 days
4 after the date of enactment of this Act; and

5 (B) updated not less frequently than annu-
6 ally thereafter, to include any activity to use or
7 develop data mining engaged in after the date
8 of the prior report submitted under paragraph
9 (1).

10 **TITLE VII—ENHANCED DE-**
11 **FENSES AGAINST WEAPONS**
12 **OF MASS DESTRUCTION**

13 **SEC. 701. NATIONAL BIOSURVEILLANCE INTEGRATION**
14 **CENTER.**

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

18 **“SEC. 316. NATIONAL BIOSURVEILLANCE INTEGRATION**
19 **CENTER.**

20 “(a) DEFINITIONS.—In this section—

21 “(1) the term ‘biological event of national sig-
22 nificance’ means—

23 “(A) an act of terrorism that uses a bio-
24 logical agent, toxin, or other product derived
25 from a biological agent; or

1 “(B) a naturally-occurring outbreak of an
2 infectious disease that may result in a national
3 epidemic;

4 “(2) the term ‘Member Agencies’ means the de-
5 partments and agencies described in subsection
6 (d)(1);

7 “(3) the term ‘NBIC’ means the National Bio-
8 surveillance Integration Center established under
9 subsection (b);

10 “(4) the term ‘NBIS’ means the National Bio-
11 surveillance Integration System established under
12 subsection (b); and

13 “(5) the term ‘Privacy Officer’ means the Pri-
14 vacy Officer appointed under section 222.

15 “(b) ESTABLISHMENT.—The Secretary shall estab-
16 lish, operate, and maintain a National Biosurveillance In-
17 tegration Center, headed by a Directing Officer, under an
18 existing office or directorate of the Department, subject
19 to the availability of appropriations, to oversee develop-
20 ment and operation of the National Biosurveillance Inte-
21 gration System.

22 “(c) PRIMARY MISSION.—The primary mission of the
23 NBIC is to enhance the capability of the Federal Govern-
24 ment to—

1 “(1) rapidly identify, characterize, localize, and
2 track a biological event of national significance by
3 integrating and analyzing data from human health,
4 animal, plant, food, and environmental monitoring
5 systems (both national and international); and

6 “(2) disseminate alerts and other information
7 regarding such data analysis to Member Agencies
8 and, in consultation with relevant member agencies,
9 to agencies of State, local, and tribal governments,
10 as appropriate, to enhance the ability of such agen-
11 cies to respond to a biological event of national sig-
12 nificance.

13 “(d) REQUIREMENTS.—The NBIC shall design the
14 NBIS to detect, as early as possible, a biological event of
15 national significance that presents a risk to the United
16 States or the infrastructure or key assets of the United
17 States, including—

18 “(1) if a Federal department or agency, at the
19 discretion of the head of that department or agency,
20 has entered a memorandum of understanding re-
21 garding participation in the NBIC, consolidating
22 data from all relevant surveillance systems main-
23 tained by that department or agency to detect bio-
24 logical events of national significance across human,
25 animal, and plant species;

1 “(2) seeking private sources of surveillance,
2 both foreign and domestic, when such sources would
3 enhance coverage of critical surveillance gaps;

4 “(3) using an information technology system
5 that uses the best available statistical and other ana-
6 lytical tools to identify and characterize biological
7 events of national significance in as close to real-
8 time as is practicable;

9 “(4) providing the infrastructure for such inte-
10 gration, including information technology systems
11 and space, and support for personnel from Member
12 Agencies with sufficient expertise to enable analysis
13 and interpretation of data;

14 “(5) working with Member Agencies to create
15 information technology systems that use the min-
16 imum amount of patient data necessary and consider
17 patient confidentiality and privacy issues at all
18 stages of development and apprise the Privacy Offi-
19 cer of such efforts; and

20 “(6) alerting relevant Member Agencies and, in
21 consultation with relevant Member Agencies, public
22 health agencies of State, local, and tribal govern-
23 ments regarding any incident that could develop into
24 a biological event of national significance.

25 “(e) RESPONSIBILITIES OF THE SECRETARY.—

1 “(1) IN GENERAL.—The Secretary shall—

2 “(A) ensure that the NBIC is fully oper-
3 ational not later than September 30, 2008;

4 “(B) not later than 180 days after the
5 date of enactment of this section and on the
6 date that the NBIC is fully operational, submit
7 a report to the Committee on Homeland Secu-
8 rity and Governmental Affairs of the Senate
9 and the Committee on Homeland Security of
10 the House of Representatives on the progress of
11 making the NBIC operational addressing the
12 efforts of the NBIC to integrate surveillance ef-
13 forts of Federal, State, local, and tribal govern-
14 ments.

15 “(f) RESPONSIBILITIES OF THE DIRECTING OFFICER
16 OF THE NBIC.—

17 “(1) IN GENERAL.—The Directing Officer of
18 the NBIC shall—

19 “(A) establish an entity to perform all op-
20 erations and assessments related to the NBIS;

21 “(B) on an ongoing basis, monitor the
22 availability and appropriateness of contributing
23 surveillance systems and solicit new surveillance
24 systems that would enhance biological situa-

1 tional awareness or overall performance of the
2 NBIS;

3 “(C) on an ongoing basis, review and seek
4 to improve the statistical and other analytical
5 methods utilized by the NBIS;

6 “(D) receive and consider other relevant
7 homeland security information, as appropriate;
8 and

9 “(E) provide technical assistance, as ap-
10 propriate, to all Federal, regional, State, local,
11 and tribal government entities and private sec-
12 tor entities that contribute data relevant to the
13 operation of the NBIS.

14 “(2) ASSESSMENTS.—The Directing Officer of
15 the NBIC shall—

16 “(A) on an ongoing basis, evaluate avail-
17 able data for evidence of a biological event of
18 national significance; and

19 “(B) integrate homeland security informa-
20 tion with NBIS data to provide overall situa-
21 tional awareness and determine whether a bio-
22 logical event of national significance has oc-
23 curred.

24 “(3) INFORMATION SHARING.—

1 “(A) IN GENERAL.—The Directing Officer
2 of the NBIC shall—

3 “(i) establish a method of real-time
4 communication with the National Oper-
5 ations Center, to be known as the Biologi-
6 cal Common Operating Picture;

7 “(ii) in the event that a biological
8 event of national significance is detected,
9 notify the Secretary and disseminate re-
10 sults of NBIS assessments related to that
11 biological event of national significance to
12 appropriate Federal response entities and,
13 in consultation with relevant member agen-
14 cies, regional, State, local, and tribal gov-
15 ernmental response entities in a timely
16 manner;

17 “(iii) provide any report on NBIS as-
18 sessments to Member Agencies and, in
19 consultation with relevant member agen-
20 cies, any affected regional, State, local, or
21 tribal government, and any private sector
22 entity considered appropriate that may en-
23 hance the mission of such Member Agen-
24 cies, governments, or entities or the ability

1 of the Nation to respond to biological
2 events of national significance; and

3 “(iv) share NBIS incident or situa-
4 tional awareness reports, and other rel-
5 evant information, consistent with the in-
6 formation sharing environment established
7 under section 1016 of the Intelligence Re-
8 form and Terrorism Prevention Act of
9 2004 (6 U.S.C. 485) and any policies,
10 guidelines, procedures, instructions, or
11 standards established by the President or
12 the program manager for the implementa-
13 tion and management of that environment.

14 “(B) COORDINATION.—The Directing Offi-
15 cer of the NBIC shall implement the activities
16 described in subparagraph (A) in coordination
17 with the program manager for the information
18 sharing environment of the Office of the Direc-
19 tor of National Intelligence, the Under Sec-
20 retary for Intelligence and Analysis, and other
21 offices or agencies of the Federal Government,
22 as appropriate.

23 “(g) RESPONSIBILITIES OF THE NBIC MEMBER
24 AGENCIES.—

1 “(1) IN GENERAL.—Each Member Agency
2 shall—

3 “(A) use its best efforts to integrate bio-
4 surveillance information into the NBIS, with
5 the goal of promoting information sharing be-
6 tween Federal, State, local, and tribal govern-
7 ments to detect biological events of national sig-
8 nificance;

9 “(B) participate in the formation and
10 maintenance of the Biological Common Oper-
11 ating Picture to facilitate timely and accurate
12 detection and reporting;

13 “(C) connect the biosurveillance data sys-
14 tems of that Member Agency to the NBIC data
15 system under mutually-agreed protocols that
16 maintain patient confidentiality and privacy;

17 “(D) participate in the formation of strat-
18 egy and policy for the operation of the NBIC
19 and its information sharing; and

20 “(E) provide personnel to the NBIC under
21 an interagency personnel agreement and con-
22 sider the qualifications of such personnel nec-
23 essary to provide human, animal, and environ-
24 mental data analysis and interpretation support
25 to the NBIC.

1 “(h) ADMINISTRATIVE AUTHORITIES.—

2 “(1) HIRING OF EXPERTS.—The Directing Offi-
3 cer of the NBIC shall hire individuals with the nec-
4 essary expertise to develop and operate the NBIS.

5 “(2) DETAIL OF PERSONNEL.—Upon the re-
6 quest of the Directing Officer of the NBIC, the head
7 of any Federal department or agency may detail, on
8 a reimbursable basis, any of the personnel of that
9 department or agency to the Department to assist
10 the NBIC in carrying out this section.

11 “(i) JOINT BIOSURVEILLANCE LEADERSHIP COUN-
12 CIL.—The Directing Officer of the NBIC shall—

13 “(1) establish an interagency coordination coun-
14 cil to facilitate interagency cooperation and to advise
15 the Directing Officer of the NBIC regarding rec-
16 ommendations to enhance the biosurveillance capa-
17 bilities of the Department; and

18 “(2) invite Member Agencies to serve on such
19 council.

20 “(j) RELATIONSHIP TO OTHER DEPARTMENTS AND
21 AGENCIES.—The authority of the Directing Officer of the
22 NBIC under this section shall not affect any authority or
23 responsibility of any other department or agency of the
24 Federal Government with respect to biosurveillance activi-

1 ties under any program administered by that department
2 or agency.

3 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as are nec-
5 essary to carry out this section.”.

6 (b) CONFORMING AMENDMENT.—The table of con-
7 tents in section 1(b) of the Homeland Security Act of
8 2002 (6 U.S.C. 101 et seq.) is amended by inserting after
9 the item relating to section 315 the following:

“Sec. 316. National Biosurveillance Integration Center.”.

10 **SEC. 702. BIOSURVEILLANCE EFFORTS.**

11 The Comptroller General of the United States shall
12 submit a report to Congress describing—

13 (1) the state of Federal, State, local, and tribal
14 government biosurveillance efforts as of the date of
15 such report;

16 (2) any duplication of effort at the Federal,
17 State, local, or tribal government level to create bio-
18 surveillance systems; and

19 (3) the integration of biosurveillance systems to
20 allow the maximizing of biosurveillance resources
21 and the expertise of Federal, State, local, and tribal
22 governments to benefit public health.

1 **SEC. 703. INTERAGENCY COORDINATION TO ENHANCE DE-**
2 **FENSES AGAINST NUCLEAR AND RADIO-**
3 **LOGICAL WEAPONS OF MASS DESTRUCTION.**

4 (a) IN GENERAL.—The Homeland Security Act of
5 2002 is amended by adding after section 1906, as redesign-
6 nated by section 203 of this Act, the following:

7 **“SEC. 1907. JOINT ANNUAL REVIEW OF GLOBAL NUCLEAR**
8 **DETECTION ARCHITECTURE.**

9 “(a) ANNUAL REVIEW.—

10 “(1) IN GENERAL.—The Secretary, the Attor-
11 ney General, the Secretary of State, the Secretary of
12 Defense, the Secretary of Energy, and the Director
13 of National Intelligence shall jointly ensure inter-
14 agency coordination on the development and imple-
15 mentation of the global nuclear detection architec-
16 ture by ensuring that, not less frequently than once
17 each year—

18 “(A) each relevant agency, office, or
19 entity—

20 “(i) assesses its involvement, support,
21 and participation in the development, revi-
22 sion, and implementation of the global nu-
23 clear detection architecture;

24 “(ii) examines and evaluates compo-
25 nents of the global nuclear detection archi-
26 tecture (including associated strategies and

1 acquisition plans) that are related to the
2 operations of that agency, office, or entity,
3 to determine whether such components in-
4 corporate and address current threat as-
5 sessments, scenarios, or intelligence anal-
6 yses developed by the Director of National
7 Intelligence or other agencies regarding
8 threats related to nuclear or radiological
9 weapons of mass destruction; and

10 “(B) each agency, office, or entity deploy-
11 ing or operating any technology acquired by the
12 Office—

13 “(i) evaluates the deployment and op-
14 eration of that technology by that agency,
15 office, or entity;

16 “(ii) identifies detection performance
17 deficiencies and operational or technical
18 deficiencies in that technology; and

19 “(iii) assesses the capacity of that
20 agency, office, or entity to implement the
21 responsibilities of that agency, office, or
22 entity under the global nuclear detection
23 architecture.

24 “(2) TECHNOLOGY.—Not less frequently than
25 once each year, the Secretary shall examine and

1 evaluate the development, assessment, and acqui-
2 sition of technology by the Office.

3 “(b) ANNUAL REPORT.—

4 “(1) IN GENERAL.—Not later than March 31 of
5 each year, the Secretary, in coordination with the
6 Attorney General, the Secretary of State, the Sec-
7 retary of Defense, the Secretary of Energy, and the
8 Director of National Intelligence, shall submit a re-
9 port regarding the compliance of such officials with
10 this section and the results of the reviews required
11 under subsection (a) to—

12 “(A) the President;

13 “(B) the Committee on Appropriations, the
14 Committee on Armed Services, and the Com-
15 mittee on Homeland Security and Govern-
16 mental Affairs of the Senate; and

17 “(C) the Committee on Appropriations, the
18 Committee on Armed Services, and the Com-
19 mittee on Homeland Security of the House of
20 Representatives.

21 “(2) FORM.—Each report submitted under
22 paragraph (1) shall be submitted in unclassified
23 form to the maximum extent practicable, but may
24 include a classified annex.

1 “(c) DEFINITION.—In this section, the term ‘global
2 nuclear detection architecture’ means the global nuclear
3 detection architecture developed under section 1902.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—
5 The table of contents in section 1(b) of the Homeland Se-
6 curity Act of 2002 (6 U.S.C. 101 note) is amended by
7 inserting after the item relating to section 1906, as added
8 by section 203 of this Act, the following:

“Sec. 1907. Joint annual review of global nuclear detection architecture.”.

9 **TITLE VIII—PRIVATE SECTOR**
10 **PREPAREDNESS**

11 **SEC. 801. DEFINITIONS.**

12 (a) IN GENERAL.—In this title, the term “voluntary
13 national preparedness standards” has the meaning given
14 that term in section 2 of the Homeland Security Act of
15 2002 (6 U.S.C. 101), as amended by this Act.

16 (b) HOMELAND SECURITY ACT OF 2002.—Section 2
17 of the Homeland Security Act of 2002 (6 U.S.C. 101) is
18 amended by adding at the end the following:

19 “(17) The term ‘voluntary national prepared-
20 ness standards’ means a common set of criteria for
21 preparedness, disaster management, emergency
22 management, and business continuity programs,
23 such as the American National Standards Institute’s
24 National Fire Protection Association Standard on

1 Disaster/Emergency Management and Business Con-
2 tinuity Programs (ANSI/NFPA 1600).”.

3 **SEC. 802. RESPONSIBILITIES OF THE PRIVATE SECTOR OF-**
4 **FICE OF THE DEPARTMENT.**

5 (a) IN GENERAL.—Section 102(f) of the Homeland
6 Security Act of 2002 (6 U.S.C. 112(f)) is amended—

7 (1) by redesignating paragraphs (8) through
8 (10) as paragraphs (9) through (11), respectively;
9 and

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

12 “(8) providing information to the private sector
13 regarding voluntary national preparedness standards
14 and the business justification for preparedness and
15 promoting to the private sector the adoption of vol-
16 untary national preparedness standards;”.

17 (b) PRIVATE SECTOR ADVISORY COUNCILS.—Section
18 102(f)(4) of the Homeland Security Act of 2002 (6 U.S.C.
19 112(f)(4)) is amended—

20 (1) in subparagraph (A), by striking “and” at
21 the end;

22 (2) in subparagraph (B), by adding “and” at
23 the end; and

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

1 “(C) advise the Secretary on private sector
 2 preparedness issues, including effective methods
 3 for—

4 “(i) promoting voluntary national pre-
 5 paredness standards to the private sector;

6 “(ii) assisting the private sector in
 7 adopting voluntary national preparedness
 8 standards; and

9 “(iii) developing and implementing the
 10 accreditation and certification program
 11 under section 522;”.

12 **SEC. 803. VOLUNTARY NATIONAL PREPAREDNESS STAND-**
 13 **ARDS COMPLIANCE; ACCREDITATION AND**
 14 **CERTIFICATION PROGRAM FOR THE PRIVATE**
 15 **SECTOR.**

16 (a) IN GENERAL.—Title V of the Homeland Security
 17 Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding
 18 at the end the following:

19 **“SEC. 522. VOLUNTARY NATIONAL PREPAREDNESS STAND-**
 20 **ARDS COMPLIANCE; ACCREDITATION AND**
 21 **CERTIFICATION PROGRAM FOR THE PRIVATE**
 22 **SECTOR.**

23 “(a) ACCREDITATION AND CERTIFICATION PRO-
 24 GRAM.—Not later than 120 days after the date of enact-
 25 ment of this section, the Secretary, in consultation with

1 representatives of the organizations that coordinate or fa-
2 cilitate the development of and use of voluntary consensus
3 standards, appropriate voluntary consensus standards de-
4 velopment organizations, each private sector advisory
5 council created under section 102(f)(4), and appropriate
6 private sector advisory groups such as sector coordinating
7 councils and information sharing and analysis centers,
8 shall—

9 “(1) support the development, promulgating,
10 and updating, as necessary, of voluntary national
11 preparedness standards; and

12 “(2) develop, implement, and promote a pro-
13 gram to certify the preparedness of private sector
14 entities.

15 “(b) PROGRAM ELEMENTS.—

16 “(1) IN GENERAL.—

17 “(A) PROGRAM.—The program developed
18 and implemented under this section shall assess
19 whether a private sector entity complies with
20 voluntary national preparedness standards.

21 “(B) GUIDELINES.—In developing the pro-
22 gram under this section, the Secretary shall de-
23 velop guidelines for the accreditation and cer-
24 tification processes established under this sec-
25 tion.

1 “(2) STANDARDS.—The Secretary, in consulta-
2 tion with representatives of organizations that co-
3 ordinate or facilitate the development of and use of
4 voluntary consensus standards representatives of ap-
5 propriate voluntary consensus standards develop-
6 ment organizations, each private sector advisory
7 council created under section 102(f)(4), and appro-
8 priate private sector advisory groups such as sector
9 coordinating councils and information sharing and
10 analysis centers—

11 “(A) shall adopt appropriate voluntary na-
12 tional preparedness standards that promote
13 preparedness, which shall be used in the accred-
14 itation and certification program under this sec-
15 tion; and

16 “(B) after the adoption of standards under
17 subparagraph (A), may adopt additional vol-
18 untary national preparedness standards or mod-
19 ify or discontinue the use of voluntary national
20 preparedness standards for the accreditation
21 and certification program, as necessary and ap-
22 propriate to promote preparedness.

23 “(3) TIERING.—The certification program de-
24 veloped under this section may use a multiple-tiered

1 system to rate the preparedness of a private sector
2 entity.

3 “(4) SMALL BUSINESS CONCERNS.—The Sec-
4 retary and any selected entity shall establish sepa-
5 rate classifications and methods of certification for
6 small business concerns (as that term is defined in
7 section 3 of the Small Business Act (15 U.S.C.
8 632)) for the program under this section.

9 “(5) CONSIDERATIONS.—In developing and im-
10 plementing the program under this section, the Sec-
11 retary shall—

12 “(A) consider the unique nature of various
13 sectors within the private sector, including pre-
14 paredness, business continuity standards, or
15 best practices, established—

16 “(i) under any other provision of Fed-
17 eral law; or

18 “(ii) by any sector-specific agency, as
19 defined under Homeland Security Presi-
20 dential Directive-7; and

21 “(B) coordinate the program, as appro-
22 priate, with—

23 “(i) other Department private sector
24 related programs; and

1 “(ii) preparedness and business con-
2 tinuity programs in other Federal agencies.

3 “(c) ACCREDITATION AND CERTIFICATION PROC-
4 ESSES.—

5 “(1) AGREEMENT.—

6 “(A) IN GENERAL.—Not later than 120
7 days after the date of enactment of this section,
8 the Secretary shall enter into 1 or more agree-
9 ments with the American National Standards
10 Institute or other similarly qualified nongovern-
11 mental or other private sector entities to carry
12 out accreditations and oversee the certification
13 process under this section.

14 “(B) CONTENTS.—Any selected entity
15 shall manage the accreditation process and
16 oversee the certification process in accordance
17 with the program established under this section
18 and accredit qualified third parties to carry out
19 the certification program established under this
20 section.

21 “(2) PROCEDURES AND REQUIREMENTS FOR
22 ACCREDITATION AND CERTIFICATION.—

23 “(A) IN GENERAL.—The selected entities
24 shall collaborate to develop procedures and re-
25 quirements for the accreditation and certifi-

1 cation processes under this section, in accord-
2 ance with the program established under this
3 section and guidelines developed under sub-
4 section (b)(1)(B).

5 “(B) CONTENTS AND USE.—The proce-
6 dures and requirements developed under sub-
7 paragraph (A) shall—

8 “(i) ensure reasonable uniformity in
9 the accreditation and certification proce-
10 esses if there is more than 1 selected enti-
11 ty; and

12 “(ii) be used by any selected entity in
13 conducting accreditations and overseeing
14 the certification process under this section.

15 “(C) DISAGREEMENT.—Any disagreement
16 among selected entities in developing procedures
17 under subparagraph (A) shall be resolved by
18 the Secretary.

19 “(3) DESIGNATION.—A selected entity may ac-
20 credit any qualified third party to carry out the cer-
21 tification process under this section.

22 “(4) THIRD PARTIES.—To be accredited under
23 paragraph (3), a third party shall—

24 “(A) demonstrate that the third party has
25 the ability to certify private sector entities in

1 accordance with the procedures and require-
2 ments developed under paragraph (2);

3 “(B) agree to perform certifications in ac-
4 cordance with such procedures and require-
5 ments;

6 “(C) agree not to have any beneficial inter-
7 est in or any direct or indirect control over—

8 “(i) a private sector entity for which
9 that third party conducts a certification
10 under this section; or

11 “(ii) any organization that provides
12 preparedness consulting services to private
13 sector entities;

14 “(D) agree not to have any other conflict
15 of interest with respect to any private sector en-
16 tity for which that third party conducts a cer-
17 tification under this section;

18 “(E) maintain liability insurance coverage
19 at policy limits in accordance with the require-
20 ments developed under paragraph (2); and

21 “(F) enter into an agreement with the se-
22 lected entity accrediting that third party to pro-
23 tect any proprietary information of a private
24 sector entity obtained under this section.

25 “(5) MONITORING.—

1 “(A) IN GENERAL.—The Secretary and
2 any selected entity shall regularly monitor and
3 inspect the operations of any third party con-
4 ducting certifications under this section to en-
5 sure that third party is complying with the pro-
6 cedures and requirements established under
7 paragraph (2) and all other applicable require-
8 ments.

9 “(B) REVOCATION.—If the Secretary or
10 any selected entity determines that a third
11 party is not meeting the procedures or require-
12 ments established under paragraph (2), the ap-
13 propriate selected entity shall—

14 “(i) revoke the accreditation of that
15 third party to conduct certifications under
16 this section; and

17 “(ii) review any certification con-
18 ducted by that third party, as necessary
19 and appropriate.

20 “(d) ANNUAL REVIEW.—

21 “(1) IN GENERAL.—The Secretary, in consulta-
22 tion with representatives of the organizations that
23 coordinate or facilitate the development of and use
24 of voluntary consensus standards, appropriate vol-
25 untary consensus standards development organiza-

1 tions, and each private sector advisory council cre-
2 ated under section 102(f)(4), shall annually review
3 the voluntary accreditation and certification program
4 established under this section to ensure the effective-
5 ness of such program and make improvements and
6 adjustments to the program as necessary and appro-
7 priate.

8 “(2) REVIEW OF STANDARDS.—Each review
9 under paragraph (1) shall include an assessment of
10 the voluntary national preparedness standards used
11 in the program under this section.

12 “(e) COMPLIANCE BY ENTITIES SEEKING CERTIFI-
13 CATION.—Any entity seeking certification under this sec-
14 tion shall comply with all applicable statutes, regulations,
15 directives, policies, and industry codes of practice in meet-
16 ing certification requirements.

17 “(f) VOLUNTARY PARTICIPATION.—Certification
18 under this section shall be voluntary for any private sector
19 entity.

20 “(g) PUBLIC LISTING.—The Secretary shall maintain
21 and make public a listing of any private sector entity cer-
22 tified as being in compliance with the program established
23 under this section, if that private sector entity consents
24 to such listing.

1 “(h) DEFINITION.—In this section, the term ‘selected
2 entity’ means any entity entering an agreement with the
3 Secretary under subsection (c)(1)(A).”.

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—
5 The table of contents in section 1(b) of the Homeland Se-
6 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
7 inserting after the item relating to section 521 the fol-
8 lowing:

“Sec. 522. Voluntary national preparedness standards compliance; accreditation
and certification program for the private sector.”.

9 **SEC. 804. SENSE OF CONGRESS REGARDING PROMOTING**
10 **AN INTERNATIONAL STANDARD FOR PRIVATE**
11 **SECTOR PREPAREDNESS.**

12 It is the sense of Congress that the Secretary or any
13 entity designated under section 522(c)(1)(A) of the Home-
14 land Security Act of 2002, as added by this Act, should
15 promote, where appropriate, efforts to develop a consistent
16 international standard for private sector preparedness.

17 **SEC. 805. DEMONSTRATION PROJECT.**

18 Not later than 120 days after the date of enactment
19 of this Act, the Secretary shall—

20 (1) establish a demonstration project to conduct
21 demonstrations of security management systems
22 that—

23 (A) shall use a management system stand-
24 ards approach; and

1 (B) may be integrated into quality, safety,
2 environmental and other internationally adopted
3 management systems; and

4 (2) enter into 1 or more agreements with a pri-
5 vate sector entity to conduct such demonstrations of
6 security management systems.

7 **SEC. 806. REPORT TO CONGRESS.**

8 Not later than 180 days after the date of enactment
9 of this Act, the Secretary shall submit to the Committee
10 on Homeland Security and Governmental Affairs of the
11 Senate and the Committee on Homeland Security of the
12 House of Representatives a report detailing—

13 (1) any action taken to implement this title or
14 an amendment made by this title; and

15 (2) the status, as of the date of that report, of
16 the implementation of this title and the amendments
17 made by this title.

18 **SEC. 807. RULE OF CONSTRUCTION.**

19 Nothing in this title may be construed to supercede
20 any preparedness or business continuity standards, re-
21 quirements, or best practices established—

22 (1) under any other provision of Federal law; or

23 (2) by any sector-specific agency, as defined
24 under Homeland Security Presidential Directive-7.

1 **TITLE IX—TRANSPORTATION SE-**
2 **CURITY PLANNING AND IN-**
3 **FORMATION SHARING**

4 **SEC. 901. TRANSPORTATION SECURITY STRATEGIC PLAN-**
5 **NING.**

6 (a) IN GENERAL.—Section 114(t)(1)(B) of title 49,
7 United States Code, is amended to read as follows:

8 “(B) transportation modal and intermodal
9 security plans addressing risks, threats, and
10 vulnerabilities for aviation, bridge, tunnel, com-
11 muter rail and ferry, highway, maritime, pipe-
12 line, rail, mass transit, over-the-road bus, and
13 other public transportation infrastructure as-
14 sets.”.

15 (b) CONTENTS OF THE NATIONAL STRATEGY FOR
16 TRANSPORTATION SECURITY.—Section 114(t)(3) of such
17 title is amended—

18 (1) in subparagraph (B), by inserting “, based
19 on risk assessments conducted by the Secretary of
20 Homeland Security (including assessments con-
21 ducted under section 1421 or 1503 of the Improving
22 America’s Security Act of 2007 or any provision of
23 law amended by such title),” after “risk based prior-
24 ities”;

25 (2) in subparagraph (D)—

1 (A) by striking “and local” and inserting
2 “, local, and tribal”; and

3 (B) by striking “private sector cooperation
4 and participation” and inserting “cooperation
5 and participation by private sector entities”;

6 (3) in subparagraph (E)—

7 (A) by striking “response” and inserting
8 “prevention, response,”; and

9 (B) by inserting “and threatened and exe-
10 cuted acts of terrorism outside the United
11 States to the extent such acts affect United
12 States transportation systems” before the pe-
13 riod at the end;

14 (4) in subparagraph (F), by adding at the end
15 the following: “Transportation security research and
16 development projects shall be based, to the extent
17 practicable, on such prioritization. Nothing in the
18 preceding sentence shall be construed to require the
19 termination of any research or development project
20 initiated by the Secretary of Homeland Security be-
21 fore the date of enactment of the Improving Amer-
22 ica’s Security Act of 2007.”; and

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

24 “(G) Short- and long-term budget rec-
25 ommendations for Federal transportation secu-

1 rity programs, which reflect the priorities of the
2 National Strategy for Transportation Security.

3 “(H) Methods for linking the individual
4 transportation modal security plans and the
5 programs contained therein, and a plan for ad-
6 dressing the security needs of intermodal trans-
7 portation hubs.

8 “(I) Transportation security modal and
9 intermodal plans, including operational recovery
10 plans to expedite, to the maximum extent prac-
11 ticable, the return to operation of an adversely
12 affected transportation system following a
13 major terrorist attack on that system or an-
14 other catastrophe. These plans shall be coordi-
15 nated with the resumption of trade protocols re-
16 quired under section 202 of the SAFE Port Act
17 (6 U.S.C. 942).”.

18 (c) PERIODIC PROGRESS REPORTS.—Section
19 114(t)(4) of such title is amended—

20 (1) in subparagraph (C)—

21 (A) in clause (i), by inserting “, including
22 the transportation modal security plans” before
23 the period at the end; and

24 (B) by striking clause (ii) and inserting the
25 following:

1 “(ii) CONTENT.—Each progress re-
2 port submitted under this subparagraph
3 shall include the following:

4 “(I) Recommendations for im-
5 proving and implementing the Na-
6 tional Strategy for Transportation Se-
7 curity and the transportation modal
8 and intermodal security plans that the
9 Secretary of Homeland Security, in
10 consultation with the Secretary of
11 Transportation, considers appropriate.

12 “(II) An accounting of all grants
13 for transportation security, including
14 grants for research and development,
15 distributed by the Secretary of Home-
16 land Security in the most recently
17 concluded fiscal year and a descrip-
18 tion of how such grants accomplished
19 the goals of the National Strategy for
20 Transportation Security.

21 “(III) An accounting of all—

22 “(aa) funds requested in the
23 President’s budget submitted
24 pursuant to section 1105 of title
25 31 for the most recently con-

1 cluded fiscal year for transpor-
2 tation security, by mode; and

3 “(bb) personnel working on
4 transportation security by mode,
5 including the number of contrac-
6 tors.

7 “(iii) WRITTEN EXPLANATION OF
8 TRANSPORTATION SECURITY ACTIVITIES
9 NOT DELINEATED IN THE NATIONAL
10 STRATEGY FOR TRANSPORTATION SECU-
11 RITY.—At the end of each year, the Sec-
12 retary of Homeland Security shall submit
13 to the appropriate congressional commit-
14 tees a written explanation of any activity
15 inconsistent with, or not clearly delineated
16 in, the National Strategy for Transpor-
17 tation Security, including the amount of
18 funds to be expended for the activity and
19 the number of personnel involved.”; and

20 (2) in subparagraph (E), by striking “Select”.

21 (d) PRIORITY STATUS.—Section 114(t)(5)(B) of such
22 title is amended—

23 (1) in clause (iii), by striking “and” at the end;

24 (2) by redesignating clause (iv) as clause (v);

25 and

1 (3) by inserting after clause (iii) the following:

2 “(iv) the transportation sector specific
3 plan required under Homeland Security
4 Presidential Directive-7; and”.

5 (e) COORDINATION AND PLAN DISTRIBUTION.—Sec-
6 tion 114(t) of such title is amended by adding at the end
7 the following:

8 “(6) COORDINATION.—In carrying out the re-
9 sponsibilities under this section, the Secretary of
10 Homeland Security, in consultation with the Sec-
11 retary of Transportation, shall consult, as appro-
12 priate, with Federal, State, and local agencies, tribal
13 governments, private sector entities (including non-
14 profit employee labor organizations), institutions of
15 higher learning, and other entities.

16 “(7) PLAN DISTRIBUTION.—The Secretary of
17 Homeland Security shall make available an unclassi-
18 fied version of the National Strategy for Transpor-
19 tation Security, including its component transpor-
20 tation modal security plans, to Federal, State, re-
21 gional, local and tribal authorities, transportation
22 system owners or operators, private sector stake-
23 holders (including non-profit employee labor organi-
24 zations), institutions of higher learning, and other
25 appropriate entities.”.

1 **SEC. 902. TRANSPORTATION SECURITY INFORMATION**
2 **SHARING.**

3 (a) IN GENERAL.—Section 114 of title 49, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 “(u) TRANSPORTATION SECURITY INFORMATION
7 SHARING PLAN.—

8 “(1) ESTABLISHMENT OF PLAN.—The Sec-
9 retary of Homeland Security, in consultation with
10 the program manager of the information sharing en-
11 vironment established under section 1016 of the In-
12 telligence Reform and Terrorism Prevention Act of
13 2004 (6 U.S.C. 485), the Secretary of Transpor-
14 tation, and public and private stakeholders, shall es-
15 tablish a Transportation Security Information Shar-
16 ing Plan. In establishing the plan, the Secretary
17 shall gather input on the development of the Plan
18 from private and public stakeholders and the pro-
19 gram manager of the information sharing environ-
20 ment established under section 1016 of the Intel-
21 ligence Reform and Terrorism Prevention Act of
22 2004 (6 U.S.C. 485).

23 “(2) PURPOSE OF PLAN.—The Plan shall pro-
24 mote sharing of transportation security information
25 between the Department of Homeland Security and
26 public and private stakeholders.

1 “(3) CONTENT OF PLAN.—The Plan shall
2 include—

3 “(A) a description of how intelligence ana-
4 lysts within the Department of Homeland Secu-
5 rity will coordinate their activities within the
6 Department and with other Federal, State, and
7 local agencies, and tribal governments, includ-
8 ing coordination with existing modal informa-
9 tion sharing centers and the center established
10 under section 1506 of the Improving America’s
11 Security Act of 2007;

12 “(B) the establishment of a point of con-
13 tact, which may be a single point of contact, for
14 each mode of transportation within the Depart-
15 ment of Homeland Security for its sharing of
16 transportation security information with public
17 and private stakeholders, including an expla-
18 nation and justification to the appropriate con-
19 gressional committees if the point of contact es-
20 tablished pursuant to this subparagraph differs
21 from the agency within the Department that
22 has the primary authority, or has been dele-
23 gated such authority by the Secretary, to regu-
24 late the security of that transportation mode;

1 “(C) a reasonable deadline by which the
2 Plan will be implemented; and

3 “(D) a description of resource needs for
4 fulfilling the Plan.

5 “(4) COORDINATION WITH THE INFORMATION
6 SHARING ENVIRONMENT.—The Plan shall be—

7 “(A) implemented in coordination with the
8 program manager for the information sharing
9 environment established under section 1016 of
10 the Intelligence Reform and Terrorism Preven-
11 tion Act of 2004 (6 U.S.C. 485); and

12 “(B) consistent with the establishment of
13 that environment, and any policies, guidelines,
14 procedures, instructions, or standards estab-
15 lished by the President or the program manager
16 for the implementation and management of that
17 environment.

18 “(5) REPORTS TO CONGRESS.—

19 “(A) IN GENERAL.—Not later than 180
20 days after the date of enactment of this sub-
21 section, the Secretary shall submit to the appro-
22 priate congressional committees a report con-
23 taining the Plan.

24 “(B) ANNUAL REPORT.—Not later than 1
25 year after the date of enactment of this sub-

1 section, the Secretary shall submit to the appro-
2 priate congressional committees an annual re-
3 port on updates to and the implementation of
4 the Plan.

5 “(6) SURVEY.—

6 “(A) IN GENERAL.—The Secretary shall
7 conduct a biennial survey of the satisfaction of
8 the recipients of transportation intelligence re-
9 ports disseminated under the Plan, and include
10 the results of the survey as part of the annual
11 report to be submitted under paragraph (5)(B).

12 “(B) INFORMATION SOUGHT.—The survey
13 conducted under subparagraph (A) shall seek
14 information about the quality, speed, regularity,
15 and classification of the transportation security
16 information products disseminated from the De-
17 partment of Homeland Security to public and
18 private stakeholders.

19 “(7) SECURITY CLEARANCES.—The Secretary
20 shall, to the greatest extent practicable, take steps
21 to expedite the security clearances needed for public
22 and private stakeholders to receive and obtain access
23 to classified information distributed under this sec-
24 tion as appropriate.

1 “(8) CLASSIFICATION OF MATERIAL.—The Sec-
2 retary, to the greatest extent practicable, shall pro-
3 vide public and private stakeholders with specific
4 and actionable information in an unclassified format.

5 “(9) DEFINITIONS.—In this subsection:

6 “(A) APPROPRIATE CONGRESSIONAL COM-
7 MITTEES.—The term ‘appropriate congressional
8 committees’ has the meaning given that term in
9 subsection (t), but shall also include the Senate
10 Committee on Banking, Housing, and Urban
11 Development.

12 “(B) PLAN.—The term ‘Plan’ means the
13 Transportation Security Information Sharing
14 Plan established under paragraph (1).

15 “(C) PUBLIC AND PRIVATE STAKE-
16 HOLDERS.—The term ‘public and private stake-
17 holders’ means Federal, State, and local agen-
18 cies, tribal governments, and appropriate pri-
19 vate entities.

20 “(D) SECRETARY.—The term ‘Secretary’
21 means the Secretary of Homeland Security.

22 “(E) TRANSPORTATION SECURITY INFOR-
23 MATION.—The term ‘transportation security in-
24 formation’ means information relating to the
25 risks to transportation modes, including avia-

1 tion, bridge and tunnel, mass transit, passenger
2 and freight rail, ferry, highway, maritime, pipe-
3 line, and over-the-road bus transportation.”.

4 (b) CONGRESSIONAL OVERSIGHT OF SECURITY AS-
5 SURANCE FOR PUBLIC AND PRIVATE STAKEHOLDERS.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the Secretary shall provide a semiannual
8 report to the Committee on Homeland Security and
9 Governmental Affairs, the Committee on Commerce,
10 Science, and Transportation, and the Committee on
11 Banking, Housing, and Urban Development of the
12 Senate and the Committee on Homeland Security
13 and the Committee on Transportation and Infra-
14 structure of the House of Representatives that—

15 (A) identifies the job titles and descrip-
16 tions of the persons with whom such informa-
17 tion is to be shared under the transportation se-
18 curity information sharing plan established
19 under section 114(u) of title 49, United States
20 Code, as added by this Act, and explains the
21 reason for sharing the information with such
22 persons;

23 (B) describes the measures the Secretary
24 has taken, under section 114(u)(7) of that title,
25 or otherwise, to ensure proper treatment and

1 security for any classified information to be
2 shared with the public and private stakeholders
3 under the plan; and

4 (C) explains the reason for the denial of
5 transportation security information to any
6 stakeholder who had previously received such
7 information.

