STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MURKOWSKI:

S. 3802. A bill to designate a mountain and icefield in the State of Alaska as the ''Mount Stevens'' and ''Ted Stevens Icefield'', respectively; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, I rise today to introduce legislation that is very near to my heart, a bill to provide a lasting permanent tribute to former Alaska U.S. Senator Ted Stevens, who died Aug. 9th in a plane crash in southwest Alaska during a fishing trip. The bill actually calls for creation of two permanent tributes to the Senator, the naming of Alaska's currently highest unnamed mountain peak in honor of the Senator, calling the 13,895-foot peak in southern Denali National Park, Mount Stevens, and the naming of part of the State's largest ice field in the Chugach Mountains as the Ted Stevens Icefield.

Ted Stevens, a colleague of most of us in this body, and a lawmaker that I interned for more than 30 years ago, truly was Alaska. He was the State's senator for all but 11 years of its current existence as a State. During his more than 40 years in the Senate he played a significant role in the transformation of Alaska from an impoverished territory to a full-fledged State. Senator Stevens, a pilot during World War II, came to Alaska as a U.S. Attorney in the then territory of Alaska in 1956. He later served in the Eisenhower Administration where he was a leading force in writing the legislation that led to the admission of Alaska as the 49th State in the Union on Jan. 3, 1959.

In 1961, he moved back from Washington, D.C. to Alaska where he was elected to the Alaska House of Representatives just after the state's great earthquake in 1964. He was subsequently elected as Speaker pro tempore and majority leader until his appointment to the U.S. Senate on Christmas Eve of 1968 upon the death of one of the State's two original senators, E.L. ''Bob'' Bartlett. He was elected in his own right 7 times over the next 40 years, becoming the longest-serving Republican Senator in U.S. history. Stevens was third in line for the Presidency from 2003 through 2007.

While he is remembered by all in Alaska for his tireless efforts to win Federal support to develop the young State's largely 19th Century frontier infrastructure, he did so much more for all Alaskans. He worked tirelessly to enact the Alaska Native Claims Settlement Act that settled aboriginal land claims and gave Alaska Natives the right to select about 44 million acres of Alaska's 365-million acres to protect their long-term economic, cultural and political future.

Ted helped the State develop an economy by authoring the Trans-Alaska Pipeline Authorization Act, which permitted oil to flow to market from the State's North Slope. He authored the Magnuson-Stevens Fishery Conservation and Management Act and the High Seas Driftnet Fisheries Enforcement Act that ended the foreign domination of fishing fleets in Alaskan and American waters, allowing the State's commercial fishing industry to rebound. He was a leader in telecommunication policies, leading efforts to pass the Telecommunications Act of 1996 that paved the way to an era of digital television and communications in this country and also launched telemedicine and distance learning. And he attempted to make the Alaska National Interest Lands Conservation Act as workable as possible for the State, while protecting more than 100 million acres of Alaska in parks and refuges—the largest single conservation bill in the Nation's history.

Ted was a committed sportsman, who loved outdoor pursuits such as fishing and hunting, and also amateur sports, authoring the Ted Stevens Amateur and Olympic Sports Act, Title IX amendments to encourage women's sports, and the Carol M. White Physical Education Program that did so much to improve physical education in schools and colleges nationwide. He also became a true expert on defense issues, providing unconditional support to the Armed Forces of the United States in his role as chairman and ranking member of the Subcommittee on Defense Appropriations for more than two decades.

Ted Stevens truly was a mountain of a man in policy development for the State of Alaska and thus it is a pleasure to seek to name both a mountain and an ice field in his honor. The peak proposed for naming is the peak referred to as South Hunter peak in the climbing community. It is located on the southern side of Denali National Park. At 13,895 feet it is the largest peak still unnamed in the State and also a peak visible on a clear day from the Parks Highway, the main north-south road for travelers between Fairbanks and Anchorage, two cities in Alaska that Ted is most associated with helping develop.

The ice field in the uplands of the Chugach Mountains is the base for the Harvard, Yale, Columbia, Matanuska, Nelchina, Tazlina, Valdez and Shoup Glaciers—the Harvard being particularly appropriate to be associated with a man who graduated from Harvard Law School in 1950. The entire Chugach Icefield, at 8,340 square miles, the largest in Alaska, will provide a fitting tribute for a senator whose breadth of knowledge covered all of Alaska's 586,000 square miles and whose love of the State and its residents was even larger.

This bill follows proper procedure by directing the U.S. Geographical Place Names Board to name the peak and ice field for the State's former senior senator, it not being done directly by Congress. But to guarantee timely action, it requires the board to act within 30 days of the bill's enactment.

While there are a number of facilities in Alaska that bear the name of Senator Stevens, this bill will guarantee that future generations of Alaskans will remember him when they engage in the outdoor pursuits that all Alaskans love, from mountain climbing to fishing in the waters of Prince William Sound and the rivers of South central Alaska, all fueled by the meltwater from the huge ice field that dominates the South central landscape.

This is a fitting tribute for a mentor and friend, to whom Alaskans owe so much. I hope for quick passage of this act by this Congress to provide another lasting legacy for Senator Ted Stevens.

By Mr. LEAHY (for himself, Mr. HATCH, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mr. SCHUMER, Mr. KOHL, Mr. SPECTER, Mr. DURBIN, Mr. BAYH, Mr. VOINOVICH, and Mrs. FEINSTEIN):

S. 3804. A bill to combat online infringement, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, few things are more important to the future of the American economy and job creation than protecting our intellectual property. The Chamber of Commerce estimates that American intellectual property accounts for more than $5 trillion of the country's gross domestic product, and IP-intensive industries employ more than 18 million workers. Each year, online piracy and the sale of counterfeit goods cost American businesses billions of dollars, and result in hundreds of thousands of lost jobs. Studies recently cited by the AFL–CIO estimate that digital theft of movies and music alone costs more than 200,000 jobs. This is unacceptable in any economic climate. It is devastating today.

The severity of the problem continues to increase and businesses of all types and sizes—and their employees—are the victims. In Vermont, companies like Burton Snowboards and the Vermont Teddy Bear Company are well recognized brands that depend on the enforcement of our intellectual property laws to keep their businesses thriving.

The growth of the digital marketplace is extraordinary and it gives creators and producers new opportunities to reach consumers. But it also brings with it the perils of piracy and counterfeiting. The increased usage and accessibility of the Internet has transformed it into the new Main Street. Internet purchases have become so commonplace that consumers are less wary of online shopping and therefore more easily victimized by online products that may have health, safety or other quality concerns when they are counterfeit.

Today, I am introducing the bipartisan Combating Online Infringement and Counterfeits Act, which will provide the Justice Department with an important tool to crack down on Web sites dedicated to online infringement.

This legislation will protect the investment American companies make in developing brands and creating content and will protect the jobs associated with those investments. Protecting intellectual property is not uniquely a Democratic or Republican priority—it is a bipartisan priority.

The Justice Department is currently limited in the remedies available to prevent Web sites dedicated to offering infringing content. These Web sites are often based overseas yet target American consumers. American consumers are too often deceived into thinking the products they are purchasing are legitimate because the Web sites reside at familiar-sounding domain names and are complete with corporate advertising, credit card acceptance, and advertising links that make them appear legitimate.

The Combating Online Infringement and Counterfeits Act will give the Department of Justice an expedited process for cracking down on these rogue Web sites, regardless of whether the Web site's owner is located inside or outside of the United States. This legislation authorizes the Justice Department to file an in rem civil action against the domain name, and to seek an order from the court that the domain name is used to access a Web site that is dedicated to infringing activities. Once the court issues an order against the domain name, the Attorney General would have the authority to serve the domain name's U.S. based registry or registrar with that order, which would then be required to suspend the infringing domain name.

Where the registry or registrar is not located in the United States, the Act would provide the Attorney General the authority to serve the order on other specified third parties at its discretion, including Internet service providers, payment processors, and online ad network providers. These third parties, which are critical to the financial viability of the infringing Web site's business, would then be required to stop doing business with that Web site by, for example, blocking online access to the rogue site or not processing the Web site's purchases.

This legislation will provide the Department of Justice with an important tool to protect American consumers, American businesses, and American jobs. We should not expect that enactment of the legislation will completely solve the problem of online infringement, but it will make it more difficult for foreign entities to profit off American hard work and ingenuity. This bill targets the most egregious actors, and is an important first step to putting a stop to online piracy and sale of counterfeit goods.

I look forward to working with all Senators to pass this important, bipartisan legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Combating Online Infringement and Counterfeits Act''.

SEC. 2. INTERNET SITES DEDICATED TO INFRINGING ACTIVITIES.