8 (2) NO REPORT REQUIRED IF NO CHANGES IN
9 STAKEHOLDERS.—The Secretary is not required to
10 provide a semiannual report under paragraph (1) if
11 no stakeholders have been added to or removed from
12 the group of persons with whom transportation secu-
13 rity information is shared under the plan since the
14 end of the period covered by the last preceding semi-
15 annual report.

16 **SEC. 903. TRANSPORTATION SECURITY ADMINISTRATION**
17 **PERSONNEL MANAGEMENT.**

18 (a) TSA EMPLOYEE DEFINED.—In this section, the
19 term “TSA employee” means an individual who holds—

20 (1) any position which was transferred (or the
21 incumbent of which was transferred) from the
22 Transportation Security Administration of the De-
23 partment of Transportation to the Department by
24 section 403 of the Homeland Security Act of 2002
25 (6 U.S.C. 203); or

1 (2) any other position within the Department
2 the duties and responsibilities of which include car-
3 rying out 1 or more of the functions that were trans-
4 ferred from the Transportation Security Administra-
5 tion of the Department of Transportation to the
6 Secretary by such section.

7 (b) ELIMINATION OF CERTAIN PERSONNEL MANAGE-
8 MENT AUTHORITIES.—Effective 90 days after the date of
9 enactment of this Act—

10 (1) section 111(d) of the Aviation and Trans-
11 portation Security Act (49 U.S.C. 44935 note) is re-
12 pealed and any authority of the Secretary derived
13 from such section 111(d) shall terminate;

14 (2) any personnel management system, to the
15 extent established or modified under such section
16 111(d) (including by the Secretary through the exer-
17 cise of any authority derived from such section
18 111(d)) shall terminate; and

19 (3) the Secretary shall ensure that all TSA em-
20 ployees are subject to the same personnel manage-
21 ment system as described in paragraph (1) or (2) of
22 subsection (e).

23 (c) ESTABLISHMENT OF CERTAIN UNIFORMITY RE-
24 QUIREMENTS.—

1 (1) SYSTEM UNDER SUBSECTION (e)(1).—The
2 Secretary shall, with respect to any personnel man-
3 agement system described in subsection (e)(1), take
4 any measures which may be necessary to provide for
5 the uniform treatment of all TSA employees under
6 such system.

7 (2) SYSTEM UNDER SUBSECTION (e)(2).—Sec-
8 tion 9701(b) of title 5, United States Code, is
9 amended—

10 (A) in paragraph (4), by striking “and” at
11 the end;

12 (B) in paragraph (5), by striking the pe-
13 riod at the end and inserting “; and”; and

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

15 “(6) provide for the uniform treatment of all
16 TSA employees (as that term is defined in section
17 903 of the Improving America’s Security Act of
18 2007).”.

19 (3) EFFECTIVE DATE.—

20 (A) PROVISIONS RELATING TO A SYSTEM
21 UNDER SUBSECTION (e)(1).—Any measures
22 necessary to carry out paragraph (1) shall take
23 effect 90 days after the date of enactment of
24 this Act.

1 (B) PROVISIONS RELATING TO A SYSTEM
2 UNDER SUBSECTION (e)(2).—Any measures
3 necessary to carry out the amendments made
4 by paragraph (2) shall take effect on the later
5 of 90 days after the date of enactment of this
6 Act and the commencement date of the system
7 involved.

8 (d) REPORT TO CONGRESS.—

9 (1) REPORT REQUIRED.—Not later than 6
10 months after the date of enactment of this Act, the
11 Comptroller General of the United States shall sub-
12 mit to the Committee on Homeland Security and
13 Governmental Affairs of the Senate and the Com-
14 mittee on Homeland Security of the House of Rep-
15 resentatives a report on—

16 (A) the pay system that applies with re-
17 spect to TSA employees as of the date of enact-
18 ment of this Act; and

19 (B) any changes to such system which
20 would be made under any regulations which
21 have been prescribed under chapter 97 of title
22 5, United States Code.

23 (2) MATTERS FOR INCLUSION.—The report re-
24 quired under paragraph (1) shall include—

1 (A) a brief description of each pay system
 2 described in paragraphs (1)(A) and (1)(B), re-
 3 spectively;

4 (B) a comparison of the relative advan-
 5 tages and disadvantages of each of those pay
 6 systems; and

7 (C) such other matters as the Comptroller
 8 General determines appropriate.

9 (e) PERSONNEL MANAGEMENT SYSTEM DE-
 10 SCRIBED.—A personnel management system described in
 11 this subsection is—

12 (1) any personnel management system, to the
 13 extent that it applies with respect to any TSA em-
 14 ployees under section 114(n) of title 49, United
 15 States Code; and

16 (2) any human resources management system,
 17 established under chapter 97 of title 5, United
 18 States Code.

19 **SEC. 904. APPEAL RIGHTS AND EMPLOYEE ENGAGEMENT**
 20 **MECHANISM FOR PASSENGER AND PROP-**
 21 **ERTY SCREENERS.**

22 (a) APPEAL RIGHTS FOR SCREENERS.—

23 (1) IN GENERAL.—Section 111(d) of the Avia-
 24 tion and Transportation Security Act (49 U.S.C.
 25 44935 note) is amended—

1 (A) by striking “Notwithstanding” and in-
2 serting the following:

3 “(1) IN GENERAL.—Except as provided in para-
4 graphs (2) and (3) notwithstanding”; and

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

6 “(2) RIGHT TO APPEAL ADVERSE ACTION.—
7 The provisions of chapters 75 and 77 of title 5,
8 United States Code, shall apply to an individual em-
9 ployed or appointed to carry out the screening func-
10 tions of the Administrator under section 44901 of
11 title 49, United States Code.

12 “(3) EMPLOYEE ENGAGEMENT MECHANISM FOR
13 ADDRESSING WORKPLACE ISSUES.—The Under Sec-
14 retary of Transportation shall provide a collabo-
15 rative, integrated, employee engagement mechanism,
16 subject to chapter 71 of title 5, United States Code,
17 at every airport to address workplace issues, except
18 that collective bargaining over working conditions
19 shall not extend to pay. Employees shall not have
20 the right to engage in a strike and the Under Sec-
21 retary may take whatever actions may be necessary
22 to carry out the agency mission during emergencies,
23 newly imminent threats, or intelligence indicating a
24 newly imminent emergency risk. No properly classi-

1 fied information shall be divulged in any non-author-
2 ized forum.”.

3 (2) CONFORMING AMENDMENTS.—Section
4 111(d)(1) of the Aviation and Transportation Secu-
5 rity Act, as amended by paragraph (1)(A), is
6 amended—

7 (A) by striking “Under Secretary of
8 Transportation for Security” and inserting
9 “Administrator of the Transportation Security
10 Administration”; and

11 (B) by striking “Under Secretary” each
12 place such appears and inserting “Adminis-
13 trator”.

14 (b) WHISTLEBLOWER PROTECTIONS.—Section 883
15 of the Homeland Security Act of 2002 (6 U.S.C. 463) is
16 amended, in the matter preceding paragraph (1), by in-
17 serting “, or section 111(d) of the Aviation and Transpor-
18 tation Security Act,” after “this Act”.

19 (c) REPORT TO CONGRESS.—

20 (1) REPORT REQUIRED.—Not later than 6
21 months after the date of enactment of this Act, the
22 Comptroller General of the United States shall sub-
23 mit to the Committee on Homeland Security and
24 Governmental Affairs of the Senate and the Com-

1 committee on Homeland Security of the House of Rep-
2 resentatives a report on—

3 (A) the pay system that applies with re-
4 spect to TSA employees as of the date of enact-
5 ment of this Act; and

6 (B) any changes to such system which
7 would be made under any regulations which
8 have been prescribed under chapter 97 of title
9 5, United States Code.

10 (2) MATTERS FOR INCLUSION.—The report re-
11 quired under paragraph (1) shall include—

12 (A) a brief description of each pay system
13 described in paragraphs (1)(A) and (1)(B), re-
14 spectively;

15 (B) a comparison of the relative advan-
16 tages and disadvantages of each of those pay
17 systems; and

18 (C) such other matters as the Comptroller
19 General determines appropriate.

20 (d) This section shall take effect one day after the
21 date of enactment.

22 **SEC. 905. PLAN FOR 100 PERCENT SCANNING OF CARGO**
23 **CONTAINERS.**

24 Section 232(c) of the Security and Accountability For
25 Every Port Act (6 U.S.C. 982(c)) is amended—

1 (1) by striking “Not later” and inserting the
2 following:

3 “(1) IN GENERAL.—Not later”;

4 (2) by resetting the left margin of the text
5 thereof 2 ems from the left margin; and

6 (3) by inserting at the end thereof the fol-
7 lowing:

8 “(2) PLAN FOR 100 PERCENT SCANNING OF
9 CARGO CONTAINERS.—

10 “(A) IN GENERAL.—The first report under
11 paragraph (1) shall include an initial plan to
12 scan 100 percent of the cargo containers des-
13 tined for the United States before such con-
14 tainers arrive in the United States.

15 “(B) PLAN CONTENTS.—The plan under
16 subparagraph (A) shall include—

17 “(i) specific annual benchmarks for
18 the percentage of cargo containers destined
19 for the United States that are scanned at
20 a foreign port;

21 “(ii) annual increases in the bench-
22 marks described in clause (i) until 100
23 percent of the cargo containers destined
24 for the United States are scanned before
25 arriving in the United States, unless the

1 Secretary explains in writing to the appro-
2 priate congressional committees that inad-
3 equate progress has been made in meeting
4 the criteria in section 232(b) for expanded
5 scanning to be practical or feasible;

6 “(iii) an analysis of how to effectively
7 incorporate existing programs, including
8 the Container Security Initiative estab-
9 lished by section 205 and the Customs-
10 Trade Partnership Against Terrorism es-
11 tablished by subtitle B, to reach the bench-
12 marks described in clause (i); and

13 “(iv) an analysis of the scanning
14 equipment, personnel, and technology nec-
15 essary to reach the goal of 100 percent
16 scanning of cargo containers.

17 “(C) SUBSEQUENT REPORTS.—Each re-
18 port under paragraph (1) after the initial report
19 shall include an assessment of the progress to-
20 ward implementing the plan under subpara-
21 graph (A).”.

1 **TITLE X—INCIDENT COMMAND**
2 **SYSTEM**

3 **SEC. 1001. PREIDENTIFYING AND EVALUATING MULTI-**
4 **JURISDICTIONAL FACILITIES TO STRENGTH-**
5 **EN INCIDENT COMMAND; PRIVATE SECTOR**
6 **PREPAREDNESS.**

7 Section 507(c)(2) of the Homeland Security Act of
8 2002 (6 U.S.C. 317(c)(2)) is amended—

9 (1) in subparagraph (H), by striking “and” at
10 the end;

11 (2) by redesignating subparagraph (I) as sub-
12 paragraph (K); and

13 (3) by inserting after subparagraph (H) the fol-
14 lowing:

15 “(I) coordinating with the private sector to
16 help ensure private sector preparedness for nat-
17 ural disasters, acts of terrorism, or other man-
18 made disasters;

19 “(J) assisting State, local, or tribal govern-
20 ments, where appropriate, to preidentify and
21 evaluate suitable sites where a multijuris-
22 dictional incident command system can be
23 quickly established and operated from, if the
24 need for such a system arises; and”.

1 **SEC. 1002. CREDENTIALING AND TYPING TO STRENGTHEN**
2 **INCIDENT COMMAND.**

3 (a) IN GENERAL.—Title V of the Homeland Security
4 Act of 2002 (6 U.S.C. 331 et seq.) is amended—

5 (1) by striking section 510 and inserting the
6 following:

7 **“SEC. 510. CREDENTIALING AND TYPING.**

8 **“(a) CREDENTIALING.—**

9 **“(1) DEFINITIONS.—**In this subsection—

10 **“(A)** the term ‘credential’ means to provide
11 documentation that can authenticate and verify
12 the qualifications and identity of managers of
13 incidents, emergency response providers, and
14 other appropriate personnel, including by ensur-
15 ing that such personnel possess a minimum
16 common level of training, experience, physical
17 and medical fitness, and capability appropriate
18 for their position;

19 **“(B)** the term ‘credentialing’ means evalu-
20 ating an individual’s qualifications for a specific
21 position under guidelines created under this
22 subsection and assigning such individual a qual-
23 ification under the standards developed under
24 this subsection; and

25 **“(C)** the term ‘credentialed’ means an indi-
26 vidual has been evaluated for a specific position

1 under the guidelines created under this sub-
2 section.

3 “(2) REQUIREMENTS.—

4 “(A) IN GENERAL.—The Administrator
5 shall enter into a memorandum of under-
6 standing with the administrators of the Emer-
7 gency Management Assistance Compact, State,
8 local, and tribal governments, emergency re-
9 sponse providers, and the organizations that
10 represent such providers, to collaborate on es-
11 tablishing nationwide standards for
12 credentialing all personnel who are likely to re-
13 spond to a natural disaster, act of terrorism, or
14 other man-made disaster.

15 “(B) CONTENTS.—The standards devel-
16 oped under subparagraph (A) shall—

17 “(i) include the minimum professional
18 qualifications, certifications, training, and
19 education requirements for specific emer-
20 gency response functional positions that
21 are applicable to Federal, State, local, and
22 tribal government;

23 “(ii) be compatible with the National
24 Incident Management System; and

1 “(iii) be consistent with standards for
2 advance registration for health professions
3 volunteers under section 319I of the Public
4 Health Services Act (42 U.S.C. 247d–7b).

5 “(C) TIMEFRAME.—The Administrator
6 shall develop standards under subparagraph (A)
7 not later than 6 months after the date of enact-
8 ment of the Improving America’s Security Act
9 of 2007.

10 “(3) CREDENTIALING OF DEPARTMENT PER-
11 SONNEL.—

12 “(A) IN GENERAL.—Not later than 1 year
13 after the date of enactment of the Improving
14 America’s Security Act of 2007, the Secretary
15 and the Administrator shall ensure that all per-
16 sonnel of the Department (including temporary
17 personnel and individuals in the Surge Capacity
18 Force established under section 624 of the
19 Post-Katrina Emergency Management Reform
20 Act of 2006 (6 U.S.C. 711)) who are likely to
21 respond to a natural disaster, act of terrorism,
22 or other man-made disaster are credentialed.

23 “(B) STRATEGIC HUMAN CAPITAL PLAN.—
24 Not later than 90 days after completion of the
25 credentialing under subparagraph (A), the Ad-

1 administrator shall evaluate whether the work-
2 force of the Agency complies with the strategic
3 human capital plan of the Agency developed
4 under section 10102 of title 5, United States
5 Code, and is sufficient to respond to a cata-
6 strophic incident.

7 “(4) INTEGRATION WITH NATIONAL RESPONSE
8 PLAN.—

9 “(A) DISTRIBUTION OF STANDARDS.—Not
10 later than 6 months after the date of enactment
11 of the Improving America’s Security Act of
12 2007, the Administrator shall provide the
13 standards developed under paragraph (2) to all
14 Federal agencies that have responsibilities
15 under the National Response Plan.

16 “(B) CREDENTIALING OF AGENCIES.—Not
17 later than 6 months after the date on which the
18 standards are provided under subparagraph
19 (A), each agency described in subparagraph (A)
20 shall—

21 “(i) ensure that all employees or vol-
22 unteers of that agency who are likely to re-
23 spond to a natural disaster, act of ter-
24 rorism, or other man-made disaster are
25 credentialed; and

1 “(ii) submit to the Secretary the name
2 of each credentialed employee or volunteer
3 of such agency.

4 “(C) LEADERSHIP.—The Administrator
5 shall provide leadership, guidance, and technical
6 assistance to an agency described in subpara-
7 graph (A) to facilitate the credentialing process
8 of that agency.

9 “(5) DOCUMENTATION AND DATABASE SYS-
10 TEM.—

11 “(A) IN GENERAL.—Not later than 1 year
12 after the date of enactment of the Improving
13 America’s Security Act of 2007, the Adminis-
14 trator shall establish and maintain a docu-
15 mentation and database system of Federal
16 emergency response providers and all other
17 Federal personnel credentialed to respond to a
18 natural disaster, act of terrorism, or other man-
19 made disaster.

20 “(B) ACCESSIBILITY.—The documentation
21 and database system established under subpara-
22 graph (1) shall be accessible to the Federal co-
23 ordinating officer and other appropriate offi-
24 cials preparing for or responding to a natural

1 disaster, act of terrorism, or other man-made
2 disaster.

3 “(C) CONSIDERATIONS.—The Adminis-
4 trator shall consider whether the credentialing
5 system can be used to regulate access to areas
6 affected by a natural disaster, act of terrorism,
7 or other man-made disaster.

8 “(6) GUIDANCE TO STATE AND LOCAL GOVERN-
9 MENTS.—Not later than 6 months after the date of
10 enactment of the Improving America’s Security Act
11 of 2007, the Administrator shall—

12 “(A) in collaboration with the administra-
13 tors of the Emergency Management Assistance
14 Compact, State, local, and tribal governments,
15 emergency response providers, and the organi-
16 zations that represent such providers, provide
17 detailed written guidance, assistance, and ex-
18 pertise to State, local, and tribal governments
19 to facilitate the credentialing of State, local,
20 and tribal emergency response providers com-
21 monly or likely to be used in responding to a
22 natural disaster, act of terrorism, or other man-
23 made disaster; and

24 “(B) in coordination with the administra-
25 tors of the Emergency Management Assistance

1 Compact, State, local, and tribal governments,
2 emergency response providers (and the organi-
3 zations that represent such providers), and ap-
4 propriate national professional organizations,
5 assist State, local, and tribal governments with
6 credentialing the personnel of the State, local,
7 or tribal government under the guidance pro-
8 vided under subparagraph (A).

9 “(7) REPORT.—Not later than 6 months after
10 the date of enactment of the Improving America’s
11 Security Act of 2007, and annually thereafter, the
12 Administrator shall submit to the Committee on
13 Homeland Security and Governmental Affairs of the
14 Senate and the Committee on Homeland Security of
15 the House of Representatives a report describing the
16 implementation of this subsection, including the
17 number and level of qualification of Federal per-
18 sonnel trained and ready to respond to a natural dis-
19 aster, act of terrorism, or other man-made disaster.

20 “(b) TYPING OF RESOURCES.—

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

22 “(A) the term ‘typed’ means an asset or
23 resource that has been evaluated for a specific
24 function under the guidelines created under this
25 section; and

1 “(B) the term ‘typing’ means to define in
2 detail the minimum capabilities of an asset or
3 resource.

4 “(2) REQUIREMENTS.—

5 “(A) IN GENERAL.—The Administrator
6 shall enter into a memorandum of under-
7 standing with the administrators of the Emer-
8 gency Management Assistance Compact, State,
9 local, and tribal governments, emergency re-
10 sponse providers, and organizations that rep-
11 resent such providers, to collaborate on estab-
12 lishing nationwide standards for typing of re-
13 sources commonly or likely to be used in re-
14 sponding to a natural disaster, act of terrorism,
15 or other man-made disaster.

16 “(B) CONTENTS.—The standards devel-
17 oped under subparagraph (A) shall—

18 “(i) be applicable to Federal, State,
19 local, and tribal government; and

20 “(ii) be compatible with the National
21 Incident Management System.

22 “(3) TYPING OF DEPARTMENT RESOURCES AND
23 ASSETS.—Not later than 1 year after the date of en-
24 actment of the Improving America’s Security Act of
25 2007, the Secretary shall ensure that all resources

1 and assets of the Department that are commonly or
2 likely to be used to respond to a natural disaster, act
3 of terrorism, or other man-made disaster are typed.

4 “(4) INTEGRATION WITH NATIONAL RESPONSE
5 PLAN.—

6 “(A) DISTRIBUTION OF STANDARDS.—Not
7 later than 6 months after the date of enactment
8 of the Improving America’s Security Act of
9 2007, the Administrator shall provide the
10 standards developed under paragraph (2) to all
11 Federal agencies that have responsibilities
12 under the National Response Plan.

13 “(B) TYPING OF AGENCIES, ASSETS, AND
14 RESOURCES.—Not later than 6 months after
15 the date on which the standards are provided
16 under subparagraph (A), each agency described
17 in subparagraph (A) shall—

18 “(i) ensure that all resources and as-
19 sets (including teams, equipment, and
20 other assets) of that agency that are com-
21 monly or likely to be used to respond to a
22 natural disaster, act of terrorism, or other
23 man-made disaster are typed; and

24 “(ii) submit to the Secretary a list of
25 all types resources and assets.

1 “(C) LEADERSHIP.—The Administrator
2 shall provide leadership, guidance, and technical
3 assistance to an agency described in subpara-
4 graph (A) to facilitate the typing process of
5 that agency.

6 “(5) DOCUMENTATION AND DATABASE SYS-
7 TEM.—

8 “(A) IN GENERAL.—Not later than 1 year
9 after the date of enactment of the Improving
10 America’s Security Act of 2007, the Adminis-
11 trator shall establish and maintain a docu-
12 mentation and database system of Federal re-
13 sources and assets commonly or likely to be
14 used to respond to a natural disaster, act of
15 terrorism, or other man-made disaster.

16 “(B) ACCESSIBILITY.—The documentation
17 and database system established under subpara-
18 graph (A) shall be accessible to the Federal co-
19 ordinating officer and other appropriate offi-
20 cials preparing for or responding to a natural
21 disaster, act of terrorism, or other man-made
22 disaster.

23 “(6) GUIDANCE TO STATE AND LOCAL GOVERN-
24 MENTS.—Not later than 6 months after the date of
25 enactment of the Improving America’s Security Act

1 of 2007, the Administrator, in collaboration with the
2 administrators of the Emergency Management As-
3 sistance Compact, State, local, and tribal govern-
4 ments, emergency response providers, and the orga-
5 nizations that represent such providers, shall—

6 “(A) provide detailed written guidance, as-
7 sistance, and expertise to State, local, and trib-
8 al governments to facilitate the typing of the re-
9 sources and assets of State, local, and tribal
10 governments likely to be used in responding to
11 a natural disaster, act of terrorism, or other
12 man-made disaster; and

13 “(B) assist State, local, and tribal govern-
14 ments with typing resources and assets of
15 State, local, or tribal governments under the
16 guidance provided under subparagraph (A).

17 “(7) REPORT.—Not later than 6 months after
18 the date of enactment of the Improving America’s
19 Security Act of 2007, and annually thereafter, the
20 Administrator shall submit to the Committee on
21 Homeland Security and Governmental Affairs of the
22 Senate and the Committee on Homeland Security of
23 the House of Representatives a report describing the
24 implementation of this subsection, including the
25 number and type of Federal resources and assets

1 ready to respond to a natural disaster, act of ter-
2 rorism, or other man-made disaster.

3 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as necessary
5 to carry out this section.”; and

6 (2) by adding after section 522, as added by
7 section 803 of this Act, the following:

8 **“SEC. 523. PROVIDING SECURE ACCESS TO CRITICAL IN-
9 FRASTRUCTURE.**

10 “Not later than 6 months after the date of enactment
11 of the Improving America’s Security Act of 2007, and in
12 coordination with appropriate national professional orga-
13 nizations, Federal, State, local, and tribal government
14 agencies, and private-sector and nongovernmental entities,
15 the Administrator shall create model standards or guide-
16 lines that States may adopt in conjunction with critical
17 infrastructure owners and operators and their employees
18 to permit access to restricted areas in the event of a nat-
19 ural disaster, act of terrorism, or other man-made dis-
20 aster.”.

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(b)) is amended by in-
24 serting after the item relating to section 522, as added
25 by section 803 of this Act, the following:

“Sec. 523. Providing secure access to critical infrastructure.”.

1 **TITLE XI—CRITICAL**
2 **INFRASTRUCTURE PROTECTION**

3 **SEC. 1101. CRITICAL INFRASTRUCTURE PROTECTION.**

4 (a) **CRITICAL INFRASTRUCTURE LIST.**—Not later
5 than 90 days after the date of enactment of this Act, and
6 in coordination with other initiatives of the Secretary re-
7 lating to critical infrastructure or key resource protection
8 and partnerships between the government and private sec-
9 tor, the Secretary shall establish a risk-based prioritized
10 list of critical infrastructure and key resources that—

11 (1) includes assets or systems that, if success-
12 fully destroyed or disrupted through a terrorist at-
13 tack or natural catastrophe, would cause cata-
14 strophic national or regional impacts, including—

15 (A) significant loss of life;

16 (B) severe economic harm;

17 (C) mass evacuations; or

18 (D) loss of a city, region, or sector of the
19 economy as a result of contamination, destruc-
20 tion, or disruption of vital public services; and

21 (2) reflects a cross-sector analysis of critical in-
22 frastructure to determine priorities for prevention,
23 protection, recovery, and restoration.

1 (b) SECTOR LISTS.—The Secretary shall include lev-
2 ees in the Department’s list of critical infrastructure sec-
3 tors.

4 (c) MAINTENANCE.—Each list created under this sec-
5 tion shall be reviewed and updated on an ongoing basis,
6 but at least annually.

7 (d) ANNUAL REPORT.—

8 (1) GENERALLY.—Not later than 120 days
9 after the date of enactment of this Act, and annually
10 thereafter, the Secretary shall submit to the Com-
11 mittee on Homeland Security and Governmental Af-
12 fairs of the Senate and the Committee on Homeland
13 Security of the House of Representatives a report
14 summarizing—

15 (A) the criteria used to develop each list
16 created under this section;

17 (B) the methodology used to solicit and
18 verify submissions for each list;

19 (C) the name, location, and sector classi-
20 fication of assets in each list created under this
21 section;

22 (D) a description of any additional lists or
23 databases the Department has developed to
24 prioritize critical infrastructure on the basis of
25 risk; and

1 (E) how each list developed under this sec-
2 tion will be used by the Secretary in program
3 activities, including grant making.

4 (2) CLASSIFIED INFORMATION.—

5 (A) IN GENERAL.—The Secretary shall
6 submit with each report under this subsection a
7 classified annex containing information required
8 to be submitted under this subsection that can-
9 not be made public.

10 (B) RETENTION OF CLASSIFICATION.—The
11 classification of information required to be pro-
12 vided to Congress, the Department, or any
13 other department or agency under this section
14 by a sector-specific agency, including the as-
15 signment of a level of classification of such in-
16 formation, shall be binding on Congress, the
17 Department, and that other Federal agency.

18 **SEC. 1102. RISK ASSESSMENT AND REPORT.**

19 (a) RISK ASSESSMENT.—

20 (1) IN GENERAL.—The Secretary, pursuant to
21 the responsibilities under section 202 of the Home-
22 land Security Act (6 U.S.C. 122), for each fiscal
23 year beginning with fiscal year 2007, shall prepare
24 a risk assessment of the critical infrastructure and
25 key resources of the Nation which shall—

1 (A) be organized by sector, including the
2 critical infrastructure sectors named in Home-
3 land Security Presidential Directive-7, as in ef-
4 fect on January 1, 2006; and

5 (B) contain any actions or counter-
6 measures proposed, recommended, or directed
7 by the Secretary to address security concerns
8 covered in the assessment.

9 (2) RELIANCE ON OTHER ASSESSMENTS.—In
10 preparing the assessments and reports under this
11 section, the Department may rely on a vulnerability
12 assessment or risk assessment prepared by another
13 Federal agency that the Department determines is
14 prepared in coordination with other initiatives of the
15 Department relating to critical infrastructure or key
16 resource protection and partnerships between the
17 government and private sector.

18 (b) REPORT.—

19 (1) IN GENERAL.—Not later than 6 months
20 after the last day of fiscal year 2007 and for each
21 year thereafter, the Secretary shall submit a report
22 to the Committee on Homeland Security and Gov-
23 ernmental Affairs of the Senate and the Committee
24 on Homeland Security of the House of Representa-
25 tives, and to each Committee of the Senate and the

1 House of Representatives having jurisdiction over
2 the critical infrastructure or key resource addressed
3 by the report, containing a summary and review of
4 the risk assessments prepared by the Secretary
5 under this section for that fiscal year, which shall be
6 organized by sector and which shall include rec-
7 ommendations of the Secretary for mitigating risks
8 identified by the assessments.

9 “(2) CLASSIFIED INFORMATION.—

10 “(A) IN GENERAL.—The report under this
11 subsection may contain a classified annex.

12 “(B) RETENTION OF CLASSIFICATION.—

13 The classification of information required to be
14 provided to Congress, the Department, or any
15 other department or agency under this section
16 by a sector-specific agency, including the as-
17 signment of a level of classification of such in-
18 formation, shall be binding on Congress, the
19 Department, and that other Federal agency.”.

20 **SEC. 1103. USE OF EXISTING CAPABILITIES.**

21 Where appropriate, the Secretary shall use the Na-
22 tional Infrastructure Simulation and Analysis Center to
23 carry out the actions required under this title.

1 **SEC. 1104. PRIORITIES AND ALLOCATIONS.**

2 Not later than 6 months after the last day of fiscal
 3 year 2007, and for each year thereafter, the Secretary,
 4 in cooperation with the Secretary of Commerce, the Sec-
 5 retary of Transportation, the Secretary of Defense, and
 6 the Secretary of Energy shall submit to the Committee
 7 on Banking, Housing, and Urban Affairs and the Com-
 8 mittee on Homeland Security and Governmental Affairs
 9 of the Senate and the Committee on Financial Services
 10 and the Committee on Homeland Security of the House
 11 of Representatives a report that details the actions taken
 12 by the Federal Government to ensure, in accordance with
 13 subsections (a) and (c) of section 101 of the Defense Pro-
 14 duction Act of 1950 (50 U.S.C. App. 2071), the prepared-
 15 ness of industry—

16 (1) to reduce interruption of critical infrastruc-
 17 ture operations during a terrorist attack, natural ca-
 18 tastrophe, or other similar national emergency; and

19 (2) to minimize the impact of such catas-
 20 trophes, as so described in section 1001(a)(1).

21 **TITLE XII—CONGRESSIONAL**
 22 **OVERSIGHT OF INTELLIGENCE**

23 **SEC. 1201. AVAILABILITY TO PUBLIC OF CERTAIN INTEL-**
 24 **LIGENCE FUNDING INFORMATION.**

25 (a) AMOUNTS REQUESTED EACH FISCAL YEAR.—

26 The President shall disclose to the public for each fiscal

1 year after fiscal year 2007 the aggregate amount of appro-
2 priations requested in the budget of the President for such
3 fiscal year for the National Intelligence Program.

4 (b) AMOUNTS AUTHORIZED AND APPROPRIATED
5 EACH FISCAL YEAR.—Congress shall disclose to the pub-
6 lic for each fiscal year after fiscal year 2007 the aggregate
7 amount of funds authorized to be appropriated, and the
8 aggregate amount of funds appropriated, by Congress for
9 such fiscal year for the National Intelligence Program.

10 (c) STUDY ON DISCLOSURE OF ADDITIONAL INFOR-
11 MATION.—

12 (1) IN GENERAL.—The Director of National In-
13 telligence shall conduct a study to assess the advis-
14 ability of disclosing to the public amounts as follows:

15 (A) The aggregate amount of appropria-
16 tions requested in the budget of the President
17 for each fiscal year for each element of the in-
18 telligence community.

19 (B) The aggregate amount of funds au-
20 thorized to be appropriated, and the aggregate
21 amount of funds appropriated, by Congress for
22 each fiscal year for each element of the intel-
23 ligence community.

24 (2) REQUIREMENTS.—The study required by
25 paragraph (1) shall—

1 (A) address whether or not the disclosure
2 to the public of the information referred to in
3 that paragraph would harm the national secu-
4 rity of the United States; and

5 (B) take into specific account concerns re-
6 lating to the disclosure of such information for
7 each element of the intelligence community.

8 (3) REPORT.—Not later than 180 days after
9 the date of enactment of this Act, the Director shall
10 submit to Congress a report on the study required
11 by paragraph (1).

12 (d) DEFINITIONS.—In this section—

13 (1) the term “element of the intelligence com-
14 munity” means an element of the intelligence com-
15 munity specified in or designated under section 3(4)
16 of the National Security Act of 1947 (50 U.S.C.
17 401a(4)); and

18 (2) the term “National Intelligence Program”
19 has the meaning given that term in section 3(6) of
20 the National Security Act of 1947 (50 U.S.C.
21 401a(6)).

22 **SEC. 1202. RESPONSE OF INTELLIGENCE COMMUNITY TO**
23 **REQUESTS FROM CONGRESS.**

24 (a) RESPONSE OF INTELLIGENCE COMMUNITY TO
25 REQUESTS FROM CONGRESS FOR INTELLIGENCE DOCU-

1 MENTS AND INFORMATION.—Title V of the National Secu-
2 rity Act of 1947 (50 U.S.C. 413 et seq.) is amended by
3 adding at the end the following new section:

4 “RESPONSE OF INTELLIGENCE COMMUNITY TO REQUESTS
5 FROM CONGRESS FOR INTELLIGENCE DOCUMENTS
6 AND INFORMATION

7 “SEC. 508. (a) REQUESTS OF COMMITTEES.—The
8 Director of the National Counterterrorism Center, the Di-
9 rector of a national intelligence center, or the head of any
10 department, agency, or element of the intelligence commu-
11 nity shall, not later than 15 days after receiving a request
12 for any intelligence assessment, report, estimate, legal
13 opinion, or other intelligence information from the Select
14 Committee on Intelligence of the Senate, the Permanent
15 Select Committee on Intelligence of the House of Rep-
16 resentatives, or any other committee of Congress with ju-
17 risdiction over the subject matter to which information in
18 such assessment, report, estimate, legal opinion, or other
19 information relates, make available to such committee
20 such assessment, report, estimate, legal opinion, or other
21 information, as the case may be.

22 “(b) REQUESTS OF CERTAIN MEMBERS.—(1) The
23 Director of the National Counterterrorism Center, the Di-
24 rector of a national intelligence center, or the head of any
25 department, agency, or element of the intelligence commu-
26 nity shall respond, in the time specified in subsection (a),

1 to a request described in that subsection from the Chair-
2 man or Vice Chairman of the Select Committee on Intel-
3 ligence of the Senate or the Chairman or Ranking Member
4 of the Permanent Select Committee on Intelligence of the
5 House of Representatives.

6 “(2) Upon making a request covered by paragraph
7 (1)—

8 “(A) the Chairman or Vice Chairman, as the
9 case may be, of the Select Committee on Intelligence
10 of the Senate shall notify the other of the Chairman
11 or Vice Chairman of such request; and

12 “(B) the Chairman or Ranking Member, as the
13 case may be, of the Permanent Select Committee on
14 Intelligence of the House of Representatives shall
15 notify the other of the Chairman or Ranking Mem-
16 ber of such request.

17 “(c) ASSERTION OF PRIVILEGE.—In response to a re-
18 quest covered by subsection (a) or (b), the Director of the
19 National Counterterrorism Center, the Director of a na-
20 tional intelligence center, or the head of any department,
21 agency, or element of the intelligence community shall pro-
22 vide the document or information covered by such request
23 unless the President certifies that such document or infor-
24 mation is not being provided because the President is as-

1 serting a privilege pursuant to the Constitution of the
2 United States.

3 “(d) INDEPENDENT TESTIMONY OF INTELLIGENCE
4 OFFICIALS.—No officer, department, agency, or element
5 within the Executive branch shall have any authority to
6 require the head of any department, agency, or element
7 of the intelligence community, or any designate of such
8 a head—

9 “(1) to receive permission to testify before Con-
10 gress; or

11 “(2) to submit testimony, legislative rec-
12 ommendations, or comments to any officer or agency
13 of the Executive branch for approval, comments, or
14 review prior to the submission of such recommenda-
15 tions, testimony, or comments to Congress if such
16 testimony, legislative recommendations, or comments
17 include a statement indicating that the views ex-
18 pressed therein are those of the head of the depart-
19 ment, agency, or element of the intelligence commu-
20 nity that is making the submission and do not nec-
21 essarily represent the views of the Administration.”.

22 (b) DISCLOSURES OF CERTAIN INFORMATION TO
23 CONGRESS.—Title V of the National Security Act of 1947
24 (50 U.S.C. 413 et seq.), as amended by subsection (a),
25 is amended by adding at the end the following new section:

1 “DISCLOSURES TO CONGRESS

2 “SEC. 509. (a) AUTHORITY TO DISCLOSE CERTAIN
3 INFORMATION.—An employee of a covered agency or an
4 employee of a contractor carrying out activities pursuant
5 to a contract with a covered agency may disclose covered
6 information to an authorized individual without first re-
7 porting such information to the appropriate Inspector
8 General.

9 “(b) AUTHORIZED INDIVIDUAL.—(1) In this section,
10 the term ‘authorized individual’ means—

11 “(A) a Member of the Senate or the House of
12 Representatives who is authorized to receive infor-
13 mation of the type disclosed; or

14 “(B) an employee of the Senate or the House
15 of Representatives who—

16 “(i) has an appropriate security clearance;
17 and

18 “(ii) is authorized to receive information of
19 the type disclosed.

20 “(2) An authorized individual described in paragraph
21 (1) to whom covered information is disclosed under the
22 authority in subsection (a) shall be presumed to have a
23 need to know such covered information.

24 “(c) COVERED AGENCY AND COVERED INFORMATION
25 DEFINED.—In this section:

1 “(1) The term ‘covered agency’ means—

2 “(A) any department, agency, or element
3 of the intelligence community;

4 “(B) a national intelligence center; and

5 “(C) any other Executive agency, or ele-
6 ment or unit thereof, determined by the Presi-
7 dent under section 2302(a)(2)(C)(ii) of title 5,
8 United States Code, to have as its principal
9 function the conduct of foreign intelligence or
10 counterintelligence activities.

11 “(2) The term ‘covered information’—

12 “(A) means information, including classi-
13 fied information, that an employee referred to
14 in subsection (a) reasonably believes provides
15 direct and specific evidence of a false or inac-
16 curate statement—

17 “(i) made to Congress; or

18 “(ii) contained in any intelligence as-
19 sessment, report, or estimate; and

20 “(B) does not include information the dis-
21 closure of which is prohibited by rule 6(e) of
22 the Federal Rules of Criminal Procedure.

23 “(d) CONSTRUCTION WITH OTHER REPORTING RE-
24 QUIREMENTS.—Nothing in this section may be construed
25 to modify, alter, or otherwise affect—

1 less of whether such a review is requested by the
2 President.

3 “(3) REPORTING.—Any recommendations sub-
4 mitted to the President by the Board under section
5 703(b)(5), shall be submitted to the chairman and
6 ranking member of the committee of Congress that
7 made the request relating to such recommenda-
8 tions.”; and

9 (2) in section 710(b), by striking “8 years after
10 the date of the enactment of this Act” and inserting
11 “on December 31, 2012”.