Chapter 113 of title 18, United States Code, is amended by adding at the end the following:

''§ 2324. Internet sites dedicated to infringing activities

''(a) DEFINITION.—For purposes of this section, an Internet site is 'dedicated to infringing activities' if such site—

''(1) is otherwise subject to civil forfeiture to the United States Government under section 2323; or

''(2) is—

''(A) primarily designed, has no demonstrable, commercially significant purpose or use other than, or is marketed by its operator, or by a person acting in concert with the operator, to offer—

''(i) goods or services in violation of title 17, United States Code, or enable or facilitate a violation of title 17, United States Code, including by offering or providing access to, without the authorization of the copyright owner or otherwise by operation of law, copies of, or public performance or display of, works protected by title 17, in complete or substantially complete form, by any means, including by means of download, transmission, or otherwise, including the provision of a link or aggregated links to other sites or Internet resources for obtaining such copies for accessing such performance or displays; or

''(ii) to sell or distribute goods, services, or materials bearing a counterfeit mark, as that term is defined in section 34(d) of the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes', approved July 5, 1946 (commonly referred to as the 'Trademark Act of 1946' or the 'Lanham Act'; 15 U.S.C. 1116(d)); and

''(B) engaged in the activities described in subparagraph (A), and when taken together, such activities are central to the activity of the Internet site or sites accessed through a specific domain name.

''(b) INJUNCTIVE RELIEF.—On application of the Attorney General following the commencement of an action pursuant to subsection (c), the court may issue a temporary restraining order, a preliminary injunction, or an injunction against the domain name used by an Internet site dedicated to infringing activities to cease and desist from undertaking any infringing activity in violation of this section, in accordance with rule 65 of the Federal Rules of Civil Procedure. A party described in subsection (e) receiving an order issued pursuant to this section shall take the appropriate actions described in subsection (e).

''(c) IN REM ACTION.—

''(1) IN GENERAL.—The Attorney General may commence an in rem action against any domain name used by an Internet site in the judicial district in which the domain name registrar or domain name registry is located, or, if pursuant to subsection (d)(2), in the District of Columbia, if—

''(A) the domain name is dedicated to infringing activities; and

''(B) the Attorney General simultaneously—

''(i) sends a notice of the alleged violation and intent to proceed under this subsection to the registrant of the domain name at the postal and e-mail address provided by the registrant to the registrar, if available; and

''(ii) publishes notice of the action as the court may direct promptly after filing the action.

''(2) SERVICE OF PROCESS.—For purposes of this section, the actions described under paragraph (1)(B) shall constitute service of process.

''(d) SITUS.—

''(1) DOMAINS FOR WHICH THE REGISTRY OR REGISTRAR IS LOCATED DOMESTICALLY.—In an in rem action commenced under subsection (c), a domain name shall be deemed to have its situs in the judicial district in which—

''(A) the domain name registrar or registry is located, provided that for a registry that is located in more than 1 judicial district, venue shall be appropriate at the principal place where the registry operations are performed; or

''(B) documents sufficient to establish control and authority regarding the disposition of the registration and use of the domain name are deposited with the court.

''(2) DOMAINS FOR WHICH THE REGISTRY OR REGISTRAR IS NOT LOCATED DOMESTICALLY.—

''(A) ACTION BROUGHT IN DISTRICT OF COLUMBIA.—If the provisions of paragraph (1) do not apply to a particular domain name, the in rem action may be brought in the District of Columbia to prevent the importation into the United States of goods and services offered by an Internet site dedicated to infringing activities if—

''(i) the domain name is used to access such Internet site in the United States; and

''(ii) the Internet site—

''(I) conducts business directed to residents of the United States; and

''(II) harms intellectual property rights holders that are residents of the United States.

''(B) DETERMINATION BY THE COURT.—For purposes of determining whether an Internet site conducts business directed to residents of the United States under subparagraph (A)(ii)(I), a court shall consider, among other indicia whether—

''(i) the Internet site is actually providing goods or services to subscribers located in the United States;

''(ii) the Internet site states that it is not intended, and has measures to prevent, infringing material from being accessed in or delivered to the United States;

''(iii) the Internet site offers services accessible in the United States; and

''(iv) any prices for goods and services are indicated in the currency of the United States.

''(e) SERVICE OF COURT ORDER.—

''(1) DOMESTIC DOMAINS.—In an in rem action to which subsection (d)(1) applies, the Attorney General shall serve any court order issued pursuant to this section on the domain name registrar or, if the domain name registrar is not located within the United States, upon the registry. Upon receipt of such order, the domain name registrar or domain name registry shall suspend operation of, and lock, the domain name.

''(2) NONDOMESTIC DOMAINS.—

''(A) ENTITY TO BE SERVED.—In an in rem action to which subsection (d)(2) applies, the Attorney General may serve any court order issued pursuant to this section on any entity listed in clauses (i) through (iii) of subparagraph (B).

''(B) REQUIRED ACTIONS.—Upon receipt of a court order issued pursuant to this section—

''(i) a service provider, as that term is defined in section 512(k)(1) of title 17, United States Code, or other operator of a domain name system server shall take reasonable

steps that will prevent a domain name from resolving to that domain name's Internet protocol address;

''(ii) a financial transaction provider, as that term is defined in section 5362(4) of title 31, United States Code, shall take reasonable measures, as expeditiously as practical, to prevent—

''(I) its service from processing transactions for customers located within the United States based on purchases associated with the domain name; and

''(II) its trademarks from being authorized for use on Internet sites associated with such domain name; and

''(iii) a service that serves contextual or display advertisements to Internet sites shall take reasonable measures, as expeditiously as practical, to prevent its network from serving advertisements to an Internet site accessed through such domain name.

''(3) IMMUNITY.—No cause of action shall lie in any Federal or State court or administrative agency against any entity receiving a court order issued under this section, or against any director, officer, employee, or agent thereof, for any action reasonably calculated to comply with this section or arising from such order.

''(f) PUBLICATION OF ORDERS.—The Attorney General shall inform the Intellectual Property Enforcement Coordinator of all court orders issued under this section directed to specific domain names associated with Internet sites dedicated to infringing activities. The Intellectual Property Enforcement Coordinator shall post such domain names on a publicly available Internet site, together with other relevant information, in order to inform the public.

''(g) ENFORCEMENT OF ORDERS.—In order to compel compliance with this section, the Attorney General may bring an action against any party receiving a court order issued pursuant to this section that willfully or persistently fails to comply with such order. A showing by the defending party in such action that it does not have the technical means to comply with this section shall serve as a complete defense to such action.

''(h) MODIFICATION OR VACATION OF ORDERS; DISMISSAL.—

''(1) MODIFICATION OR VACATION OF ORDER.—At any time after the issuance of a court order constituting injunctive relief under this section—

''(A) the Attorney General may apply for a modification of the order—

''(i) to expand the order to apply to a domain name that is reconstituted using a different domain name subsequent to the original order, and

''(ii) to include additional domain names that are used in substantially the same manner as the Internet site against which the action was brought,

by providing the court with clear indicia of joint control, ownership, or operation of the Internet site associated with the domain name subject to the order and the Internet site associated with the requested modification; and

''(B) a defendant or owner or operator of a domain name subject to the order, or any party required to take action based on the order, may petition the court to modify, suspend, or vacate the order, based on evidence that—

''(i) the Internet site associated with the domain name subject to the order is no longer dedicated to infringing activities; or

''(ii) the interests of justice require that the order be modified, suspended, or vacated.

''(2) DISMISSAL OF ORDER.—A court order constituting injunctive relief under this section issued against a domain name used by an Internet site dedicated to infringing activities shall automatically cease to have any force or effect upon expiration of the registration of the domain name. It shall be the responsibility of the domain name registrar to notify the court of such expiration.

''(i) SAVINGS CLAUSE.—Nothing in this section shall be construed to limit civil or criminal remedies available to any person (including the United States) for infringing activities on the Internet pursuant to any other Federal or State law.

''(j) INTERNET SITES ALLEGED BY THE DEPARTMENT OF JUSTICE TO BE DEDICATED TO INFRINGING ACTIVITIES.—

''(1) IN GENERAL.—The Attorney General shall maintain a public listing of domain names that, upon information and reasonable belief, the Department of Justice determines are dedicated to infringing activities but for which the Attorney General has not filed an action under this section.

''(2) PROTECTION FOR UNDERTAKING CORRECTIVE MEASURES.—If an entity described under subsection (e) takes any action specified in such subsection with respect to a domain name that appears on the list established under paragraph (1), then such entity shall receive the immunity protections described under subsection (e)(3).

''(3) REMOVAL FROM LIST.—The Attorney General shall establish and publish procedures for the owner or operator of a domain name appearing on the list established under paragraph (1) to petition the Attorney General to remove such domain name from the list based on any of the factors described under subsection (h)(1)(B).

''(4) JUDICIAL REVIEW.—

''(A) IN GENERAL.—After the Attorney General makes a final determination on a petition to remove a domain name appearing on the list established under paragraph (1) filed by an individual pursuant to the procedures referred to in paragraph (3), the individual may obtain judicial review of such determination in a civil action commenced not later than 90 days after notice of such decision, or such further time as the Attorney General may allow.

''(B) JURISDICTION.—A civil action for such judicial review shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has a principal place of business, or, if the plaintiff does not reside or have a principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia.

''(C) ANSWER.—As part of the Attorney General's answer to a complaint for such judicial review, the Attorney General shall file a certified copy of the administrative record compiled pursuant to the petition to remove, including the evidence upon which the findings and decision complained of are based.

''(D) JUDGMENT.—The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming or reversing the result of the Attorney General's determination on the petition to remove, with or without remanding the cause for a rehearing.''.

SEC. 3. REQUIRED ACTIONS BY THE ATTORNEY GENERAL.