12 **SEC. 1204. SENSE OF THE SENATE REGARDING A REPORT**
13 **ON THE 9/11 COMMISSION RECOMMENDA-**
14 **TIONS WITH RESPECT TO INTELLIGENCE RE-**
15 **FORM AND CONGRESSIONAL INTELLIGENCE**
16 **OVERSIGHT REFORM.**

17 (a) FINDINGS.—Congress makes the following find-
18 ings:

19 (1) The National Commission on Terrorist At-
20 tacks Upon the United States (referred to in this
21 section as the “9/11 Commission”) conducted a
22 lengthy review of the facts and circumstances relat-
23 ing to the terrorist attacks of September 11, 2001,
24 including those relating to the intelligence commu-

1 nity, law enforcement agencies, and the role of con-
2 gressional oversight and resource allocation.

3 (2) In its final report, the 9/11 Commission
4 found that—

5 (A) congressional oversight of the intel-
6 ligence activities of the United States is dys-
7 functional;

8 (B) under the rules of the Senate and the
9 House of Representatives in effect at the time
10 the report was completed, the committees of
11 Congress charged with oversight of the intel-
12 ligence activities lacked the power, influence,
13 and sustained capability to meet the daunting
14 challenges faced by the intelligence community
15 of the United States;

16 (C) as long as such oversight is governed
17 by such rules of the Senate and the House of
18 Representatives, the people of the United States
19 will not get the security they want and need;

20 (D) a strong, stable, and capable congres-
21 sional committee structure is needed to give the
22 intelligence community of the United States ap-
23 propriate oversight, support, and leadership;
24 and

1 (E) the reforms recommended by the 9/11
2 Commission in its final report will not succeed
3 if congressional oversight of the intelligence
4 community in the United States is not changed.

5 (3) The 9/11 Commission recommended struc-
6 tural changes to Congress to improve the oversight
7 of intelligence activities.

8 (4) Congress has enacted some of the rec-
9 ommendations made by the 9/11 Commission and is
10 considering implementing additional recommenda-
11 tions of the 9/11 Commission.

12 (5) The Senate adopted Senate Resolution 445
13 in the 108th Congress to address some of the intel-
14 ligence oversight recommendations of the 9/11 Com-
15 mission by abolishing term limits for the members of
16 the Select Committee on Intelligence, clarifying ju-
17 risdiction for intelligence-related nominations, and
18 streamlining procedures for the referral of intel-
19 ligence-related legislation, but other aspects of the 9/
20 11 Commission recommendations regarding intel-
21 ligence oversight have not been implemented.

22 (b) SENSE OF THE SENATE.—It is the sense of the
23 Senate that the Committee on Homeland Security and
24 Governmental Affairs and the Select Committee on Intel-
25 ligence of the Senate each, or jointly, should—

1 (1) undertake a review of the recommendations
2 made in the final report of the 9/11 Commission
3 with respect to intelligence reform and congressional
4 intelligence oversight reform;

5 (2) review and consider any other suggestions,
6 options, or recommendations for improving intel-
7 ligence oversight; and

8 (3) not later than December 21, 2007, submit
9 to the Senate a report that includes the rec-
10 ommendations of the Committee, if any, for carrying
11 out such reforms.

12 **SEC. 1205. AVAILABILITY OF FUNDS FOR THE PUBLIC IN-**
13 **TEREST DECLASSIFICATION BOARD.**

14 Section 21067 of the Continuing Appropriations Res-
15 olution, 2007 (division B of Public Law 109–289; 120
16 Stat. 1311), as amended by Public Law 109–369 (120
17 Stat. 2642), Public Law 109–383 (120 Stat. 2678), and
18 Public Law 110–5, is amended by adding at the end the
19 following new subsection:

20 “(c) From the amount provided by this section, the
21 National Archives and Records Administration may obli-
22 gate monies necessary to carry out the activities of the
23 Public Interest Declassification Board.”.

1 **SEC. 1206. AVAILABILITY OF THE EXECUTIVE SUMMARY OF**
2 **THE REPORT ON CENTRAL INTELLIGENCE**
3 **AGENCY ACCOUNTABILITY REGARDING THE**
4 **TERRORIST ATTACKS OF SEPTEMBER 11,**
5 **2001.**

6 (a) PUBLIC AVAILABILITY.—Not later than 30 days
7 after the date of the enactment of this Act, the Director
8 of the Central Intelligence Agency shall prepare and make
9 available to the public a version of the Executive Summary
10 of the report entitled the “Office of Inspector General Re-
11 port on Central Intelligence Agency Accountability Re-
12 garding Findings and Conclusions of the Joint Inquiry
13 into Intelligence Community Activities Before and After
14 the Terrorist Attacks of September 11, 2001” issued in
15 June 2005 that is declassified to the maximum extent pos-
16 sible, consistent with national security.

17 (b) REPORT TO CONGRESS.—The Director of the
18 Central Intelligence Agency shall submit to Congress a
19 classified annex to the redacted Executive Summary made
20 available under subsection (a) that explains the reason
21 that any redacted material in the Executive Summary was
22 withheld from the public.

1 **TITLE XIII—INTERNATIONAL CO-**
2 **OPERATION ON ANTITER-**
3 **RORISM TECHNOLOGIES**

4 **SEC. 1301. PROMOTING ANTITERRORISM CAPABILITIES**
5 **THROUGH INTERNATIONAL COOPERATION.**

6 (a) FINDINGS.—The Congress finds the following:

7 (1) The development and implementation of
8 technology is critical to combating terrorism and
9 other high consequence events and implementing a
10 comprehensive homeland security strategy.

11 (2) The United States and its allies in the glob-
12 al war on terrorism share a common interest in fa-
13 cilitating research, development, testing, and evalua-
14 tion of equipment, capabilities, technologies, and
15 services that will aid in detecting, preventing, re-
16 sponding to, recovering from, and mitigating against
17 acts of terrorism.

18 (3) Certain United States allies in the global
19 war on terrorism, including Israel, the United King-
20 dom, Canada, Australia, and Singapore have exten-
21 sive experience with, and technological expertise in,
22 homeland security.

23 (4) The United States and certain of its allies
24 in the global war on terrorism have a history of suc-
25 cessful collaboration in developing mutually bene-

1 “(2) INTERNATIONAL COOPERATIVE ACTIV-
2 ITY.—The term ‘international cooperative activity’
3 includes—

4 “(A) coordinated research projects, joint
5 research projects, or joint ventures;

6 “(B) joint studies or technical demonstra-
7 tions;

8 “(C) coordinated field exercises, scientific
9 seminars, conferences, symposia, and work-
10 shops;

11 “(D) training of scientists and engineers;

12 “(E) visits and exchanges of scientists, en-
13 gineers, or other appropriate personnel;

14 “(F) exchanges or sharing of scientific and
15 technological information; and

16 “(G) joint use of laboratory facilities and
17 equipment.

18 “(b) SCIENCE AND TECHNOLOGY HOMELAND SECU-
19 RITY INTERNATIONAL COOPERATIVE PROGRAMS OF-
20 FICE.—

21 “(1) ESTABLISHMENT.—The Under Secretary
22 shall establish the Science and Technology Home-
23 land Security International Cooperative Programs
24 Office.

1 “(2) DIRECTOR.—The Office shall be headed by
2 a Director, who—

3 “(A) shall be selected (in consultation with
4 the Assistant Secretary for International Af-
5 fairs, Policy Directorate) by and shall report to
6 the Under Secretary; and

7 “(B) may be an officer of the Department
8 serving in another position.

9 “(3) RESPONSIBILITIES.—

10 “(A) DEVELOPMENT OF MECHANISMS.—
11 The Director shall be responsible for devel-
12 oping, in coordination with the Department of
13 State, the Department of Defense, the Depart-
14 ment of Energy, and other Federal agencies,
15 mechanisms and legal frameworks to allow and
16 to support international cooperative activity in
17 support of homeland security research.

18 “(B) PRIORITIES.—The Director shall be
19 responsible for developing, in coordination with
20 the Directorate of Science and Technology, the
21 other components of the Department (including
22 the Office of the Assistant Secretary for Inter-
23 national Affairs, Policy Directorate), the De-
24 partment of State, the Department of Defense,
25 the Department of Energy, and other Federal

1 agencies, strategic priorities for international
2 cooperative activity.

3 “(C) ACTIVITIES.—The Director shall fa-
4 cilitate the planning, development, and imple-
5 mentation of international cooperative activity
6 to address the strategic priorities developed
7 under subparagraph (B) through mechanisms
8 the Under Secretary considers appropriate, in-
9 cluding grants, cooperative agreements, or con-
10 tracts to or with foreign public or private enti-
11 ties, governmental organizations, businesses,
12 federally funded research and development cen-
13 ters, and universities.

14 “(D) IDENTIFICATION OF PARTNERS.—
15 The Director shall facilitate the matching of
16 United States entities engaged in homeland se-
17 curity research with non-United States entities
18 engaged in homeland security research so that
19 they may partner in homeland security research
20 activities.

21 “(4) COORDINATION.—The Director shall en-
22 sure that the activities under this subsection are co-
23 ordinated with the Office of International Affairs
24 and the Department of State, the Department of
25 Defense, the Department of Energy, and other rel-

1 evant Federal agencies or interagency bodies. The
2 Director may enter into joint activities with other
3 Federal agencies.

4 “(c) MATCHING FUNDING.—

5 “(1) IN GENERAL.—

6 “(A) EQUITABILITY.—The Director shall
7 ensure that funding and resources expended in
8 international cooperative activity will be equi-
9 tably matched by the foreign partner govern-
10 ment or other entity through direct funding,
11 funding of complementary activities, or through
12 the provision of staff, facilities, material, or
13 equipment.

14 “(B) GRANT MATCHING AND REPAY-
15 MENT.—

16 “(i) IN GENERAL.—The Secretary
17 may require a recipient of a grant under
18 this section—

19 “(I) to make a matching con-
20 tribution of not more than 50 percent
21 of the total cost of the proposed
22 project for which the grant is award-
23 ed; and

24 “(II) to repay to the Secretary
25 the amount of the grant (or a portion

1 thereof), interest on such amount at
2 an appropriate rate, and such charges
3 for administration of the grant as the
4 Secretary determines appropriate.

5 “(ii) MAXIMUM AMOUNT.—The Sec-
6 retary may not require that repayment
7 under clause (i)(II) be more than 150 per-
8 cent of the amount of the grant, adjusted
9 for inflation on the basis of the Consumer
10 Price Index.

11 “(2) FOREIGN PARTNERS.—Partners may in-
12 clude Israel, the United Kingdom, Canada, Aus-
13 tralia, Singapore, and other allies in the global war
14 on terrorism, as determined by the Secretary of
15 State.

16 “(d) FUNDING.—Funding for all activities under this
17 section shall be paid from discretionary funds appro-
18 priated to the Department.

19 “(e) FOREIGN REIMBURSEMENTS.—If the Science
20 and Technology Homeland Security International Cooper-
21 ative Programs Office participates in an international co-
22 operative activity with a foreign partner on a cost-sharing
23 basis, any reimbursements or contributions received from
24 that foreign partner to meet the share of that foreign part-
25 ner of the project may be credited to appropriate appro-

1 priations accounts of the Directorate of Science and Tech-
2 nology.”.

3 (2) TECHNICAL AND CONFORMING AMEND-
4 MENT.—The table of contents in section 1(b) of the
5 Homeland Security Act of 2002 (6 U.S.C. 101 et
6 seq.) is amended by adding after the item relating
7 to section 316, as added by section 701 of this Act,
8 the following:

“Sec. 317. Promoting antiterrorism through international cooperation pro-
 gram.”.

9 **SEC. 1302. TRANSPARENCY OF FUNDS.**

10 For each Federal award (as that term is defined in
11 section 2 of the Federal Funding Accountability and
12 Transparency Act of 2006 (31 U.S.C. 6101 note)) under
13 this title or an amendment made by this title, the Director
14 of the Office of Management and Budget shall ensure full
15 and timely compliance with the requirements of the Fed-
16 eral Funding Accountability and Transparency Act of
17 2006 (31 U.S.C. 6101 note).

18 **TITLE XIV—TRANSPORTATION**
19 **AND INTEROPERABLE COM-**
20 **MUNICATION CAPABILITIES**

21 **SEC. 1401. SHORT TITLE.**

22 This title may be cited as the “Transportation Secu-
23 rity and Interoperable Communication Capabilities Act”.

1 **Subtitle A—Surface Transportation**
2 **and Rail Security**

3 **SEC. 1411. DEFINITION.**

4 In this title, the term “high hazard materials” means
5 quantities of poison inhalation hazard materials, Class 2.3
6 gases, Class 6.1 materials, anhydrous ammonia, and other
7 hazardous materials that the Secretary, in consultation
8 with the Secretary of Transportation, determines pose a
9 security risk.

10 **PART I—IMPROVED RAIL SECURITY**

11 **SEC. 1421. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
12 **MENT.**

13 (a) IN GENERAL.—

14 (1) RISK ASSESSMENT.—The Secretary shall es-
15 tablish a task force, including the Transportation
16 Security Administration and other agencies within
17 the Department, the Department of Transportation,
18 and other appropriate Federal agencies, to complete
19 a risk assessment of freight and passenger rail
20 transportation (encompassing railroads, as that term
21 is defined in section 20102(1) of title 49, United
22 States Code). The assessment shall include—

23 (A) a methodology for conducting the risk
24 assessment, including timelines, that addresses
25 how the Department of Homeland Security will

1 work with the entities described in subsection
2 (b) and make use of existing Federal expertise
3 within the Department of Homeland Security,
4 the Department of Transportation, and other
5 appropriate agencies;

6 (B) identification and evaluation of critical
7 assets and infrastructures;

8 (C) identification of risks to those assets
9 and infrastructures;

10 (D) identification of risks that are specific
11 to the transportation of hazardous materials via
12 railroad;

13 (E) identification of risks to passenger and
14 cargo security, transportation infrastructure
15 (including rail tunnels used by passenger and
16 freight railroads in high threat urban areas),
17 protection systems, operations, communications
18 systems, employee training, emergency response
19 planning, and any other area identified by the
20 assessment;

21 (F) an assessment of public and private
22 operational recovery plans to expedite, to the
23 maximum extent practicable, the return of an
24 adversely affected freight or passenger rail
25 transportation system or facility to its normal

1 performance level after a major terrorist attack
2 or other security event on that system or facil-
3 ity; and

4 (G) an account of actions taken or planned
5 by both public and private entities to address
6 identified rail security issues and assess the ef-
7 fective integration of such actions.

8 (2) RECOMMENDATIONS.—Based on the assess-
9 ment conducted under paragraph (1), the Secretary,
10 in consultation with the Secretary of Transportation,
11 shall develop prioritized recommendations for im-
12 proving rail security, including any recommendations
13 the Secretary has for—

14 (A) improving the security of rail tunnels,
15 rail bridges, rail switching and car storage
16 areas, other rail infrastructure and facilities, in-
17 formation systems, and other areas identified
18 by the Secretary as posing significant rail-re-
19 lated risks to public safety and the movement
20 of interstate commerce, taking into account the
21 impact that any proposed security measure
22 might have on the provision of rail service or on
23 operations served or otherwise affected by rail
24 service;

1 (B) deploying equipment and personnel to
2 detect security threats, including those posed by
3 explosives and hazardous chemical, biological,
4 and radioactive substances, and any appropriate
5 countermeasures;

6 (C) training appropriate railroad or rail-
7 road shipper employees in terrorism prevention,
8 preparedness, passenger evacuation, and re-
9 sponse activities;

10 (D) conducting public outreach campaigns
11 on passenger railroads regarding security;

12 (E) deploying surveillance equipment;

13 (F) identifying the immediate and long-
14 term costs of measures that may be required to
15 address those risks; and

16 (G) public and private sector sources to
17 fund such measures.

18 (3) PLANS.—The report required by subsection
19 (c) shall include—

20 (A) a plan, developed in consultation with
21 the freight and intercity passenger railroads,
22 and State and local governments, for the Fed-
23 eral Government to provide adequate security
24 support at high or severe threat levels of alert;

1 (B) a plan for coordinating existing and
2 planned rail security initiatives undertaken by
3 the public and private sectors; and

4 (C) a contingency plan, developed in co-
5 ordination with freight and intercity and com-
6 muter passenger railroads, to ensure the contin-
7 ued movement of freight and passengers in the
8 event of an attack affecting the railroad system,
9 which shall contemplate—

10 (i) the possibility of rerouting traffic
11 due to the loss of critical infrastructure,
12 such as a bridge, tunnel, yard, or station;
13 and

14 (ii) methods of continuing railroad
15 service in the Northeast Corridor in the
16 event of a commercial power loss, or catas-
17 trophe affecting a critical bridge, tunnel,
18 yard, or station.

19 (b) CONSULTATION; USE OF EXISTING RE-
20 SOURCES.—In carrying out the assessment and developing
21 the recommendations and plans required by subsection
22 (a), the Secretary shall consult with rail management, rail
23 labor, owners or lessors of rail cars used to transport haz-
24 ardous materials, first responders, offerers of hazardous
25 materials, public safety officials, and other relevant par-

1 ties. In developing the risk assessment required under this
2 section, the Secretary shall utilize relevant existing risk
3 assessments developed by the Department or other Fed-
4 eral agencies, and, as appropriate, assessments developed
5 by other public and private stakeholders.

6 (c) REPORT.—

7 (1) CONTENTS.—Within 1 year after the date
8 of enactment of this Act, the Secretary shall trans-
9 mit to the Committee on Commerce, Science, and
10 Transportation of the Senate, and the Committee on
11 Transportation and Infrastructure and the Com-
12 mittee on Homeland Security of the House of Rep-
13 resentatives a report containing—

14 (A) the assessment, prioritized rec-
15 ommendations, and plans required by sub-
16 section (a); and

17 (B) an estimate of the cost to implement
18 such recommendations.

19 (2) FORMAT.—The Secretary may submit the
20 report in both classified and redacted formats if the
21 Secretary determines that such action is appropriate
22 or necessary.

23 (d) ANNUAL UPDATES.—The Secretary, in consulta-
24 tion with the Secretary of Transportation, shall update the
25 assessment and recommendations each year and transmit

1 a report, which may be submitted in both classified and
2 redacted formats, to the Committees named in subsection
3 (c)(1), containing the updated assessment and rec-
4 ommendations.

5 (e) FUNDING.—Out of funds appropriated pursuant
6 to section 114(w) of title 49, United States Code, as
7 amended by section 1437 of this title, there shall be made
8 available to the Secretary to carry out this section
9 \$5,000,000 for fiscal year 2008.

10 **SEC. 1422. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

11 (a) IN GENERAL.—

12 (1) GRANTS.—Subject to subsection (c) the
13 Secretary, in consultation with the Assistant Sec-
14 retary of Homeland Security (Transportation Secu-
15 rity Administration), is authorized to make grants to
16 Amtrak in accordance with the provisions of this
17 section.

18 (2) GENERAL PURPOSES.—The Secretary may
19 make such grants for the purposes of—

20 (A) protecting underwater and under-
21 ground assets and systems;

22 (B) protecting high risk and high con-
23 sequence assets identified through system-wide
24 risk assessments;

25 (C) providing counter-terrorism training;

1 (D) providing both visible and unpredict-
2 able deterrence; and

3 (E) conducting emergency preparedness
4 drills and exercises.

5 (3) SPECIFIC PROJECTS.—The Secretary shall
6 make such grants—

7 (A) to secure major tunnel access points
8 and ensure tunnel integrity in New York, New
9 Jersey, Maryland, and Washington, DC;

10 (B) to secure Amtrak trains;

11 (C) to secure Amtrak stations;

12 (D) to obtain a watch list identification
13 system approved by the Secretary;

14 (E) to obtain train tracking and interoper-
15 able communications systems that are coordi-
16 nated to the maximum extent possible;

17 (F) to hire additional police officers, spe-
18 cial agents, security officers, including canine
19 units, and to pay for other labor costs directly
20 associated with security and terrorism preven-
21 tion activities;

22 (G) to expand emergency preparedness ef-
23 forts; and

24 (H) for employee security training.

1 (b) CONDITIONS.—The Secretary of Transportation
2 shall disburse funds to Amtrak provided under subsection
3 (a) for projects contained in a systemwide security plan
4 approved by the Secretary. Amtrak shall develop the secu-
5 rity plan in consultation with constituent States and other
6 relevant parties. The plan shall include appropriate meas-
7 ures to address security awareness, emergency response,
8 and passenger evacuation training and shall be consistent
9 with State security plans to the maximum extent prac-
10 ticable.

11 (c) EQUITABLE GEOGRAPHIC ALLOCATION.—The
12 Secretary shall ensure that, subject to meeting the highest
13 security needs on Amtrak’s entire system and consistent
14 with the risk assessment required under section 1421, sta-
15 tions and facilities located outside of the Northeast Cor-
16 ridor receive an equitable share of the security funds au-
17 thorized by this section.

18 (d) AVAILABILITY OF FUNDS.—

19 (1) IN GENERAL.—Out of funds appropriated
20 pursuant to section 114(w) of title 49, United States
21 Code, as amended by section 1437 of this title, there
22 shall be made available to the Secretary and the As-
23 sistant Secretary of Homeland Security (Transpor-
24 tation Security Administration) to carry out this
25 section—

- 1 (A) \$63,500,000 for fiscal year 2008;
2 (B) \$30,000,000 for fiscal year 2009; and
3 (C) \$30,000,000 for fiscal year 2010.

4 (2) AVAILABILITY OF APPROPRIATED FUNDS.—
5 Amounts appropriated pursuant to paragraph (1)
6 shall remain available until expended.

7 **SEC. 1423. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

8 (a) LIFE-SAFETY NEEDS.—The Secretary of Trans-
9 portation, in consultation with the Secretary, is authorized
10 to make grants to Amtrak for the purpose of making fire
11 and life-safety improvements to Amtrak tunnels on the
12 Northeast Corridor in New York, New Jersey, Maryland,
13 and Washington, DC.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—Out of
15 funds appropriated pursuant to section 1437(b) of this
16 title, there shall be made available to the Secretary of
17 Transportation for the purposes of carrying out subsection
18 (a) the following amounts:

19 (1) For the 6 New York and New Jersey tun-
20 nels to provide ventilation, electrical, and fire safety
21 technology upgrades, emergency communication and
22 lighting systems, and emergency access and egress
23 for passengers—

- 24 (A) \$100,000,000 for fiscal year 2008;
25 (B) \$100,000,000 for fiscal year 2009;

1 (C) \$100,000,000 for fiscal year 2010; and

2 (D) \$100,000,000 for fiscal year 2011.

3 (2) For the Baltimore & Potomac tunnel and
4 the Union tunnel, together, to provide adequate
5 drainage, ventilation, communication, lighting, and
6 passenger egress upgrades—

7 (A) \$10,000,000 for fiscal year 2008;

8 (B) \$10,000,000 for fiscal year 2009;

9 (C) \$10,000,000 for fiscal year 2010; and

10 (D) \$10,000,000 for fiscal year 2011.

11 (3) For the Washington, DC, Union Station
12 tunnels to improve ventilation, communication, light-
13 ing, and passenger egress upgrades—

14 (A) \$8,000,000 for fiscal year 2008;

15 (B) \$8,000,000 for fiscal year 2009;

16 (C) \$8,000,000 for fiscal year 2010; and

17 (D) \$8,000,000 for fiscal year 2011.

18 (c) INFRASTRUCTURE UPGRADES.—Out of funds ap-
19 propriated pursuant to section 1437(b) of this title, there
20 shall be made available to the Secretary of Transportation
21 for fiscal year 2008 \$3,000,000 for the preliminary design
22 of options for a new tunnel on a different alignment to
23 augment the capacity of the existing Baltimore tunnels.

1 (d) AVAILABILITY OF APPROPRIATED FUNDS.—
2 Amounts made available pursuant to this section shall re-
3 main available until expended.

4 (e) PLANS REQUIRED.—The Secretary of Transpor-
5 tation may not make amounts available to Amtrak for ob-
6 ligation or expenditure under subsection (a)—

7 (1) until Amtrak has submitted to the Sec-
8 retary, and the Secretary has approved, an engineer-
9 ing and financial plan for such projects; and

10 (2) unless, for each project funded pursuant to
11 this section, the Secretary has approved a project
12 management plan prepared by Amtrak addressing
13 appropriate project budget, construction schedule,
14 recipient staff organization, document control and
15 record keeping, change order procedure, quality con-
16 trol and assurance, periodic plan updates, and peri-
17 odic status reports.

18 (f) REVIEW OF PLANS.—

19 (1) IN GENERAL.—The Secretary of Transpor-
20 tation shall complete the review of the plans re-
21 quired by paragraphs (1) and (2) of subsection (e)
22 and approve or disapprove the plans within 45 days
23 after the date on which each such plan is submitted
24 by Amtrak.

1 (2) INCOMPLETE OR DEFICIENT PLAN.—If the
2 Secretary determines that a plan is incomplete or
3 deficient, the Secretary shall notify Amtrak of the
4 incomplete items or deficiencies and Amtrak shall,
5 within 30 days after receiving the Secretary’s notifi-
6 cation, submit a modified plan for the Secretary’s
7 review.

8 (3) APPROVAL OF PLAN.—Within 15 days after
9 receiving additional information on items previously
10 included in the plan, and within 45 days after re-
11 ceiving items newly included in a modified plan, the
12 Secretary shall either approve the modified plan, or,
13 if the Secretary finds the plan is still incomplete or
14 deficient, the Secretary shall—

15 (A) identify in writing to the Committee on
16 Commerce, Science, and Transportation of the
17 Senate, and the Committee on Transportation
18 and Infrastructure and the Committee on
19 Homeland Security of the House of Representa-
20 tives the portions of the plan the Secretary
21 finds incomplete or deficient;

22 (B) approve all other portions of the plan;

23 (C) obligate the funds associated with
24 those other portions; and

1 (D) execute an agreement with Amtrak
2 within 15 days thereafter on a process for re-
3 solving the remaining portions of the plan.

4 (g) FINANCIAL CONTRIBUTION FROM OTHER TUN-
5 NEL USERS.—The Secretary shall, taking into account the
6 need for the timely completion of all portions of the tunnel
7 projects described in subsection (a)—

8 (1) consider the extent to which rail carriers
9 other than Amtrak use or plan to use the tunnels;

10 (2) consider the feasibility of seeking a financial
11 contribution from those other rail carriers toward
12 the costs of the projects; and

13 (3) obtain financial contributions or commit-
14 ments from such other rail carriers at levels reflect-
15 ing the extent of their use or planned use of the tun-
16 nels, if feasible.

17 **SEC. 1424. FREIGHT AND PASSENGER RAIL SECURITY UP-**
18 **GRADES.**

19 (a) SECURITY IMPROVEMENT GRANTS.—The Sec-
20 retary, in consultation with Assistant Secretary of Home-
21 land Security (Transportation Security Administration)
22 and other appropriate agencies or officials, is authorized
23 to make grants to freight railroads, the Alaska Railroad,
24 hazardous materials offerers, owners of rail cars used in
25 the transportation of hazardous materials, universities,

1 colleges and research centers, State and local governments
2 (for rail passenger facilities and infrastructure not owned
3 by Amtrak), and to Amtrak for full or partial reimburse-
4 ment of costs incurred in the conduct of activities to pre-
5 vent or respond to acts of terrorism, sabotage, or other
6 intercity passenger rail and freight rail security risks iden-
7 tified under section 1421, including—

8 (1) security and redundancy for critical commu-
9 nications, computer, and train control systems essen-
10 tial for secure rail operations;

11 (2) accommodation of rail cargo or passenger
12 screening equipment at the United States-Mexico
13 border, the United States-Canada border, or other
14 ports of entry;

15 (3) the security of hazardous material transpor-
16 tation by rail;

17 (4) secure intercity passenger rail stations,
18 trains, and infrastructure;

19 (5) structural modification or replacement of
20 rail cars transporting high hazard materials to im-
21 prove their resistance to acts of terrorism;

22 (6) employee security awareness, preparedness,
23 passenger evacuation, and emergency response train-
24 ing;

1 (7) public security awareness campaigns for
2 passenger train operations;

3 (8) the sharing of intelligence and information
4 about security threats;

5 (9) to obtain train tracking and interoperable
6 communications systems that are coordinated to the
7 maximum extent possible;

8 (10) to hire additional police and security offi-
9 cers, including canine units; and

10 (11) other improvements recommended by the
11 report required by section 1421, including infra-
12 structure, facilities, and equipment upgrades.

13 (b) ACCOUNTABILITY.—The Secretary shall adopt
14 necessary procedures, including audits, to ensure that
15 grants made under this section are expended in accord-
16 ance with the purposes of this title and the priorities and
17 other criteria developed by the Secretary.

18 (c) ALLOCATION.—The Secretary shall distribute the
19 funds authorized by this section based on risk as deter-
20 mined under section 1421, and shall encourage non-Fed-
21 eral financial participation in projects funded by grants
22 awarded under this section. With respect to grants for
23 intercity passenger rail security, the Secretary shall also
24 take into account passenger volume and whether stations
25 or facilities are used by commuter rail passengers as well

1 as intercity rail passengers. Not later than 240 days after
2 the date of enactment of this Act, the Secretary shall pro-
3 vide a report to the Committees on Commerce, Science
4 and Transportation and Homeland Security and Govern-
5 mental Affairs in the Senate and the Committee on Home-
6 land Security in the House on the feasibility and appro-
7 priateness of requiring a non-federal match for the grants
8 authorized in subsection (a).

9 (d) CONDITIONS.—Grants awarded by the Secretary
10 to Amtrak under subsection (a) shall be disbursed to Am-
11 trak through the Secretary of Transportation. The Sec-
12 retary of Transportation may not disburse such funds un-
13 less Amtrak meets the conditions set forth in section
14 1422(b) of this title.

15 (e) ALLOCATION BETWEEN RAILROADS AND OTH-
16 ERS.—Unless as a result of the assessment required by
17 section 1421 the Secretary determines that critical rail
18 transportation security needs require reimbursement in
19 greater amounts to any eligible entity, no grants under
20 this section may be made cumulatively over the period au-
21 thorized by this title—

- 22 (1) in excess of \$45,000,000 to Amtrak; or
23 (2) in excess of \$80,000,000 for the purposes
24 described in paragraphs (3) and (5) of subsection
25 (a).

1 (f) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—Out of funds appropriated
3 pursuant to section 114(w) of title 49, United States
4 Code, as amended by section 1437 of this title, there
5 shall be made available to the Secretary to carry out
6 this section—

7 (A) \$100,000,000 for fiscal year 2008;

8 (B) \$100,000,000 for fiscal year 2009; and

9 (C) \$100,000,000 for fiscal year 2010.

10 (2) AVAILABILITY OF APPROPRIATED FUNDS.—

11 Amounts appropriated pursuant to paragraph (1)
12 shall remain available until expended.

13 **SEC. 1425. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

14 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
15 MENT PROGRAM.—The Secretary, through the Under Sec-
16 retary for Science and Technology and the Assistant Sec-
17 retary of Homeland Security (Transportation Security Ad-
18 ministration), in consultation with the Secretary of Trans-
19 portation shall carry out a research and development pro-
20 gram for the purpose of improving freight and intercity
21 passenger rail security that may include research and de-
22 velopment projects to—

23 (1) reduce the risk of terrorist attacks on rail
24 transportation, including risks posed by explosives
25 and hazardous chemical, biological, and radioactive

1 substances to intercity rail passengers, facilities, and
2 equipment;

3 (2) test new emergency response techniques and
4 technologies;

5 (3) develop improved freight rail security tech-
6 nologies, including—

7 (A) technologies for sealing rail cars;

8 (B) automatic inspection of rail cars;

9 (C) communication-based train controls;

10 and

11 (D) emergency response training;

12 (4) test wayside detectors that can detect tam-
13 pering with railroad equipment;

14 (5) support enhanced security for the transpor-
15 tation of hazardous materials by rail, including—

16 (A) technologies to detect a breach in a
17 tank car or other rail car used to transport haz-
18 ardous materials and transmit information
19 about the integrity of cars to the train crew or
20 dispatcher;

21 (B) research to improve tank car integrity,
22 with a focus on tank cars that carry high haz-
23 ard materials (as defined in section 1411 of this
24 title); and

1 (C) techniques to transfer hazardous mate-
2 rials from rail cars that are damaged or other-
3 wise represent an unreasonable risk to human
4 life or public safety; and

5 (6) other projects that address risks identified
6 under section 1421.

7 (b) COORDINATION WITH OTHER RESEARCH INITIA-
8 TIVES.—The Secretary shall ensure that the research and
9 development program authorized by this section is coordi-
10 nated with other research and development initiatives at
11 the Department of Homeland Security and the Depart-
12 ment of Transportation. The Secretary shall carry out any
13 research and development project authorized by this sec-
14 tion through a reimbursable agreement with the Secretary
15 of Transportation, if the Secretary of Transportation—

16 (1) is already sponsoring a research and devel-
17 opment project in a similar area; or

18 (2) has a unique facility or capability that
19 would be useful in carrying out the project.

20 (c) GRANTS AND ACCOUNTABILITY.—To carry out
21 the research and development program, the Secretary may
22 award grants to the entities described in section 1424(a)
23 and shall adopt necessary procedures, including audits, to
24 ensure that grants made under this section are expended

1 in accordance with the purposes of this title and the prior-
2 ities and other criteria developed by the Secretary.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—

4 (1) IN GENERAL.—Out of funds appropriated
5 pursuant to section 114(w) of title 49, United States
6 Code, as amended by section 1437 of this title, there
7 shall be made available to the Secretary to carry out
8 this section—

9 (A) \$33,000,000 for fiscal year 2008;

10 (B) \$33,000,000 for fiscal year 2009; and

11 (C) \$33,000,000 for fiscal year 2010.

12 (2) AVAILABILITY OF APPROPRIATED FUNDS.—

13 Amounts appropriated pursuant to paragraph (1)
14 shall remain available until expended.

15 **SEC. 1426. OVERSIGHT AND GRANT PROCEDURES.**

16 (a) SECRETARIAL OVERSIGHT.—The Secretary may
17 award contracts to audit and review the safety, security,
18 procurement, management, and financial compliance of a
19 recipient of amounts under this title.

20 (b) PROCEDURES FOR GRANT AWARD.—The Sec-
21 retary shall, within 180 days after the date of enactment
22 of this Act, prescribe procedures and schedules for the
23 awarding of grants under this title, including application
24 and qualification procedures (including a requirement that
25 the applicant have a security plan), and a record of deci-

1 sion on applicant eligibility. The procedures shall include
 2 the execution of a grant agreement between the grant re-
 3 cipient and the Secretary and shall be consistent, to the
 4 extent practicable, with the grant procedures established
 5 under section 70107 of title 46, United States Code.

6 (c) **ADDITIONAL AUTHORITY.**—The Secretary may
 7 issue nonbinding letters under similar terms to those
 8 issued pursuant to section 47110(e) of title 49, United
 9 States Code, to sponsors of rail projects funded under this
 10 title.

11 **SEC. 1427. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**
 12 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
 13 **CIDENTS.**

14 (a) **IN GENERAL.**—Chapter 243 of title 49, United
 15 States Code, is amended by adding at the end the fol-
 16 lowing:

17 **“§ 24316. Plans to address needs of families of pas-**
 18 **sengers involved in rail passenger acci-**
 19 **dents**

20 “(a) **SUBMISSION OF PLAN.**—Not later than 6
 21 months after the date of the enactment of the Transpor-
 22 tation Security and Interoperable Communication Capa-
 23 bilities Act, Amtrak shall submit to the Chairman of the
 24 National Transportation Safety Board, the Secretary of
 25 Transportation, and the Secretary of Homeland Security

1 a plan for addressing the needs of the families of pas-
2 sengers involved in any rail passenger accident involving
3 an Amtrak intercity train and resulting in a loss of life.

4 “(b) CONTENTS OF PLANS.—The plan to be sub-
5 mitted by Amtrak under subsection (a) shall include, at
6 a minimum, the following:

7 “(1) A process by which Amtrak will maintain
8 and provide to the National Transportation Safety
9 Board, the Secretary of Transportation, and the
10 Secretary of Homeland Security, immediately upon
11 request, a list (which is based on the best available
12 information at the time of the request) of the names
13 of the passengers aboard the train (whether or not
14 such names have been verified), and will periodically
15 update the list. The plan shall include a procedure,
16 with respect to unreserved trains and passengers not
17 holding reservations on other trains, for Amtrak to
18 use reasonable efforts to ascertain the number and
19 names of passengers aboard a train involved in an
20 accident.

21 “(2) A plan for creating and publicizing a reli-
22 able, toll-free telephone number within 4 hours after
23 such an accident occurs, and for providing staff, to
24 handle calls from the families of the passengers.

1 “(3) A process for notifying the families of the
2 passengers, before providing any public notice of the
3 names of the passengers, by suitably trained individ-
4 uals.

5 “(4) A process for providing the notice de-
6 scribed in paragraph (2) to the family of a pas-
7 senger as soon as Amtrak has verified that the pas-
8 senger was aboard the train (whether or not the
9 names of all of the passengers have been verified).

10 “(5) A process by which the family of each pas-
11 senger will be consulted about the disposition of all
12 remains and personal effects of the passenger within
13 Amtrak’s control; that any possession of the pas-
14 senger within Amtrak’s control will be returned to
15 the family unless the possession is needed for the ac-
16 cident investigation or any criminal investigation;
17 and that any unclaimed possession of a passenger
18 within Amtrak’s control will be retained by the rail
19 passenger carrier for at least 18 months.

20 “(6) A process by which the treatment of the
21 families of nonrevenue passengers will be the same
22 as the treatment of the families of revenue pas-
23 sengers.

24 “(7) An assurance that Amtrak will provide
25 adequate training to its employees and agents to

1 meet the needs of survivors and family members fol-
2 lowing an accident.

3 “(c) USE OF INFORMATION.—Neither the National
4 Transportation Safety Board, the Secretary of Transpor-
5 tation, the Secretary of Homeland Security, nor Amtrak
6 may release any personal information on a list obtained
7 under subsection (b)(1) but may provide information on
8 the list about a passenger to the family of the passenger
9 to the extent that the Board or Amtrak considers appro-
10 priate.

11 “(d) LIMITATION ON LIABILITY.—Amtrak shall not
12 be liable for damages in any action brought in a Federal
13 or State court arising out of the performance of Amtrak
14 under this section in preparing or providing a passenger
15 list, or in providing information concerning a train res-
16 ervation, pursuant to a plan submitted by Amtrak under
17 subsection (b), unless such liability was caused by Am-
18 trak’s conduct.

19 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—
20 Nothing in this section may be construed as limiting the
21 actions that Amtrak may take, or the obligations that Am-
22 trak may have, in providing assistance to the families of
23 passengers involved in a rail passenger accident.

24 “(f) FUNDING.—Out of funds appropriated pursuant
25 to section 1437(b) of the Transportation Security and

1 Interoperable Communication Capabilities Act, there shall
2 be made available to the Secretary of Transportation for
3 the use of Amtrak \$500,000 for fiscal year 2008 to carry
4 out this section. Amounts made available pursuant to this
5 subsection shall remain available until expended.”.

6 (b) CONFORMING AMENDMENT.—The chapter anal-
7 ysis for chapter 243 of title 49, United States Code, is
8 amended by adding at the end the following:

“24316. Plan to assist families of passengers involved in rail passenger acci-
dents”.

9 **SEC. 1428. NORTHERN BORDER RAIL PASSENGER REPORT.**

10 Within 1 year after the date of enactment of this Act,
11 the Secretary, in consultation with the Assistant Secretary
12 of Homeland Security (Transportation Security Adminis-
13 tration), the Secretary of Transportation, heads of other
14 appropriate Federal departments, and agencies and the
15 National Railroad Passenger Corporation, shall transmit
16 a report to the Senate Committee on Commerce, Science,
17 and Transportation, the House of Representatives Com-
18 mittee on Transportation and Infrastructure, and the
19 House of Representatives Committee on Homeland Secu-
20 rity that contains—

21 (1) a description of the current system for
22 screening passengers and baggage on passenger rail
23 service between the United States and Canada;

1 (2) an assessment of the current program to
2 provide preclearance of airline passengers between
3 the United States and Canada as outlined in “The
4 Agreement on Air Transport Preclearance between
5 the Government of Canada and the Government of
6 the United States of America”, dated January 18,
7 2001;

8 (3) an assessment of the current program to
9 provide preclearance of freight railroad traffic be-
10 tween the United States and Canada as outlined in
11 the “Declaration of Principle for the Improved Secu-
12 rity of Rail Shipments by Canadian National Rail-
13 way and Canadian Pacific Railway from Canada to
14 the United States”, dated April 2, 2003;

15 (4) information on progress by the Department
16 of Homeland Security and other Federal agencies to-
17 wards finalizing a bilateral protocol with Canada
18 that would provide for preclearance of passengers on
19 trains operating between the United States and Can-
20 ada;

21 (5) a description of legislative, regulatory,
22 budgetary, or policy barriers within the United
23 States Government to providing pre-screened pas-
24 senger lists for rail passengers traveling between the

1 United States and Canada to the Department of
2 Homeland Security;

3 (6) a description of the position of the Govern-
4 ment of Canada and relevant Canadian agencies
5 with respect to preclearance of such passengers;

6 (7) a draft of any changes in existing Federal
7 law necessary to provide for pre-screening of such
8 passengers and providing pre-screened passenger
9 lists to the Department of Homeland Security; and

10 (8) an analysis of the feasibility of reinstating
11 in-transit inspections onboard international Amtrak
12 trains.

13 **SEC. 1429. RAIL WORKER SECURITY TRAINING PROGRAM.**

14 (a) IN GENERAL.—Not later than 1 year after the
15 date of enactment of this Act, the Secretary, in consulta-
16 tion with the Secretary of Transportation, appropriate law
17 enforcement, security, and terrorism experts, representa-
18 tives of railroad carriers and shippers, and nonprofit em-
19 ployee organizations that represent rail workers, shall de-
20 velop and issue detailed guidance for a rail worker security
21 training program to prepare front-line workers for poten-
22 tial threat conditions. The guidance shall take into consid-
23 eration any current security training requirements or best
24 practices.

1 (b) PROGRAM ELEMENTS.—The guidance developed
2 under subsection (a) shall include elements appropriate to
3 passenger and freight rail service that address the fol-
4 lowing:

5 (1) Determination of the seriousness of any oc-
6 currence.

7 (2) Crew communication and coordination.

8 (3) Appropriate responses to defend or protect
9 oneself.

10 (4) Use of protective devices.

11 (5) Evacuation procedures.

12 (6) Psychology, behavior, and methods of ter-
13 rorists, including observation and analysis.

14 (7) Situational training exercises regarding var-
15 ious threat conditions.

16 (8) Any other subject the Secretary considers
17 appropriate.

18 (c) RAILROAD CARRIER PROGRAMS.—Not later than
19 90 days after the Secretary issues guidance under sub-
20 section (a) in final form, each railroad carrier shall develop
21 a rail worker security training program in accordance with
22 that guidance and submit it to the Secretary for review.
23 Not later than 90 days after receiving a railroad carrier's
24 program under this subsection, the Secretary shall review
25 the program and transmit comments to the railroad car-

1 rier concerning any revisions the Secretary considers nec-
2 essary for the program to meet the guidance requirements.
3 A railroad carrier shall respond to the Secretary's com-
4 ments within 90 days after receiving them.

5 (d) TRAINING.—Not later than 1 year after the Sec-
6 retary reviews the training program developed by a rail-
7 road carrier under this section, the railroad carrier shall
8 complete the training of all front-line workers in accord-
9 ance with that program. The Secretary shall review imple-
10 mentation of the training program of a representative
11 sample of railroad carriers and report to the Senate Com-
12 mittee on Commerce, Science, and Transportation, the
13 House of Representatives Committee on Transportation
14 and Infrastructure, and the House of Representatives
15 Committee on Homeland Security on the number of re-
16 views conducted and the results. The Secretary may sub-
17 mit the report in both classified and redacted formats as
18 necessary.

19 (e) UPDATES.—The Secretary shall update the train-
20 ing guidance issued under subsection (a) as appropriate
21 to reflect new or different security threats. Railroad car-
22 riers shall revise their programs accordingly and provide
23 additional training to their front-line workers within a rea-
24 sonable time after the guidance is updated.

1 (f) FRONT-LINE WORKERS DEFINED.—In this sec-
 2 tion, the term “front-line workers” means security per-
 3 sonnel, dispatchers, locomotive engineers, conductors,
 4 trainmen, other onboard employees, maintenance and
 5 maintenance support personnel, bridge tenders, as well as
 6 other appropriate employees of railroad carriers, as de-
 7 fined by the Secretary.

8 (g) OTHER EMPLOYEES.—The Secretary shall issue
 9 guidance and best practices for a rail shipper employee
 10 security program containing the elements listed under sub-
 11 section (b) as appropriate.

12 **SEC. 1430. WHISTLEBLOWER PROTECTION PROGRAM.**

13 (a) IN GENERAL.—Subchapter A of chapter 201 of
 14 title 49, United States Code, is amended by inserting after
 15 section 20117 the following:

16 **“§ 20118. Whistleblower protection for rail Security**
 17 **matters**

18 “(a) DISCRIMINATION AGAINST EMPLOYEE.—A rail-
 19 road carrier engaged in interstate or foreign commerce
 20 may not discharge or in any way discriminate against an
 21 employee because the employee, whether acting for the
 22 employee or as a representative, has—

23 “(1) provided, caused to be provided, or is
 24 about to provide or cause to be provided, to the em-
 25 ployer or the Federal Government information relat-

1 ing to a reasonably perceived threat, in good faith,
2 to security;

3 “(2) provided, caused to be provided, or is
4 about to provide or cause to be provided, testimony
5 before Congress or at any Federal or State pro-
6 ceeding regarding a reasonably perceived threat, in
7 good faith, to security; or

8 “(3) refused to violate or assist in the violation
9 of any law, rule or regulation related to rail security.

10 “(b) DISPUTE RESOLUTION.—A dispute, grievance,
11 or claim arising under this section is subject to resolution
12 under section 3 of the Railway Labor Act (45 U.S.C. 153).
13 In a proceeding by the National Railroad Adjustment
14 Board, a division or delegate of the Board, or another
15 board of adjustment established under section 3 to resolve
16 the dispute, grievance, or claim the proceeding shall be
17 expedited and the dispute, grievance, or claim shall be re-
18 solved not later than 180 days after it is filed. If the viola-
19 tion is a form of discrimination that does not involve dis-
20 charge, suspension, or another action affecting pay, and
21 no other remedy is available under this subsection, the
22 Board, division, delegate, or other board of adjustment
23 may award the employee reasonable damages, including
24 punitive damages, of not more than \$20,000.

1 “(c) PROCEDURAL REQUIREMENTS.—Except as pro-
2 vided in subsection (b), the procedure set forth in section
3 42121(b)(2)(B) of this subtitle, including the burdens of
4 proof, applies to any complaint brought under this section.

5 “(d) ELECTION OF REMEDIES.—An employee of a
6 railroad carrier may not seek protection under both this
7 section and another provision of law for the same allegedly
8 unlawful act of the carrier.

9 “(e) DISCLOSURE OF IDENTITY.—

10 “(1) Except as provided in paragraph (2) of
11 this subsection, or with the written consent of the
12 employee, the Secretary of Transportation or Sec-
13 retary of Homeland Security may not disclose the
14 name of an employee of a railroad carrier who has
15 provided information about an alleged violation of
16 this section.

17 “(2) The Secretary shall disclose to the Attor-
18 ney General the name of an employee described in
19 paragraph (1) of this subsection if the matter is re-
20 ferred to the Attorney General for enforcement.

21 “(f) PROCESS FOR REPORTING PROBLEMS.—

22 “(1) ESTABLISHMENT OF REPORTING PROC-
23 ESS.—The Secretary shall establish, and provide in-
24 formation to the public regarding, a process by
25 which any person may submit a report to the Sec-

1 retary regarding railroad security problems, defi-
2 ciencies, or vulnerabilities.

3 “(2) CONFIDENTIALITY.—The Secretary shall
4 keep confidential the identity of a person who sub-
5 mits a report under paragraph (1) and any such re-
6 port shall be treated as a record containing pro-
7 tected information to the extent that it does not con-
8 sist of publicly available information.

9 “(3) ACKNOWLEDGMENT OF RECEIPT.—If a re-
10 port submitted under paragraph (1) identifies the
11 person making the report, the Secretary shall re-
12 spond promptly to such person and acknowledge re-
13 ceipt of the report.

14 “(4) STEPS TO ADDRESS PROBLEMS.—The Sec-
15 retary shall review and consider the information pro-
16 vided in any report submitted under paragraph (1)
17 and shall take appropriate steps under this title to
18 address any problems or deficiencies identified.

19 “(5) RETALIATION PROHIBITED.—No employer
20 may discharge any employee or otherwise discrimi-
21 nate against any employee with respect to the com-
22 pensation to, or terms, conditions, or privileges of
23 the employment of, such employee because the em-
24 ployee (or a person acting pursuant to a request of
25 the employee) made a report under paragraph (1).”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-
 2 ysis for chapter 201 of title 49, United States Code, is
 3 amended by inserting after the item relating to section
 4 20117 the following:

“20118. Whistleblower protection for rail security matters”.

5 **SEC. 1431. HIGH HAZARD MATERIAL SECURITY RISK MITI-**
 6 **GATION PLANS.**

7 (a) IN GENERAL.—The Secretary, in consultation
 8 with the Assistant Secretary of Homeland Security
 9 (Transportation Security Administration) and the Sec-
 10 retary of Transportation, shall require rail carriers trans-
 11 porting a high hazard material, as defined in section 1411
 12 of this title, to develop a high hazard material security
 13 risk mitigation plan containing appropriate measures, in-
 14 cluding alternative routing and temporary shipment sus-
 15 pension options, to address assessed risks to high con-
 16 sequence targets. The plan, and any information sub-
 17 mitted to the Secretary under this section shall be pro-
 18 tected as sensitive security information under the regula-
 19 tions prescribed under section 114(s) of title 49, United
 20 States Code.

21 (b) IMPLEMENTATION.—A high hazard material se-
 22 curity risk mitigation plan shall be put into effect by a
 23 rail carrier for the shipment of high hazardous materials
 24 by rail on the rail carrier’s right-of-way when the threat
 25 levels of the Homeland Security Advisory System are high

1 or severe or specific intelligence of probable or imminent
2 threat exists towards—

3 (1) a high-consequence target that is within the
4 catastrophic impact zone of a railroad right-of-way
5 used to transport high hazardous material; or

6 (2) rail infrastructure or operations within the
7 immediate vicinity of a high-consequence target.

8 (c) COMPLETION AND REVIEW OF PLANS.—

9 (1) PLANS REQUIRED.—Each rail carrier
10 shall—

11 (A) submit a list of routes used to trans-
12 port high hazard materials to the Secretary
13 within 60 days after the date of enactment of
14 this Act;

15 (B) develop and submit a high hazard ma-
16 terial security risk mitigation plan to the Sec-
17 retary within 180 days after it receives the no-
18 tice of high consequence targets on such routes
19 by the Secretary that includes an operational
20 recovery plan to expedite, to the maximum ex-
21 tent practicable, the return of an adversely af-
22 fected rail system or facility to its normal per-
23 formance level following a major terrorist at-
24 tack or other security incident; and

1 (C) submit any subsequent revisions to the
2 plan to the Secretary within 30 days after mak-
3 ing the revisions.

4 (2) REVIEW AND UPDATES.—The Secretary,
5 with assistance of the Secretary of Transportation,
6 shall review the plans and transmit comments to the
7 railroad carrier concerning any revisions the Sec-
8 retary considers necessary. A railroad carrier shall
9 respond to the Secretary’s comments within 30 days
10 after receiving them. Each rail carrier shall update
11 and resubmit its plan for review not less than every
12 2 years.

13 (d) DEFINITIONS.—In this section:

14 (1) The term “high-consequence target” means
15 property, infrastructure, public space, or natural re-
16 source designated by the Secretary that is a viable
17 terrorist target of national significance, the attack of
18 which could result in—

19 (A) catastrophic loss of life;

20 (B) significant damage to national security
21 or defense capabilities; or

22 (C) national economic harm.

23 (2) The term “catastrophic impact zone” means
24 the area immediately adjacent to, under, or above an
25 active railroad right-of-way used to ship high hazard

1 materials in which the potential release or explosion
2 of the high hazard material being transported would
3 likely cause—

4 (A) loss of life; or

5 (B) significant damage to property or
6 structures.

7 (3) The term “rail carrier” has the meaning
8 given that term by section 10102(5) of title 49,
9 United States Code.

10 **SEC. 1432. ENFORCEMENT AUTHORITY.**

11 (a) IN GENERAL.—Section 114 of title 49, United
12 States Code, as amended by section 902(a) of this title,
13 is further amended by adding at the end the following:

14 “(v) ENFORCEMENT OF REGULATIONS AND ORDERS
15 OF THE SECRETARY OF HOMELAND SECURITY ISSUED
16 UNDER THIS TITLE.—

17 “(1) APPLICATION OF SUBSECTION.—

18 “(A) IN GENERAL.—This subsection ap-
19 plies to the enforcement of regulations pre-
20 scribed, and orders issued, by the Secretary of
21 Homeland Security under a provision of this
22 title other than a provision of chapter 449.

23 “(B) VIOLATIONS OF CHAPTER 449.—The
24 penalties for violations of regulations pre-
25 scribed, and orders issued, by the Secretary of

1 Homeland Security under chapter 449 of this
2 title are provided under chapter 463 of this
3 title.

4 “(C) NONAPPLICATION TO CERTAIN VIOLA-
5 TIONS.—

6 “(i) Paragraphs (2) through (5) of
7 this subsection do not apply to violations of
8 regulations prescribed, and orders issued,
9 by the Secretary of Homeland Security
10 under a provision of this title—

11 “(I) involving the transportation
12 of personnel or shipments of materials
13 by contractors where the Department
14 of Defense has assumed control and
15 responsibility;

16 “(II) by a member of the armed
17 forces of the United States when per-
18 forming official duties; or

19 “(III) by a civilian employee of
20 the Department of Defense when per-
21 forming official duties.

22 “(ii) Violations described in subclause
23 (I), (II), or (III) of clause (i) shall be sub-
24 ject to penalties as determined by the Sec-

1 retary of Defense or the Secretary's des-
2 ignee.

3 “(2) CIVIL PENALTY.—

4 “(A) IN GENERAL.—A person is liable to
5 the United States Government for a civil pen-
6 alty of not more than \$10,000 for a violation of
7 a regulation prescribed, or order issued, by the
8 Secretary of Homeland Security under this
9 title.

10 “(B) REPEAT VIOLATIONS.—A separate
11 violation occurs under this paragraph for each
12 day the violation continues.

13 “(3) ADMINISTRATIVE IMPOSITION OF CIVIL
14 PENALTIES.—

15 “(A) IN GENERAL.—The Secretary of
16 Homeland Security may impose a civil penalty
17 for a violation of a regulation prescribed, or
18 order issued, under this title. The Secretary
19 shall give written notice of the finding of a vio-
20 lation and the penalty.

21 “(B) SCOPE OF CIVIL ACTION.—In a civil
22 action to collect a civil penalty imposed by the
23 Secretary under this subsection, the court may
24 not re-examine issues of liability or the amount
25 of the penalty.

1 “(C) JURISDICTION.—The district courts
2 of the United States have exclusive jurisdiction
3 of civil actions to collect a civil penalty imposed
4 by the Secretary under this subsection if—

5 “(i) the amount in controversy is
6 more than—

7 “(I) \$400,000, if the violation
8 was committed by a person other than
9 an individual or small business con-
10 cern; or

11 “(II) \$50,000, if the violation
12 was committed by an individual or
13 small business concern;

14 “(ii) the action is in rem or another
15 action in rem based on the same violation
16 has been brought; or

17 “(iii) another action has been brought
18 for an injunction based on the same viola-
19 tion.

20 “(D) MAXIMUM PENALTY.—The maximum
21 penalty the Secretary may impose under this
22 paragraph is—

23 “(i) \$400,000, if the violation was
24 committed by a person other than an indi-
25 vidual or small business concern; or

1 “(ii) \$50,000, if the violation was
2 committed by an individual or small busi-
3 ness concern.

4 “(4) COMPROMISE AND SETOFF.—

5 “(A) The Secretary may compromise the
6 amount of a civil penalty imposed under this
7 subsection. If the Secretary compromises the
8 amount of a civil penalty under this subpara-
9 graph, the Secretary shall—

10 “(i) notify the Senate Committee on
11 Commerce, Science, and Transportation
12 and the House of Representatives Com-
13 mittee on Homeland Security of the com-
14 promised penalty and explain the rationale
15 therefor; and

16 “(ii) make the explanation available to
17 the public to the extent feasible without
18 compromising security.

19 “(B) The Government may deduct the
20 amount of a civil penalty imposed or com-
21 promised under this subsection from amounts it
22 owes the person liable for the penalty.

23 “(5) INVESTIGATIONS AND PROCEEDINGS.—

24 Chapter 461 of this title shall apply to investigations
25 and proceedings brought under this subsection to

1 the same extent that it applies to investigations and
 2 proceedings brought with respect to aviation security
 3 duties designated to be carried out by the Secretary.

4 “(6) DEFINITIONS.—In this subsection:

5 “(A) PERSON.—The term ‘person’ does
 6 not include—

7 “(i) the United States Postal Service;

8 or

9 “(ii) the Department of Defense.

10 “(B) SMALL BUSINESS CONCERN.—The
 11 term ‘small business concern’ has the meaning
 12 given that term in section 3 of the Small Busi-
 13 ness Act (15 U.S.C. 632).”.

14 (b) CONFORMING AMENDMENT.—Section
 15 46301(a)(4) of title 49, United States Code is amended
 16 by striking “or another requirement under this title ad-
 17 ministered by the Under Secretary of Transportation for
 18 Security”.

19 (c) RAIL SAFETY REGULATIONS.—Section 20103(a)
 20 of title 49, United States Code, is amended by striking
 21 “safety” the first place it appears, and inserting “safety,
 22 including security,”.

23 **SEC. 1433. RAIL SECURITY ENHANCEMENTS.**

24 (a) RAIL POLICE OFFICERS.—Section 28101 of title
 25 49, United States Code, is amended—

1 (1) by inserting “(a) IN GENERAL.—” before
2 “Under”; and

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

4 “(b) ASSIGNMENT.—A rail police officer employed by
5 a rail carrier and certified or commissioned as a police
6 officer under the laws of a State may be temporarily as-
7 signed to assist a second rail carrier in carrying out law
8 enforcement duties upon the request of the second rail car-
9 rier, at which time the police officer shall be considered
10 to be an employee of the second rail carrier and shall have
11 authority to enforce the laws of any jurisdiction in which
12 the second rail carrier owns property to the same extent
13 as provided in subsection (a).”.

14 (b) MODEL STATE LEGISLATION.—By no later than
15 September 7, 2007, the Secretary of Transportation shall
16 develop model State legislation to address the problem of
17 entities that claim to be rail carriers in order to establish
18 and run a police force when the entities do not in fact
19 provide rail transportation and shall make it available to
20 State governments. In developing the model State legisla-
21 tion the Secretary shall solicit the input of the States, rail-
22 roads companies, and railroad employees. The Secretary
23 shall review and, if necessary, revise such model State leg-
24 islation periodically.

1 **SEC. 1434. PUBLIC AWARENESS.**

2 Not later than 90 days after the date of enactment
3 of this Act, the Secretary, in consultation with the Sec-
4 retary of Transportation, shall develop a national plan for
5 public outreach and awareness. Such plan shall be de-
6 signed to increase awareness of measures that the general
7 public, railroad passengers, and railroad employees can
8 take to increase railroad system security. Such plan shall
9 also provide outreach to railroad carriers and their em-
10 ployees to improve their awareness of available tech-
11 nologies, ongoing research and development efforts, and
12 available Federal funding sources to improve railroad se-
13 curity. Not later than 9 months after the date of enact-
14 ment of this Act, the Secretary shall implement the plan
15 developed under this section.

16 **SEC. 1435. RAILROAD HIGH HAZARD MATERIAL TRACKING.**

17 (a) WIRELESS COMMUNICATIONS.—

18 (1) IN GENERAL.—In conjunction with the re-
19 search and development program established under
20 section 1425 and consistent with the results of re-
21 search relating to wireless tracking technologies, the
22 Secretary, in consultation with the Assistant Sec-
23 retary of Homeland Security (Transportation Secu-
24 rity Administration), shall develop a program that
25 will encourage the equipping of rail cars trans-

1 porting high hazard materials (as defined in section
2 1411 of this title) with technology that provides—

3 (A) car position location and tracking ca-
4 pabilities; and

5 (B) notification of rail car depressuriza-
6 tion, breach, unsafe temperature, or release of
7 hazardous materials.

8 (2) COORDINATION.—In developing the pro-
9 gram required by paragraph (1), the Secretary
10 shall—

11 (A) consult with the Secretary of Trans-
12 portation to coordinate the program with any
13 ongoing or planned efforts for rail car tracking
14 at the Department of Transportation; and

15 (B) ensure that the program is consistent
16 with recommendations and findings of the De-
17 partment of Homeland Security’s hazardous
18 material tank rail car tracking pilot programs.

19 (b) FUNDING.—Out of funds appropriated pursuant
20 to section 114(w) of title 49, United States Code, as
21 amended by section 1437 of this title, there shall be made
22 available to the Secretary to carry out this section
23 \$3,000,000 for each of fiscal years 2008, 2009, and 2010.

1 **SEC. 1436. UNIFIED CARRIER REGISTRATION SYSTEM PLAN**
2 **AGREEMENT.**

3 (a) IN GENERAL.—Notwithstanding section 4305(a)
4 of the SAFETEA-LU Act (Public Law 109–59)—

5 (1) section 14504 of title 49, United States
6 Code, as that section was in effect on December 31,
7 2006, is re-enacted, effective as of January 1, 2007;
8 and

9 (2) no fee shall be collected pursuant to section
10 14504a of title 49, United States Code, until 30
11 days after the date, as determined by the Secretary
12 of Transportation, on which—

13 (A) the unified carrier registration system
14 plan and agreement required by that section
15 has been fully implemented; and

16 (B) the fees have been set by the Secretary
17 under subsection (d)(7)(B) of that section.

18 (b) REPEAL OF SECTION 14504.—Section 14504 of
19 title 49, United States Code, as re-enacted by this Act,
20 is repealed effective on the date on which fees may be col-
21 lected under section 14504a of title 49, United States
22 Code, pursuant to subsection (a)(2) of this section.

23 **SEC. 1437. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) TRANSPORTATION SECURITY ADMINISTRATION
25 AUTHORIZATION.—Section 114 of title 49, United States

1 Code, as amended by section 1432, is amended by adding
2 at the end thereof the following:

3 “(w) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary of
5 Homeland Security for rail security—

6 “(1) \$205,000,000 for fiscal year 2008;

7 “(2) \$166,000,000 for fiscal year 2009; and

8 “(3) \$166,000,000 for fiscal year 2010.”.

9 (b) DEPARTMENT OF TRANSPORTATION.—There are
10 authorized to be appropriated to the Secretary of Trans-
11 portation to carry out this title and sections 20118 and
12 24316 of title 49, United States Code, as added by this
13 title—

14 (1) \$121,000,000 for fiscal year 2008;

15 (2) \$118,000,000 for fiscal year 2009;

16 (3) \$118,000,000 for fiscal year 2010; and

17 (4) \$118,000,000 for fiscal year 2011.

18 **SEC. 1438. APPLICABILITY OF DISTRICT OF COLUMBIA LAW**
19 **TO CERTAIN AMTRAK CONTRACTS.**

20 Section 24301 of title 49, United States Code, is
21 amended by adding at the end the following:

22 “(o) APPLICABILITY OF DISTRICT OF COLUMBIA
23 LAW.—Any lease or contract entered into between the Na-
24 tional Railroad Passenger Corporation and the State of
25 Maryland, or any department or agency of the State of

1 Maryland, after the date of the enactment of this sub-
2 section shall be governed by the laws of the District of
3 Columbia.”.

4 **PART II—IMPROVED MOTOR CARRIER, BUS, AND**
5 **HAZARDOUS MATERIAL SECURITY**

6 **SEC. 1441. HAZARDOUS MATERIALS HIGHWAY ROUTING.**

7 (a) ROUTE PLAN GUIDANCE.—Within 1 year after
8 the date of enactment of this Act, the Secretary of Trans-
9 portation, in consultation with the Secretary, shall—

10 (1) document existing and proposed routes for
11 the transportation of radioactive and non-radioactive
12 hazardous materials by motor carrier, and develop a
13 framework for using a Geographic Information Sys-
14 tem-based approach to characterize routes in the
15 National Hazardous Materials Route Registry;

16 (2) assess and characterize existing and pro-
17 posed routes for the transportation of radioactive
18 and non-radioactive hazardous materials by motor
19 carrier for the purpose of identifying measurable cri-
20 teria for selecting routes based on safety and secu-
21 rity concerns;

22 (3) analyze current route-related hazardous ma-
23 terials regulations in the United States, Canada, and
24 Mexico to identify cross-border differences and con-
25 flicting regulations;

1 (4) document the concerns of the public, motor
2 carriers, and State, local, territorial, and tribal gov-
3 ernments about the highway routing of hazardous
4 materials for the purpose of identifying and miti-
5 gating security risks associated with hazardous ma-
6 terial routes;

7 (5) prepare guidance materials for State offi-
8 cials to assist them in identifying and reducing both
9 safety concerns and security risks when designating
10 highway routes for hazardous materials consistent
11 with the 13 safety-based non-radioactive materials
12 routing criteria and radioactive materials routing
13 criteria in subpart C part 397 of title 49, Code of
14 Federal Regulations;

15 (6) develop a tool that will enable State officials
16 to examine potential routes for the highway trans-
17 portation of hazardous material and assess specific
18 security risks associated with each route and explore
19 alternative mitigation measures; and

20 (7) transmit to the Senate Committee on Com-
21 merce, Science, and Transportation, and the House
22 of Representatives Committee on Transportation
23 and Infrastructure a report on the actions taken to
24 fulfill paragraphs (1) through (6) of this subsection
25 and any recommended changes to the routing re-

1 quirements for the highway transportation of haz-
2 ardous materials in part 397 of title 49, Code of
3 Federal Regulations.

4 (b) ROUTE PLANS.—

5 (1) ASSESSMENT.—Within 1 year after the date
6 of enactment of this Act, the Secretary of Transpor-
7 tation shall complete an assessment of the safety
8 and national security benefits achieved under exist-
9 ing requirements for route plans, in written or elec-
10 tronic format, for explosives and radioactive mate-
11 rials. The assessment shall, at a minimum—

12 (A) compare the percentage of Department
13 of Transportation recordable incidents and the
14 severity of such incidents for shipments of ex-
15 plosives and radioactive materials for which
16 such route plans are required with the percent-
17 age of recordable incidents and the severity of
18 such incidents for shipments of explosives and
19 radioactive materials not subject to such route
20 plans; and

21 (B) quantify the security and safety bene-
22 fits, feasibility, and costs of requiring each
23 motor carrier that is required to have a haz-
24 ardous material safety permit under part 385
25 of title 49, Code of Federal Regulations, to

1 maintain, follow, and carry such a route plan
2 that meets the requirements of section 397.101
3 of that title when transporting the type and
4 quantity of hazardous materials described in
5 section 385.403 of that title, taking into ac-
6 count the various segments of the trucking in-
7 dustry, including tank truck, truckload and less
8 than truckload carriers.

9 (2) REPORT.—Within 1 year after the date of
10 enactment of this Act, the Secretary of Transpor-
11 tation shall submit a report to the Senate Com-
12 mittee on Commerce, Science, and Transportation,
13 and the House of Representatives Committee on
14 Transportation and Infrastructure containing the
15 findings and conclusions of the assessment.

16 (c) REQUIREMENT.—The Secretary shall require
17 motor carriers that have a hazardous material safety per-
18 mit under part 385 of title 49, Code of Federal Regula-
19 tions, to maintain, follow, and carry a route plan, in writ-
20 ten or electronic format, that meets the requirements of
21 section 397.101 of that title when transporting the type
22 and quantity of hazardous materials described in section
23 385.403 of that title if the Secretary determines, under
24 the assessment required in subsection (b), that such a re-
25 quirement would enhance the security and safety of the

1 nation without imposing unreasonable costs or burdens
2 upon motor carriers.

3 **SEC. 1442. MOTOR CARRIER HIGH HAZARD MATERIAL**
4 **TRACKING.**

5 (a) COMMUNICATIONS.—

6 (1) IN GENERAL.—Consistent with the findings
7 of the Transportation Security Administration’s
8 Hazmat Truck Security Pilot Program and within 6
9 months after the date of enactment of this Act, the
10 Secretary, through the Transportation Security Ad-
11 ministration and in consultation with the Secretary
12 of Transportation, shall develop a program to facili-
13 tate the tracking of motor carrier shipments of high
14 hazard materials, as defined in this title, and to
15 equip vehicles used in such shipments with tech-
16 nology that provides—

17 (A) frequent or continuous communica-
18 tions;

19 (B) vehicle position location and tracking
20 capabilities; and

21 (C) a feature that allows a driver of such
22 vehicles to broadcast an emergency message.

23 (2) CONSIDERATIONS.—In developing the pro-
24 gram required by paragraph (1), the Secretary
25 shall—

1 (A) consult with the Secretary of Trans-
2 portation to coordinate the program with any
3 ongoing or planned efforts for motor carrier or
4 high hazardous materials tracking at the De-
5 partment of Transportation;

6 (B) take into consideration the rec-
7 ommendations and findings of the report on the
8 Hazardous Material Safety and Security Oper-
9 ation Field Test released by the Federal Motor
10 Carrier Safety Administration on November 11,
11 2004; and

12 (C) evaluate—

13 (i) any new information related to the
14 costs and benefits of deploying, equipping,
15 and utilizing tracking technology, including
16 portable tracking technology, for motor
17 carriers transporting high hazard materials
18 not included in the Hazardous Material
19 Safety and Security Operation Field Test
20 Report released by the Federal Motor Car-
21 rier Safety Administration on November
22 11, 2004;

23 (ii) the ability of tracking technology
24 to resist tampering and disabling;

1 (iii) the capability of tracking tech-
2 nology to collect, display, and store infor-
3 mation regarding the movement of ship-
4 ments of high hazard materials by com-
5 mercial motor vehicles;

6 (iv) the appropriate range of contact
7 intervals between the tracking technology
8 and a commercial motor vehicle trans-
9 porting high hazard materials;

10 (v) technology that allows the installa-
11 tion by a motor carrier of concealed and
12 portable electronic devices on commercial
13 motor vehicles that can be activated by law
14 enforcement authorities to disable the vehi-
15 cle and alert emergency response resources
16 to locate and recover high hazard materials
17 in the event of loss or theft of such mate-
18 rials; and

19 (vi) whether installation of the tech-
20 nology described in clause (v) should be in-
21 corporated into the program under para-
22 graph (1);

23 (vii) the costs, benefits, and practi-
24 cality of such technology described in
25 clause (v) in the context of the overall ben-

1 efit to national security, including com-
2 merce in transportation; and

3 (viii) other systems the Secretary de-
4 termines appropriate.

5 (b) REGULATIONS.—Not later than 1 year after the
6 date of the enactment of this Act, the Secretary, through
7 the Transportation Security Administration, shall promul-
8 gate regulations to carry out the provisions of subsection
9 (a).

10 (c) FUNDING.—There are authorized to be appro-
11 priated to the Secretary to carry out this section,
12 \$7,000,000 for each of fiscal years 2008, 2009, and 2010,
13 of which—

14 (1) \$3,000,000 per year may be used for equip-
15 ment; and

16 (2) \$1,000,000 per year may be used for oper-
17 ations.

18 (d) REPORT.—Within 1 year after the issuance of
19 regulations under subsection (b), the Secretary shall issue
20 a report to the Senate Committee on Commerce, Science,
21 and Transportation, the Senate Committee on Homeland
22 Security and Governmental Affairs and the House Com-
23 mittee on Homeland Security on the program developed
24 and evaluation carried out under this section.

1 (e) LIMITATION.—The Secretary may not mandate
2 the installation or utilization of the technology described
3 under (a)(2)(C)(v) without additional congressional action
4 on that matter.

5 **SEC. 1443. MEMORANDUM OF AGREEMENT.**

6 Similar to the other security annexes between the 2
7 departments, within 1 year after the date of enactment
8 of this Act, the Secretary of Transportation and the Sec-
9 retary shall execute and develop an annex to the memo-
10 randum of agreement between the 2 departments signed
11 on September 28, 2004, governing the specific roles, delin-
12 eations of responsibilities, resources and commitments of
13 the Department of Transportation and the Department of
14 Homeland Security, respectively, in addressing motor car-
15 rier transportation security matters, including the proc-
16 esses the departments will follow to promote communica-
17 tions, efficiency, and nonduplication of effort.

18 **SEC. 1444. HAZARDOUS MATERIALS SECURITY INSPEC-**
19 **TIONS AND ENFORCEMENT.**

20 (a) IN GENERAL.—The Secretary shall establish a
21 program within the Transportation Security Administra-
22 tion, in consultation with the Secretary of Transportation,
23 for reviewing hazardous materials security plans required
24 under part 172, title 49, Code of Federal Regulations,
25 within 180 days after the date of enactment of this Act.

1 In establishing the program, the Secretary shall ensure
2 that—

3 (1) the program does not subject carriers to un-
4 necessarily duplicative reviews of their security plans
5 by the 2 departments; and

6 (2) a common set of standards is used to review
7 the security plans.

8 (b) CIVIL PENALTY.—The failure, by an offerer, car-
9 rier, or other person subject to part 172 of title 49, Code
10 of Federal Regulations, to comply with any applicable sec-
11 tion of that part within 180 days after being notified by
12 the Secretary of such failure to comply, is punishable by
13 a civil penalty imposed by the Secretary under title 49,
14 United States Code. For purposes of this subsection, each
15 day of noncompliance after the 181st day following the
16 date on which the offerer, carrier, or other person received
17 notice of the failure shall constitute a separate failure.

18 (c) COMPLIANCE REVIEW.—In reviewing the compli-
19 ance of hazardous materials offerers, carriers, or other
20 persons subject to part 172 of title 49, Code of Federal
21 Regulations, with the provisions of that part, the Sec-
22 retary shall utilize risk assessment methodologies to
23 prioritize review and enforcement actions of the highest
24 risk hazardous materials transportation operations.

1 (d) TRANSPORTATION COSTS STUDY.—Within 1 year
2 after the date of enactment of this Act, the Secretary of
3 Transportation, in conjunction with the Secretary, shall
4 study to what extent the insurance, security, and safety
5 costs borne by railroad carriers, motor carriers, pipeline
6 carriers, air carriers, and maritime carriers associated
7 with the transportation of hazardous materials are re-
8 flected in the rates paid by offerers of such commodities
9 as compared to the costs and rates respectively for the
10 transportation of non-hazardous materials.

11 (e) FUNDING.—There are authorized to be appro-
12 priated to the Secretary to carry out this section—

- 13 (1) \$2,000,000 for fiscal year 2008;
14 (2) \$2,000,000 for fiscal year 2009; and
15 (3) \$2,000,000 for fiscal year 2010.

16 **SEC. 1445. TRUCK SECURITY ASSESSMENT.**

17 Not later than 1 year after the date of enactment
18 of this Act, the Secretary, in consultation with the Sec-
19 retary of Transportation, shall transmit to the Senate
20 Committee on Commerce, Science, and Transportation,
21 Senate Committee on Finance, the House of Representa-
22 tives Committee on Transportation and Infrastructure,
23 the House of Representatives Committee on Homeland Se-
24 curity, and the House of Representatives Committee on

1 Ways and Means, a report on security issues related to
2 the trucking industry that includes—

3 (1) an assessment of actions already taken to
4 address identified security issues by both public and
5 private entities;

6 (2) an assessment of the economic impact that
7 security upgrades of trucks, truck equipment, or
8 truck facilities may have on the trucking industry
9 and its employees, including independent owner-op-
10 erators;

11 (3) an assessment of ongoing research and the
12 need for additional research on truck security;

13 (4) an assessment of industry best practices to
14 enhance security; and

15 (5) an assessment of the current status of se-
16 cure motor carrier parking.

17 **SEC. 1446. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.**

18 (a) DEVELOPMENT.—The Secretary, in conjunction
19 with the Secretary of Transportation, shall consider the
20 development of a national public sector response system
21 to receive security alerts, emergency messages, and other
22 information used to track the transportation of high haz-
23 ard materials which can provide accurate, timely, and ac-
24 tionable information to appropriate first responder, law
25 enforcement and public safety, and homeland security offi-

1 cials, as appropriate, regarding accidents, threats, thefts,
2 or other safety and security risks or incidents. In consid-
3 ering the development of this system, they shall consult
4 with law enforcement and public safety officials, haz-
5 ardous material shippers, motor carriers, railroads, orga-
6 nizations representing hazardous material employees,
7 State transportation and hazardous materials officials,
8 private for-profit and non-profit emergency response orga-
9 nizations, and commercial motor vehicle and hazardous
10 material safety groups. Consideration of development of
11 the national public sector response system shall be based
12 upon the public sector response center developed for the
13 Transportation Security Administration hazardous mate-
14 rial truck security pilot program and hazardous material
15 safety and security operational field test undertaken by
16 the Federal Motor Carrier Safety Administration.

17 (b) CAPABILITY.—The national public sector re-
18 sponse system to be considered shall be able to receive,
19 as appropriate—

- 20 (1) negative driver verification alerts;
- 21 (2) out-of-route alerts;
- 22 (3) driver panic or emergency alerts; and
- 23 (4) tampering or release alerts.

24 (c) CHARACTERISTICS.—The national public sector
25 response system to be considered shall—

- 1 (1) be an exception-based system;
- 2 (2) be integrated with other private and public
3 sector operation reporting and response systems and
4 all Federal homeland security threat analysis sys-
5 tems or centers (including the National Response
6 Center); and
- 7 (3) provide users the ability to create rules for
8 alert notification messages.

9 (d) CARRIER PARTICIPATION.—The Secretary shall
10 coordinate with motor carriers and railroads transporting
11 high hazard materials, entities acting on their behalf who
12 receive communication alerts from motor carriers or rail-
13 roads, or other Federal agencies that receive security and
14 emergency related notification regarding high hazard ma-
15 terials in transit to facilitate the provisions of the informa-
16 tion listed in subsection (b) to the national public sector
17 response system to the extent possible if the system is es-
18 tablished.

19 (e) DATA PRIVACY.—The national public sector re-
20 sponse system shall be designed to ensure appropriate pro-
21 tection of data and information relating to motor carriers,
22 railroads, and employees.