The Attorney General shall—

(1) publish procedures to receive information from the public about Internet sites that are dedicated to infringing activities, as that term is defined under section 2324 of title 18, United States Code;

(2) provide guidance to intellectual property rights holders about what information such rights holders should provide the Department of Justice to initiate an investigation pursuant to such section 2324;

(3) provide guidance to intellectual property rights holders about how to supplement an ongoing investigation initiated pursuant to such section 2324;

(4) establish standards for prioritization of actions brought under such section 2324; and

(5) provide appropriate resources and procedures for case management and development to affect timely disposition of actions brought under such section 2324.

Mr. HATCH. Mr. President, I rise to express my support for S. 3804, the Combating Online Infringement and Counterfeits Act, as introduced by Senator PATRICK LEAHY of Vermont. Over the years, Senator LEAHY and I have tackled some of the most complex issues related to intellectual property enforcement. With the introduction of today's bill, we narrow our focus on the pervasive practice of online piracy and counterfeiting.

In our global economy the Internet has become the glue of international commerce—connecting consumers with a wide-array of products and services worldwide. But it has also become a tool for online thieves to sell counterfeit and pirated goods. These online thieves are making hundreds of millions of dollars by luring consumers to what appear to be legitimate websites, where unauthorized downloads, streaming or downloaded copyrighted content and counterfeit goods are sold. Not only do these websites facilitate massive theft of American IP, but they undermine legitimate commerce.

We cannot afford to not act, especially when, by some estimates, IP accounts for a third of the market value of all U.S. stocks—approximately five trillion dollars or more. That accounts for more than 40 percent of the U.S. gross domestic product, and is greater than the entire GDP of any other nation in the world.

Utah is considered a very popular state for film and television production activity. Nothing compares to the red rock of Southern Utah or the sweeping grandeur of the Wasatch Mountains. Not to mention Utah's workforce is one of the most highly educated and hard-working around. It is estimated that the motion picture and television industries are responsible for over 6,930 direct jobs and $180.8 million in wages in Utah. That is why we must combat online piracy and counterfeiting, for they threaten the vitality of the U.S. economy and its workforce.

Just recently the Congressional International Anti-Piracy Caucus, on which I serve as cochairman, introduced the 2010 International Piracy Watch List, a report of those nations where copyright piracy has reached alarming levels. For the first time the Caucus also highlighted the problem of websites that provide unauthorized access to copyrighted works made by U.S. creators. The websites singled out were China's Baidu, Canada's isoHunt, Ukraine's MP3fiesta, Sweden's Pirate Bay, Germany's Rapidshare and Luxembourg's RMX4U. This is a sobering reminder of just how organized and sophisticated these websites have become in perpetrating online criminal activity.

There is no quick fix to this problem, unfortunately. But one thing is for certain: doing nothing is not an option. We must explore ways, albeit in incremental steps, to take down offending websites. For this reason, I believe the Combating Online Infringement and Counterfeits Act is a critical step forward in our ongoing fight against online piracy and counterfeiting.

If enacted, the Combating Online Infringement and Counterfeits Act would provide the Department of Justice, DOJ, an expedited process for cracking down on websites that traffic in pirated goods or services.

The bill would also authorize the DOJ to file an in rem civil action against a domain name, and seek a preliminary order from the court that the domain name is being used to sell infringing material.

If this legislation is enacted, the DOJ will be required to publish notice of the action promptly after filing, and it would have to demonstrate that the owners of the site engaged in substantial and repeated online piracy or counterfeiting. The bill also includes substantial safeguards to prevent abuse by the DOJ. For example, a Federal court would have the final say as to whether a particular site would be cut off from supportive services. In addition, the bill would allow owners or site operators to petition the court to lift the order.

I am pleased with the progress that we have made so far on this bill and look forward to working with my colleagues on further refinements as it moves through the legislative process. We must take steps to combat those websites that are profiting from stolen American intellectual property.

By Mr. BINGAMAN (for himself, Mr. UDALL of New Mexico, Mr. SCHUMER, and Mr. BENNET):

S. 3805. A bill to authorize the Attorney General to award grants for States to implement minimum and enhanced DNA collection processes; to the Committee on the Judiciary.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Katie Sepich Enhanced DNA Collection Act of 2010. I am pleased that Senators UDALL of New Mexico, SCHUMER, and BENNET of Colorado, are joining me today in sponsoring this important piece of legislation.

Similar legislation, which was championed in the House of Representatives by Congressman TEAGUE, overwhelmingly passed that body with a bipartisan vote of 357 to 32. The bill is named after Katie Sepich, a promising graduate student attending New Mexico State University who was tragically murdered in 2003.

The man who killed Katie was arrested for aggravated assault about three months after the murder. Although police had collected the killer's DNA from the crime scene, because there was no requirement that DNA be taken from individuals arrested for serious felonies, police weren't able to get a match until about three years after the murder when the man was sent to prison after being convicted of unrelated crimes.

If New Mexico had the arrestee law then that it has today it would have taken three months, not three years, to solve the crime. Katie's mother, Jayann, has worked tirelessly at the state and Federal level to give law enforcement the tools they need to promptly solve crimes and ensure that other mothers don't have to suffer the same horrible ordeal that her family has. I commend Congressman TEAGUE for taking up this cause in the House, and I look forward to helping with this effort in the Senate.

We can't get Katie back, or the other lives that have been lost to these senseless crimes, but we can do something to help solve cases and prevent similar crimes from occurring in the future. One such step is to enhance the capacity of states to collect the DNA of individuals arrested for certain felony crimes, which would substantially increase the ability of law enforcement to match DNA found at crimes scenes with that of suspects and individuals who have been previously arrested, charged, or convicted of crimes.

The Federal Government and about half the states, including New Mexico, currently collect arrestee DNA for serious offenses. This has proven to be a very effective tool in solving cases, and it makes sense to incentivize states to continue and to expand this effort. Since New Mexico implemented ''Katie's Law'' in 2007, there have been about 100 matches of arrestees. It is also important to note that DNA collection has not only demonstrated its effectiveness in terms of saving lives and preventing crimes, but it has also proved to be an important means of ensuring that innocent individuals are not mistakenly jailed for crimes they did not commit.

Let me take a moment to specifically describe what this legislation would, and would not, do. First, this legislation is aimed at creating an incentive for states to enact arrestee DNA collection programs. It is not a mandate. States that meet minimum collection guidelines could apply for DOJ grant assistance in covering the first-year costs that they have incurred or will incur in implementing the standards. If they enact laws in accordance with the enhanced guidelines, States would be eligible for an additional bonus payment.

Second, the bill encourages DNA testing for serious felonies, such as murder, sex crimes, aggravated assault, and burglary. It is narrowly tailored to apply to the most serious crimes. Third, the legislation provides that all of the expungement provisions under federal law are applicable. Arrestees who have their DNA included in the federal database may have their records expunged if their conviction is overturned, they are acquitted, or charges are dismissed or not filed within the applicable time period. Furthermore, the bill provides that as a condition of receiving a grant states must notify individuals who submit samples of the relevant expungement procedures and post the information on a public Web site.

Lastly, I would like to address the concerns some have raised about the constitutionality of collecting arrestee DNA. Although courts have upheld the collection of arrestee DNA, I recognize that the question of whether the collection of a DNA sample from an arrestee is consistent with the Fourth Amendment isn't a completely settled question of law. Some courts have viewed the collection as something akin to fingerprinting and other courts have viewed it as a more intrusive search, such as the taking of a blood sample. However, the Department of Justice has stated that it believes that this legislation is constitutional and is supportive of encouraging states to pass DNA arrestee laws. I believe that such programs, with appropriate safeguards in place, have demonstrated that they can be a very effective mechanism to save lives, solve crimes, and prevent wrongful convictions.

For these reasons, I urge my colleagues to support this important legislation.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH):

S. 3806. A bill to protect Federal employees and visitors, improve the security of Federal facilities and authorize and modernize the Federal Protective Service; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I am pleased to join with Senators COLLINS, AKAKA, and VOINOVICH today to introduce the bipartisan SECURE Facilities Act of 2010—legislation that would modernize and reform an important but often overlooked agency within the Department of Homeland Security, DHS: the Federal Protective Service, FPS.

FPS—with just 1,200 full time employees and approximately 15,000 contract guards—is responsible for security at 9,000 Federal buildings across the land. That mission, unfortunately, is in grave peril—due to severe budget shortfalls, mismanagement, and multiple operational challenges. That is why we are introducing legislation today to reform the agency, provide it with adequate resources, strengthen its management capabilities, and help it function at a higher level so it can protect visitors and employees at Federal buildings across this country more effectively.

Let me provide some background. When FPS was folded into DHS in 2003, it lost access to supplemental funding from its previous parent agency—the General Services Administration. FPS immediately ran into trouble. It had

difficulty paying its bills, budget cuts hurt employee training and other important functions, and personnel cuts negatively affected the agency's performance. All this occurred even as the agency was given more responsibilities, and the Administration was trying to downsize the FPS workforce by one-third.

To assist us in our oversight of the agency, Senators COLLINS, AKAKA, VOINOVICH, and I asked the Government Accountability Office, GAO, in February 2007 to initiate a comprehensive review of the FPS. GAO reported to Congress 8 times between 2004 and 2010 on the financial and management challenges at FPS, and made 32 recommendations for improvement, some of which FPS adopted.

What did GAO find? Unfortunately, it found a seriously dysfunctional agency that lacked much, if any, focus or strategy for accomplishing its mission—where guards were caught sleeping on the job, and GAO investigators were able to successfully smuggle bomb-making ingredients past security to build an explosive device in a restroom and then stroll around the building undetected. GAO's review concluded that contract guards lacked adequate training, FPS personnel suffered from low morale, oversight of the contract guards was poor, and that many of the standards that guide Federal building security and guard behavior are outdated.

The SECURE Facilities Act of 2010 addresses these shortcomings and incorporates recommendations from GAO. For the first time, we would formally authorize the Federal Protective Service and the interagency government body responsible for establishing security standards for all Federal facilities, the Interagency Security Committee. Our legislation also addresses four major challenges.

First, the bill ensures that FPS has sufficient personnel to carry out its mission. Though the agency has assumed increased responsibilities since it joined DHS, it has done so with fewer personnel.

Second, our legislation tackles deficiencies within the contract guard program. FPS contract guards are the first line of defense at Federal facilities, so we must ensure they are held to a high standard and are prepared and equipped to face the many different kinds of threats Federal buildings are vulnerable to.

Third, the bill ensures the FPS is focused and prepared to address the threat of explosives. The 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City drew our attention to this threat, but FPS has been slow to deploy sufficient countermeasures to detect and deter this type of attack.

Fourth, our bill is mindful of the delicate balance between public access and security. We have worked to ensure that the emphasis on securing Federal facilities remains on security but we also support avenues of appeal if a building tenant believes a security countermeasure unduly hinders public access. If the Federal Protective Service is to be held accountable—by Congress, the administration, and the American people—it should no longer be forced to defend Federal agencies that choose to implement less costly and potentially less effective security countermeasures for buildings.

Our bill would provide additional funding for the agency by directing OMB to adjust the building security fees paid by other agencies to ensure adequate funding for FPS. We would provide sufficient resources so that FPS can hire 500 full time employees over the next 4 years. We would also ensure that FPS never employs fewer than 1,200 full time employees at any point—a conservative number that may well require an increase over time.

While many of those additional 500 new employees will be law enforcement officers, the legislation also provides FPS with the flexibility to hire additional administrative and support personnel, allowing it to improve its overall management, strengthen its oversight of contract guards, monitor contractor performance, and share contract assessments throughout the agency. The legislation also provides Federal law enforcement retirement benefits to FPS officers, to help the agency recruit and retain quality personnel.

The bill further would require the FPS to maintain overt and covert testing programs to assess the training of guards, the security of Federal facilities, and to establish procedures for retraining or terminating ineffective guards. The bill ensures the basic documents outlining a security guard's general and specific responsibilities, the Security Guard Information Manual, and their post orders, are up to date and periodically reviewed.

We would require DHS to establish performance-based standards for checkpoint detection technologies for explosives and other threats at Federal facilities. It would allow FPS officers to carry firearms off duty, as most other Federal law enforcement officers can, allowing them to respond to incidents more quickly. Finally, the bill includes several reporting requirements, including one on agency personnel needs, one on retention rates of contract guards, and another looking at the feasibility of federalizing the contract guard workforce.

We are deeply indebted to the excellent work of GAO which we highlighted in a July 8, 2009, Homeland Security and Governmental Affairs Committee hearing. At the hearing, GAO unveiled the results of its year-long investigation conducted at the Committee's request. GAO visited 6 of 11 FPS regions throughout the country and observed the guard inspection process; interviewed regional managers, inspectors, guards and contract guard managers; met with representatives from security guard companies; analyzed guard contract requirements, guard training and certification requirements, and guard instruction documents.

GAO found that the security provided at Federal buildings by FPS personnel and contract security guards fell well short of what we expect of them. Some guards lacked basic security or x-ray machine training. The FPS was hard pressed to identify which guards were qualified or effective, leading to several embarrassing incidents. One guard used a government computer to run an adult website during his shift, while another inattentive guard allowed a baby in a carrier to pass through an X-ray machine. A third guard was photographed asleep at his station.

GAO's special investigations unit conducted its own covert tests at ten high security Federal facilities in several different cities. Using readily available components to make a liquid-based improvised explosive device, they smuggled the components through security, manufactured a bomb in a public restroom, and then moved throughout the Federal building undetected. Some of the buildings tested by GAO investigators house district offices for our colleagues right here in the House and Senate. I note, however, that while the components were real, the actual explosive liquids were diluted to ensure the bomb was not functional.

Based on the Committee's and GAO's oversight work over the past several years, it is clear that Congress must move quickly to address the remaining security vulnerabilities associated with our Federal buildings.

I am confident that this comprehensive, bipartisan legislation will foster meaningful reform, modernize the Federal Protective Service, and improve the security of our Federal facilities across the country. I urge my colleagues to support the bill and I thank Senator COLLINS, Senator AKAKA, Senator VOINOVICH and their hardworking staffs for all that they have done on this issue so we could introduce this bill today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Supporting Employee Competency and Updating Readiness Enhancements for Facilities Act of 2010'' or the ''SECURE Facilities Act of 2010''.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

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

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Homeland Security of the House of Representatives;

(D) the Committee on Transportation and Infrastructure of the House of Representatives; and

(E) the Committee on Appropriations of the House of Representatives.

(2) DIRECTOR.—The term ''Director'' means the Director of the Federal Protective Service.

(3) FEDERAL FACILITY.—The term ''Federal facility''—

(A) means any building and grounds and all property located in or on that building and grounds, that are owned, occupied or secured by the Federal Government, including any agency, instrumentality or wholly owned or mixed-ownership corporation of the Federal Government; and

(B) does not include any building, grounds, or property used for military activities.

(4) FEDERAL PROTECTIVE SERVICE OFFICER.—The term ''Federal protective service officer''—

(A) has the meaning given under sections 8331 and 8401 of title 5, United States Code; and

(B) includes any other employee of the Federal Protective Service designated as a Federal protective service officer by the Secretary.

(5) QUALIFIED CONSULTANT.—The term ''qualified consultant'' means an non-Federal entity with experience in homeland security, infrastructure protection and physical security, Government workforce issues, and Federal human capital policies.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

SEC. 3. FEDERAL PROTECTIVE SERVICE.

(a) IN GENERAL.—Title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

''Subtitle E—Federal Protective Service

''SEC. 241. DEFINITIONS.

''In this subtitle:

''(1) AGENCY.—The term 'agency' means an executive agency.

''(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

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

''(B) the Committee on Appropriations of the Senate;

''(C) the Committee on Homeland Security of the House of Representatives;

''(D) the Committee on Transportation and Infrastructure of the House of Representatives; and

''(E) the Committee on Appropriations of the House of Representatives.

''(3) DIRECTOR.—The term 'Director' means the Director of the Federal Protective Service.

''(4) FACILITY SECURITY LEVEL.—The term 'facility security level'—

''(A) means a rating of each Federal facility based on the analysis of several facility factors that provides a basis for that facility's attractiveness as a target and potential affects or consequences of a criminal or terrorist attack, which then serves as a basis for the implementation of certain levels of security protection; and

''(B) is determined by the Federal Protective Service, or agency authorized to provide all protective services for a facility under the provisions of section 263 and guided by Interagency Security Committee standards.

''(5) FEDERAL FACILITY.—The term 'Federal facility'—

''(A) means any building and grounds and all property located in or on that building and grounds, that are owned, occupied or secured by the Federal Government, including any agency, instrumentality or wholly owned or mixed-ownership corporation of the Federal Government; and

''(B) does not include any building, grounds, or property used for military activities.

''(6) FEDERAL FACILITY PROTECTED BY THE FEDERAL PROTECTIVE SERVICE.—The term 'Federal facility protected by the Federal Protective Service'—

''(A) means those facilities owned or leased by the General Services Administration, and other facilities at the discretion of the Secretary; and

''(B) does not include any facility, or portion thereof, which the United States Marshals Service is responsible for under section 566 of title 28, United States Code.

''(7) FEDERAL PROTECTIVE SERVICE OFFICER.—The term 'Federal protective service officer'—

''(A) has the meaning given under sections 8331 and 8401 of title 5, United States Code; and

''(B) includes any other employee of the Federal Protective Service designated as a Federal protective service officer by the Secretary.

''(8) INFRASTRUCTURE SECURITY CANINE TEAM.—The term 'infrastructure security canine team' means a canine and a Federal protective service officer that are trained to detect explosives or other threats as defined by the Secretary.

''(9) IN-SERVICE FIELD STAFF.—The term 'in-service field staff' means Federal Protective Service law enforcement officers who, while working, are directly engaged on a daily basis protecting and enforcing law at Federal facilities, including police officers, inspectors, area commanders and special agents, and such other equivalent positions as designated by the Secretary.

''(10) SECURITY ORGANIZATION.—The term 'security organization' means an agency or an internal agency component responsible for security at a specific Federal facility.

''SEC. 242. ESTABLISHMENT.

''(a) ESTABLISHMENT.—There is established the Federal Protective Service within the Department of Homeland Security.