23 (f) REPORT.—Not later than 180 days after the date
24 of enactment of this Act, the Secretary shall transmit to
25 the Senate Committee on Commerce, Science, and Trans-

1 portation, the House of Representatives Committee on
2 Transportation and Infrastructure, and the House of Rep-
3 resentatives Committee on Homeland Security a report on
4 whether to establish a national public sector response sys-
5 tem and the estimated total public and private sector costs
6 to establish and annually operate such a system, together
7 with any recommendations for generating private sector
8 participation and investment in the development and oper-
9 ation of such a system.

10 (g) FUNDING.—There are authorized to be appro-
11 priated to the Secretary to carry out this section—

- 12 (1) \$1,000,000 for fiscal year 2008;
13 (2) \$1,000,000 for fiscal year 2009; and
14 (3) \$1,000,000 for fiscal year 2010.

15 **SEC. 1447. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

16 (a) IN GENERAL.—The Secretary shall establish a
17 program within the Transportation Security Administra-
18 tion for making grants to private operators of over-the-
19 road buses or over-the-road bus terminal operators for the
20 purposes of emergency preparedness drills and exercises,
21 protecting high risk/high consequence assets identified
22 through system-wide risk assessment, counter-terrorism
23 training, visible/unpredictable deterrence, public aware-
24 ness and preparedness campaigns, and including—

- 1 (1) constructing and modifying terminals, ga-
2 rages, facilities, or over-the-road buses to assure
3 their security;
- 4 (2) protecting or isolating the driver;
- 5 (3) acquiring, upgrading, installing, or oper-
6 ating equipment, software, or accessorial services for
7 collection, storage, or exchange of passenger and
8 driver information through ticketing systems or oth-
9 erwise, and information links with government agen-
10 cies;
- 11 (4) training employees in recognizing and re-
12 sponding to security risks, evacuation procedures,
13 passenger screening procedures, and baggage inspec-
14 tion;
- 15 (5) hiring and training security officers;
- 16 (6) installing cameras and video surveillance
17 equipment on over-the-road buses and at terminals,
18 garages, and over-the-road bus facilities;
- 19 (7) creating a program for employee identifica-
20 tion or background investigation;
- 21 (8) establishing and upgrading emergency com-
22 munications tracking and control systems; and
- 23 (9) implementing and operating passenger
24 screening programs at terminals and on over-the-
25 road buses.

1 (b) DUE CONSIDERATION.—In making grants under
2 this section, the Secretary shall give due consideration to
3 private operators of over-the-road buses that have taken
4 measures to enhance bus transportation security from
5 those in effect before September 11, 2001, and shall
6 prioritize grant funding based on the magnitude and se-
7 verity of the security risks to bus passengers and the abil-
8 ity of the funded project to reduce, or respond to, that
9 risk.

10 (c) GRANT REQUIREMENTS.—A grant under this sec-
11 tion shall be subject to all the terms and conditions that
12 a grant is subject to under section 3038(f) of the Trans-
13 portation Equity Act for the 21st Century (49 U.S.C.
14 5310 note; 112 Stat. 393).

15 (d) PLAN REQUIREMENT.—

16 (1) IN GENERAL.—The Secretary may not
17 make a grant under this section to a private oper-
18 ator of over-the-road buses until the operator has
19 first submitted to the Secretary—

20 (A) a plan for making security improve-
21 ments described in subsection (a) and the Sec-
22 retary has reviewed or approved the plan; and

23 (B) such additional information as the Sec-
24 retary may require to ensure accountability for

1 the obligation and expenditure of amounts
2 made available to the operator under the grant.

3 (2) COORDINATION.—To the extent that an ap-
4 plication for a grant under this section proposes se-
5 curity improvements within a specific terminal
6 owned and operated by an entity other than the ap-
7 plicant, the applicant shall demonstrate to the satis-
8 faction of the Secretary that the applicant has co-
9 ordinated the security improvements for the terminal
10 with that entity.

11 (e) OVER-THE-ROAD BUS DEFINED.—In this section,
12 the term “over-the-road bus” means a bus characterized
13 by an elevated passenger deck located over a baggage com-
14 partment.

15 (f) BUS SECURITY ASSESSMENT.—

16 (1) IN GENERAL.—Not later than 1 year after
17 the date of enactment of this Act, the Secretary
18 shall transmit to the Senate Committee on Com-
19 merce, Science, and Transportation, the House of
20 Representatives Committee on Transportation and
21 Infrastructure, and the House of Representatives
22 Committee on Homeland Security a report in ac-
23 cordance with the requirements of this section.

24 (2) CONTENTS OF REPORT.—The report shall
25 include—

1 (A) an assessment of the over-the-road bus
2 security grant program;

3 (B) an assessment of actions already taken
4 to address identified security issues by both
5 public and private entities and recommenda-
6 tions on whether additional safety and security
7 enforcement actions are needed;

8 (C) an assessment of whether additional
9 legislation is needed to provide for the security
10 of Americans traveling on over-the-road buses;

11 (D) an assessment of the economic impact
12 that security upgrades of buses and bus facili-
13 ties may have on the over-the-road bus trans-
14 portation industry and its employees;

15 (E) an assessment of ongoing research and
16 the need for additional research on over-the-
17 road bus security, including engine shut-off
18 mechanisms, chemical and biological weapon de-
19 tection technology, and the feasibility of
20 compartmentalization of the driver;

21 (F) an assessment of industry best prac-
22 tices to enhance security; and

23 (G) an assessment of school bus security,
24 if the Secretary deems it appropriate.

1 (3) CONSULTATION WITH INDUSTRY, LABOR,
2 AND OTHER GROUPS.—In carrying out this section,
3 the Secretary shall consult with over-the-road bus
4 management and labor representatives, public safety
5 and law enforcement officials, and the National
6 Academy of Sciences.

7 (g) FUNDING.—

8 (1) IN GENERAL.—There are authorized to be
9 appropriated to the Secretary to carry out this
10 section—

11 (A) \$12,000,000 for fiscal year 2008;

12 (B) \$25,000,000 for fiscal year 2009; and

13 (C) \$25,000,000 for fiscal year 2010.

14 (2) AVAILABILITY OF APPROPRIATED FUNDS.—
15 Amounts appropriated pursuant to paragraph (1)
16 shall remain available until expended.

17 **SEC. 1448. PIPELINE SECURITY AND INCIDENT RECOVERY**
18 **PLAN.**

19 (a) IN GENERAL.—The Secretary, in consultation
20 with the Secretary of Transportation and the Pipeline and
21 Hazardous Materials Safety Administration, and in ac-
22 cordance with the Memorandum of Understanding Annex
23 executed on August 9, 2006, shall develop a Pipeline Secu-
24 rity and Incident Recovery Protocols Plan. The plan shall
25 include—

1 (1) a plan for the Federal Government to pro-
2 vide increased security support to the most critical
3 interstate and intrastate natural gas and hazardous
4 liquid transmission pipeline infrastructure and oper-
5 ations as determined under section 1449—

6 (A) at severe security threat levels of alert;

7 or

8 (B) when specific security threat informa-
9 tion relating to such pipeline infrastructure or
10 operations exists; and

11 (2) an incident recovery protocol plan, devel-
12 oped in conjunction with interstate and intrastate
13 transmission and distribution pipeline operators and
14 terminals and facilities operators connected to pipe-
15 lines, to develop protocols to ensure the continued
16 transportation of natural gas and hazardous liquids
17 to essential markets and for essential public health
18 or national defense uses in the event of an incident
19 affecting the interstate and intrastate natural gas
20 and hazardous liquid transmission and distribution
21 pipeline system, which shall include protocols for
22 granting access to pipeline operators for pipeline in-
23 frastructure repair, replacement or bypass following
24 an incident.

1 (b) EXISTING PRIVATE AND PUBLIC SECTOR EF-
2 FORTS.—The plan shall take into account actions taken
3 or planned by both private and public entities to address
4 identified pipeline security issues and assess the effective
5 integration of such actions.

6 (c) CONSULTATION.—In developing the plan under
7 subsection (a), the Secretary shall consult with the Sec-
8 retary of Transportation, interstate and intrastate trans-
9 mission and distribution pipeline operators, pipeline labor,
10 first responders, shippers, State pipeline safety agencies,
11 public safety officials, and other relevant parties.

12 (d) REPORT.—

13 (1) CONTENTS.—Not later than 2 years after
14 the date of enactment of this Act, the Secretary
15 shall transmit to the Committee on Commerce,
16 Science, and Transportation of the Senate, the Com-
17 mittee on Homeland Security of the House of Rep-
18 resentatives, and the Committee on Transportation
19 and Infrastructure of the House of Representatives
20 a report containing the plan required by subsection
21 (a), along with an estimate of the private and public
22 sector costs to implement any recommendations.

23 (2) FORMAT.—The Secretary may submit the
24 report in both classified and redacted formats if the

1 Secretary determines that such action is appropriate
2 or necessary.

3 **SEC. 1449. PIPELINE SECURITY INSPECTIONS AND EN-**
4 **FORCEMENT.**

5 (a) **IN GENERAL.**—Within 1 year after the date of
6 enactment of this Act, the Secretary, in consultation with
7 the Secretary of Transportation, shall establish a program
8 for reviewing pipeline operator adoption of recommenda-
9 tions in the September 5, 2002, Department of Transpor-
10 tation Research and Special Programs Administration
11 Pipeline Security Information Circular, including the re-
12 view of pipeline security plans and critical facility inspec-
13 tions.

14 (b) **REVIEW AND INSPECTION.**—Within 9 months
15 after the date of enactment of this Act, the Secretary and
16 the Secretary of Transportation shall develop and imple-
17 ment a plan for reviewing the pipeline security plan and
18 an inspection of the critical facilities of the 100 most crit-
19 ical pipeline operators covered by the September 5, 2002,
20 circular, where such facilities have not been inspected for
21 security purposes since September 5, 2002, by either the
22 Department of Homeland Security or the Department of
23 Transportation.

24 (c) **COMPLIANCE REVIEW METHODOLOGY.**—In re-
25 viewing pipeline operator compliance under subsections (a)

1 and (b), risk assessment methodologies shall be used to
2 prioritize risks and to target inspection and enforcement
3 actions to the highest risk pipeline assets.

4 (d) REGULATIONS.—Within 1 year after the date of
5 enactment of this Act, the Secretary and the Secretary
6 of Transportation shall develop and transmit to pipeline
7 operators security recommendations for natural gas and
8 hazardous liquid pipelines and pipeline facilities. If the
9 Secretary determines that regulations are appropriate, the
10 Secretary shall consult with the Secretary of Transpor-
11 tation on the extent of risk and appropriate mitigation
12 measures, and the Secretary or the Secretary of Transpor-
13 tation, consistent with the memorandum of understanding
14 annex signed on August 9, 2006, shall promulgate such
15 regulations and carry out necessary inspection and en-
16 forcement actions. Any regulations should incorporate the
17 guidance provided to pipeline operators by the September
18 5, 2002, Department of Transportation Research and
19 Special Programs Administration’s Pipeline Security In-
20 formation Circular and contain additional requirements as
21 necessary based upon the results of the inspections per-
22 formed under subsection (b). The regulations shall include
23 the imposition of civil penalties for non-compliance.

24 (e) FUNDING.—There are authorized to be appro-
25 priated to the Secretary to carry out this section—

1 (1) \$2,000,000 for fiscal year 2008; and

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

3 **SEC. 1450. TECHNICAL CORRECTIONS.**

4 Section 5103a of title 49, United States Code, is
5 amended—

6 (1) by inserting “of Homeland Security” after
7 “Secretary” each place it appears in subsections
8 (a)(1), (d)(1)(b), and (e); and

9 (2) by redesignating subsection (h) as sub-
10 section (i), and inserting the following after sub-
11 section (g):

12 “(h) RELATIONSHIP TO TRANSPORTATION SECURITY
13 CARDS.—Upon application, a State shall issue to an indi-
14 vidual a license to operate a motor vehicle transporting
15 in commerce a hazardous material without the security as-
16 sessment required by this section, provided the individual
17 meets all other applicable requirements for such a license,
18 if the Secretary of Homeland Security has previously de-
19 termined, under section 70105 of title 46, United States
20 Code, that the individual does not pose a security risk.”.

21 **SEC. 1451. CERTAIN PERSONNEL LIMITATIONS NOT TO**
22 **APPLY.**

23 Any statutory limitation on the number of employees
24 in the Transportation Security Administration of the De-
25 partment of Transportation, before or after its transfer

1 to the Department of Homeland Security, does not apply
2 to the extent that any such employees are responsible for
3 implementing the provisions of this title.

4 **SEC. 1452. MARITIME AND SURFACE TRANSPORTATION SE-**
5 **CURITY USER FEE STUDY.**

6 (a) IN GENERAL.—The Secretary of Homeland Secu-
7 rity shall conduct a study of the need for, and feasibility
8 of, establishing a system of maritime and surface trans-
9 portation-related user fees that may be imposed and col-
10 lected as a dedicated revenue source, on a temporary or
11 continuing basis, to provide necessary funding for legiti-
12 mate improvements to, and maintenance of, maritime and
13 surface transportation security. In developing the study,
14 the Secretary shall consult with maritime and surface
15 transportation carriers, shippers, passengers, facility own-
16 ers and operators, and other persons as determined by the
17 Secretary. Not later than 1 year after the date of the en-
18 actment of this Act, the Secretary shall submit a report
19 to the appropriate congressional committees that
20 contains—

- 21 (1) the results of the study;
- 22 (2) an assessment of the annual sources of
23 funding collected through maritime and surface
24 transportation at ports of entry and a detailed de-
25 scription of the distribution and use of such funds,

1 including the amount and percentage of such sources
2 that are dedicated to improve and maintain security;

3 (3)(A) an assessment of the fees, charges, and
4 standards imposed on United States ports, port ter-
5 minal operators, shippers, carriers, and other per-
6 sons who use United States ports of entry compared
7 with the fees and charges imposed on Canadian and
8 Mexican ports, Canadian and Mexican port terminal
9 operators, shippers, carriers, and other persons who
10 use Canadian or Mexican ports of entry; and

11 (B) an assessment of the impact of such fees,
12 charges, and standards on the competitiveness of
13 United States ports, port terminal operators, rail-
14 roads, motor carriers, pipelines, other transportation
15 modes, and shippers;

16 (4) an assessment of private efforts and invest-
17 ments to secure maritime and surface transportation
18 modes, including those that are operational and
19 those that are planned; and

20 (5) the Secretary's recommendations based
21 upon the study, and an assessment of the consist-
22 ency of such recommendations with the international
23 obligations and commitments of the United States.

24 (b) DEFINITIONS.—In this section:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” has the meaning given that term by section
4 2(1) of the SAFE Port Act (6 U.S.C. 901(1)).

5 (2) PORT OF ENTRY.—The term “port of
6 entry” means any port or other facility through
7 which foreign goods are permitted to enter the cus-
8 toms territory of a country under official super-
9 vision.

10 (3) MARITIME AND SURFACE TRANSPOR-
11 TATION.—The term “maritime and surface transpor-
12 tation” includes oceanborne, rail, and vehicular
13 transportation.

14 **SEC. 1453. DHS INSPECTOR GENERAL REPORT ON HIGH-**
15 **WAY WATCH GRANT PROGRAM.**

16 Within 90 days after the date of enactment of this
17 Act, the Inspector General of the Department of Home-
18 land Security shall submit a report to the Senate Com-
19 mittee on Commerce, Science, and Transportation and
20 Committee on Homeland Security and Governmental Af-
21 fairs on the Trucking Security Grant Program for fiscal
22 years 2004 and 2005 that—

23 (1) addresses the grant announcement, applica-
24 tion, receipt, review, award, monitoring, and closeout
25 processes; and

1 (2) states the amount obligated or expended
2 under the program for fiscal years 2004 and 2005
3 for—

- 4 (A) infrastructure protection;
5 (B) training;
6 (C) equipment;
7 (D) educational materials;
8 (E) program administration;
9 (E) marketing; and
10 (F) other functions.

11 **SEC. 1454. PROHIBITION OF ISSUANCE OF TRANSPOR-**
12 **TATION SECURITY CARDS TO CONVICTED**
13 **FELONS.**

14 (a) IN GENERAL.—Section 70105 of title 46, United
15 States Code, is amended—

16 (1) in subsection (b)(1), by striking “decides
17 that the individual poses a security risk under sub-
18 section (c)” and inserting “determines under sub-
19 section (c) that the individual poses a security risk”;
20 and

21 (2) in subsection (c), by amending paragraph
22 (1) to read as follows:

23 “(1) DISQUALIFICATIONS.—

24 “(A) PERMANENT DISQUALIFYING CRIMI-
25 NAL OFFENSES.—Except as provided under

1 paragraph (2), an individual is permanently dis-
2 qualified from being issued a biometric trans-
3 portation security card under subsection (b) if
4 the individual has been convicted, or found not
5 guilty by reason of insanity, in a civilian or
6 military jurisdiction of any of the following felo-
7 nies:

8 “(i) Espionage or conspiracy to com-
9 mit espionage.

10 “(ii) Sedition or conspiracy to commit
11 sedition.

12 “(iii) Treason or conspiracy to commit
13 treason.

14 “(iv) A Federal crime of terrorism (as
15 defined in section 2332b(g) of title 18), a
16 comparable State law, or conspiracy to
17 commit such crime.

18 “(v) A crime involving a transpor-
19 tation security incident.

20 “(vi) Improper transportation of a
21 hazardous material under section 5124 of
22 title 49, or a comparable State law.

23 “(vii) Unlawful possession, use, sale,
24 distribution, manufacture, purchase, re-
25 ceipt, transfer, shipping, transporting, im-

1 port, export, storage of, or dealing in an
2 explosive or explosive device. In this clause,
3 an explosive or explosive device includes—

4 “(I) an explosive (as defined in
5 sections 232(5) and 844(j) of title
6 18);

7 “(II) explosive materials (as de-
8 fined in subsections (e) through (f) of
9 section 841 of title 18); and

10 “(III) a destructive device (as de-
11 fined in 921(a)(4) of title 18 and sec-
12 tion 5845(f) of the Internal Revenue
13 Code of 1986).

14 “(viii) Murder.

15 “(ix) Making any threat, or mali-
16 ciously conveying false information know-
17 ing the same to be false, concerning the
18 deliverance, placement, or detonation of an
19 explosive or other lethal device in or
20 against a place of public use, a State or
21 other government facility, a public trans-
22 portation system, or an infrastructure fa-
23 cility.

24 “(x) A violation of the Racketeer In-
25 fluenced and Corrupt Organizations Act

1 (18 U.S.C. 1961 et seq.), or a comparable
2 State law, if 1 of the predicate acts found
3 by a jury or admitted by the defendant
4 consists of 1 of the crimes listed in this
5 subparagraph.

6 “(xi) Attempt to commit any of the
7 crimes listed in clauses (i) through (iv).

8 “(xii) Conspiracy or attempt to com-
9 mit any of the crimes described in clauses
10 (v) through (x).

11 “(B) INTERIM DISQUALIFYING CRIMINAL
12 OFFENSES.—Except as provided under para-
13 graph (2), an individual is disqualified from
14 being issued a biometric transportation security
15 card under subsection (b) if the individual has
16 been convicted, or found not guilty by reason of
17 insanity, during the 7-year period ending on the
18 date on which the individual applies for such
19 card, or was released from incarceration during
20 the 5-year period ending on the date on which
21 the individual applies for such card, of any of
22 the following felonies:

23 “(i) Unlawful possession, use, sale,
24 manufacture, purchase, distribution, re-
25 ceipt, transfer, shipping, transporting, de-

1 livery, import, export of, or dealing in a
2 firearm or other weapon. In this clause, a
3 firearm or other weapon includes—

4 “(I) firearms (as defined in sec-
5 tion 921(a)(3) of title 18 and section
6 5845(a) of the Internal Revenue Code
7 of 1986); and

8 “(II) items contained on the
9 United States Munitions Import List
10 under section 447.21 of title 27, Code
11 of Federal Regulations.

12 “(ii) Extortion.

13 “(iii) Dishonesty, fraud, or misrepre-
14 sentation, including identity fraud and
15 money laundering if the money laundering
16 is related to a crime described in this sub-
17 paragraph or subparagraph (A). In this
18 clause, welfare fraud and passing bad
19 checks do not constitute dishonesty, fraud,
20 or misrepresentation.

21 “(iv) Bribery.

22 “(v) Smuggling.

23 “(vi) Immigration violations.

1 “(vii) Distribution of, possession with
2 intent to distribute, or importation of a
3 controlled substance.

4 “(viii) Arson.

5 “(ix) Kidnapping or hostage taking.

6 “(x) Rape or aggravated sexual abuse.

7 “(xi) Assault with intent to kill.

8 “(xii) Robbery.

9 “(xiii) Conspiracy or attempt to com-
10 mit any of the crimes listed in this sub-
11 paragraph.

12 “(xiv) Fraudulent entry into a seaport
13 under section 1036 of title 18, or a com-
14 parable State law.

15 “(xv) A violation of the Racketeer In-
16 fluenced and Corrupt Organizations Act
17 (18 U.S.C. 1961 et seq.) or a comparable
18 State law, other than any of the violations
19 listed in subparagraph (A)(x).

20 “(C) UNDER WANT WARRANT, OR INDICT-
21 MENT.—An applicant who is wanted, or under
22 indictment, in any civilian or military jurisdic-
23 tion for a felony listed in this paragraph, is dis-
24 qualified from being issued a biometric trans-
25 portation security card under subsection (b)

1 until the want or warrant is released or the in-
2 dictment is dismissed.

3 “(D) DETERMINATION OF ARREST STA-
4 TUS.—

5 “(i) IN GENERAL.—If a fingerprint-
6 based check discloses an arrest for a dis-
7 qualifying crime listed in this section with-
8 out indicating a disposition, the Transpor-
9 tation Security Administration shall notify
10 the applicant of such disclosure and pro-
11 vide the applicant with instructions on how
12 the applicant can clear the disposition, in
13 accordance with clause (ii).

14 “(ii) BURDEN OF PROOF.—In order to
15 clear a disposition under this subpara-
16 graph, an applicant shall submit written
17 proof to the Transportation Security Ad-
18 ministration, not later than 60 days after
19 receiving notification under clause (i), that
20 the arrest did not result in conviction for
21 the disqualifying criminal offense.

22 “(iii) NOTIFICATION OF DISQUALI-
23 FICATION.—If the Transportation Security
24 Administration does not receive proof in
25 accordance with the Transportation Secu-

1 rity Administration’s procedures for waiver
2 of criminal offenses and appeals, the
3 Transportation Security Administration
4 shall notify—

5 “(I) the applicant that he or she
6 is disqualified from being issued a bio-
7 metric transportation security card
8 under subsection (b);

9 “(II) the State that the applicant
10 is disqualified, in the case of a haz-
11 ardous materials endorsement; and

12 “(III) the Coast Guard that the
13 applicant is disqualified, if the appli-
14 cant is a mariner.

15 “(E) OTHER POTENTIAL DISQUALIFICA-
16 TIONS.—Except as provided under subpara-
17 graphs (A) through (C), an individual may not
18 be denied a transportation security card under
19 subsection (b) unless the Secretary determines
20 that individual—

21 “(i) has been convicted within the pre-
22 ceding 7-year period of a felony or found
23 not guilty by reason of insanity of a
24 felony—

1 “(I) that the Secretary believes
2 could cause the individual to be a ter-
3 rorism security risk to the United
4 States; or

5 “(II) for causing a severe trans-
6 portation security incident;

7 “(ii) has been released from incarcer-
8 ation within the preceding 5-year period
9 for committing a felony described in clause
10 (i);

11 “(iii) may be denied admission to the
12 United States or removed from the United
13 States under the Immigration and Nation-
14 ality Act (8 U.S.C. 1101 et seq.); or

15 “(iv) otherwise poses a terrorism secu-
16 rity risk to the United States.

17 “(F) MODIFICATION OF LISTED OF-
18 FENSES.—The Secretary may, by rulemaking,
19 add or modify the offenses described in para-
20 graph (1)(A) or (B).”.

21 (b) CONFORMING AMENDMENT.—Section 70101 of
22 title 49, United States Code, is amended—

23 (1) by redesignating paragraphs (2) through
24 (6) as paragraphs (3) through (7); and

1 (2) by inserting after paragraph (1) the fol-
2 lowing:

3 “(2) The term ‘economic disruption’ does not
4 include a work stoppage or other employee-related
5 action not related to terrorism and resulting from an
6 employer-employee dispute.”.

7 **SEC. 1455. PROHIBITION OF ISSUANCE OF TRANSPOR-**
8 **TATION SECURITY CARDS TO CONVICTED**
9 **FELONS.**

10 (a) IN GENERAL.—Section 70105 of title 46, United
11 States Code, is amended—

12 (1) in subsection (b)(1), by striking “decides
13 that the individual poses a security risk under sub-
14 section (e)” and inserting “determines under sub-
15 section (c) that the individual poses a security risk”;
16 and

17 (2) in subsection (c), by amending paragraph
18 (1) to read as follows:

19 “(1) DISQUALIFICATIONS.—

20 “(A) PERMANENT DISQUALIFYING CRIMI-
21 NAL OFFENSES.—Except as provided under
22 paragraph (2), an individual is permanently dis-
23 qualified from being issued a biometric trans-
24 portation security card under subsection (b) if
25 the individual has been convicted, or found not

1 guilty by reason of insanity, in a civilian or
2 military jurisdiction of any of the following felo-
3 nies:

4 “(i) Espionage or conspiracy to com-
5 mit espionage.

6 “(ii) Sedition or conspiracy to commit
7 sedition.

8 “(iii) Treason or conspiracy to commit
9 treason.

10 “(iv) A Federal crime of terrorism (as
11 defined in section 2332b(g) of title 18), a
12 comparable State law, or conspiracy to
13 commit such crime.

14 “(v) A crime involving a transpor-
15 tation security incident.

16 “(vi) Improper transportation of a
17 hazardous material under section 5124 of
18 title 49, or a comparable State law.

19 “(vii) Unlawful possession, use, sale,
20 distribution, manufacture, purchase, re-
21 ceipt, transfer, shipping, transporting, im-
22 port, export, storage of, or dealing in an
23 explosive or explosive device. In this clause,
24 an explosive or explosive device includes—

1 “(I) an explosive (as defined in
2 sections 232(5) and 844(j) of title
3 18);

4 “(II) explosive materials (as de-
5 fined in subsections (e) through (f) of
6 section 841 of title 18); and

7 “(III) a destructive device (as de-
8 fined in 921(a)(4) of title 18 and sec-
9 tion 5845(f) of the Internal Revenue
10 Code of 1986).

11 “(viii) Murder.

12 “(ix) Making any threat, or mali-
13 ciously conveying false information know-
14 ing the same to be false, concerning the
15 deliverance, placement, or detonation of an
16 explosive or other lethal device in or
17 against a place of public use, a State or
18 other government facility, a public trans-
19 portation system, or an infrastructure fa-
20 cility.

21 “(x) A violation of the Racketeer In-
22 fluenced and Corrupt Organizations Act
23 (18 U.S.C. 1961 et seq.), or a comparable
24 State law, if 1 of the predicate acts found
25 by a jury or admitted by the defendant

1 consists of 1 of the crimes listed in this
2 subparagraph.

3 “(xi) Attempt to commit any of the
4 crimes listed in clauses (i) through (iv).

5 “(xii) Conspiracy or attempt to com-
6 mit any of the crimes described in clauses
7 (v) through (x).

8 “(B) INTERIM DISQUALIFYING CRIMINAL
9 OFFENSES.—Except as provided under para-
10 graph (2), an individual is disqualified from
11 being issued a biometric transportation security
12 card under subsection (b) if the individual has
13 been convicted, or found not guilty by reason of
14 insanity, during the 7-year period ending on the
15 date on which the individual applies for such
16 card, or was released from incarceration during
17 the 5-year period ending on the date on which
18 the individual applies for such card, of any of
19 the following felonies:

20 “(i) Unlawful possession, use, sale,
21 manufacture, purchase, distribution, re-
22 ceipt, transfer, shipping, transporting, de-
23 livery, import, export of, or dealing in a
24 firearm or other weapon. In this clause, a
25 firearm or other weapon includes—

1 “(I) firearms (as defined in sec-
2 tion 921(a)(3) of title 18 and section
3 5845(a) of the Internal Revenue Code
4 of 1986); and

5 “(II) items contained on the
6 United States Munitions Import List
7 under section 447.21 of title 27, Code
8 of Federal Regulations.

9 “(ii) Extortion.

10 “(iii) Dishonesty, fraud, or misrepre-
11 sentation, including identity fraud and
12 money laundering if the money laundering
13 is related to a crime described in this sub-
14 paragraph or subparagraph (A). In this
15 clause, welfare fraud and passing bad
16 checks do not constitute dishonesty, fraud,
17 or misrepresentation.

18 “(iv) Bribery.

19 “(v) Smuggling.

20 “(vi) Immigration violations.

21 “(vii) Distribution of, possession with
22 intent to distribute, or importation of a
23 controlled substance.

24 “(viii) Arson.

25 “(ix) Kidnapping or hostage taking.

1 “(x) Rape or aggravated sexual abuse.

2 “(xi) Assault with intent to kill.

3 “(xii) Robbery.

4 “(xiii) Conspiracy or attempt to com-
5 mit any of the crimes listed in this sub-
6 paragraph.

7 “(xiv) Fraudulent entry into a seaport
8 under section 1036 of title 18, or a com-
9 parable State law.

10 “(xv) A violation of the Racketeer In-
11 fluenced and Corrupt Organizations Act
12 (18 U.S.C. 1961 et seq.) or a comparable
13 State law, other than any of the violations
14 listed in subparagraph (A)(x).

15 “(C) UNDER WANT WARRANT, OR INDICT-
16 MENT.—An applicant who is wanted, or under
17 indictment, in any civilian or military jurisdic-
18 tion for a felony listed in this paragraph, is dis-
19 qualified from being issued a biometric trans-
20 portation security card under subsection (b)
21 until the want or warrant is released or the in-
22 dictment is dismissed.

23 “(D) DETERMINATION OF ARREST STA-
24 TUS.—

1 “(i) IN GENERAL.—If a fingerprint-
2 based check discloses an arrest for a dis-
3 qualifying crime listed in this section with-
4 out indicating a disposition, the Transpor-
5 tation Security Administration shall notify
6 the applicant of such disclosure and pro-
7 vide the applicant with instructions on how
8 the applicant can clear the disposition, in
9 accordance with clause (ii).

10 “(ii) BURDEN OF PROOF.—In order to
11 clear a disposition under this subpara-
12 graph, an applicant shall submit written
13 proof to the Transportation Security Ad-
14 ministration, not later than 60 days after
15 receiving notification under clause (i), that
16 the arrest did not result in conviction for
17 the disqualifying criminal offense.

18 “(iii) NOTIFICATION OF DISQUALI-
19 FICATION.—If the Transportation Security
20 Administration does not receive proof in
21 accordance with the Transportation Secu-
22 rity Administration’s procedures for waiver
23 of criminal offenses and appeals, the
24 Transportation Security Administration
25 shall notify—

1 “(I) the applicant that he or she
2 is disqualified from being issued a bio-
3 metric transportation security card
4 under subsection (b);

5 “(II) the State that the applicant
6 is disqualified, in the case of a haz-
7 ardous materials endorsement; and

8 “(III) the Coast Guard that the
9 applicant is disqualified, if the appli-
10 cant is a mariner.

11 “(E) OTHER POTENTIAL DISQUALIFICA-
12 TIONS.—Except as provided under subpara-
13 graphs (A) through (C), an individual may not
14 be denied a transportation security card under
15 subsection (b) unless the Secretary determines
16 that individual—

17 “(i) has been convicted within the pre-
18 ceding 7-year period of a felony or found
19 not guilty by reason of insanity of a
20 felony—

21 “(I) that the Secretary believes
22 could cause the individual to be a ter-
23 rorism security risk to the United
24 States; or

1 “(II) for causing a severe trans-
2 portation security incident;

3 “(ii) has been released from incarcer-
4 ation within the preceding 5-year period
5 for committing a felony described in clause
6 (i);

7 “(iii) may be denied admission to the
8 United States or removed from the United
9 States under the Immigration and Nation-
10 ality Act (8 U.S.C. 1101 et seq.); or

11 “(iv) otherwise poses a terrorism secu-
12 rity risk to the United States.

13 “(F) MODIFICATION OF LISTED OF-
14 FENSES.—The Secretary may, by rulemaking,
15 add to the offenses described in paragraph
16 (1)(A) or (B).”.

17 (b) CONFORMING AMENDMENT.—Section 70101 of
18 title 49, United States Code, is amended—

19 (1) by redesignating paragraphs (2) through
20 (6) as paragraphs (3) through (7); and

21 (2) by inserting after paragraph (1) the fol-
22 lowing:

23 “(2) The term ‘economic disruption’ does not
24 include a work stoppage or other employee-related

1 action not related to terrorism and resulting from an
2 employer-employee dispute.”.

3 **Subtitle B—Aviation Security**
4 **Improvement**

5 **SEC. 1461. EXTENSION OF AUTHORIZATION FOR AVIATION**
6 **SECURITY FUNDING.**

7 Section 48301(a) of title 49, United States Code, is
8 amended by striking “and 2006” and inserting “2006,
9 2007, 2008, and 2009”.

10 **SEC. 1462. PASSENGER AIRCRAFT CARGO SCREENING.**

11 (a) IN GENERAL.—Section 44901 of title 49, United
12 States Code, is amended—

13 (1) by redesignating subsections (g) and (h) as
14 subsections (h) and (i), respectively; and

15 (2) by inserting after subsection (f) the fol-
16 lowing:

17 “(g) AIR CARGO ON PASSENGER AIRCRAFT.—

18 “(1) IN GENERAL.—Not later than 3 years
19 after the date of enactment of the Transportation
20 Security and Interoperable Communication Capabili-
21 ties Act, the Secretary of Homeland Security, acting
22 through the Administrator of the Transportation Se-
23 curity Administration, shall establish a system to
24 screen all cargo transported on passenger aircraft
25 operated by an air carrier or foreign air carrier in

1 air transportation or intrastate air transportation to
2 ensure the security of all such passenger aircraft
3 carrying cargo.

4 “(2) MINIMUM STANDARDS.—The system re-
5 ferred to in paragraph (1) shall require, at a min-
6 imum, that the equipment, technology, procedures,
7 personnel, or other methods determined by the Ad-
8 ministrator of the Transportation Security Adminis-
9 tration, provide a level of security comparable to the
10 level of security in effect for passenger checked bag-
11 gage.

12 “(3) REGULATIONS.—

13 “(A) INTERIM FINAL RULE.—The Sec-
14 retary of Homeland Security may issue an in-
15 terim final rule as a temporary regulation to
16 implement this subsection without regard to the
17 provisions of chapter 5 of title 5.

18 “(B) FINAL RULE.—

19 “(i) IN GENERAL.—If the Secretary
20 issues an interim final rule under subpara-
21 graph (A), the Secretary shall issue, not
22 later than 1 year after the effective date of
23 the interim final rule, a final rule as a per-
24 manent regulation to implement this sub-

1 section in accordance with the provisions of
2 chapter 5 of title 5.

3 “(ii) FAILURE TO ACT.—If the Sec-
4 retary does not issue a final rule in accord-
5 ance with clause (i) on or before the last
6 day of the 1-year period referred to in
7 clause (i), the Secretary shall submit a re-
8 port to the Congress explaining why the
9 final rule was not timely issued and pro-
10 viding an estimate of the earliest date on
11 which the final rule will be issued. The
12 Secretary shall submit the first such report
13 within 10 days after such last day and
14 submit a report to the Congress containing
15 updated information every 60 days there-
16 after until the final rule is issued.

17 “(iii) SUPERSEDING OF INTERIM
18 FINAL RULE.—The final rule issued in ac-
19 cordance with this subparagraph shall su-
20 perse the interim final rule issued under
21 subparagraph (A).

22 “(4) REPORT.—Not later than 1 year after the
23 date on which the system required by paragraph (1)
24 is established, the Secretary shall transmit a report
25 to Congress that details and explains the system.”.

1 (b) ASSESSMENT OF EXEMPTIONS.—

2 (1) TSA ASSESSMENT OF EXEMPTIONS.—

3 (A) IN GENERAL.—Not later than 180
4 days after the date of enactment of this Act,
5 the Secretary of Homeland Security, through
6 the Administrator of the Transportation Secu-
7 rity Administration, shall submit a report to
8 Congress and to the Comptroller General con-
9 taining an assessment of each exemption grant-
10 ed under section 44901(i) of title 49, United
11 States Code, for the screening required by sec-
12 tion 44901(g)(1) of that title for cargo trans-
13 ported on passenger aircraft and an analysis to
14 assess the risk of maintaining such exemption.
15 The Secretary may submit the report in both
16 classified and redacted formats if the Secretary
17 determines that such action is appropriate or
18 necessary.

19 (B) CONTENTS.—The report shall
20 include—

21 (i) the rationale for each exemption;

22 (ii) a statement of the percentage of
23 cargo that is not screened as a result of
24 each exemption;

1 (iii) the impact of each exemption on
2 aviation security;

3 (iv) the projected impact on the flow
4 of commerce of eliminating such exemp-
5 tion; and

6 (v) a statement of any plans, and the
7 rationale, for maintaining, changing, or
8 eliminating each exemption.

9 (2) GAO ASSESSMENT.—Not later than 120
10 days after the date on which the report required
11 under paragraph (1) is submitted, the Comptroller
12 General shall review the report and provide to Con-
13 gress an assessment of the methodology used for de-
14 terminations made by the Secretary for maintaining,
15 changing, or eliminating an exemption.

16 **SEC. 1463. BLAST-RESISTANT CARGO CONTAINERS.**

17 Section 44901 of title 49, United States Code, as
18 amended by section 1462, is amended by adding at the
19 end the following:

20 “(j) BLAST-RESISTANT CARGO CONTAINERS.—

21 “(1) IN GENERAL.—Before January 1, 2008,
22 the Administrator of the Transportation Security
23 Administration shall—

24 “(A) evaluate the results of the blast-re-
25 sistant cargo container pilot program instituted

1 before the date of enactment of the Transpor-
2 tation Security and Interoperable Communica-
3 tion Capabilities Act;

4 “(B) based on that evaluation, begin the
5 acquisition of a sufficient number of blast-re-
6 sistant cargo containers to meet the require-
7 ments of the Transportation Security Adminis-
8 tration’s cargo security program under sub-
9 section (g); and

10 “(C) develop a system under which the
11 Administrator—

12 “(i) will make such containers avail-
13 able for use by passenger aircraft operated
14 by air carriers or foreign air carriers in air
15 transportation or intrastate air transpor-
16 tation on a random or risk-assessment
17 basis as determined by the Administrator,
18 in sufficient number to enable the carriers
19 to meet the requirements of the Adminis-
20 tration’s cargo security system; and

21 “(ii) provide for the storage, mainte-
22 nance, and distribution of such containers.

23 “(2) DISTRIBUTION TO AIR CARRIERS.—Within
24 90 days after the date on which the Administrator
25 completes development of the system required by

1 paragraph (1)(C), the Administrator of the Trans-
2 portation Security Administration shall implement
3 that system and begin making blast-resistant cargo
4 containers available to such carriers as necessary.”.

5 **SEC. 1464. PROTECTION OF AIR CARGO ON PASSENGER**
6 **PLANES FROM EXPLOSIVES.**

7 (a) TECHNOLOGY RESEARCH AND PILOT
8 PROJECTS.—

9 (1) RESEARCH AND DEVELOPMENT.—The Sec-
10 retary of Homeland Security shall expedite research
11 and development for technology that can disrupt or
12 prevent an explosive device from being introduced
13 onto a passenger plane or from damaging a pas-
14 senger plane while in flight or on the ground. The
15 research shall include blast resistant cargo con-
16 tainers and other promising technology and will be
17 used in concert with implementation of section
18 44901(j) of title 49, United States Code, as amend-
19 ed by section 1463 of this title.

20 (2) PILOT PROJECTS.—The Secretary, in con-
21 junction with the Secretary of Transportation, shall
22 establish a grant program to fund pilot projects—

23 (A) to deploy technologies described in
24 paragraph (1); and

1 (B) to test technology to expedite the re-
2 covery, development, and analysis of informa-
3 tion from aircraft accidents to determine the
4 cause of the accident, including deployable
5 flight deck and voice recorders and remote loca-
6 tion recording devices.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Secretary of
9 Homeland Security for fiscal year 2008 such sums as may
10 be necessary to carry out this section, such funds to re-
11 main available until expended.

12 **SEC. 1465. IN-LINE BAGGAGE SCREENING.**

13 (a) EXTENSION OF AUTHORIZATION.—Section
14 44923(i)(1) of title 49, United States Code, is amended
15 by striking “2007.” and inserting “2007, and
16 \$450,000,000 for each of fiscal years 2008 and 2009.”.

17 (b) REPORT.—Within 30 days after the date of enact-
18 ment of this Act, the Secretary of Homeland Security shall
19 submit the report the Secretary was required by section
20 4019(d) of the Intelligence Reform and Terrorism Preven-
21 tion Act of 2004 (49 U.S.C. 44901 note) to have sub-
22 mitted in conjunction with the submission of the budget
23 for fiscal year 2006.

1 **SEC. 1466. IN-LINE BAGGAGE SYSTEM DEPLOYMENT.**

2 (a) IN GENERAL.—Section 44923 of title 49, United
3 States Code, is amended—

4 (1) by striking “may” in subsection (a) and in-
5 serting “shall”;

6 (2) by striking “may” in subsection (d)(1) and
7 inserting “shall”;

8 (3) by striking “2007” in subsection (h)(1) and
9 inserting “2028”;

10 (4) by striking paragraphs (2) and (3) of sub-
11 section (h) and inserting the following:

12 “(2) ALLOCATION.—Of the amount made avail-
13 able under paragraph (1) for a fiscal year, not less
14 than \$200,000,000 shall be allocated to fulfill letters
15 of intent issued under subsection (d).

16 “(3) DISCRETIONARY GRANTS.—Of the amount
17 made available under paragraph (1) for a fiscal year,
18 up to \$50,000,000 shall be used to make discre-
19 tionary grants, with priority given to small hub air-
20 ports and non-hub airports.”; and

21 (5) by redesignating subsection (i) as subsection
22 (j), and inserting after subsection (h) the following:

23 “(i) LEVERAGED FUNDING.—For purposes of this
24 section, a grant under subsection (a) to an airport sponsor
25 to service an obligation issued by or on behalf of that spon-

1 sor to fund a project described in subsection (a) shall be
2 considered to be a grant for that project.”.

3 (b) PRIORITIZATION OF PROJECTS.—

4 (1) IN GENERAL.—The Administrator shall cre-
5 ate a prioritization schedule for airport security im-
6 provement projects described in section 44923(b) of
7 title 49, United States Code, based on risk and
8 other relevant factors, to be funded under the grant
9 program provided by that section. The schedule shall
10 include both hub airports (as defined in section
11 41731(a)(3) of title 49, United States Code) and
12 nonhub airports (as defined in section 41731(a)4) of
13 title 49, United States Code).

14 (2) AIRPORTS THAT HAVE COMMENCED
15 PROJECTS.—The schedule shall include airports that
16 have incurred eligible costs associated with develop-
17 ment of partial in-line baggage systems before the
18 date of enactment of this Act in reasonable anticipa-
19 tion of receiving a grant under section 44923 of title
20 49, United States Code, in reimbursement of those
21 costs but that have not received such a grant.

22 (3) REPORT.—Within 180 days after the date
23 of enactment of this Act, the Administrator shall
24 provide a copy of the prioritization schedule, a cor-
25 responding timeline, and a description of the funding

1 allocation under section 44923 of title 49, United
 2 States Code, to the Senate Committee on Commerce,
 3 Science, and Transportation and the House of Rep-
 4 resentatives Committee on Homeland Security.

5 **SEC. 1467. RESEARCH AND DEVELOPMENT OF AVIATION**
 6 **TRANSPORTATION SECURITY TECHNOLOGY.**

7 Section 137(a) of the Aviation and Transportation
 8 Security Act (49 U.S.C. 44912 note) is amended—

9 (1) by striking “2002 through 2006,” and in-
 10 sserting “2006 through 2009,”;

11 (2) by striking “aviation” and inserting “trans-
 12 portation”; and

13 (3) by striking “2002 and 2003” and inserting
 14 “2006 through 2009”.

15 **SEC. 1468. CERTAIN TSA PERSONNEL LIMITATIONS NOT TO**
 16 **APPLY.**

17 (a) **IN GENERAL.**—Notwithstanding any provision of
 18 law to the contrary, any statutory limitation on the num-
 19 ber of employees in the Transportation Security Adminis-
 20 tration, before or after its transfer to the Department of
 21 Homeland Security from the Department of Transpor-
 22 tation, does not apply after fiscal year 2007.

23 (b) **AVIATION SECURITY.**—Notwithstanding any pro-
 24 vision of law imposing a limitation on the recruiting or
 25 hiring of personnel into the Transportation Security Ad-

1 ministration to a maximum number of permanent posi-
2 tions, the Secretary of Homeland Security shall recruit
3 and hire such personnel into the Administration as may
4 be necessary—

5 (1) to provide appropriate levels of aviation se-
6 curity; and

7 (2) to accomplish that goal in such a manner
8 that the average aviation security-related delay expe-
9 rienced by airline passengers is reduced to a level of
10 less than 10 minutes.

11 **SEC. 1469. SPECIALIZED TRAINING.**

12 The Administrator of the Transportation Security
13 Administration shall provide advanced training to trans-
14 portation security officers for the development of special-
15 ized security skills, including behavior observation and
16 analysis, explosives detection, and document examination,
17 in order to enhance the effectiveness of layered transpor-
18 tation security measures.

19 **SEC. 1470. EXPLOSIVE DETECTION AT PASSENGER SCREEN-**
20 **ING CHECKPOINTS.**

21 (a) IN GENERAL.—Within 90 days after the date of
22 enactment of this Act, the Secretary of Homeland Security
23 shall issue the strategic plan the Secretary was required
24 by section 44925(a) of title 49, United States Code, to
25 have issued within 90 days after the date of enactment

1 of the Intelligence Reform and Terrorism Prevention Act
2 of 2004.

3 (b) DEPLOYMENT.—Section 44925(b) of title 49,
4 United States Code, is amended by adding at the end the
5 following:

6 “(3) FULL DEPLOYMENT.—The Secretary shall
7 begin full implementation of the strategic plan with-
8 in 1 year after the date of enactment of the Trans-
9 portation Security and Interoperable Communication
10 Capabilities Act.”.

11 **SEC. 1471. APPEAL AND REDRESS PROCESS FOR PAS-**
12 **SENGERS WRONGLY DELAYED OR PROHIB-**
13 **ITED FROM BOARDING A FLIGHT.**

14 (a) IN GENERAL.—Subtitle C of title IV of the
15 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.)
16 is amended by adding at the end the following:

17 **“SEC. 432. APPEAL AND REDRESS PROCESS FOR PAS-**
18 **SENGERS WRONGLY DELAYED OR PROHIB-**
19 **ITED FROM BOARDING A FLIGHT.**

20 “(a) IN GENERAL.—The Secretary shall establish a
21 timely and fair process for individuals who believe they
22 have been delayed or prohibited from boarding a commer-
23 cial aircraft because they were wrongly identified as a
24 threat under the regimes utilized by the Transportation

1 Security Administration, the Bureau of Customs and Bor-
2 der Protection, or any other Department entity.

3 “(b) OFFICE OF APPEALS AND REDRESS.—

4 “(1) ESTABLISHMENT.—The Secretary shall es-
5 tablish an Office of Appeals and Redress to imple-
6 ment, coordinate, and execute the process estab-
7 lished by the Secretary pursuant to subsection (a).
8 The Office shall include representatives from the
9 Transportation Security Administration, U.S. Cus-
10 toms and Border Protection, and other agencies or
11 offices as appropriate.

12 “(2) RECORDS.—The process established by the
13 Secretary pursuant to subsection (a) shall include
14 the establishment of a method by which the Office
15 of Appeals and Redress, under the direction of the
16 Secretary, will be able to maintain a record of air
17 carrier passengers and other individuals who have
18 been misidentified and have corrected erroneous in-
19 formation.

20 “(3) INFORMATION.—To prevent repeated
21 delays of an misidentified passenger or other indi-
22 vidual, the Office of Appeals and Redress shall—

23 “(A) ensure that the records maintained
24 under this subsection contain information deter-

1 mined by the Secretary to authenticate the
2 identity of such a passenger or individual;

3 “(B) furnish to the Transportation Secu-
4 rity Administration, the Bureau of Customs
5 and Border Protection, or any other appro-
6 priate Department entity, upon request, such
7 information as may be necessary to allow such
8 agencies to assist air carriers in improving their
9 administration of the advanced passenger
10 prescreening system and reduce the number of
11 false positives; and

12 “(C) require air carriers and foreign air
13 carriers take action to properly and automati-
14 cally identify passengers determined, under the
15 process established under subsection (a), to
16 have been wrongly identified.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 in section 1(b) of the Homeland Security Act of 2002 is
19 amended by inserting after the item relating to section
20 431 the following:

“Sec. 432. Appeal and redress process for passengers wrongly delayed or pro-
hibited from boarding a flight”.

1 **SEC. 1472. STRATEGIC PLAN TO TEST AND IMPLEMENT AD-**
2 **VANCED PASSENGER PRESCREENING SYS-**
3 **TEM.**

4 (a) **IN GENERAL.**—Not later than 180 days after the
5 date of enactment of this Act, the Secretary of Homeland
6 Security, in consultation with the Administrator of the
7 Transportation Security Administration, shall submit to
8 the Congress a plan that—

9 (1) describes the system to be utilized by the
10 Department of Homeland Security to assume the
11 performance of comparing passenger information, as
12 defined by the Administrator of the Transportation
13 Security Administration, to the automatic selectee
14 and no-fly lists, as well as the consolidated and inte-
15 grated terrorist watchlist maintained by the Federal
16 Government;

17 (2) provides a projected timeline for each phase
18 of testing and implementation of the system;

19 (3) explains how the system will be integrated
20 with the prescreening system for passengers on
21 international flights; and

22 (4) describes how the system complies with sec-
23 tion 552a of title 5, United States Code.

24 (b) **GAO ASSESSMENT.**—No later than 90 days after
25 the date of enactment of this Act, the Comptroller General
26 shall submit a report to the Senate Committee on Com-

1 merce, Science, and Transportation and the House Com-
2 mittee on Homeland Security that—

3 (1) describes the progress made by the Trans-
4 portation Security Administration in implementing
5 the Secure Flight passenger pre-screening program;

6 (2) describes the effectiveness of the current ap-
7 peals process for passengers wrongly assigned to the
8 no-fly and terrorist watch lists;

9 (3) describes the Transportation Security Ad-
10 ministration's plan to protect private passenger in-
11 formation and progress made in integrating the sys-
12 tem with the pre-screening program for international
13 flights operated by the Bureau of Customs and Bor-
14 der Protection;

15 (4) provides a realistic determination of when
16 the system will be completed; and

17 (5) includes any other relevant observations or
18 recommendations the Comptroller General deems ap-
19 propriate.

20 **SEC. 1473. REPAIR STATION SECURITY.**

21 (a) CERTIFICATION OF FOREIGN REPAIR STATIONS
22 SUSPENSION.—If the regulations required by section
23 44924(f) of title 49, United States Code, are not issued
24 within 90 days after the date of enactment of this Act,
25 the Administrator of the Federal Aviation Administration

1 may not certify any foreign repair station under part 145
2 of title 14, Code of Federal Regulations, after such 90th
3 day unless the station was previously certified by the Ad-
4 ministration under that part.

5 (b) 6-MONTH DEADLINE FOR SECURITY REVIEW
6 AND AUDIT.—Subsections (a) and (d) of section 44924
7 of title 49, United States Code, are each amended by strik-
8 ing “18 months” and inserting “6 months”.

9 **SEC. 1474. GENERAL AVIATION SECURITY.**

10 Section 44901 of title 49, United States Code, as
11 amended by section 1463, is amended by adding at the
12 end the following:

13 “(k) GENERAL AVIATION AIRPORT SECURITY PRO-
14 GRAM.—

15 “(1) IN GENERAL.—Within 1 year after the
16 date of enactment of the Transportation Security
17 and Interoperable Communication Capabilities Act,
18 the Administrator of the Transportation Security
19 Administration shall—

20 “(A) develop a standardized threat and
21 vulnerability assessment program for general
22 aviation airports (as defined in section
23 47134(m)); and

1 “(B) implement a program to perform
2 such assessments on a risk-assessment basis at
3 general aviation airports.

4 “(2) GRANT PROGRAM.—Within 6 months after
5 date of enactment of the Transportation Security
6 and Interoperable Communication Capabilities Act,
7 the Administrator shall initiate and complete a study
8 of the feasibility of a program, based on a risk-man-
9 aged approach, to provide grants to general aviation
10 airport operators for projects to upgrade security at
11 general aviation airports (as defined in section
12 47134(m)). If the Administrator determines that
13 such a program is feasible, the Administrator shall
14 establish such a program.

15 “(3) APPLICATION TO FOREIGN-REGISTERED
16 GENERAL AVIATION AIRCRAFT.—Within 180 days
17 after the date of enactment of the Transportation
18 Security and Interoperable Communication Capabili-
19 ties Act, the Administrator shall develop a risk-based
20 system under which—

21 “(A) foreign-registered general aviation
22 aircraft, as identified by the Administrator, in
23 coordination with the Administrator of the Fed-
24 eral Aviation Administration, are required to
25 submit passenger information at the same time

1 as, and in conjunction with, advance notifica-
2 tion requirements for Customs and Border Pro-
3 tection before entering United States airspace;
4 and

5 “(B) such information is checked against
6 appropriate databases maintained by the Trans-
7 portation Security Administration.

8 “(4) AUTHORIZATION OF APPROPRIATIONS.—
9 There are authorized to be appropriated to the Sec-
10 retary of Homeland Security such sums as may be
11 necessary to carry out any program established
12 under paragraph (2).”.

13 **SEC. 1475. SECURITY CREDENTIALS FOR AIRLINE CREWS.**

14 Within 180 days after the date of enactment of this
15 Act, the Administrator of the Transportation Security Ad-
16 ministration shall, after consultation with airline, airport,
17 and flight crew representatives, transmit a report to the
18 Senate Committee on Commerce, Science, and Transpor-
19 tation and the House of Representatives Committee on
20 Transportation and Infrastructure on the status of its ef-
21 forts to institute a sterile area access system or method
22 that will enhance security by properly identifying author-
23 ized airline flight deck and cabin crew members at screen-
24 ing checkpoints and granting them expedited access
25 through screening checkpoints. The Administrator shall

1 include in the report recommendations on the feasibility
2 of implementing the system for the domestic aviation in-
3 dustry beginning 1 year after the date on which the report
4 is submitted. The Administrator shall begin full implemen-
5 tation of the system or method not later than 1 year after
6 the date on which the Administrator transmits the report.

7 **SEC. 1476. NATIONAL EXPLOSIVES DETECTION CANINE**
8 **TEAM TRAINING CENTER.**

9 (a) IN GENERAL.—

10 (1) INCREASED TRAINING CAPACITY.—Within
11 180 days after the date of enactment of this Act, the
12 Secretary of Homeland Security shall begin to in-
13 crease the capacity of the Department of Homeland
14 Security's National Explosives Detection Canine
15 Team Program at Lackland Air Force Base to ac-
16 commodate the training of up to 200 canine teams
17 annually by the end of calendar year 2008.

18 (2) EXPANSION DETAILED REQUIREMENTS.—
19 The expansion shall include upgrading existing fa-
20 cilities, procurement of additional canines, and in-
21 creasing staffing and oversight commensurate with
22 the increased training and deployment capabilities
23 required by paragraph (1).

24 (3) ULTIMATE EXPANSION.—The Secretary
25 shall continue to increase the training capacity and

1 all other necessary program expansions so that by
2 December 31, 2009, the number of canine teams
3 sufficient to meet the Secretary's homeland security
4 mission, as determined by the Secretary on an an-
5 nual basis, may be trained at this facility.

6 (b) ALTERNATIVE TRAINING CENTERS.—Based on
7 feasibility and to meet the ongoing demand for quality ex-
8 plosives detection canines teams, the Secretary shall ex-
9 plore the options of creating the following:

10 (1) A standardized Transportation Security Ad-
11 ministration approved canine program that private
12 sector entities could use to provide training for addi-
13 tional explosives detection canine teams. For any
14 such program, the Secretary—

15 (A) may coordinate with key stakeholders,
16 including international, Federal, State, local,
17 private sector and academic entities, to develop
18 best practice guidelines for such a standardized
19 program;

20 (B) shall require specific training criteria
21 to which private sector entities must adhere as
22 a condition of participating in the program; and

23 (C) shall review the status of these private
24 sector programs on at least an annual basis.

1 (2) Expansion of explosives detection canine
2 team training to at least 2 additional national train-
3 ing centers, to be modeled after the Center of Excel-
4 lence established at Lackland Air Force Base.

5 (c) DEPLOYMENT.—The Secretary—

6 (1) shall use the additional explosives detection
7 canine teams as part of the Department’s layers of
8 enhanced mobile security across the Nation’s trans-
9 portation network and to support other homeland se-
10 curity programs, as deemed appropriate by the Sec-
11 retary; and

12 (2) may make available explosives detection ca-
13 nine teams to all modes of transportation, for areas
14 of high risk or to address specific threats, on an as-
15 needed basis and as otherwise deemed appropriate
16 by the Secretary.

17 **SEC. 1477. LAW ENFORCEMENT BIOMETRIC CREDENTIAL.**

18 (a) IN GENERAL.—Paragraph (6) of section
19 44903(h) of title 49, United States Code, is amended to
20 read as follows:

21 “(6) USE OF BIOMETRIC TECHNOLOGY FOR
22 ARMED LAW ENFORCEMENT TRAVEL.—

23 “(A) IN GENERAL.—Not later than 1 year
24 after the date of enactment of the Improving

1 America’s Security Act of 2007, the Secretary
2 of Homeland Security shall—

3 “(i) consult with the Attorney General
4 concerning implementation of this para-
5 graph;

6 “(ii) issue any necessary rulemaking
7 to implement this paragraph; and

8 “(iii) establishing a national reg-
9 istered armed law enforcement program for
10 law enforcement officers needing to be
11 armed when traveling by air.

12 “(B) PROGRAM REQUIREMENTS.—The pro-
13 gram shall—

14 “(i) establish a credential or a system
15 that incorporates biometric technology and
16 other applicable technologies;

17 “(ii) provide a flexible solution for law
18 enforcement officers who need to be armed
19 when traveling by air on a regular basis
20 and for those who need to be armed during
21 temporary travel assignments;

22 “(iii) be coordinated with other uni-
23 form credentialing initiatives including the
24 Homeland Security Presidential Directive
25 12;

1 “(iv) be applicable for all Federal,
2 State, local, tribal and territorial govern-
3 ment law enforcement agencies; and

4 “(v) establish a process by which the
5 travel credential or system may be used to
6 verify the identity, using biometric tech-
7 nology, of a Federal, State, local, tribal, or
8 territorial law enforcement officer seeking
9 to carry a weapon on board an aircraft,
10 without unnecessarily disclosing to the
11 public that the individual is a law enforce-
12 ment officer.

13 “(C) PROCEDURES.—In establishing the
14 program, the Secretary shall develop
15 procedures—

16 “(i) to ensure that only Federal,
17 State, local, tribal, and territorial govern-
18 ment law enforcement officers with a spe-
19 cific need to be armed when traveling by
20 air are issued a law enforcement travel cre-
21 dential;

22 “(ii) to preserve the anonymity of the
23 armed law enforcement officer without call-
24 ing undue attention to the individual’s
25 identity;

1 “(iii) to resolve failures to enroll, false
2 matches, and false non-matches relating to
3 use of the law enforcement travel creden-
4 tial or system; and

5 “(iv) to invalidate any law enforce-
6 ment travel credential or system that is
7 lost, stolen, or no longer authorized for
8 use.”.

9 (b) REPORT.—Within 180 days after implementing
10 the national registered armed law enforcement program
11 required by section 44903(h)(6) of title 49, United States
12 Code, the Secretary of Homeland Security shall transmit
13 a report to the Senate Committee on Commerce, Science,
14 and Transportation. If the Secretary has not implemented
15 the program within 180 days after the date of enactment
16 of this Act, the Secretary shall issue a report to the Com-
17 mittee within 180 days explaining the reasons for the fail-
18 ure to implement the program within the time required
19 by that section, and a further report within each succes-
20 sive 180-day period until the program is implemented ex-
21 plaining the reasons for such further delays in implemen-
22 tation until the program is implemented. The Secretary
23 shall submit each report required by this subsection in
24 classified format.

1 **SEC. 1478. EMPLOYEE RETENTION INTERNSHIP PROGRAM.**

2 The Assistant Secretary of Homeland Security
3 (Transportation Security Administration), shall establish
4 a pilot program at a small hub airport, a medium hub
5 airport, and a large hub airport (as those terms are de-
6 fined in paragraphs (42), (31), and (29), respectively, of
7 section 40102 of title 49, United States Code) for training
8 students to perform screening of passengers and property
9 under section 44901 of title 49, United States Code. The
10 program shall be an internship for pre-employment train-
11 ing of final-year students from public and private sec-
12 ondary schools located in nearby communities. Under the
13 program, participants shall perform only those security re-
14 sponsibilities determined to be appropriate for their age
15 and in accordance with applicable law and shall be com-
16 pensated for training and services time while participating
17 in the program.

18 **SEC. 1479. PILOT PROJECT TO REDUCE THE NUMBER OF**
19 **TRANSPORTATION SECURITY OFFICERS AT**
20 **AIRPORT EXIT LANES.**

21 (a) IN GENERAL.—The Administrator of the Trans-
22 portation Security Administration (referred to in this sec-
23 tion as the “Administrator”) shall conduct a pilot program
24 to identify technological solutions for reducing the number
25 of Transportation Security Administration employees at
26 airport exit lanes.

1 (b) PROGRAM COMPONENTS.—In conducting the
2 pilot program under this section, the Administrator
3 shall—

4 (1) utilize different technologies that protect
5 the integrity of the airport exit lanes from unauthor-
6 ized entry; and

7 (2) work with airport officials to deploy such
8 technologies in multiple configurations at a selected
9 airport or airports at which some of the exits are not
10 co-located with a screening checkpoint.

11 (c) REPORTS.—

12 (1) INITIAL BRIEFING.—Not later than 180
13 days after the enactment of this Act, the Adminis-
14 trator shall conduct a briefing to the congressional
15 committees set forth in paragraph (3) that
16 describes—

17 (A) the airports selected to participate in
18 the pilot program;

19 (B) the potential savings from imple-
20 menting the technologies at selected airport
21 exits;

22 (C) the types of configurations expected to
23 be deployed at such airports; and

24 (D) the expected financial contribution
25 from each airport.

1 (2) FINAL REPORT.—Not later than 1 year
2 after the technologies are deployed at the airports
3 participating in the pilot program, the Administrator
4 shall submit a final report to the congressional com-
5 mittees described in paragraph (3) that describes—

6 (A) the security measures deployed;

7 (B) the projected cost savings; and

8 (C) the efficacy of the program and its ap-
9 plicability to other airports in the United
10 States.

11 (3) CONGRESSIONAL COMMITTEES.—The re-
12 ports required under this subsection shall be sub-
13 mitted to—

14 (A) the Committee on Commerce, Science,
15 and Transportation of the Senate;

16 (B) the Committee on Appropriations of
17 the Senate;

18 (C) the Committee on Homeland Security
19 and Governmental Affairs of the Senate;

20 (D) the Committee on Homeland Security
21 of the House of Representatives; and

22 (E) the Committee on Appropriations of
23 the House of Representatives.

24 (d) USE OF EXISTING FUNDS.—Provisions contained
25 within this section will be executed using existing funds.

1 **Subtitle C—Interoperable**
2 **Emergency Communications**

3 **SEC. 1481. INTEROPERABLE EMERGENCY COMMUNICA-**
4 **TIONS.**

5 (a) IN GENERAL.—Section 3006 of Public Law 109–
6 171 (47 U.S.C. 309 note) is amended—

7 (1) by striking paragraphs (1) and (2) of sub-
8 section (a) and inserting the following:

9 “(1) may take such administrative action as is
10 necessary to establish and implement a grant pro-
11 gram to assist public safety agencies—

12 “(A) in conducting statewide or regional
13 planning and coordination to improve the inter-
14 operability of emergency communications;

15 “(B) in supporting the design and engi-
16 neering of interoperable emergency communica-
17 tions systems;

18 “(C) in supporting the acquisition or de-
19 ployment of interoperable communications
20 equipment, software, or systems that improve
21 or advance the interoperability with public safe-
22 ty communications systems;

23 “(D) in obtaining technical assistance and
24 conducting training exercises related to the use

1 of interoperable emergency communications
2 equipment and systems; and

3 “(E) in establishing and implementing a
4 strategic technology reserve to pre-position or
5 secure interoperable communications in advance
6 for immediate deployment in an emergency or
7 major disaster (as defined in section 102(2) of
8 Public Law 93–288 (42 U.S.C. 5122)); and

9 “(2) shall make payments of not to exceed
10 \$1,000,000,000, in the aggregate, through fiscal
11 year 2010 from the Digital Television Transition
12 and Public Safety Fund established under section
13 309(j)(8)(E) of the Communications Act of 1934
14 (47 U.S.C. 309(j)(8)(E)) to carry out the grant pro-
15 gram established under paragraph (1), of which not
16 more than \$100,000,000, in the aggregate, may be
17 allocated for grants under paragraph (1)(E).”;

18 (2) by redesignating subsections (b), (c), and
19 (d) as subsections (l), (m), and (n), respectively, and
20 inserting after subsection (a) the following:

21 “(b) EXPEDITED IMPLEMENTATION.—Pursuant to
22 section 4 of the Call Home Act of 2006, no less than
23 \$1,000,000,000 shall be awarded for grants under sub-
24 section (a) no later than September 30, 2007, subject to

1 the receipt of qualified applications as determined by the
2 Assistant Secretary.

3 “(c) ALLOCATION OF FUNDS.—In awarding grants
4 under subparagraphs (A) through (D) of subsection
5 (a)(1), the Assistant Secretary shall ensure that grant
6 awards—

7 “(1) result in distributions to public safety enti-
8 ties among the several States that are consistent
9 with section 1014(c)(3) of the USA PATRIOT ACT
10 (42 U.S.C. 3714(c)(3)); and

11 “(2) are prioritized based upon threat and risk
12 factors that reflect an all-hazards approach to com-
13 munications preparedness and that takes into ac-
14 count the risks associated with, and the likelihood of
15 the occurrence of, terrorist attacks or natural catas-
16 trophes (including, but not limited to, hurricanes,
17 tornados, storms, high water, winddriven water, tidal
18 waves, tsunami, earthquakes, volcanic eruptions,
19 landslides, mudslides, snow and ice storms, forest
20 fires, or droughts) in a State.

21 “(d) ELIGIBILITY.—To be eligible for assistance
22 under the grant program established under subsection (a),
23 an applicant shall submit an application, at such time, in
24 such form, and containing such information as the Assist-
25 ant Secretary may require, including—

1 “(1) a detailed explanation of how assistance
2 received under the program would be used to im-
3 prove regional, State, or local communications inter-
4 operability and ensure interoperability with other ap-
5 propriate public safety agencies in an emergency or
6 a major disaster; and

7 “(2) assurance that the equipment and system
8 would—

9 “(A) be compatible with the communica-
10 tions architecture developed under section
11 7303(a)(1)(E) of the Intelligence Reform and
12 Terrorism Prevention Act of 2004 (6 U.S.C.
13 194(a)(1)(E));

14 “(B) meet any voluntary consensus stand-
15 ards developed under section 7303(a)(1)(D) of
16 that Act (6 U.S.C. 194(a)(1)(D)) to the extent
17 that such standards exist for a given category
18 of equipment; and

19 “(C) be consistent with the common grant
20 guidance established under section
21 7303(a)(1)(H) of that Act (6 U.S.C.
22 194(a)(1)(H)).

23 “(e) CRITERIA FOR CERTAIN GRANTS.—In awarding
24 grants under subparagraphs (A) through (D) of sub-
25 section (a)(1), the Assistant Secretary shall ensure that

1 all grants funded are consistent with Federal grant guid-
2 ance established by the SAFECOM Program within the
3 Department of Homeland Security.

4 “(f) CRITERIA FOR STRATEGIC TECHNOLOGY RE-
5 SERVE GRANTS.—

6 “(1) IN GENERAL.—In awarding grants under
7 subsection (a)(1)(E), the Assistant Secretary shall
8 consider the continuing technological evolution of
9 communications technologies and devices, with its
10 implicit risk of obsolescence, and shall ensure, to the
11 maximum extent feasible, that a substantial part of
12 the reserve involves prenegotiated contracts and
13 other arrangements for rapid deployment of equip-
14 ment, supplies, and systems (and communications
15 service related to such equipment, supplies, and sys-
16 tems), rather than the warehousing or storage of
17 equipment and supplies currently available at the
18 time the reserve is established.

19 “(2) REQUIREMENTS AND CHARACTERISTICS.—
20 A reserve established under paragraph (1) shall—

21 “(A) be capable of re-establishing commu-
22 nications when existing infrastructure is dam-
23 aged or destroyed in an emergency or a major
24 disaster;

1 “(B) include appropriate current, widely-
2 used equipment, such as Land Mobile Radio
3 Systems, cellular telephones and satellite-en-
4 abled equipment (and related communications
5 service), Cells-On-Wheels, Cells-On-Light-
6 Trucks, or other self-contained mobile cell sites
7 that can be towed, backup batteries, generators,
8 fuel, and computers;

9 “(C) include equipment on hand for the
10 Governor of each State, key emergency response
11 officials, and appropriate State or local per-
12 sonnel;

13 “(D) include contracts (including
14 prenegotiated contracts) for rapid delivery of
15 the most current technology available from
16 commercial sources; and

17 “(E) include arrangements for training to
18 ensure that personnel are familiar with the op-
19 eration of the equipment and devices to be de-
20 livered pursuant to such contracts.

21 “(3) ADDITIONAL CHARACTERISTICS.—Portions
22 of the reserve may be virtual and may include items
23 donated on an in-kind contribution basis.

24 “(4) CONSULTATION.—In developing the re-
25 serve, the Assistant Secretary shall seek advice from

1 the Secretary of Defense and the Secretary of
2 Homeland Security, as well as national public safety
3 organizations, emergency managers, State, local, and
4 tribal governments, and commercial providers of
5 such systems and equipment.

6 “(5) ALLOCATION AND USE OF FUNDS.—The
7 Assistant Secretary shall allocate—

8 “(A) a portion of the reserve’s funds for
9 block grants to States to enable each State to
10 establish a strategic technology reserve within
11 its borders in a secure location to allow imme-
12 diate deployment; and

13 “(B) a portion of the reserve’s funds for
14 regional Federal strategic technology reserves
15 to facilitate any Federal response when nec-
16 essary, to be held in each of the Federal Emer-
17 gency Management Agency’s regional offices,
18 including Boston, Massachusetts (Region 1),
19 New York, New York (Region 2), Philadelphia,
20 Pennsylvania (Region 3), Atlanta, Georgia (Re-
21 gion 4), Chicago, Illinois (Region 5), Denton,
22 Texas (Region 6), Kansas City, Missouri (Re-
23 gion 7), Denver, Colorado (Region 8), Oakland,
24 California (Region 9), Bothell, Washington (Re-

1 gion 10), and each of the noncontiguous States
2 for immediate deployment.

3 “(g) VOLUNTARY CONSENSUS STANDARDS.—In car-
4 rying out this section, the Assistant Secretary, in coopera-
5 tion with the Secretary of Homeland Security shall iden-
6 tify and, if necessary, encourage the development and im-
7 plementation of, voluntary consensus standards for inter-
8 operable communications systems to the greatest extent
9 practicable, but shall not require any such standard.

10 “(h) USE OF ECONOMY ACT.—In implementing the
11 grant program established under subsection (a)(1), the
12 Assistant Secretary may seek assistance from other Fed-
13 eral agencies in accordance with section 1535 of title 31,
14 United States Code.

15 “(i) INSPECTOR GENERAL REPORT.—Beginning with
16 the first fiscal year beginning after the date of enactment
17 of the Transportation Security and Interoperable Commu-
18 nication Capabilities Act, the Inspector General of the De-
19 partment of Commerce shall conduct an annual assess-
20 ment of the management of the grant program imple-
21 mented under subsection (a)(1) and transmit a report con-
22 taining the findings of that assessment and any rec-
23 ommendations related thereto to the Senate Committee on
24 Commerce, Science, and Transportation and the House of
25 Representatives Committee on Energy and Commerce.

1 “(j) DEADLINE FOR IMPLEMENTATION PROGRAM
2 RULES.—Within 90 days after the date of enactment of
3 the Transportation Security and Interoperable Commu-
4 nication Capabilities Act, the Assistant Secretary, in con-
5 sultation with the Secretary of Homeland Security and the
6 Federal Communications Commission, shall promulgate
7 final program rules for the implementation of this section.

8 “(k) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be construed or interpreted to preclude the use
10 of funds under this section by any public safety agency
11 for interim or long-term Internet Protocol-based interoper-
12 able solutions, notwithstanding compliance with the
13 Project 25 standard.”; and

14 (3) by striking paragraph (3) of subsection (n),
15 as so redesignated.

16 (b) FCC REPORT ON EMERGENCY COMMUNICATIONS
17 BACK-UP SYSTEM.—

18 (1) IN GENERAL.—Not later than 1 year after
19 the date of enactment of this Act, the Federal Com-
20 munications Commission, in coordination with the
21 Assistant Secretary of Commerce for Communica-
22 tions and Information and the Secretary of Home-
23 land Security, shall evaluate the technical feasibility
24 of creating a back-up emergency communications
25 system that complements existing communications

1 resources and takes into account next generation
2 and advanced telecommunications technologies. The
3 overriding objective for the evaluation shall be pro-
4 viding a framework for the development of a resil-
5 ient interoperable communications system for emer-
6 gency responders in an emergency. The Commission
7 shall evaluate all reasonable options, including sat-
8 ellites, wireless, and terrestrial-based communica-
9 tions systems and other alternative transport mecha-
10 nisms that can be used in tandem with existing tech-
11 nologies.

12 (2) FACTORS TO BE EVALUATED.—The evalua-
13 tion under paragraph (1) shall include—

14 (A) a survey of all Federal agencies that
15 use terrestrial or satellite technology for com-
16 munications security and an evaluation of the
17 feasibility of using existing systems for the pur-
18 pose of creating such an emergency back-up
19 public safety communications system;

20 (B) the feasibility of using private satellite,
21 wireless, or terrestrial networks for emergency
22 communications;

23 (C) the technical options, cost, and deploy-
24 ment methods of software, equipment, handsets
25 or desktop communications devices for public

1 safety entities in major urban areas, and na-
2 tionwide; and

3 (D) the feasibility and cost of necessary
4 changes to the network operations center of ter-
5 restrial-based or satellite systems to enable the
6 centers to serve as emergency back-up commu-
7 nications systems.

8 (3) REPORT.—Upon the completion of the eval-
9 uation under subsection (a), the Commission shall
10 submit a report to Congress that details the findings
11 of the evaluation, including a full inventory of exist-
12 ing public and private resources most efficiently ca-
13 pable of providing emergency communications.

14 (c) JOINT ADVISORY COMMITTEE ON COMMUNICA-
15 TIONS CAPABILITIES OF EMERGENCY MEDICAL CARE FA-
16 CILITIES.—

17 (1) ESTABLISHMENT.—The Assistant Secretary
18 of Commerce for Communications and Information
19 and the Chairman of Federal Communications Com-
20 mission, in consultation with the Secretary of Home-
21 land Security and the Secretary of Health and
22 Human Services, shall establish a joint advisory
23 committee to examine the communications capabili-
24 ties and needs of emergency medical care facilities.
25 The joint advisory committee shall be composed of

1 individuals with expertise in communications tech-
2 nologies and emergency medical care, including rep-
3 resentatives of Federal, State and local governments,
4 industry and non-profit health organizations, and
5 academia and educational institutions.

6 (2) DUTIES.—The joint advisory committee
7 shall—

8 (A) assess specific communications capa-
9 bilities and needs of emergency medical care fa-
10 cilities, including the including improvement of
11 basic voice, data, and broadband capabilities;

12 (B) assess options to accommodate growth
13 of basic and emerging communications services
14 used by emergency medical care facilities;

15 (C) assess options to improve integration
16 of communications systems used by emergency
17 medical care facilities with existing or future
18 emergency communications networks; and

19 (D) report its findings to the Senate Com-
20 mittee on Commerce, Science, and Transpor-
21 tation and the House of Representatives Com-
22 mittee on Energy and Commerce, within 6
23 months after the date of enactment of this Act.

24 (d) AUTHORIZATION OF EMERGENCY MEDICAL COM-
25 MUNICATIONS PILOT PROJECTS.—

1 (1) IN GENERAL.—The Assistant Secretary of
2 Commerce for Communications and Information
3 may establish not more than 10 geographically dis-
4 persed project grants to emergency medical care fa-
5 cilities to improve the capabilities of emergency com-
6 munications systems in emergency medical care fa-
7 cilities.

8 (2) MAXIMUM AMOUNT.—The Assistant Sec-
9 retary may not provide more than \$2,000,000 in
10 Federal assistance under the pilot program to any
11 applicant.

12 (3) COST SHARING.—The Assistant Secretary
13 may not provide more than 50 percent of the cost,
14 incurred during the period of the grant, of any
15 project under the pilot program.

16 (4) MAXIMUM PERIOD OF GRANTS.—The As-
17 sistant Secretary may not fund any applicant under
18 the pilot program for more than 3 years.

19 (5) DEPLOYMENT AND DISTRIBUTION.—The
20 Assistant Secretary shall seek to the maximum ex-
21 tent practicable to ensure a broad geographic dis-
22 tribution of project sites.

23 (6) TRANSFER OF INFORMATION AND KNOWL-
24 EDGE.—The Assistant Secretary shall establish
25 mechanisms to ensure that the information and

1 knowledge gained by participants in the pilot pro-
2 gram are transferred among the pilot program par-
3 ticipants and to other interested parties, including
4 other applicants that submitted applications.