''(b) MISSION.—The mission of the Federal Protective Service is to render Federal facilities protected by the Federal Protective Service safe and secure for Federal employees, officials, and visitors in a professional manner.

''(c) DIRECTOR.—The head of the Federal Protective Service shall be the Director of the Federal Protective Service. The Director shall report to the Under Secretary for the National Protection and Programs Directorate.

''(d) DUTIES AND POWERS OF THE DIRECTOR.—

''(1) IN GENERAL.—Subject to the supervision and direction of the Secretary, the Director shall be responsible for the management and administration of the Federal Protective Service and the employees and programs of the Federal Protective Service.

''(2) PROTECTION.—The Director shall secure Federal facilities which are protected by the Federal Protective Service, and safeguard all occupants, including Federal employees, officers, and visitors.

''(3) ENFORCEMENT POLICY.—The Director shall establish and direct the policies of the Federal Protective Service, and advise the Under Secretary for the National Protection and Programs Directorate on policy matters relating to the Federal Protective Service.

''(4) TRAINING.—The Director shall—

''(A) determine the minimum level of training or certification for—

''(i) employees of the Federal Protective Service; and

''(ii) armed contract security guards; and

''(B) provide training, in coordination with the Interagency Security Committee, to members of a Facility Security Committee.

''(5) INVESTIGATIONS.—The Director shall investigate and refer for prosecution the violation of any Federal law relating to the security of Federal facilities protected by the Federal Protective Service.

''(6) INSPECTIONS.—The Director shall inspect Federal facilities protected by the Federal Protective Service for the purpose of determining compliance with Federal security standards.

''(7) PERSONNEL.—The Director shall provide adequate numbers of trained personnel to ensure Federal security standards are met.

''(8) INFORMATION SHARING.—The Director shall provide crime prevention and threat awareness training to tenants of Federal facilities.

''(9) PATROL.—The Director shall ensure areas in and around Federal facilities protected by the Federal Protective Service are regularly patrolled by Federal Protective Service officers.

''SEC. 243. FULL-TIME EQUIVALENT EMPLOYEE REQUIREMENTS.

''(a) IN GENERAL.—The Director shall ensure that the Federal Protective Service maintains not fewer than—

''(1) 1,350 full-time equivalent employees, including not fewer than 950 in-service field staff in fiscal year 2011;

''(2) 1,500 full-time equivalent employees, including not fewer than 1,025 in-service field staff in fiscal year 2012;

''(3) 1,600 full-time equivalent employees, including not fewer than 1,075 in-service field staff in fiscal year 2013; and

''(4) 1,700 full-time equivalent employees, including not fewer than 1,125 in-service field staff in fiscal year 2014.

''(b) MINIMUM FULL-TIME EQUIVALENT EMPLOYEE LEVEL.—

''(1) IN GENERAL.—The Director shall ensure that the Federal Protective Service shall maintain at any time not fewer than 1,200 full-time equivalent employees, including not fewer than 900 in-service field staff.

''(2) REPORT.—In any fiscal year after fiscal year 2014 in which the number of full-time equivalent employees of the Federal Protective Service is fewer than the number of full-time equivalent employees of the Federal Protective Service in the previous fiscal year, the Director shall submit a report to the appropriate congressional committees that provides—

''(A) an explanation of the decrease in full-time equivalent employees; and

''(B) a revised model of the number of full-time equivalent employees projected for future fiscal years.

''SEC. 244. OVERSIGHT OF CONTRACT GUARD SERVICES.

''(a) ARMED GUARD TRAINING REQUIREMENTS.—

''(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Supporting Employee Competency and Updating Readiness Enhancements for Facilities Act of 2010, the Director shall establish minimum training requirements for all armed guards procured by the Federal Protective Service.

''(2) REQUIREMENTS.—Training requirements under this subsection shall include—

''(A) at least 80 hours of instruction before a guard may be deployed, and at least 16 hours of recurrent training on an annual basis thereafter; and

''(B) Federal Protective Service monitoring or provision of the initial training of armed guards procured by the Federal Protective Service of —

''(i) at least 10 percent of the hours of required instruction in fiscal year 2011;

''(ii) at least 15 percent of the hours of required instruction in fiscal year 2012;

''(iii) at least 20 percent of the hours of required instruction in fiscal year 2013; and

''(iv) at least 25 percent of the hours of required instruction in fiscal year 2014 and each fiscal year thereafter.

''(b) TRAINING AND SECURITY ASSESSMENT PROGRAM.—

''(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Supporting Employee Competency and Updating Readiness Enhancements for Facilities Act of 2010, the Director shall establish a program to periodically assess—

''(A) the training of guards procured by the Federal Protective Service for the protection of Federal facilities; and

''(B) the security of Federal facilities.

''(2) PROGRAM.—The program under this subsection shall include an assessment of—

''(A) methods to test the training and certifications of guards;

''(B) a remedial training program for guards;

''(C) procedures for taking personnel actions, including processes for removing individuals who fail to conform to the training or performance requirements of the contract; and

''(D) an overt and covert testing program for the purposes of assessing guard performance and other facility security countermeasures.

''(3) REPORTS.—The Director shall annually submit a report to the appropriate congressional committees, in a classified manner, if necessary, on the results of the assessment of the overt and covert testing program of the Federal Protective Service.

''(c) REVISION OF GUARD MANUAL AND POST ORDERS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Supporting Employee Competency and Updating Readiness Enhancements for Facilities Act of 2010, the Director shall—

''(A) update the Security Guard Information Manual and post orders for each guard post overseen by the Federal Protective Service; or

''(B) certify to the Secretary that the Security Guard Information Manual and post orders described under subparagraph (A) have been updated during the 1-year period preceding the date of enactment of the Supporting Employee Competency and Updating Readiness Enhancements for Facilities Act of 2010.

''(2) REVIEW AND UPDATE.—Beginning with the first calendar year following the date of enactment of the Supporting Employee Competency and Updating Readiness Enhancements for Facilities Act of 2010, and every 2 years thereafter, the Director shall review and update the Security Guard Information Manual and post orders for each guard post overseen by the Federal Protective Service.

''(d) DATABASE OF GUARD SERVICE CONTRACTS.—The Director shall establish a database to monitor all contracts for guard services. The database shall include information relating to contract performance.

''SEC. 245. INFRASTRUCTURE SECURITY CANINE TEAMS.

''(a) IN GENERAL.—

''(1) INCREASED CAPACITY.—Not later than 180 days after the date of enactment of the Supporting Employee Competency and Updating Readiness Enhancements for Facilities Act of 2010, the Director shall—

''(A) begin to increase the number of infrastructure security canine teams certified by the Federal Protective Service for the purposes of infrastructure-related security by up to 10 canine teams in each of fiscal years 2011 through 2014; and

''(B) encourage State and local governments and private owners of high-risk facilities to strengthen security through the use of highly trained infrastructure security canine teams.

''(2) INFRASTRUCTURE SECURITY CANINE TEAMS.—To the extent practicable, the Director shall increase the number of infrastructure security canine teams by—

''(A) partnering with the Customs and Border Protection Canine Enforcement Program and the Canine Training Center Front Royal, the Transportation Security Administration's National Explosives Detection Canine Team Training Center, or other offices or agencies within the Department with established canine training programs;

''(B) partnering with agencies, State or local government agencies, nonprofit organizations, universities, or the private sector to increase the training capacity for canine detection teams; or

''(C) procuring explosives detection canines trained by nonprofit organizations, universities, or the private sector, if the canines are trained in a manner consistent with the standards and requirements developed under subsection (b) or other criteria developed by the Secretary.

''(b) STANDARDS FOR INFRASTRUCTURE SECURITY CANINE TEAMS.—

''(1) IN GENERAL.—The Director shall establish criteria, including canine training curricula, performance standards, and other requirements, necessary to ensure that infrastructure security canine teams trained by nonprofit organizations, universities, and private sector entities are adequately trained and maintained.

''(2) EXPANSION.—In developing and implementing the criteria, the Director shall—

''(A) coordinate with key stakeholders, including international, Federal, State, and local government officials, and private sector and academic entities to develop best practice guidelines;

''(B) require that canine teams trained by nonprofit organizations, universities, or private sector entities that are used or made available by the Secretary be trained consistent with the criteria; and

''(C) review the status of the private sector programs on at least an annual basis to ensure compliance with the criteria.

''(c) DEPLOYMENT.—The Director—

''(1) shall use the additional canine teams increased under subsection (a) to enhance security at Federal facilities;

''(2) may use the additional canine teams increased under subsection (a) on a more limited basis to support other homeland security missions;

''(3) may make available canine teams from other agencies within the Department—

''(A) for high-risk areas;

''(B) to address specific threats; or

''(C) on an as-needed basis; and

''(4) shall encourage, but not require, any Federal facility under the purview of Federal Protective Service to deploy Federal Protective Service-certified infrastructure security canine teams developed under this section.

''(d) CANINE PROCUREMENT.—The Director, shall ensure that infrastructure security canine teams are procured as efficiently as possible and at the lowest cost, while maintaining the needed level of quality.

''SEC. 246. ADVANCED IMAGING TECHNOLOGY.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Federal Protective Service, shall designate 3 Federal facilities protected by the Federal Protective Service for the deployment of advanced imaging technology.