5 **SEC. 1482. RULE OF CONSTRUCTION.**

6 (a) IN GENERAL.—Title VI of the Post-Katrina
7 Emergency Management Reform Act of 2006 (Public Law
8 109–295) is amended by adding at the end the following:

9 **“SEC. 699B. RULE OF CONSTRUCTION.**

10 “Nothing in this title, including the amendments
11 made by this title, may be construed to reduce or other-
12 wise limit the authority of the Department of Commerce
13 or the Federal Communications Commission.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect as though enacted as part
16 of the Department of Homeland Security Appropriations
17 Act, 2007.

18 **SEC. 1483. CROSS BORDER INTEROPERABILITY REPORTS.**

19 (a) IN GENERAL.—Not later than 90 days after the
20 date of enactment of this Act, the Federal Communica-
21 tions Commission, in conjunction with the Department of
22 Homeland Security, the Office of Management of Budget,
23 and the Department of State shall report to the Senate
24 Committee on Commerce, Science, and Transportation

1 and the House of Representatives Committee on Energy
2 and Commerce on—

3 (1) the status of the mechanism established by
4 the President under section 7303(c) of the Intel-
5 ligence Reform and Terrorism Prevention Act of
6 2004 (6 U.S.C. 194(c)) for coordinating cross bor-
7 der interoperability issues between—

8 (A) the United States and Canada; and

9 (B) the United States and Mexico;

10 (2) the status of treaty negotiations with Can-
11 ada and Mexico regarding the coordination of the re-
12 banding of 800 megahertz radios, as required under
13 the final rule of the Federal Communication Com-
14 mission in the “Private Land Mobile Services; 800
15 MHz Public Safety Interface Proceeding” (WT
16 Docket No. 02–55; ET Docket No. 00–258; ET
17 Docket No. 95–18, RM–9498; RM–10024; FCC 04–
18 168,) including the status of any outstanding issues
19 in the negotiations between—

20 (A) the United States and Canada; and

21 (B) the United States and Mexico;

22 (3) communications between the Commission
23 and the Department of State over possible amend-
24 ments to the bilateral legal agreements and protocols
25 that govern the coordination process for license ap-

1 plications seeking to use channels and frequencies
2 above Line A;

3 (4) the annual rejection rate for the last 5
4 years by the United States of applications for new
5 channels and frequencies by Canadian private and
6 public entities; and

7 (5) any additional procedures and mechanisms
8 that can be taken by the Commission to decrease the
9 rejection rate for applications by United States pri-
10 vate and public entities seeking licenses to use chan-
11 nels and frequencies above Line A.

12 (b) UPDATED REPORTS TO BE FILED ON THE STA-
13 TUS OF TREATY OF NEGOTIATIONS.—The Federal Com-
14 munications Commission, in conjunction with the Depart-
15 ment of Homeland Security, the Office of Management of
16 Budget, and the Department of State shall continually
17 provide updated reports to the Committee on Commerce,
18 Science, and Transportation of the Senate and the Com-
19 mittee on Energy and Commerce of the House of Rep-
20 resentatives on the status of treaty negotiations under
21 subsection (a)(2) until the appropriate United States trea-
22 ty has been revised with each of—

23 (1) Canada; and

24 (2) Mexico.

1 (c) INTERNATIONAL NEGOTIATIONS TO REMEDY
2 SITUATION.—Not later than 90 days after the date of en-
3 actment of this Act, the Secretary of the Department of
4 State shall report to Congress on—

5 (1) the current process for considering applica-
6 tions by Canada for frequencies and channels by
7 United States communities above Line A;

8 (2) the status of current negotiations to reform
9 and revise such process;

10 (3) the estimated date of conclusion for such
11 negotiations;

12 (4) whether the current process allows for auto-
13 matic denials or dismissals of initial applications by
14 the Government of Canada, and whether such deni-
15 als or dismissals are currently occurring; and

16 (5) communications between the Department of
17 State and the Federal Communications Commission
18 pursuant to subsection (a)(3).

19 **SEC. 1484. EXTENSION OF SHORT QUORUM.**

20 Notwithstanding section 4(d) of the Consumer Prod-
21 uct Safety Act (15 U.S.C. 2053(d)), 2 members of the
22 Consumer Product Safety Commission, if they are not af-
23 filiated with the same political party, shall constitute a
24 quorum for the 6-month period beginning on the date of
25 enactment of this Act.

1 **SEC. 1485. REQUIRING REPORTS TO BE SUBMITTED TO**
2 **CERTAIN COMMITTEES.**

3 (a) SENATE COMMERCE, SCIENCE, AND TRANSPOR-
4 TATION COMMITTEE.—The Committee on Commerce,
5 Science, and Transportation of the Senate shall receive the
6 reports required by the following provisions of law in the
7 same manner and to the same extent that the reports are
8 to be received by the Committee on Homeland Security
9 and Governmental Affairs of the Senate:

10 (1) Section 1016(j)(1) of the Intelligence Re-
11 form and Terrorist Prevention Act of 2004 (6
12 U.S.C. 485(j)(1)).

13 (2) Section 121(e) of this Act.

14 (3) Section 2002(d)(3) of the Homeland Secu-
15 rity Act of 2002, as added by section 202 of this
16 Act.

17 (4) Subsections (a) and (b)(5) of section 2009
18 of the Homeland Security Act of 2002, as added by
19 section 202 of this Act.

20 (5) Section 302(d) of this Act.

21 (6) Section 7215(d) of the Intelligence Reform
22 and Terrorism Prevention Act of 2004 (6 U.S.C.
23 123(d)).

24 (7) Section 7209(b)(1)(C) of the Intelligence
25 Reform and Terrorism Prevention Act of 2004 (8
26 U.S.C. 1185 note).

1 (8) Section 604(c) of this Act.

2 (9) Section 806 of this Act.

3 (10) Section 903(d) of this Act.

4 (11) Section 510(a)(7) of the Homeland Security Act of 2002 (6 U.S.C. 320(a)(7)).

6 (12) Section 510(b)(7) of the Homeland Security Act of 2002 (6 U.S.C. 320(b)(7)).

8 (13) Section 1102(b) of this Act.

9 (b) SENATE COMMITTEE ON HOMELAND SECURITY
10 AND GOVERNMENTAL AFFAIRS.—The Committee on
11 Homeland Security and Governmental Affairs of the Sen-
12 ate shall receive the reports required by the following pro-
13 visions of law in the same manner and to the same extent
14 that the reports are to be received by the Committee on
15 Commerce, Science, and Transportation of the Senate:

16 (1) Section 1421(c) of this Act.

17 (2) Section 1423(f)(3)(A) of this Act.

18 (3) Section 1428 of this Act.

19 (4) Section 1429(d) of this Act.

20 (5) Section 114(v)(4)(A)(i) of title 49, United
21 States Code.

22 (6) Section 1441(a)(7) of this Act.

23 (7) Section 1441(b)(2) of this Act.

24 (8) Section 1445 of this Act.

25 (9) Section 1446(f) of this Act.

1 (10) Section 1447(f)(1) of this Act.

2 (11) Section 1448(d)(1) of this Act.

3 (12) Section 1466(b)(3) of this Act.

4 (13) Section 1472(b) of this Act.

5 (14) Section 1475 of this Act.

6 (15) Section 3006(i) of the Digital Television
7 Transition and Public Safety Act of 2005 (47
8 U.S.C. 309 note).

9 (16) Section 1481(c) of this Act.

10 (17) Subsections (a) and (b) of section 1483 of
11 this Act.

12 **TITLE XV—PUBLIC TRANSPORTATION**
13 **TERRORISM PREVEN-**
14 **TION**

15 **SEC. 1501. SHORT TITLE.**

16 This title may be cited as the “Public Transportation
17 Terrorism Prevention Act of 2007”.

18 **SEC. 1502. FINDINGS.**

19 Congress finds that—

20 (1) 182 public transportation systems through-
21 out the world have been primary target of terrorist
22 attacks;

23 (2) more than 6,000 public transportation
24 agencies operate in the United States;

1 (3) people use public transportation vehicles
2 33,000,000 times each day;

3 (4) the Federal Transit Administration has in-
4 vested \$84,800,000,000 since 1992 for construction
5 and improvements;

6 (5) the Federal Government appropriately in-
7 vested nearly \$24,000,000,000 in fiscal years 2002
8 through 2006 to protect our Nation's aviation sys-
9 tem;

10 (6) the Federal Government has allocated
11 \$386,000,000 in fiscal years 2003 through 2006 to
12 protect public transportation systems in the United
13 States; and

14 (7) the Federal Government has invested \$7.53
15 in aviation security improvements per passenger
16 boarding, but only \$0.008 in public transportation
17 security improvements per passenger boarding.

18 **SEC. 1503. SECURITY ASSESSMENTS.**

19 (a) PUBLIC TRANSPORTATION SECURITY ASSESS-
20 MENTS.—

21 (1) SUBMISSION.—Not later than 30 days after
22 the date of the enactment of this Act, the Federal
23 Transit Administration of the Department of Trans-
24 portation shall submit all public transportation secu-

1 rity assessments and all other relevant information
2 to the Secretary.

3 (2) REVIEW.—Not later than July 31, 2007,
4 the Secretary shall review and augment the security
5 assessments received under paragraph (1).

6 (3) ALLOCATIONS.—The Secretary shall use the
7 security assessments received under paragraph (1)
8 as the basis for allocating grant funds under section
9 1504, unless the Secretary notifies the Committee
10 on Banking, Housing, and Urban Affairs of the Sen-
11 ate that the Secretary has determined an adjustment
12 is necessary to respond to an urgent threat or other
13 significant factors.

14 (4) SECURITY IMPROVEMENT PRIORITIES.—Not
15 later than September 30, 2007, the Secretary, after
16 consultation with the management and employee
17 representatives of each public transportation system
18 for which a security assessment has been received
19 under paragraph (1) and with appropriate State and
20 local officials, shall establish security improvement
21 priorities that will be used by public transportation
22 agencies for any funding provided under section
23 1504.

24 (5) UPDATES.—Not later than July 31, 2008,
25 and annually thereafter, the Secretary shall—

1 (A) update the security assessments re-
2 ferred to in this subsection; and

3 (B) conduct security assessments of all
4 public transportation agencies considered to be
5 at greatest risk of a terrorist attack.

6 (b) USE OF SECURITY ASSESSMENT INFORMA-
7 TION.—The Secretary shall use the information collected
8 under subsection (a)—

9 (1) to establish the process for developing secu-
10 rity guidelines for public transportation security; and

11 (2) to design a security improvement strategy
12 that—

13 (A) minimizes terrorist threats to public
14 transportation systems; and

15 (B) maximizes the efforts of public trans-
16 portation systems to mitigate damage from ter-
17 rorist attacks.

18 (c) BUS AND RURAL PUBLIC TRANSPORTATION SYS-
19 TEMS.—Not later than July 31, 2007, the Secretary shall
20 conduct security assessments, appropriate to the size and
21 nature of each system, to determine the specific needs of—

22 (1) local bus-only public transportation systems;
23 and

1 (2) selected public transportation systems that
2 receive funds under section 5311 of title 49, United
3 States Code.

4 **SEC. 1504. SECURITY ASSISTANCE GRANTS.**

5 (a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

6 (1) IN GENERAL.—The Secretary shall award
7 grants directly to public transportation agencies for
8 allowable capital security improvements based on the
9 priorities established under section 1503(a)(4).

10 (2) ALLOWABLE USE OF FUNDS.—Grants
11 awarded under paragraph (1) may be used for—

- 12 (A) tunnel protection systems;
- 13 (B) perimeter protection systems;
- 14 (C) redundant critical operations control
15 systems;
- 16 (D) chemical, biological, radiological, or ex-
17 plosive detection systems;
- 18 (E) surveillance equipment;
- 19 (F) communications equipment;
- 20 (G) emergency response equipment;
- 21 (H) fire suppression and decontamination
22 equipment;
- 23 (I) global positioning or automated vehicle
24 locator type system equipment;
- 25 (J) evacuation improvements; and

1 (K) other capital security improvements.

2 (b) OPERATIONAL SECURITY ASSISTANCE PRO-
3 GRAM.—

4 (1) IN GENERAL.—The Secretary shall award
5 grants directly to public transportation agencies for
6 allowable operational security improvements based
7 on the priorities established under section
8 1503(a)(4).

9 (2) ALLOWABLE USE OF FUNDS.—Grants
10 awarded under paragraph (1) may be used for—

11 (A) security training for public transpor-
12 tation employees, including bus and rail opera-
13 tors, mechanics, customer service, maintenance
14 employees, transit police, and security per-
15 sonnel;

16 (B) live or simulated drills;

17 (C) public awareness campaigns for en-
18 hanced public transportation security;

19 (D) canine patrols for chemical, biological,
20 or explosives detection;

21 (E) overtime reimbursement for enhanced
22 security personnel during significant national
23 and international public events, consistent with
24 the priorities established under section
25 1503(a)(4); and

1 (F) other appropriate security improve-
2 ments identified under section 1503(a)(4), ex-
3 cluding routine, ongoing personnel costs.

4 (c) COORDINATION WITH STATE HOMELAND SECUR-
5 ITY PLANS.—In establishing security improvement prior-
6 ities under section 1503(a)(4) and in awarding grants for
7 capital security improvements and operational security im-
8 provements under subsections (a) and (b), respectively,
9 the Secretary shall ensure that the actions of the Sec-
10 retary are consistent with relevant State homeland secu-
11 rity plans.

12 (d) MULTI-STATE TRANSPORTATION SYSTEMS.—In
13 cases where a public transportation system operates in
14 more than 1 State, the Secretary shall give appropriate
15 consideration to the risks of the entire system, including
16 those portions of the States into which the system crosses,
17 in establishing security improvement priorities under sec-
18 tion 1503(a)(4), and in awarding grants for capital secu-
19 rity improvements and operational security improvements
20 under subsections (a) and (b), respectively.

21 (e) CONGRESSIONAL NOTIFICATION.—Not later than
22 3 days before the award of any grant under this section,
23 the Secretary shall notify the Committee on Homeland Se-
24 curity and Governmental Affairs and the Committee on

1 Banking, Housing, and Urban Affairs of the Senate of the
2 intent to award such grant.

3 (f) PUBLIC TRANSPORTATION AGENCY RESPON-
4 SIBILITIES.—Each public transportation agency that re-
5 ceives a grant under this section shall—

6 (1) identify a security coordinator to coordinate
7 security improvements;

8 (2) develop a comprehensive plan that dem-
9 onstrates the agency’s capacity for operating and
10 maintaining the equipment purchased under this
11 section; and

12 (3) report annually to the Secretary on the use
13 of grant funds received under this section.

14 (g) RETURN OF MISSPENT GRANT FUNDS.—If the
15 Secretary determines that a grantee used any portion of
16 the grant funds received under this section for a purpose
17 other than the allowable uses specified for that grant
18 under this section, the grantee shall return any amount
19 so used to the Treasury of the United States.

20 **SEC. 1505. PUBLIC TRANSPORTATION SECURITY TRAINING**
21 **PROGRAM.**

22 (a) IN GENERAL.—Not later than 90 days after the
23 date of enactment of this section, the Secretary, in con-
24 sultation with appropriate law enforcement, security, and
25 terrorism experts, representatives of public transportation

1 owners and operators, and nonprofit employee organiza-
2 tions that represent public transportation workers, shall
3 develop and issue detailed regulations for a public trans-
4 portation worker security training program to prepare
5 public transportation workers, including front-line transit
6 employees such as bus and rail operators, mechanics, cus-
7 tomer service employees, maintenance employees, transit
8 police, and security personnel, for potential threat condi-
9 tions.

10 (b) PROGRAM ELEMENTS.—The regulations devel-
11 oped under subsection (a) shall require such a program
12 to include, at a minimum, elements that address the fol-
13 lowing:

14 (1) Determination of the seriousness of any oc-
15 currence.

16 (2) Crew and passenger communication and co-
17 ordination.

18 (3) Appropriate responses to defend oneself.

19 (4) Use of protective devices.

20 (5) Evacuation procedures (including pas-
21 sengers, workers, the elderly and those with disabil-
22 ities).

23 (6) Psychology of terrorists to cope with hi-
24 jacker behavior and passenger responses.

1 (7) Live situational training exercises regarding
2 various threat conditions, including tunnel evacu-
3 ation procedures.

4 (8) Any other subject the Secretary considers
5 appropriate.

6 (c) REQUIRED PROGRAMS.—

7 (1) IN GENERAL.—Not later than 90 days after
8 the Secretary issues regulations under subsection (a)
9 in final form, each public transportation system that
10 receives a grant under this title shall develop a pub-
11 lic transportation worker security training program
12 in accordance with those regulations and submit it
13 to the Secretary for approval.

14 (2) APPROVAL.—Not later than 30 days after
15 receiving a public transportation system’s program
16 under paragraph (1), the Secretary shall review the
17 program and approve it or require the public trans-
18 portation system to make any revisions the Sec-
19 retary considers necessary for the program to meet
20 the regulations requirements. A public transit agen-
21 cy shall respond to the Secretary’s comments within
22 30 days after receiving them.

23 (d) TRAINING.—

24 (1) IN GENERAL.—Not later than 1 year after
25 the Secretary approves the training program devel-

1 oped by a public transportation system under sub-
2 section (c), the public transportation system owner
3 or operator shall complete the training of all public
4 transportation workers in accordance with that pro-
5 gram.

6 (2) REPORT.—The Secretary shall review im-
7 plementation of the training program of a represent-
8 ative sample of public transportation systems and
9 report to the Senate Committee on Banking, Hous-
10 ing and Urban Affairs, House of Representatives
11 Committee on Transportation and Infrastructure,
12 the Senate Homeland Security and Government Af-
13 fairs Committee and the House of Representatives
14 Committee on Homeland Security, on the number of
15 reviews conducted and the results. The Secretary
16 may submit the report in both classified and re-
17 dacted formats as necessary.

18 (e) UPDATES.—

19 (1) IN GENERAL.—The Secretary shall update
20 the training regulations issued under subsection (a)
21 from time to time to reflect new or different security
22 threats, and require public transportation systems to
23 revise their programs accordingly and provide addi-
24 tional training to their workers.

1 (2) PROGRAM REVISIONS.—Each public transit
2 operator shall revise their program in accordance
3 with any regulations under paragraph (1) and pro-
4 vide additional training to their front-line workers
5 within a reasonable time after the regulations are
6 updated.

7 **SEC. 1506. INTELLIGENCE SHARING.**

8 (a) INTELLIGENCE SHARING.—The Secretary shall
9 ensure that the Department of Transportation receives ap-
10 propriate and timely notification of all credible terrorist
11 threats against public transportation assets in the United
12 States.

13 (b) INFORMATION SHARING ANALYSIS CENTER.—

14 (1) ESTABLISHMENT.—The Secretary shall pro-
15 vide sufficient financial assistance for the reasonable
16 costs of the Information Sharing and Analysis Cen-
17 ter for Public Transportation (referred to in this
18 subsection as the “ISAC”) established pursuant to
19 Presidential Directive 63, to protect critical infra-
20 structure.

21 (2) PUBLIC TRANSPORTATION AGENCY PARTICI-
22 PATION.—The Secretary—

23 (A) shall require those public transpor-
24 tation agencies that the Secretary determines to

1 be at significant risk of terrorist attack to par-
2 ticipate in the ISAC;

3 (B) shall encourage all other public trans-
4 portation agencies to participate in the ISAC;
5 and

6 (C) shall not charge a fee to any public
7 transportation agency for participating in the
8 ISAC.

9 **SEC. 1507. RESEARCH, DEVELOPMENT, AND DEMONSTRATION GRANTS AND CONTRACTS.**
10

11 (a) GRANTS AND CONTRACTS AUTHORIZED.—The
12 Secretary, through the Homeland Security Advanced Re-
13 search Projects Agency in the Science and Technology Di-
14 rectorate and in consultation with the Federal Transit Ad-
15 ministration, shall award grants or contracts to public or
16 private entities to conduct research into, and demonstrate
17 technologies and methods to reduce and deter terrorist
18 threats or mitigate damages resulting from terrorist at-
19 tacks against public transportation systems.

20 (b) USE OF FUNDS.—Grants or contracts awarded
21 under subsection (a)—

22 (1) shall be coordinated with Homeland Secu-
23 rity Advanced Research Projects Agency activities;
24 and

25 (2) may be used to—

1 (A) research chemical, biological, radio-
2 logical, or explosive detection systems that do
3 not significantly impede passenger access;

4 (B) research imaging technologies;

5 (C) conduct product evaluations and test-
6 ing; and

7 (D) research other technologies or methods
8 for reducing or deterring terrorist attacks
9 against public transportation systems, or miti-
10 gating damage from such attacks.

11 (c) REPORTING REQUIREMENT.—Each entity that is
12 awarded a grant or contract under this section shall report
13 annually to the Department on the use of grant or con-
14 tract funds received under this section.

15 (d) RETURN OF MISSPENT GRANT OR CONTRACT
16 FUNDS.—If the Secretary determines that a grantee or
17 contractor used any portion of the grant or contract funds
18 received under this section for a purpose other than the
19 allowable uses specified under subsection (b), the grantee
20 or contractor shall return any amount so used to the
21 Treasury of the United States.

22 **SEC. 1508. REPORTING REQUIREMENTS.**

23 (a) SEMI-ANNUAL REPORT TO CONGRESS.—

24 (1) IN GENERAL.—Not later than March 31
25 and September 30 each year, the Secretary shall

1 submit a report, containing the information de-
2 scribed in paragraph (2), to—

3 (A) the Committee on Banking, Housing,
4 and Urban Affairs of the Senate;

5 (B) the Committee on Homeland Security
6 and Governmental Affairs of the Senate; and

7 (C) the Committee on Appropriations of
8 the Senate.

9 (2) CONTENTS.—The report submitted under
10 paragraph (1) shall include—

11 (A) a description of the implementation of
12 the provisions of sections 1503 through 1506;

13 (B) the amount of funds appropriated to
14 carry out the provisions of each of sections
15 1503 through 1506 that have not been ex-
16 pended or obligated; and

17 (C) the state of public transportation secu-
18 rity in the United States.

19 (b) ANNUAL REPORT TO GOVERNORS.—

20 (1) IN GENERAL.—Not later than March 31 of
21 each year, the Secretary shall submit a report to the
22 Governor of each State with a public transportation
23 agency that has received a grant under this title.

24 (2) CONTENTS.—The report submitted under
25 paragraph (1) shall specify—

1 (A) the amount of grant funds distributed
2 to each such public transportation agency; and

3 (B) the use of such grant funds.

4 **SEC. 1509. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

6 There are authorized to be appropriated to carry out the
7 provisions of section 1504(a) and remain available until
8 expended—

9 (1) such sums as are necessary in fiscal year
10 2007;

11 (2) \$536,000,000 for fiscal year 2008;

12 (3) \$772,000,000 for fiscal year 2009; and

13 (4) \$1,062,000,000 for fiscal year 2010.

14 (b) OPERATIONAL SECURITY ASSISTANCE PRO-
15 GRAM.—There are authorized to be appropriated to carry
16 out the provisions of section 1504(b)—

17 (1) such sums as are necessary in fiscal year
18 2007;

19 (2) \$534,000,000 for fiscal year 2008;

20 (3) \$333,000,000 for fiscal year 2009; and

21 (4) \$133,000,000 for fiscal year 2010.

22 (c) INTELLIGENCE.—There are authorized to be ap-
23 propriated such sums as may be necessary to carry out
24 the provisions of section 1505.

1 (d) RESEARCH.—There are authorized to be appro-
 2 priated to carry out the provisions of section 1507 and
 3 remain available until expended—

4 (1) such sums as are necessary in fiscal year
 5 2007;

6 (2) \$30,000,000 for fiscal year 2008;

7 (3) \$45,000,000 for fiscal year 2009; and

8 (4) \$55,000,000 for fiscal year 2010.

9 **SEC. 1510. SUNSET PROVISION.**

10 The authority to make grants under this title shall
 11 expire on October 1, 2011.

12 **TITLE XVI—MISCELLANEOUS**
 13 **PROVISIONS**

14 **SEC. 1601. DEPUTY SECRETARY OF HOMELAND SECRETARY**
 15 **FOR MANAGEMENT.**

16 (a) ESTABLISHMENT AND SUCCESSION.—Section
 17 103 of the Homeland Security Act of 2002 (6 U.S.C. 113)
 18 is amended—

19 (1) in subsection (a)—

20 (A) in the subsection heading, by striking
 21 “DEPUTY SECRETARY” and inserting “DEPUTY
 22 SECRETARIES”;

23 (B) by striking paragraph (6);

1 (C) by redesignating paragraphs (2)
2 through (5) as paragraphs (3) through (6), re-
3 spectively; and

4 (D) by striking paragraph (1) and insert-
5 ing the following:

6 “(1) A Deputy Secretary of Homeland Security.

7 “(2) A Deputy Secretary of Homeland Security
8 for Management.”; and

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

10 “(g) VACANCIES.—

11 “(1) VACANCY IN OFFICE OF SECRETARY.—

12 “(A) DEPUTY SECRETARY.—In case of a
13 vacancy in the office of the Secretary, or of the
14 absence or disability of the Secretary, the Dep-
15 uty Secretary of Homeland Security may exer-
16 cise all the duties of that office, and for the
17 purpose of section 3345 of title 5, United
18 States Code, the Deputy Secretary of Homeland
19 Security is the first assistant to the Secretary.

20 “(B) DEPUTY SECRETARY FOR MANAGE-
21 MENT.—When by reason of absence, disability,
22 or vacancy in office, neither the Secretary nor
23 the Deputy Secretary of Homeland Security is
24 available to exercise the duties of the office of
25 the Secretary, the Deputy Secretary of Home-

1 land Security for Management shall act as Sec-
2 retary.

3 “(2) VACANCY IN OFFICE OF DEPUTY SEC-
4 RETARY.—In the case of a vacancy in the office of
5 the Deputy Secretary of Homeland Security, or of
6 the absence or disability of the Deputy Secretary of
7 Homeland Security, the Deputy Secretary of Home-
8 land Security for Management may exercise all the
9 duties of that office.

10 “(3) FURTHER ORDER OF SUCCESSION.—The
11 Secretary may designate such other officers of the
12 Department in further order of succession to act as
13 Secretary.”.

14 (b) RESPONSIBILITIES.—Section 701 of the Home-
15 land Security Act of 2002 (6 U.S.C. 341) is amended—

16 (1) in the section heading, by striking “**UNDER**
17 **SECRETARY**” and inserting “**DEPUTY SEC-**
18 **RETARY OF HOMELAND SECURITY**”;

19 (2) in subsection (a)—

20 (A) by inserting “The Deputy Secretary of
21 Homeland Security for Management shall serve
22 as the Chief Management Officer and principal
23 advisor to the Secretary on matters related to
24 the management of the Department, including
25 management integration and transformation in

1 support of homeland security operations and
2 programs.” before “The Secretary”;

3 (B) by striking “Under Secretary for Man-
4 agement” and inserting “Deputy Secretary of
5 Homeland Security for Management”;

6 (C) by striking paragraph (7) and insert-
7 ing the following:

8 “(7) Strategic planning and annual perform-
9 ance planning and identification and tracking of per-
10 formance measures relating to the responsibilities of
11 the Department.”; and

12 (D) by striking paragraph (9), and insert-
13 ing the following:

14 “(9) The integration and transformation proc-
15 ess, to ensure an efficient and orderly consolidation
16 of functions and personnel to the Department, in-
17 cluding the development of a management integra-
18 tion strategy for the Department.”; and

19 (3) in subsection (b)—

20 (A) in paragraph (1), by striking “Under
21 Secretary for Management” and inserting
22 “Deputy Secretary of Homeland Security for
23 Management”; and

24 (B) in paragraph (2), by striking “Under
25 Secretary for Management” and inserting

1 “Deputy Secretary of Homeland Security for
2 Management”.

3 (c) APPOINTMENT, EVALUATION, AND REAPPOINT-
4 MENT.—Section 701 of the Homeland Security Act of
5 2002 (6 U.S.C. 341) is amended by adding at the end
6 the following:

7 “(c) APPOINTMENT, EVALUATION, AND REAPPOINT-
8 MENT.—The Deputy Secretary of Homeland Security for
9 Management—

10 “(1) shall be appointed by the President, by
11 and with the advice and consent of the Senate, from
12 among persons who have—

13 “(A) extensive executive level leadership
14 and management experience in the public or
15 private sector;

16 “(B) strong leadership skills;

17 “(C) a demonstrated ability to manage
18 large and complex organizations; and

19 “(D) a proven record in achieving positive
20 operational results;

21 “(2) shall—

22 “(A) serve for a term of 5 years; and

23 “(B) be subject to removal by the Presi-
24 dent if the President—

1 “(i) finds that the performance of the
2 Deputy Secretary of Homeland Security
3 for Management is unsatisfactory; and

4 “(ii) communicates the reasons for re-
5 moving the Deputy Secretary of Homeland
6 Security for Management to Congress be-
7 fore such removal;

8 “(3) may be reappointed in accordance with
9 paragraph (1), if the Secretary has made a satisfac-
10 tory determination under paragraph (5) for the 3
11 most recent performance years;

12 “(4) shall enter into an annual performance
13 agreement with the Secretary that shall set forth
14 measurable individual and organizational goals; and

15 “(5) shall be subject to an annual performance
16 evaluation by the Secretary, who shall determine as
17 part of each such evaluation whether the Deputy
18 Secretary of Homeland Security for Management
19 has made satisfactory progress toward achieving the
20 goals set out in the performance agreement required
21 under paragraph (4).”.

22 (d) INCUMBENT.—The individual who serves in the
23 position of Under Secretary for Management of the De-
24 partment of Homeland Security on the date of enactment
25 of this Act—

1 (1) may perform all the duties of the Deputy
2 Secretary of Homeland Security for Management at
3 the pleasure of the President, until a Deputy Sec-
4 retary of Homeland Security for Management is ap-
5 pointed in accordance with subsection (c) of section
6 701 of the Homeland Security Act of 2002 (6
7 U.S.C. 341), as added by this Act; and

8 (2) may be appointed Deputy Secretary of
9 Homeland Security for Management, if such ap-
10 pointment is otherwise in accordance with sections
11 103 and 701 of the Homeland Security Act of 2002
12 (6 U.S.C. 113 and 341), as amended by this Act.

13 (e) REFERENCES.—References in any other Federal
14 law, Executive order, rule, regulation, or delegation of au-
15 thority, or any document of or relating to the Under Sec-
16 retary for Management of the Department of Homeland
17 Security shall be deemed to refer to the Deputy Secretary
18 of Homeland Security for Management.

19 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

20 (1) OTHER REFERENCE.—Section 702(a) of the
21 Homeland Security Act of 2002 (6 U.S.C. 342(a))
22 is amended by striking “Under Secretary for Man-
23 agement” and inserting “Deputy Secretary of
24 Homeland Security for Management”.

1 (2) TABLE OF CONTENTS.—The table of con-
 2 tents in section 1(b) of the Homeland Security Act
 3 of 2002 (6 U.S.C. 101(b)) is amended by striking
 4 the item relating to section 701 and inserting the
 5 following:

“Sec. 701. Deputy Secretary of Homeland Security for Management.”.

6 (3) EXECUTIVE SCHEDULE.—Section 5313 of
 7 title 5, United States Code, is amended by inserting
 8 after the item relating to the Deputy Secretary of
 9 Homeland Security the following:

10 “Deputy Secretary of Homeland Security for
 11 Management.”.

12 **SEC. 1602. SENSE OF THE SENATE REGARDING COMBATING**
 13 **DOMESTIC RADICALIZATION.**

14 (a) FINDINGS.—The Senate finds the following:

15 (1) The United States is engaged in a struggle
 16 against a transnational terrorist movement of radical
 17 extremists seeking to exploit the religion of Islam
 18 through violent means to achieve ideological ends.

19 (2) The radical jihadist movement transcends
 20 borders and has been identified as a potential threat
 21 within the United States.

22 (3) Radicalization has been identified as a pre-
 23 cursor to terrorism.

24 (4) Countering the threat of violent extremists
 25 domestically, as well as internationally, is a critical

1 element of the plan of the United States for success
2 in the war on terror.

3 (5) United States law enforcement agencies
4 have identified radicalization as an emerging threat
5 and have in recent years identified cases of “home-
6 grown” extremists operating inside the United
7 States with the intent to provide support for, or di-
8 rectly commit, a terrorist attack.

9 (6) The alienation of Muslim populations in the
10 Western world has been identified as a factor in the
11 spread of radicalization.

12 (7) Radicalization cannot be prevented solely
13 through law enforcement and intelligence measures.

14 (b) SENSE OF SENATE.—It is the sense of the Senate
15 that the Secretary, in consultation with other relevant
16 Federal agencies, should make a priority of countering do-
17 mestic radicalization and extremism by—

18 (1) using intelligence analysts and other experts
19 to better understand the process of radicalization
20 from sympathizer to activist to terrorist;

21 (2) recruiting employees with diverse
22 worldviews, skills, languages, and cultural back-
23 grounds and expertise;

24 (3) consulting with experts to ensure that the
25 lexicon used within public statements is precise and

1 appropriate and does not aid extremists by offending
2 the American Muslim community;

3 (4) developing and implementing, in concert
4 with the Attorney General and State and local cor-
5 rections officials, a program to address prisoner
6 radicalization and post-sentence reintegration;

7 (5) pursuing broader avenues of dialogue with
8 the Muslim community to foster mutual respect, un-
9 derstanding, and trust; and

10 (6) working directly with State, local, and com-
11 munity leaders to—

12 (A) educate these leaders on the threat of
13 radicalization and the necessity of taking pre-
14 ventative action at the local level; and

15 (B) facilitate the sharing of best practices
16 from other countries and communities to en-
17 courage outreach to the American Muslim com-
18 munity and develop partnerships between all
19 faiths, including Islam.

20 **SEC. 1603. SENSE OF THE SENATE REGARDING OVERSIGHT**
21 **OF HOMELAND SECURITY.**

22 (a) FINDINGS.—The Senate finds the following:

23 (1) The Senate recognizes the importance and
24 need to implement the recommendations offered by
25 the National Commission on Terrorist Attacks Upon

1 the United States (in this section referred to as the
2 “Commission”).

3 (2) Congress considered and passed the Na-
4 tional Security Intelligence Reform Act of 2004
5 (Public Law 108–458; 118 Stat. 3643) to implement
6 the recommendations of the Commission.

7 (3) Representatives of the Department testified
8 at 165 Congressional hearings in calendar year
9 2004, and 166 Congressional hearings in calendar
10 year 2005.

11 (4) The Department had 268 representatives
12 testify before 15 committees and 35 subcommittees
13 of the House of Representatives and 9 committees
14 and 12 subcommittees of the Senate at 206 congres-
15 sional hearings in calendar year 2006.

16 (5) The Senate has been unwilling to reform
17 itself in accordance with the recommendation of the
18 Commission to provide better and more streamlined
19 oversight of the Department.

20 (b) SENSE OF SENATE.—It is the sense of the Senate
21 that the Senate should implement the recommendation of
22 the Commission to “create a single, principal point of
23 oversight and review for homeland security.”

1 **SEC. 1604. REPORT REGARDING BORDER SECURITY.**

2 (a) IN GENERAL. Not later than 180 days after the
3 date of enactment of this Act, the Secretary shall submit
4 a report to Congress regarding ongoing initiatives of the
5 Department to improve security along the northern border
6 of the United States.

7 (b) CONTENTS. The report submitted under sub-sec-
8 tion (a) shall

9 (1) address the vulnerabilities along the north-
10 ern border of the United States; and

11 (2) provide recommendations to address such
12 vulnerabilities, including required resources needed
13 to protect the northern border of the United States.

14 (c) GOVERNMENT ACCOUNTABILITY OFFICE. Not
15 later than 270 days after the date of the submission of
16 the report under subsection (a), the Comptroller General
17 of the United States shall submit a report to Congress
18 that—

19 (1) reviews and comments on the report under
20 subsection (a); and

21 (2) provides recommendations regarding any
22 additional actions necessary to protect the northern
23 border of the United States.

24 **SEC. 1605. LAW ENFORCEMENT ASSISTANCE FORCE.**

25 (a) ESTABLISHMENT.—The Secretary shall establish
26 a Law Enforcement Assistance Force to facilitate the con-

1 tributions of retired law enforcement officers and agents
2 during major disasters.

3 (b) ELIGIBLE PARTICIPANTS.—An individual may
4 participate in the Law Enforcement Assistance Force if
5 that individual—

6 (1) has experience working as an officer or
7 agent for a public law enforcement agency and left
8 that agency in good standing;

9 (2) holds current certifications for firearms,
10 first aid, and such other skills determined necessary
11 by the Secretary;

12 (3) submits to the Secretary an application, at
13 such time, in such manner, and accompanied by
14 such information as the Secretary may reasonably
15 require, that authorizes the Secretary to review the
16 law enforcement service record of that individual;
17 and

18 (4) meets such other qualifications as the Sec-
19 retary may require.

20 (c) LIABILITY; SUPERVISION.—Each eligible partici-
21 pant shall, upon acceptance of an assignment under this
22 section—

23 (A) be detailed to a Federal, State, or local
24 government law enforcement agency; and

1 (B) work under the direct supervision of
2 an officer or agent of that agency.

3 (d) MOBILIZATION.—

4 (1) IN GENERAL.—In the event of a major dis-
5 aster, the Secretary, after consultation with appro-
6 priate Federal, State, and local government law en-
7 forcement agencies, may request eligible participants
8 to volunteer to assist the efforts of those agencies
9 responding to such emergency and assign each will-
10 ing participant to a specific law enforcement agency.

11 (2) ACCEPTANCE.—If the eligible participant
12 accepts an assignment under this subsection, that el-
13 igible participant shall agree to remain in such as-
14 signment for a period equal to not less than the
15 shorter of—

16 (A) the period during which the law en-
17 forcement agency needs the services of such
18 participant;

19 (B) 30 days;

20 (C) such other period of time agreed to be-
21 tween the Secretary and the eligible participant.

22 (3) REFUSAL.—An eligible participant may
23 refuse an assignment under this subsection without
24 any adverse consequences.

25 (e) EXPENSES.—

1 (1) IN GENERAL.—Each eligible participant
2 shall be allowed travel expenses, including per diem
3 in lieu of subsistence, at rates authorized for em-
4 ployees of agencies under subchapter I of chapter 57
5 of title 5, United States Code, while carrying out an
6 assignment under subsection (d).

7 (2) SOURCE OF FUNDS.—Expenses incurred
8 under paragraph (1) shall be paid from amounts ap-
9 propriated to the Federal Emergency Management
10 Agency.

11 (f) TERMINATION OF ASSISTANCE.—The availability
12 of eligible participants of the Law Enforcement Assistance
13 Force shall continue for a period equal to the shorter of—

14 (1) the period of the major disaster; or

15 (2) 1 year.

16 (g) DEFINITIONS.—In this section—

17 (1) the term “eligible participant” means an in-
18 dividual participating in the Law Enforcement As-
19 sistance Force;

20 (2) the term “Law Enforcement Assistance
21 Force” means the Law Enforcement Assistance
22 Force established under subsection (a); and

23 (3) the term “major disaster” has the meaning
24 given that term in section 102 of the Robert T.

1 Stafford Disaster Relief and Emergency Assistance
2 Act (42 U.S.C. 5122).

3 (h) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary to carry out this section.