''(b) PRIVACY PROTECTION.—

''(1) PROCEDURES.—The Secretary shall establish procedures that protect the privacy of individuals who are screened with advanced imaging technology.

''(2) PROHIBITION ON STORED IMAGES.—An agency may not store images of individuals screened by advanced imaging technology.

''(3) REGULATIONS.—Before the deployment of any advanced imaging technology which generates images of individuals that are viewed by a human operator, the Secretary shall prescribe regulations to protect the privacy of individuals who are screened using that advanced imaging technology.

''(c) COORDINATION.—The Secretary shall coordinate with the Administrator of the General Services Administration and the head of the relevant agencies in the deployment under subsection (a).

''(d) REPORT.—Not later than 1 year after the implementation of this section, the Secretary shall submit a report to the appropriate congressional committees that includes—

''(1) an analysis of the readiness or use of automatic detection technology for building security;

''(2) an evaluation of the lessons learned from the advanced imaging technology implemented under this section;

''(3) an analysis of the effect of such implementation on entry into Federal facilities;

''(4) an analysis for requirements, including costs, to install and maintain advanced imaging technology; and

''(5) an analysis of the privacy protections used under the program.

''SEC. 247. CHECKPOINT DETECTION TECHNOLOGY STANDARDS.

''The Under Secretary for the National Protection and Programs Directorate, in coordination with the Under Secretary for Science and Technology, and in consultation with the Interagency Security Committee, shall develop performance-based standards for checkpoint detection technologies for explosives and other threats at Federal facilities.

''SEC. 248. COMPLIANCE OF FEDERAL FACILITIES WITH FEDERAL SECURITY STANDARDS.

''(a) IN GENERAL.—The Director may assess security charges to an agency that is the owner or the tenant of a Federal facility protected by the Federal Protective Service in addition to any security charge assessed under section 249 for the costs of necessary security countermeasures if—

''(1) the Director, in coordination with the Interagency Security Committee, determines a Federal facility to be in noncompliance with Federal security standards established by the Interagency Security Committee; and

''(2) the Interagency Security Committee or the Director of the Federal Protective Service—

''(A) provided notice to that agency and the Facility Security Committee of—

''(i) the noncompliance;

''(ii) the actions necessary to be in compliance; and

''(iii) the latest date on which such actions need to be taken; and

''(B) the agency is not in compliance by that date.

''(b) REPORT ON NONCOMPLIANT FACILITIES.—The Director shall submit a report to the appropriate congressional committees, in a classified manner if necessary, of any facility determined to be in noncompliance with the Federal security standards established by the Interagency Security Committee.

''SEC. 249. FEES FOR PROTECTIVE SERVICES.

''(a) IN GENERAL.—The Director of the Federal Protective Service may assess and collect fees and security charges from agencies for the costs of providing protective services.

''(b) DEPOSIT OF FEES.—Any fees or security charges paid under this section shall be deposited in the appropriations account under the heading 'FEDERAL PROTECTION SERVICES' under the heading 'NATIONAL PROTECTION AND PROGRAMS DIRECTORATE' of the Department of Homeland Security.

''(c) ADJUSTMENT OF FEES.—The Director of the Office of Management and Budget shall adjust fees as necessary to carry out this subtitle.

''Subtitle F—Interagency Security Committee

''SEC. 261. DEFINITIONS.

''In this subtitle, the definitions under section 241 shall apply.

''SEC. 262. INTERAGENCY SECURITY COMMITTEE.

''(a) ESTABLISHMENT.—There is established within the executive branch the Interagency Security Committee (in this subtitle referred to as the 'Committee').

''(b) CHAIRPERSON.—The Committee shall be chaired by the Secretary, or the designee of the Secretary. The chairperson shall be responsible for the daily operations of the Committee and appeals board, final approval and enforcement of Committee standards, and the promulgation of regulations related to Federal facility security prescribed by the Committee.

''(c) MEMBERSHIP.—

''(1) VOTING MEMBERS.—The Committee shall consist of the following voting members:

''(A) AGENCY REPRESENTATIVES.—Representatives from the following agencies, appointed by the agency heads:

''(i) Department of Homeland Security.

''(ii) Department of State.

''(iii) Department of the Treasury.

''(iv) Department of Defense.

''(v) Department of Justice.

''(vi) Department of the Interior.

''(vii) Department of Agriculture.

''(viii) Department of Commerce.

''(ix) Department of Labor.

''(x) Department of Health and Human Services.

''(xi) Department of Housing and Urban Development.

''(xii) Department of Transportation.

''(xiii) Department of Energy.

''(xiv) Department of Education.

''(xv) Department of Veterans Affairs.

''(xvi) Environmental Protection Agency.

''(xvii) Central Intelligence Agency.

''(xviii) Office of Management and Budget.

''(xix) General Services Administration.

''(B) OTHER OFFICERS.—The following Federal officers or the designees of those officers:

''(i) The Director of the United States Marshals Service.

''(ii) The Director of the Federal Protective Service.

''(iii) The Assistant to the President for National Security Affairs.

''(C) JUDICIAL BRANCH REPRESENTATIVES.—A representative from the judicial branch appointed by the Chief Justice of the United States.

''(2) ASSOCIATE MEMBERS.—The Committee shall include the following associate members who shall be nonvoting members:

''(3) AGENCY REPRESENTATIVES.—Representatives from the following agencies, appointed by the agency heads:

''(A) Federal Aviation Administration.

''(B) Federal Bureau of Investigation.

''(C) Federal Deposit Insurance Corporation.

''(D) Federal Emergency Management Agency.

''(E) Federal Reserve Board.

''(F) Government Accountability Office.

''(G) Internal Revenue Service.

''(H) National Aeronautics and Space Administration.

''(I) National Capital Planning Commission.

''(J) National Institute of Standards & Technology.

''(K) Nuclear Regulatory Commission.

''(L) Office of Personnel Management.

''(M) Securities and Exchange Commission.

''(N) Smithsonian Institution.

''(O) Social Security Administration.

''(P) United States Coast Guard.

''(Q) United States Postal Service.

''(R) United States Army Corps of Engineers.

''(S) Court Services and Offender Supervision Agency.

''(T) Any other Federal officers as the President shall appoint.

''(d) WORKING GROUPS.—The Committee may establish interagency working groups to perform such tasks as may be directed by the Committee.

''(e) CONSULTATION.—The Committee may consult with other parties, including the Administrative Office of the United States Courts, to perform its responsibilities, and, at the discretion of the Committee, such other parties may participate in the working groups.

''(f) MEETINGS.—The Committee shall at minimum meet quarterly.

''(g) RESPONSIBILITIES.—The Committee shall—

''(1) not later than 180 days after the date of enactment of the Supporting Employee Competency and Updating Readiness Enhancements for Facilities Act of 2010, prescribe regulations—

''(A) for determining facility security levels, unless the Committee determines that similar regulations are issued by the Secretary before the end of that 90-day period; and

''(B) to establish risk-based performance standards for the security of Federal facilities, unless the Committee determines that similar regulations are issued by the Secretary before the end of that 90-day period;

''(2) establish protocols for the testing of the compliance of Federal facilities with Federal security standards, including a mechanism for the initial and recurrent testing of Federal facilities;

''(3) prescribe regulations to determine minimum levels of training and certification of contract guards;

''(4) prescribe regulations to establish a list of prohibited items for entry into Federal facilities;

''(5) establish minimum requirements and a process for providing basic security training for members of Facility Security Committees; and

''(6) take such actions as may be necessary to enhance the quality and effectiveness of security and protection of Federal facilities, including—

''(A) encouraging agencies with security responsibilities to share security-related intelligence in a timely and cooperative manner;

''(B) assessing technology and information systems as a means of providing cost-effective improvements to security in Federal facilities;

''(C) developing long-term construction standards for those locations with threat levels or missions that require blast resistant structures or other specialized security requirements;

''(D) evaluating standards for the location of, and special security related to, day care centers in Federal facilities; and

''(E) assisting the Secretary in developing and maintaining a centralized security database of all Federal facilities; and

''(7) carry out such other duties as assigned by the President.

''(h) APPEALS BOARD.—

''(1) ESTABLISHMENT.—The Committee shall establish an appeals board to consider appeals from any Facility Security Committee of—

''(A) a facility security level determination;

''(B) Federal Protective Service or designated security organization recommendations for countermeasures for a facility; or

''(C) a determination of noncompliance with Federal facility security standards.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The appeals board shall consist of 7 voting members of the Committee, of whom—

''(i) 1 shall be designated by the Secretary;

''(ii) 4 shall be selected by the voting members of the Committee; and

''(iii) 2 shall be selected by the voting members of the Committee to serve as alternates in the case of recusal by a member of the appeals board.

''(B) RECUSAL.—An appeals board member shall recuse himself or herself from any appeal from an agency which that member represents.

''(3) FINAL APPEAL.—A decision of the appeals board is final and shall not be subject to administrative or judicial review.

''(i) AGENCY SUPPORT AND COOPERATION.—

''(1) ADMINISTRATIVE SUPPORT.—To the extent permitted by law and subject to the availability of appropriations, the Secretary shall provide the Committee such administrative services, funds, facilities, staff and other support services as may be necessary for the performance of the functions of the Committee.