6 **SEC. 1606. QUADRENNIAL HOMELAND SECURITY REVIEW.**

7 (a) IN GENERAL.—

8 (1) ESTABLISHMENT.—Not later than the end
9 of fiscal year 2008, the Secretary shall establish a
10 national homeland security strategy.

11 (2) REVIEW.—Four years after the establish-
12 ment of the national homeland security strategy, and
13 every 4 years thereafter, the Secretary shall conduct
14 a comprehensive examination of the national home-
15 land security strategy.

16 (3) SCOPE.—In establishing or reviewing the
17 national homeland security strategy under this sub-
18 section, the Secretary shall conduct a comprehensive
19 examination of interagency cooperation, prepared-
20 ness of Federal response assets, infrastructure,
21 budget plan, and other elements of the homeland se-
22 curity program and policies of the United States
23 with a view toward determining and expressing the
24 homeland security strategy of the United States and

1 establishing a homeland security program for the 20
2 years following that examination.

3 (4) REFERENCE.—The establishment or review
4 of the national homeland security strategy under
5 this subsection shall be known as the “quadrennial
6 homeland security review”.

7 (5) CONSULTATION.—Each quadrennial home-
8 land security review under this subsection shall be
9 conducted in consultation with the Attorney General
10 of the United States, the Secretary of State, the
11 Secretary of Defense, the Secretary of Health and
12 Human Services, and the Secretary of the Treasury.

13 (b) CONTENTS OF REVIEW.—Each quadrennial
14 homeland security review shall—

15 (1) delineate a national homeland security
16 strategy consistent with the most recent National
17 Response Plan prepared under Homeland Security
18 Presidential Directive-5 or any directive meant to re-
19 place or augment that directive;

20 (2) describe the interagency cooperation, pre-
21 paredness of Federal response assets, infrastructure,
22 budget plan, and other elements of the homeland se-
23 curity program and policies of the United States as-
24 sociated with the national homeland security strat-
25 egy required to execute successfully the full range of

1 missions called for in the national homeland security
2 strategy delineated under paragraph (1); and

3 (3) identify—

4 (A) the budget plan required to provide
5 sufficient resources to successfully execute the
6 full range of missions called for in that national
7 homeland security strategy at a low-to-moderate
8 level of risk; and

9 (B) any additional resources required to
10 achieve such a level of risk.

11 (c) LEVEL OF RISK.—The assessment of the level of
12 risk for purposes of subsection (b)(3) shall be conducted
13 by the Director of National Intelligence.

14 (d) REPORTING.—

15 (1) IN GENERAL.—The Secretary shall submit
16 a report regarding each quadrennial homeland secu-
17 rity review to Congress and shall make the report
18 publicly available on the Internet. Each such report
19 shall be submitted and made available on the Inter-
20 net not later than September 30 of the year in which
21 the review is conducted.

22 (2) CONTENTS OF REPORT.—Each report sub-
23 mitted under paragraph (1) shall include—

24 (A) the results of the quadrennial home-
25 land security review;

1 and nuclear detection equipment and technologies are in-
2 tegrated as appropriate with other border security systems
3 and detection technologies.

4 (b) REPORT.—Not later than 6 months after the date
5 of enactment of this Act, the Secretary shall submit a re-
6 port to Congress that contains a plan to develop a depart-
7 mental technology assessment process to determine and
8 certify the technology readiness levels of chemical, biologi-
9 cal, radiological, and nuclear detection technologies before
10 the full deployment of such technologies within the United
11 States.

12 **TITLE XVII—911** 13 **MODERNIZATION**

14 **SEC. 1701. SHORT TITLE.**

15 This title may be cited as the “911 Modernization
16 Act”.

17 **SEC. 1702. FUNDING FOR PROGRAM.**

18 Section 3011 of Public Law 109–171 (47 U.S.C. 309
19 note) is amended—

20 (1) by striking “The” and inserting:

21 “(a) IN GENERAL.—The”; and

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

23 “(b) CREDIT.—The Assistant Secretary may borrow
24 from the Treasury, upon enactment of this provision, such
25 sums as necessary, but not to exceed \$43,500,000 to im-

1 plement this section. The Assistant Secretary shall reim-
 2 burse the Treasury, without interest, as funds are depos-
 3 ited into the Digital Television Transition and Public
 4 Safety Fund.”.

5 **SEC. 1703. NTIA COORDINATION OF E-911 IMPLEMENTA-**
 6 **TION.**

7 Section 158(b)(4) of the National Telecommuni-
 8 cations and Information Administration Organization Act
 9 (47 U.S.C. 942(b)(4)) is amended by adding at the end
 10 thereof the following: “Within 180 days after the date of
 11 enactment of the 911 Modernization Act, the Assistant
 12 Secretary and the Administrator shall jointly issue regula-
 13 tions updating the criteria to provide priority for public
 14 safety answering points not capable, as of the date of en-
 15 actment of that Act, of receiving 911 calls.”.

16 **TITLE XVIII—MODERNIZATION**
 17 **OF THE AMERICAN NATIONAL**
 18 **RED CROSS**

19 **SEC. 1801. SHORT TITLE.**

20 This title may be cited as the “The American Na-
 21 tional Red Cross Governance Modernization Act of 2007”.

22 **SEC. 1802. FINDINGS; SENSE OF CONGRESS.**

23 (a) **FINDINGS.**—Congress makes the following find-
 24 ings:

1 (1) Substantive changes to the Congressional
2 Charter of The American National Red Cross have
3 not been made since 1947.

4 (2) In February 2006, the board of governors
5 of The American National Red Cross (the “Board of
6 Governors”) commissioned an independent review
7 and analysis of the Board of Governors’ role, com-
8 position, size, relationship with management, govern-
9 ance relationship with chartered units of The Amer-
10 ican National Red Cross, and whistleblower and
11 audit functions.

12 (3) In an October 2006 report of the Board of
13 Governors, entitled “American Red Cross Govern-
14 ance for the 21st Century” (the “Governance Re-
15 port”), the Board of Governors recommended
16 changes to the Congressional Charter, bylaws, and
17 other governing documents of The American Na-
18 tional Red Cross to modernize and enhance the ef-
19 fectiveness of the Board of Governors and govern-
20 ance structure of The American National Red Cross.

21 (4) It is in the national interest to create a
22 more efficient governance structure of The American
23 National Red Cross and to enhance the Board of
24 Governors’ ability to support the critical mission of

1 The American National Red Cross in the 21st cen-
2 tury.

3 (5) It is in the national interest to clarify the
4 role of the Board of Governors as a governance and
5 strategic oversight board and for The American Na-
6 tional Red Cross to amend its bylaws, consistent
7 with the recommendations described in the Govern-
8 ance Report, to clarify the role of the Board of Gov-
9 ernors and to outline the areas of its responsibility,
10 including—

11 (A) reviewing and approving the mission
12 statement for The American National Red
13 Cross;

14 (B) approving and overseeing the corpora-
15 tion's strategic plan and maintaining strategic
16 oversight of operational matters;

17 (C) selecting, evaluating, and determining
18 the level of compensation of the corporation's
19 chief executive officer;

20 (D) evaluating the performance and estab-
21 lishing the compensation of the senior leader-
22 ship team and providing for management suc-
23 cession;

1 (E) overseeing the financial reporting and
2 audit process, internal controls, and legal com-
3 pliance;

4 (F) holding management accountable for
5 performance;

6 (G) providing oversight of the financial
7 stability of the corporation;

8 (H) ensuring the inclusiveness and diver-
9 sity of the corporation;

10 (I) providing oversight of the protection of
11 the brand of the corporation; and

12 (J) assisting with fundraising on behalf of
13 the corporation.

14 (6)(A) The selection of members of the Board
15 of Governors is a critical component of effective gov-
16 ernance for The American National Red Cross, and,
17 as such, it is in the national interest that The Amer-
18 ican National Red Cross amend its bylaws to provide
19 a method of selection consistent with that described
20 in the Governance Report.

21 (B) The new method of selection should replace
22 the current process by which—

23 (i) 30 chartered unit-elected members of
24 the Board of Governors are selected by a non-
25 Board committee which includes 2 members of

1 the Board of Governors and other individuals
2 elected by the chartered units themselves;

3 (ii) 12 at-large members of the Board of
4 Governors are nominated by a Board committee
5 and elected by the Board of Governors; and

6 (iii) 8 members of the Board of Governors
7 are appointed by the President of the United
8 States.

9 (C) The new method of selection described in
10 the Governance Report reflects the single category of
11 members of the Board of Governors that will result
12 from the implementation of this title:

13 (i) All Board members (except for the
14 chairman of the Board of Governors) would be
15 nominated by a single committee of the Board
16 of Governors taking into account the criteria
17 outlined in the Governance Report to assure the
18 expertise, skills, and experience of a governing
19 board.

20 (ii) The nominated members would be con-
21 sidered for approval by the full Board of Gov-
22 ernors and then submitted to The American
23 National Red Cross annual meeting of delegates
24 for election, in keeping with the standard cor-
25 porate practice whereby shareholders of a cor-

1 poration elect members of a board of directors
2 at its annual meeting.

3 (7) The United States Supreme Court held The
4 American National Red Cross to be an instrumen-
5 tality of the United States, and it is in the national
6 interest that the Congressional Charter confirm that
7 status and that any changes to the Congressional
8 Charter do not affect the rights and obligations of
9 The American National Red Cross to carry out its
10 purposes.

11 (8) Given the role of The American National
12 Red Cross in carrying out its services, programs,
13 and activities, and meeting its various obligations,
14 the effectiveness of The American National Red
15 Cross will be promoted by the creation of an organi-
16 zational ombudsman who—

17 (A) will be a neutral or impartial dispute
18 resolution practitioner whose major function
19 will be to provide confidential and informal as-
20 sistance to the many internal and external
21 stakeholders of The American National Red
22 Cross;

23 (B) will report to the chief executive officer
24 and the audit committee of the Board of Gov-
25 ernors; and

1 (C) will have access to anyone and any
2 documents in The American National Red
3 Cross.

4 (b) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that—

6 (1) charitable organizations are an indispen-
7 sable part of American society, but these organiza-
8 tions can only fulfill their important roles by main-
9 taining the trust of the American public;

10 (2) trust is fostered by effective governance and
11 transparency, which are the principal goals of the
12 recommendations of the Board of Governors in the
13 Governance Report and this title;

14 (3) Federal and State action play an important
15 role in ensuring effective governance and trans-
16 parency by setting standards, rooting out violations,
17 and informing the public; and

18 (4) while The American National Red Cross is
19 and will remain a Federally chartered instrumen-
20 tality of the United States, and it has the rights and
21 obligations consistent with that status, The Amer-
22 ican National Red Cross nevertheless should main-
23 tain appropriate communications with State regu-
24 lators of charitable organizations and should cooper-

1 ate with them as appropriate in specific matters as
2 they arise from time to time.

3 **SEC. 1803. ORGANIZATION.**

4 Section 300101 of title 36, United States Code, is
5 amended—

6 (1) in subsection (a), by inserting “a Federally
7 chartered instrumentality of the United States and”
8 before “a body corporate and politic”; and

9 (2) in subsection (b), by inserting at the end
10 the following new sentence: “The corporation may
11 conduct its business and affairs, and otherwise hold
12 itself out, as the ‘American Red Cross’ in any juris-
13 diction.”.

14 **SEC. 1804. PURPOSES.**

15 Section 300102 of title 36, United States Code, is
16 amended—

17 (1) by striking “and” at the end of paragraph
18 (3);

19 (2) by striking the period at the end of para-
20 graph (4) and inserting “; and”; and

21 (3) by adding at the end the following para-
22 graph:

23 “(5) to conduct other activities consistent with
24 the foregoing purposes.”.

1 **SEC. 1805. MEMBERSHIP AND CHAPTERS.**

2 Section 300103 of title 36, United States Code, is
3 amended—

4 (1) in subsection (a), by inserting “, or as oth-
5 erwise provided,” before “in the bylaws”;

6 (2) in subsection (b)(1)—

7 (A) by striking “board of governors” and
8 inserting “corporation”; and

9 (B) by inserting “policies and” before
10 “regulations related”; and

11 (3) in subsection (b)(2)—

12 (A) by inserting “policies and” before
13 “regulations shall require”; and

14 (B) by striking “national convention” and
15 inserting “annual meeting”.

16 **SEC. 1806. BOARD OF GOVERNORS.**

17 Section 300104 of title 36, United States Code, is
18 amended to read as follows:

19 **“§ 300104. Board of governors**

20 “(a) BOARD OF GOVERNORS.—

21 “(1) IN GENERAL.—The board of governors is
22 the governing body of the corporation with all pow-
23 ers of governing and directing, and of overseeing the
24 management of the business and affairs of, the cor-
25 poration.

1 “(2) NUMBER.—The board of governors shall
2 fix by resolution, from time to time, the number of
3 members constituting the entire board of governors,
4 provided that—

5 “(A) as of March 31, 2009, and thereafter,
6 there shall be no fewer than 12 and no more
7 than 25 members; and

8 “(B) as of March 31, 2012, and thereafter,
9 there shall be no fewer than 12 and no more
10 than 20 members constituting the entire board.

11 Procedures to implement the preceding sentence
12 shall be provided in the bylaws.

13 “(3) APPOINTMENT.—The governors shall be
14 appointed or elected in the following manner:

15 “(A) CHAIRMAN.—

16 “(i) IN GENERAL.—The board of gov-
17 ernors, in accordance with procedures pro-
18 vided in the bylaws, shall recommend to
19 the President an individual to serve as
20 chairman of the board of governors. If
21 such recommendation is approved by the
22 President, the President shall appoint such
23 individual to serve as chairman of the
24 board of governors.

1 “(ii) VACANCIES.—Vacancies in the
2 office of the chairman, including vacancies
3 resulting from the resignation, death, or
4 removal by the President of the chairman,
5 shall be filled in the same manner de-
6 scribed in clause (i).

7 “(iii) DUTIES.—The chairman shall
8 be a member of the board of governors
9 and, when present, shall preside at meet-
10 ings of the board of governors and shall
11 have such other duties and responsibilities
12 as may be provided in the bylaws or a res-
13 olution of the board of governors.

14 “(B) OTHER MEMBERS.—

15 “(i) IN GENERAL.—Members of the
16 board of governors other than the chair-
17 man shall be elected at the annual meeting
18 of the corporation in accordance with such
19 procedures as may be provided in the by-
20 laws.

21 “(ii) VACANCIES.—Vacancies in any
22 such elected board position and in any
23 newly created board position may be filled
24 by a vote of the remaining members of the
25 board of governors in accordance with such

1 procedures as may be provided in the by-
2 laws.

3 “(b) TERMS OF OFFICE.—

4 “(1) IN GENERAL.—The term of office of each
5 member of the board of governors shall be 3 years,
6 except that—

7 “(A) the board of governors may provide
8 under the bylaws that the terms of office of
9 members of the board of governors elected to
10 the board of governors before March 31, 2012,
11 may be less than 3 years in order to implement
12 the provisions of subparagraphs (A) and (B) of
13 subsection (a)(2); and

14 “(B) any member of the board of gov-
15 ernors elected by the board to fill a vacancy in
16 a board position arising before the expiration of
17 its term may, as determined by the board, serve
18 for the remainder of that term or until the next
19 annual meeting of the corporation.

20 “(2) STAGGERED TERMS.—The terms of office
21 of members of the board of governors (other than
22 the chairman) shall be staggered such that, by
23 March 31, 2012, and thereafter, $\frac{1}{3}$ of the entire
24 board (or as near to $\frac{1}{3}$ as practicable) shall be elect-
25 ed at each successive annual meeting of the corpora-

1 tion with the term of office of each member of the
2 board of governors elected at an annual meeting ex-
3 piring at the third annual meeting following the an-
4 nual meeting at which such member was elected.

5 “(3) TERM LIMITS.—No person may serve as a
6 member of the board of governors for more than
7 such number of terms of office or years as may be
8 provided in the bylaws.

9 “(c) COMMITTEES AND OFFICERS.—The board—

10 “(1) may appoint, from its own members, an
11 executive committee to exercise such powers of the
12 board when the board is not in session as may be
13 provided in the bylaws;

14 “(2) may appoint such other committees or ad-
15 visory councils with such powers as may be provided
16 in the bylaws or a resolution of the board of gov-
17 ernors;

18 “(3) shall appoint such officers of the corpora-
19 tion, including a chief executive officer, with such
20 duties, responsibilities, and terms of office as may be
21 provided in the bylaws or a resolution of the board
22 of governors; and

23 “(4) may remove members of the board of gov-
24 ernors (other than the chairman), officers, and em-

1 employees under such procedures as may be provided in
2 the bylaws or a resolution of the board of governors.

3 “(d) ADVISORY COUNCIL.—

4 “(1) ESTABLISHMENT.—There shall be an advi-
5 sory council to the board of governors.

6 “(2) MEMBERSHIP; APPOINTMENT BY PRESI-
7 DENT.—

8 “(A) IN GENERAL.—The advisory council
9 shall be composed of no fewer than 8 and no
10 more than 10 members, each of whom shall be
11 appointed by the President from principal offi-
12 cers of the executive departments and senior of-
13 ficers of the Armed Forces whose positions and
14 interests qualify them to contribute to carrying
15 out the programs and purposes of the corpora-
16 tion.

17 “(B) MEMBERS FROM THE ARMED
18 FORCES.—At least 1, but not more than 3, of
19 the members of the advisory council shall be se-
20 lected from the Armed Forces.

21 “(3) DUTIES.—The advisory council shall ad-
22 vise, report directly to, and meet, at least 1 time per
23 year with the board of governors, and shall have
24 such name, functions and be subject to such proce-
25 dures as may be provided in the bylaws.

1 “(e) ACTION WITHOUT MEETING.—Any action re-
2 quired or permitted to be taken at any meeting of the
3 board of governors or of any committee thereof may be
4 taken without a meeting if all members of the board or
5 committee, as the case may be, consent thereto in writing,
6 or by electronic transmission and the writing or writings
7 or electronic transmission or transmissions are filed with
8 the minutes of proceedings of the board or committee.
9 Such filing shall be in paper form if the minutes are main-
10 tained in paper form and shall be in electronic form if
11 the minutes are maintained in electronic form.

12 “(f) VOTING BY PROXY.—

13 “(1) IN GENERAL.—Voting by proxy is not al-
14 lowed at any meeting of the board, at the annual
15 meeting, or at any meeting of a chapter.

16 “(2) EXCEPTION.—The board may allow the
17 election of governors by proxy during any emer-
18 gency.

19 “(g) BYLAWS.—

20 “(1) IN GENERAL.—The board of governors
21 may—

22 “(A) at any time adopt bylaws; and

23 “(B) at any time adopt bylaws to be effec-
24 tive only in an emergency.

1 “(2) EMERGENCY BYLAWS.—Any bylaws adopt-
 2 ed pursuant to paragraph (1)(B) may provide spe-
 3 cial procedures necessary for managing the corpora-
 4 tion during the emergency. All provisions of the reg-
 5 ular bylaws consistent with the emergency bylaws re-
 6 main effective during the emergency.

7 “(h) DEFINITIONS.—For purposes of this section—

8 “(1) the term ‘entire board’ means the total
 9 number of members of the board of governors that
 10 the corporation would have if there were no vacan-
 11 cies; and

12 “(2) the term ‘emergency’ shall have such
 13 meaning as may be provided in the bylaws.”.

14 **SEC. 1807. POWERS.**

15 Paragraph (a)(1) of section 300105 of title 36,
 16 United States Code, is amended by striking “bylaws” and
 17 inserting “policies”.

18 **SEC. 1808. ANNUAL MEETING.**

19 Section 300107 of title 36, United States Code, is
 20 amended to read as follows:

21 **“§ 300107. Annual meeting**

22 “(a) IN GENERAL.—The annual meeting of the cor-
 23 poration is the annual meeting of delegates of the chap-
 24 ters.

1 “(b) TIME OF MEETING.—The annual meeting shall
2 be held as determined by the board of governors.

3 “(c) PLACE OF MEETING.—The board of governors
4 is authorized to determine that the annual meeting shall
5 not be held at any place, but may instead be held solely
6 by means of remote communication subject to such proce-
7 dures as are provided in the bylaws.

8 “(d) VOTING.—

9 “(1) IN GENERAL.—In matters requiring a vote
10 at the annual meeting, each chapter is entitled to at
11 least 1 vote, and voting on all matters may be con-
12 ducted by mail, telephone, telegram, cablegram, elec-
13 tronic mail, or any other means of electronic or tele-
14 phone transmission, provided that the person voting
15 shall state, or submit information from which it can
16 be determined, that the method of voting chosen was
17 authorized by such person.

18 “(2) ESTABLISHMENT OF NUMBER OF
19 VOTES.—

20 “(A) IN GENERAL.—The board of gov-
21 ernors shall determine on an equitable basis the
22 number of votes that each chapter is entitled to
23 cast, taking into consideration the size of the
24 membership of the chapters, the populations

1 served by the chapters, and such other factors
2 as may be determined by the board.

3 “(B) PERIODIC REVIEW.—The board of
4 governors shall review the allocation of votes at
5 least every 5 years.”.

6 **SEC. 1809. ENDOWMENT FUND.**

7 Section 300109 of title 36, United States Code is
8 amended—

9 (1) by striking “nine” from the first sentence
10 thereof; and

11 (2) by striking the second sentence and insert-
12 ing the following: “The corporation shall prescribe
13 policies and regulations on terms and tenure of of-
14 fice, accountability, and expenses of the board of
15 trustees.”.

16 **SEC. 1810. ANNUAL REPORT AND AUDIT.**

17 Subsection (a) of section 300110 of title 36, United
18 States Code, is amended to read as follows:

19 “(a) SUBMISSION OF REPORT.—As soon as prac-
20 ticable after the end of the corporation’s fiscal year, which
21 may be changed from time to time by the board of gov-
22 ernors, the corporation shall submit a report to the Sec-
23 retary of Defense on the activities of the corporation dur-
24 ing such fiscal year, including a complete, itemized report
25 of all receipts and expenditures.”.

1 **SEC. 1811. COMPTROLLER GENERAL OF THE UNITED**
2 **STATES AND OFFICE OF THE OMBUDSMAN.**

3 (a) IN GENERAL.—Chapter 3001 of title 36, United
4 States Code, is amended by redesignating section 300111
5 as section 300113 and by inserting after section 300110
6 the following new sections:

7 **“§ 300111. Authority of the Comptroller General of**
8 **the United States**

9 “The Comptroller General of the United States is au-
10 thorized to review the corporation’s involvement in any
11 Federal program or activity the Government carries out
12 under law.

13 **“§ 300112. Office of the Ombudsman**

14 “(a) ESTABLISHMENT.—The corporation shall estab-
15 lish an Office of the Ombudsman with such duties and
16 responsibilities as may be provided in the bylaws or a reso-
17 lution of the board of governors.

18 “(b) REPORT.—

19 “(1) IN GENERAL.—The Office of the Ombuds-
20 man shall submit annually to the appropriate Con-
21 gressional committees a report concerning any
22 trends and systemic matters that the Office of the
23 Ombudsman has identified as confronting the cor-
24 poration.

25 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
26 TEES.—For purposes of paragraph (1), the appro-

1 appropriate Congressional committees are the following
2 committees of Congress:

3 “(A) SENATE COMMITTEES.—The appro-
4 priate Congressional committees of the Senate
5 are—

6 “(i) the Committee on Finance;

7 “(ii) the Committee on Foreign Rela-
8 tions;

9 “(iii) the Committee on Health, Edu-
10 cation, Labor, and Pensions;

11 “(iv) the Committee on Homeland Se-
12 curity and Governmental Affairs; and

13 “(v) the Committee on the Judiciary.

14 “(B) HOUSE COMMITTEES.—The appro-
15 priate Congressional committees of the House
16 of Representatives are—

17 “(i) the Committee on Energy and
18 Commerce;

19 “(ii) the Committee on Foreign Af-
20 fairs;

21 “(iii) the Committee on Homeland Se-
22 curity;

23 “(iv) the Committee on the Judiciary;
24 and

1 “(v) the Committee on Ways and
2 Means.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 for chapter 3001 of title 36, United States Code, is
5 amended by striking the item relating to section 300111
6 and inserting the following:

“300111. Authority of the Comptroller General of the United States.

“300112. Office of the Ombudsman.

“300113. Reservation of right to amend or repeal.”.

7 **TITLE XIX—ADVANCEMENT OF**
8 **DEMOCRATIC VALUES**

9 **SEC. 1901. SHORT TITLE.**

10 This title may be cited as the “Advance Democratic
11 Values, Address Non-democratic Countries, and Enhance
12 Democracy Act of 2007” or the “ADVANCE Democracy
13 Act of 2007”.

14 **SEC. 1902. FINDINGS.**

15 Congress finds that in order to support the expansion
16 of freedom and democracy in the world, the foreign policy
17 of the United States should be organized in support of
18 transformational diplomacy that seeks to work through
19 partnerships to build and sustain democratic, well-gov-
20 erned states that will respect human rights and respond
21 to the needs of their people and conduct themselves re-
22 sponsibly in the international system.

23 **SEC. 1903. STATEMENT OF POLICY.**

24 It should be the policy of the United States—

1 (1) to promote freedom and democracy in for-
2 eign countries as a fundamental component of the
3 foreign policy of the United States;

4 (2) to affirm internationally recognized human
5 rights standards and norms and to condemn offenses
6 against those rights;

7 (3) to use instruments of United States influ-
8 ence to support, promote, and strengthen democratic
9 principles, practices, and values, including the right
10 to free, fair, and open elections, secret balloting, and
11 universal suffrage;

12 (4) to protect and promote fundamental free-
13 doms and rights, including the freedom of associa-
14 tion, of expression, of the press, and of religion, and
15 the right to own private property;

16 (5) to protect and promote respect for and ad-
17 herence to the rule of law;

18 (6) to provide appropriate support to non-
19 governmental organizations working to promote free-
20 dom and democracy;

21 (7) to provide political, economic, and other
22 support to countries that are willingly undertaking a
23 transition to democracy;

24 (8) to commit to the long-term challenge of pro-
25 moting universal democracy; and

1 (9) to strengthen alliances and relationships
2 with other democratic countries in order to better
3 promote and defend shared values and ideals.

4 **SEC. 1904. DEFINITIONS.**

5 In this title:

6 (1) ANNUAL REPORT ON ADVANCING FREEDOM
7 AND DEMOCRACY.—The term “Annual Report on
8 Advancing Freedom and Democracy” refers to the
9 annual report submitted to Congress by the Depart-
10 ment of State pursuant to section 665(c) of the For-
11 eign Relations Authorization Act, Fiscal Year 2003
12 (Public Law 107–228; 22 U.S.C. 2151n note), in
13 which the Department reports on actions taken by
14 the United States Government to encourage respect
15 for human rights and democracy.

16 (2) ASSISTANT SECRETARY.—The term “Assist-
17 ant Secretary” means the Assistant Secretary of
18 State for Democracy, Human Rights, and Labor.

19 (3) COMMUNITY OF DEMOCRACIES AND COMMU-
20 NITY.—The terms “Community of Democracies”
21 and “Community” mean the association of demo-
22 cratic countries committed to the global promotion
23 of democratic principles, practices, and values, which
24 held its First Ministerial Conference in Warsaw, Po-
25 land, in June 2000.

1 (4) DEPARTMENT.—The term “Department”
2 means the Department of State.

3 (5) UNDER SECRETARY.—The term “Under
4 Secretary” means the Under Secretary of State for
5 Democracy and Global Affairs.

6 **Subtitle A—Liaison Officers and**
7 **Fellowship Program to Enhance**
8 **the Promotion of Democracy**

9 **SEC. 1911. DEMOCRACY LIAISON OFFICERS.**

10 (a) IN GENERAL.—The Secretary of State shall es-
11 tablish and staff Democracy Liaison Officer positions,
12 under the supervision of the Assistant Secretary, who may
13 be assigned to the following posts:

14 (1) United States missions to, or liaison with,
15 regional and multilateral organizations, including the
16 United States missions to the European Union, Afri-
17 can Union, Organization of American States and
18 any other appropriate regional organization, Organi-
19 zation for Security and Cooperation in Europe, the
20 United Nations and its relevant specialized agencies,
21 and the North Atlantic Treaty Organization.

22 (2) Regional public diplomacy centers of the
23 Department.

24 (3) United States combatant commands.

1 (4) Other posts as designated by the Secretary
2 of State.

3 (b) RESPONSIBILITIES.—Each Democracy Liaison
4 Officer should—

5 (1) provide expertise on effective approaches to
6 promote and build democracy;

7 (2) assist in formulating and implementing
8 strategies for transitions to democracy; and

9 (3) carry out other responsibilities as the Sec-
10 retary of State and the Assistant Secretary may as-
11 sign.

12 (c) NEW POSITIONS.—The Democracy Liaison Offi-
13 cer positions established under subsection (a) should be
14 new positions that are in addition to existing officer posi-
15 tions with responsibility for other human rights and de-
16 mocracy related issues and programs.

17 (d) RELATIONSHIP TO OTHER AUTHORITIES.—Noth-
18 ing in this section may be construed as removing any au-
19 thority or responsibility of a chief of mission or other em-
20 ployee of a diplomatic mission of the United States pro-
21 vided under any other provision of law, including any au-
22 thority or responsibility for the development or implemen-
23 tation of strategies to promote democracy.

1 **SEC. 1912. DEMOCRACY FELLOWSHIP PROGRAM.**

2 (a) REQUIREMENT FOR PROGRAM.—The Secretary of
3 State shall establish a Democracy Fellowship Program to
4 enable Department officers to gain an additional perspec-
5 tive on democracy promotion abroad by working on democ-
6 racy issues in congressional committees with oversight
7 over the subject matter of this title, including the Com-
8 mittee on Foreign Relations and the Committee on Appro-
9 priations of the Senate and the Committee on Foreign Af-
10 fairs and the Committee on Appropriations of the House
11 of Representatives, and in nongovernmental organizations
12 involved in democracy promotion.

13 (b) SELECTION AND PLACEMENT.—The Assistant
14 Secretary shall play a central role in the selection of De-
15 mocracy Fellows and facilitate their placement in appro-
16 priate congressional offices and nongovernmental organi-
17 zations.

18 (c) EXCEPTION.—A Democracy Fellow may not be
19 assigned to any congressional office until the Secretary of
20 Defense certifies to the Committee on Armed Services and
21 the Committee on Foreign Relations of the Senate and
22 the Committee on Armed Services and the Committee on
23 Foreign Affairs of the House of Representatives that the
24 request of the Commander of the United States Central
25 Command for the Department of State for personnel and
26 foreign service officers has been fulfilled.

1 **SEC. 1913. TRANSPARENCY OF UNITED STATES BROAD-**
2 **CASTING TO ASSIST IN OVERSIGHT AND EN-**
3 **SURE PROMOTION OF HUMAN RIGHTS AND**
4 **DEMOCRACY IN INTERNATIONAL BROAD-**
5 **CASTS.**

6 (a) **TRANSCRIPTS.**—The Broadcasting Board of Gov-
7 ernors shall transcribe into English all original broad-
8 casting content.

9 (b) **PUBLIC TRANSPARENCY.**—The Broadcasting
10 Board of Governors shall post all English transcripts from
11 its broadcasting content on a publicly available website
12 within 30 days of the original broadcast.

13 (c) **BROADCASTING CONTENT DEFINED.**—In this
14 section, the term “broadcasting content” includes pro-
15 gramming produced or broadcast by United State inter-
16 national broadcasters, including—

- 17 (1) Voice of America;
- 18 (2) Alhurra;
- 19 (3) Radio Sawa;
- 20 (4) Radio Farda;
- 21 (5) Radio Free Europe/Radio Liberty;
- 22 (6) Radio Free Asia; and
- 23 (7) The Office of Cuba Broadcasting.

1 **Subtitle B—Annual Report on Ad-**
2 **vancing Freedom and Democ-**
3 **racy**

4 **SEC. 1921. ANNUAL REPORT.**

5 (a) REPORT TITLE.—Section 665(c) of the Foreign
6 Relations Authorization Act, Fiscal Year 2003 (Public
7 Law 107–228; 22 U.S.C. 2151n note) is amended in the
8 first sentence by inserting “entitled the Advancing Free-
9 dom and Democracy Report” before the period at the end.

10 (b) SCHEDULE FOR SUBMISSION.—If a report enti-
11 tled the Advancing Freedom and Democracy Report pur-
12 suant to section 665(c) of the Foreign Relations Author-
13 ization Act, Fiscal Year 2003, as amended by subsection
14 (a), is submitted under such section, such report shall be
15 submitted not later than 90 days after the date of submis-
16 sion of the report required by section 116(d) of the For-
17 eign Assistance Act of 1961 (22 U.S.C. 2151n(d)).

18 (c) CONFORMING AMENDMENT.—Section 665(c) of
19 the Foreign Relations Authorization Act, Fiscal Year
20 2003 (Public Law 107–228; 2151n note) is amended by
21 striking “30 days” and inserting “90 days”.

22 **SEC. 1922. SENSE OF CONGRESS ON TRANSLATION OF**
23 **HUMAN RIGHTS REPORTS.**

24 It is the sense of Congress that the Secretary of State
25 should continue to ensure and expand the timely trans-

1 lation of Human Rights and International Religious Free-
2 dom reports and the Annual Report on Advancing Free-
3 dom and Democracy prepared by personnel of the Depart-
4 ment of State into the principal languages of as many
5 countries as possible. Translations are welcomed because
6 information on United States support for universal enjoy-
7 ment of freedoms and rights serves to encourage individ-
8 uals around the globe seeking to advance the cause of free-
9 dom in their countries.

10 **Subtitle C—Advisory Committee on**
11 **Democracy Promotion and the**
12 **Internet Website of the Depart-**
13 **ment of State**

14 **SEC. 1931. ADVISORY COMMITTEE ON DEMOCRACY PRO-**
15 **MOTION.**

16 Congress commends the Secretary of State for cre-
17 ating an Advisory Committee on Democracy Promotion,
18 and it is the sense of Congress that the Committee should
19 play a significant role in the Department's trans-
20 formational diplomacy by advising the Secretary of State
21 regarding United States efforts to promote democracy and
22 democratic transition in connection with the formulation
23 and implementation of United States foreign policy and
24 foreign assistance.

1 **SEC. 1932. SENSE OF CONGRESS ON THE INTERNET**
2 **WEBSITE OF THE DEPARTMENT OF STATE.**

3 It is the sense of Congress that—

4 (1) the Secretary of State should continue and
5 further expand the Secretary's existing efforts to in-
6 form the public in foreign countries of the efforts of
7 the United States to promote democracy and defend
8 human rights through the Internet website of the
9 Department of State;

10 (2) the Secretary of State should continue to
11 enhance the democracy promotion materials and re-
12 sources on that Internet website, as such enhance-
13 ment can benefit and encourage those around the
14 world who seek freedom; and

15 (3) such enhancement should include where
16 possible and practical, translated reports on democ-
17 racy and human rights prepared by personnel of the
18 Department, narratives and histories highlighting
19 successful nonviolent democratic movements, and
20 other relevant material.

21 **Subtitle D—Training in Democracy**
22 **and Human Rights; Promotions**

23 **SEC. 1941. SENSE OF CONGRESS ON TRAINING IN DEMOC-**
24 **RACY AND HUMAN RIGHTS.**

25 It is the sense of Congress that—

1 (1) the Secretary of State should continue to
2 enhance and expand the training provided to foreign
3 service officers and civil service employees on how to
4 strengthen and promote democracy and human
5 rights; and

6 (2) the Secretary of State should continue the
7 effective and successful use of case studies and prac-
8 tical workshops addressing potential challenges, and
9 work with non-state actors, including nongovern-
10 mental organizations that support democratic prin-
11 ciples, practices, and values.

12 **SEC. 1942. SENSE OF CONGRESS ON ADVANCE DEMOCRACY**

13 **AWARD.**

14 It is the sense of Congress that—

15 (1) the Secretary of State should further
16 strengthen the capacity of the Department to carry
17 out result-based democracy promotion efforts
18 through the establishment of awards and other em-
19 ployee incentives, including the establishment of an
20 annual award known as Outstanding Achievements
21 in Advancing Democracy, or the ADVANCE Democ-
22 racy Award, that would be awarded to officers or
23 employees of the Department; and

24 (2) the Secretary of State should establish the
25 procedures for selecting recipients of such award, in-

1 including any financial terms, associated with such
2 award.

3 **SEC. 1943. PROMOTIONS.**

4 The precepts for selection boards responsible for rec-
5 ommending promotions of foreign service officers, includ-
6 ing members of the senior foreign service, should include
7 consideration of a candidate's experience or service in pro-
8 motion of human rights and democracy.

9 **SEC. 1944. PROGRAMS BY UNITED STATES MISSIONS IN**
10 **FOREIGN COUNTRIES AND ACTIVITIES OF**
11 **CHIEFS OF MISSION.**

12 It is the sense of Congress that each chief of mission
13 should provide input on the actions described in the Ad-
14 vancing Freedom and Democracy Report submitted under
15 section 665(c) of the Foreign Relations Authorization Act,
16 Fiscal Year 2003 (Public Law 107-228; 22 U.S.C. 2151n
17 note), as amended by section 1621, and should intensify
18 democracy and human rights promotion activities.

19 **Subtitle E—Alliances With**
20 **Democratic Countries**

21 **SEC. 1951. ALLIANCES WITH DEMOCRATIC COUNTRIES.**

22 (a) ESTABLISHMENT OF AN OFFICE FOR THE COM-
23 MUNITY OF DEMOCRACIES.—The Secretary of State
24 should, and is authorized to, establish an Office for the
25 Community of Democracies with the mission to further de-

1 velop and strengthen the institutional structure of the
 2 Community of Democracies, develop interministerial
 3 projects, enhance the United Nations Democracy Caucus,
 4 manage policy development of the United Nations Democ-
 5 racy Fund, and enhance coordination with other regional
 6 and multilateral bodies with jurisdiction over democracy
 7 issues.

8 (b) SENSE OF CONGRESS ON INTERNATIONAL CEN-
 9 TER FOR DEMOCRATIC TRANSITION.—It is the sense of
 10 Congress that the International Center for Democratic
 11 Transition, an initiative of the Government of Hungary,
 12 serves to promote practical projects and the sharing of
 13 best practices in the area of democracy promotion and
 14 should be supported by, in particular, other European
 15 countries with experiences in democratic transitions, the
 16 United States, and private individuals.

17 **Subtitle F—Funding for Promotion**
 18 **of Democracy**

19 **SEC. 1961. SENSE OF CONGRESS ON THE UNITED NATIONS**
 20 **DEMOCRACY FUND.**

21 It is the sense of Congress that the United States
 22 should work with other countries to enhance the goals and
 23 work of the United Nations Democracy Fund, an essential
 24 tool to promote democracy, and in particular support civil

1 society in their efforts to help consolidate democracy and
2 bring about transformational change.

3 **SEC. 1962. THE HUMAN RIGHTS AND DEMOCRACY FUND.**

4 The purpose of the Human Rights and Democracy
5 Fund should be to support innovative programming,
6 media, and materials designed to uphold democratic prin-
7 ciples, support and strengthen democratic institutions,
8 promote human rights and the rule of law, and build civil
9 societies in countries around the world.

Passed the Senate March 13, 2007.

Attest:

Secretary.

110TH CONGRESS
1ST SESSION

S. 4

AN ACT

To make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.