''(2) COOPERATION AND COMPLIANCE.—

''(A) IN GENERAL.—Each agency shall cooperate and comply with the policies and recommendations of the Committee.

''(B) SUPPORT.—To the extent permitted by law and subject to the availability of appropriations, agencies shall provide such support as may be necessary to enable the Committee to perform the duties and responsibilities of the Committee.

''(3) COMPLIANCE.—The Secretary shall be responsible for monitoring agency compliance with the policies and recommendations of the Committee.

''(j) AUTHORIZATION.—There are authorized to be appropriated to the Department of Homeland Security such sums as necessary to carry out the provisions of this section.

''SEC. 263. AUTHORIZATION OF AGENCIES TO PROVIDE PROTECTIVE SERVICES.

''(a) IN GENERAL.—The Committee shall establish a process under which the Secretary may authorize an agency to provide protective services for a Federal facility instead of the Federal Protective Services.

''(b) REQUIREMENTS.—The process under subsection (a) shall—

''(1) provide that—

''(A) an agency may submit an application to the Secretary for an authorization;

''(B) an authorization shall be for a 1-year period; and

''(C) an authorization may be renewed on an annual basis; and

''(2) require an agency to—

''(A) demonstrate security expertise; and

''(B) provide sufficient information through a security plan that the agency shall be in compliance with the Federal security standards of the Committee.

''SEC. 264. FACILITY SECURITY COMMITTEES.

''(a) IN GENERAL.—

''(1) MAINTENANCE OF FACILITY SECURITY COMMITTEES.—Except as provided under paragraph (2), the agencies that are tenants at each Federal facility shall maintain a Facility Security Committee for that Federal facility. Each agency that is a tenant at a Federal facility shall provide 1 employee to

serve as a member of the Facility Security Committee.

''(2) EXEMPTIONS.—The Secretary may exempt a Federal facility from the requirement under paragraph (1), if that Federal facility is authorized under section 263 to provide protective services.

''(b) CHAIRPERSON.—

''(1) IN GENERAL.—Each Facility Security Committee shall be headed by a chairperson, elected by a majority of the members of the Facility Security Committee.

''(2) RESPONSIBILITIES.—The chairperson shall be responsible for—

''(A) maintaining accurate contact information for agency tenants and providing that information, including any updates, to the Federal Protective Service or designated security organization;

''(B) setting the agenda for Facility Security Committee meetings;

''(C) referring Facility Security Committee member questions to Federal Protective Service or designated security organization for response;

''(D) accompanying Federal Protective Service or designated security organization representatives during on-site building security assessments;

''(E) maintaining an official record of each meeting;

''(F) acknowledging receipt of the building security assessment from Federal Protective Service or designated security organization; and

''(G) any other duties as determined by the Interagency Security Committee.

''(c) TRAINING FOR MEMBERS.—

''(1) IN GENERAL.—Except as provided under paragraphs (3) and (4), before serving as a member of a Facility Security Committee, an employee shall successfully complete a training course that meets a minimum standard of training as established by the Interagency Security Committee.

''(2) TRAINING.—Training under this subsection shall—

''(A) be provided by the Federal Protective Service or designated security organization, in coordination with the Interagency Security Committee;

''(B) be commensurate with the security level of the facility; and

''(C) include training relating to—

''(i) familiarity with published standards of the Interagency Security Committee;

''(ii) physical security criteria for Federal facilities;

''(iii) use of physical security performance measures;

''(iv) facility security levels determinations; and

''(v) best practices for safe mail handling.

''(3) WAIVERS.—The training requirement under this subsection may be waived by the Director or the Chairperson of the Interagency Security Committee if the Director or the Chairperson determines that an employee has related experience in physical security, law enforcement, or infrastructure security disciplines.

''(4) INCUMBENT MEMBERS.—

''(A) IN GENERAL.—This subsection shall apply to any Facility Security Committee established before, on, or after the date of enactment of the Supporting Employee Competency and Updating Readiness Enhancements for Facilities Act of 2010, except that any member of a Facility Security Committee serving on that date shall during the 1-year period following that date—

''(i) successfully complete a training course as required under paragraph (1); or

''(ii) obtain a waiver under paragraph (3).

''(B) COMPLIANCE.—Any member of a Facility Security Committee described under subparagraph (A) who does not comply with that subparagraph may not serve on that Facility Security Committee.

''(d) MEETINGS AND QUORUM.—

''(1) MEETINGS.—Each Facility Security Committee shall meet on a quarterly basis.

''(2) QUORUM.—A majority of the members of a Facility Security Committee shall be present for a quorum to conduct business.

''(e) APPEAL.—

''(1) IN GENERAL.—If a Facility Security Committee disagrees with a recommendation of the Federal Protective Service for necessary countermeasures or physical security improvements, the Chairperson of a Facility Security Committee may file an appeal of the recommendation with the Interagency Security Committee appeals board.

''(2) DECISION TO APPEAL.—The decision to file an appeal shall be agreed to by a majority of the members of a Facility Security Committee

''(3) MATTERS SUBJECT TO APPEAL.—A recommendation of the Federal Protective Service may be appealed under this subsection, including recommendations relating to—

''(A) prohibited items lists determined for Federal buildings by the Federal Protective Service and how those lists apply to employees and visitors;

''(B) countermeasure improvements;

''(C) building security assessment findings; and

''(D) building security levels.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the Homeland Security Act of 2002 is amended by inserting after the matter relating to title II the following:

''Subtitle E—Federal Protective Service

''Sec. 241. Definitions.
''Sec. 242. Establishment.
''Sec. 243. Full-time equivalent employee requirements.
''Sec. 244. Oversight of contract guard services.
''Sec. 245. Infrastructure security canine teams.
''Sec. 246. Advanced imaging technology.
''Sec. 247. Checkpoint detection technology standards.
''Sec. 248. Compliance of Federal facilities with Federal security standards.
''Sec. 249. Fees for protective services.

''Subtitle F—Interagency Security Committee

''Sec. 261. Definitions.
''Sec. 262. Interagency Security Committee.
''Sec. 263. Authorization of agencies to provide protective services.
''Sec. 264. Facility security committees.''.

SEC. 4. FEDERAL PROTECTIVE SERVICE OFFICERS OFF-DUTY CARRYING OF FIREARMS.

Section 1315(b)(2) of title 40, United States Code, is amended—

(1) in subsection (b)(2), by striking ''While engaged in the performance of official duties, an'' and inserting ''An''; and

(2) by striking subsection (c) and inserting the following:

''(c) REGULATIONS.—

''(1) IN GENERAL.—

''(A) PROTECTION AND ADMINISTRATION.—The Secretary may prescribe regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

''(B) PENALTY.—A person violating a regulation prescribed under this paragraph shall be fined under title 18, United States Code, imprisoned for not more than 30 days, or both.

''(2) OFF-DUTY FIREARMS.—The Secretary may prescribe regulations relating to the carrying of firearms while off-duty, including a list of firearms which may be carried while off-duty.''.

SEC. 5. CIVIL SERVICE RETIREMENT SYSTEM AND FEDERAL EMPLOYEES RETIREMENT SYSTEM.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITION.—Section 8331 of title 5, United States Code is amended—

(A) in paragraph (30), by striking ''and'' at the end;

(B) in paragraph (31), by striking the period and inserting ''and''; and

(C) by adding at the end the following:

''(32) 'Federal protective service officer' means an employee in the Federal Protective Service of the Department of Homeland Security—

''(A) who holds a position within the GS–0083, GS–0080, GS–1801, or GS–1811 job series (determined applying the criteria in effect as of September 1, 2007 or any successor position; and

''(B) who are authorized to carry firearms and empowered to make arrests in the performance of duties related to the protection of buildings, grounds and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality or wholly owned or mixed-ownership corporation thereof) and the persons on the property, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties in 1 or more positions (as described under subparagraph (A)) for at least 3 years.''.

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1)(A), by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''; and

(B) in the table contained in subsection (c), by adding at the end the following:

''Federal Protective Service Officer.	7.5	After June 29, 2011.''.

(3) MANDATORY SEPARATION.—The first sentence of section 8335(b)(1) of title 5, United States Code, is amended by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''.

(4) IMMEDIATE RETIREMENT.—Section 8336 of title 5, United States Code, is amended—

(A) in subsection (c)(1), by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''; and

(B) in subsections (m) and (n), by inserting ''as a Federal protective service officer,'' before ''or as a customs and border protection officer,''.

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) DEFINITION.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (35), by striking ''and'' at the end;

(B) in paragraph (36), by striking the period and inserting ''and''; and

(C) by adding at the end the following:

''(37) 'Federal protective service officer' means an employee in the Federal Protective Service of the Department of Homeland Security—

''(A) who holds a position within the GS–0083, GS–0080, GS–1801, or GS–1811 job series (determined applying the criteria in effect as of September 1, 2007) or any successor position; and

''(B) who are authorized to carry firearms and empowered to make arrests in the performance of duties related to the protection of buildings, grounds and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality or wholly owned or mixed-ownership corporation thereof) and the persons on the property, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties in 1 or more positions (as described under subparagraph (A)) for at least 3 years.''.

(2) IMMEDIATE RETIREMENT.—Paragraphs (1) and (2) of section 8412(d) of title 5, United States Code, are amended by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''.

(3) COMPUTATION OF BASIC ANNUITY.—Section 8415(h)(2) of title 5, United States Code, is amended by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''.

(4) DEDUCTIONS FROM PAY.—The table contained in section 8422(a)(3) of title 5, United States Code, is amended by adding at the end the following:

''Federal Protective Service Officer.	7.5	After June 29, 2011.''.

(5) GOVERNMENT CONTRIBUTIONS.—Paragraphs (1)(B)(i) and (3) of section 8423(a) of title 5, United States Code, are amended by inserting ''Federal protective service officer,'' before ''customs and border protection officer,'' each place that term appears.

(6) MANDATORY SEPARATION.—Section 8425(b)(1) of title 5, United States Code, is amended—

(A) by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,'' the first place that term appears; and

(B) inserting ''Federal protective service officer,'' before ''or customs and border protection officer,'' the second place that term appears.

(c) MAXIMUM AGE FOR ORIGINAL APPOINTMENT.—Section 3307 of title 5, United States Code, is amended by adding at the end the following:

''(h) The Secretary of Homeland Security may determine and fix the maximum age limit for an original appointment to a position as a Federal protective service officer, as defined by section 8401(37).''.

(d) REGULATIONS.—Any regulations necessary to carry out the amendments made by this section shall be prescribed by the Director of the Office of Personnel Management in consultation with the Secretary.

(e) EFFECTIVE DATE; TRANSITION RULES; FUNDING.—

(1) EFFECTIVE DATE.—The amendments made by this section shall become effective on the later of June 30, 2011 or the first day of the first pay period beginning at least 6 months after the date of enactment of this Act.

(2) TRANSITION RULES.—

(A) NONAPPLICABILITY OF MANDATORY SEPARATION PROVISIONS TO CERTAIN INDIVIDUALS.—The amendments made by subsections (a)(3) and (b)(6), respectively, shall not apply to an individual first appointed as a Federal protective service officer before the effective date under paragraph (1).

(B) TREATMENT OF PRIOR FEDERAL PROTECTIVE SERVICE OFFICER SERVICE.—

(i) GENERAL RULE.—Except as provided in clause (ii), nothing in this section shall be considered to apply with respect to any service performed as a Federal protective service officer before the effective date under paragraph (1).

(ii) EXCEPTION.—Service described in section 8331(32) and 8401(37) of title 5, United States Code (as amended by this section) rendered before the effective date under paragraph (1) may be taken into account to determine if an individual who is serving on or after such effective date then qualifies as a Federal protective service officer by virtue of holding a supervisory or administrative position in the Department of Homeland Security.

(C) MINIMUM ANNUITY AMOUNT.—The annuity of an individual serving as a Federal protective service officer on the effective date under paragraph (1) pursuant to an appointment made before that date shall, to the extent that its computation is based on service rendered as a Federal protective service officer on or after that date, be at least equal to the amount that would be payable to the extent that such service is subject to the Civil Service Retirement System or Federal Employees Retirement System, as appropriate, by applying section 8339(d) of title 5, United States Code, with respect to such service.

(D) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (c) shall be considered to apply with respect to any appointment made before the effective date under paragraph (1).

(3) FEES AND AUTHORIZATIONS OF APPROPRIATIONS.—

(A) FEES.—The Federal Protective Service shall adjust fees as necessary to ensure collections are sufficient to carry out amendments made in this section.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(4) ELECTION.—

(A) INCUMBENT DEFINED.—For purposes of this paragraph, the term ''incumbent'' means an individual who is serving as a Federal protective service officer on the date of the enactment of this Act.

(B) NOTICE REQUIREMENT.—Not later than 30 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall take measures reasonably designed to ensure that incumbents are notified as to their election rights under this paragraph, and the effect of making or not making a timely election.

(C) ELECTION AVAILABLE TO INCUMBENTS.—

(i) IN GENERAL.—An incumbent may elect, for all purposes, either—

(I) to be treated in accordance with the amendments made by subsection (a) or (b), as applicable; or

(II) to be treated as if subsections (a) and (b) had never been enacted.

(ii) FAILURE TO MAKE A TIMELY ELECTION.—Failure to make a timely election under clause (i) shall be treated in the same way as an election made under clause (i)(I) on the last day allowable under clause (iii).

(iii) DEADLINE.—An election under this subparagraph shall not be effective unless it is made at least 14 days before the effective date under paragraph (1).

(5) DEFINITION.—For the purposes of this subsection, the term ''Federal protective service officer'' has the meaning given such term by section 8331(32) or 8401(37) of title 5, United States Code (as amended by this section).

(6) EXCLUSION.—Nothing in this section or any amendment made by this section shall be considered to afford any election or to otherwise apply with respect to any individual who, as of the day before the date of the enactment of this Act—

(A) holds a positions within the Federal Protective Service; and

(B) is considered a law enforcement officers for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, by virtue of such position.

SEC. 6. REPORT ON FEDERAL PROTECTION SERVICE PERSONNEL NEEDS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on the personnel needs of the Federal Protection Service that includes recommendations on the numbers of Federal protective service officers and the workforce composition of the Federal Protection Service needed to carry out the mission of the Federal Protective Service during the 10-fiscal year period beginning after the date of enactment of this Act.

(b) PREPARATION.—The Secretary shall enter into a contract with a qualified consultant to prepare the report submitted under this section.

SEC. 7. REPORT ON RETENTION RATE FEDERAL PROTECTIVE SERVICE CONTRACT GUARD WORKFORCE.

Not later than 45 days after the date of enactment of this Act, the Director shall submit a report to the appropriate congressional committees on—

(1) retention rates within the Federal Protective Service contract guard workforce; and

(2) how the retention rate affects operations of the Federal Protective Service and the security of Federal facilities.

SEC. 8. REPORT ON THE FEASIBILITY OF FEDERALIZING THE FEDERAL PROTECTIVE SERVICE CONTRACT GUARD WORKFORCE.

(a) CONTRACT WITH CONSULTANT.—The Director shall enter into a contract with a qualified consultant to prepare the report submitted under this section.

(b) SUBMISSIONS.—Not later than 1 year after the date of enactment of this Act, the qualified consultant shall concurrently submit the report to the Secretary and the appropriate congressional committees.

(c) CONTENTS.—The report under this section shall include an evaluation of—

(1) converting in its entirety, or in part, the Federal Protective Service contract workforce into full-time Federal employees, including an option to post a full-time equivalent Federal protective service officer at each Federal facility that on the date of enactment of this Act has a contract guard stationed at that facility;

(2) the immediate and projected costs of the conversion;

(3) the immediate and projected costs of maintaining guards under contract status and of maintaining full-time Federal employee guards;

(4) the potential increase in security if converted, including an analysis of using either a Federal security guard, police officer, or Federal protective service officer instead of a contract guard;

(5) the hourly and annual costs of contract guards and the Federal counterparts of those guards; and

(6) a comparison of similar conversions of large groups of contracted workers and potential benefits and challenges.

SEC. 9. SAVINGS CLAUSE.

Nothing in this Act, including the amendments made by this Act, shall be construed to affect—

(1) the authorities under section 566 of title 28, United States Code;

(2) the authority of any Federal law enforcement agency other than the Federal Protective Service; or

(3) any authority of the Federal Protective Service not specifically enumerated by this Act that is in effect on the day before the date of enactment of this Act.

Ms. COLLINS. Mr. President, I rise today to introduce the SECURE Act of 2010—Supporting Employee Competency and Updating Readiness Enhancements. This bill would help to improve inadequate security at too many of our Federal buildings.

As a Nation, we have learned several hard truths: Terrorists are intent on attacking the United States, and their tactics continue to evolve. The early identification of a security gap can save countless lives if we act promptly to close it. There is no substitute for pre-emptive action to detect, disrupt, and defend against terrorist plots.

As we remember the lives lost when terrorists attacked the United States 9 years ago, we must avoid complacency. Our country's defenses must be nimble, multi-layered, informed by timely intelligence, and coordinated across multiple agencies.

This is difficult work, requiring painstaking attention to detail and an unwavering focus. We must remain vigilant to the threats we face. Unfortunately, the evidence indicates that there are significant security problems at Federal buildings, where thousands of employees serve thousands more of our citizens every work day.

The Federal Protective Service, FPS, is charged with securing nearly 9,000 Federal facilities and protecting the government employees who work in them, and the Americans who use them to access vital services.

But, independent investigations by the Government Accountability Office and the Department of Homeland Security Inspector General have documented serious and systemic security flaws within the operations of the FPS. These lapses place Federal employees and private citizens at risk.

In June of last year, for example, GAO's undercover investigators smuggled bomb-making materials into 10 Federal office buildings. Every single building GAO targeted was breached—a perfect record of security failure. At each facility, concealed bomb components passed through checkpoints monitored by FPS guards. Once inside, the covert GAO investigators were able to assemble the simulated explosive devices without interruption.

A July 2009 GAO report documented training flaws for FPS contract guards, some of whom failed to receive mandatory training on the operation of metal detectors and x-ray equipment. Other contract guards were deficient in key certifications such as CPR, First Aid, and firearms training. All told, GAO found that 62 percent of the FPS contract guards it reviewed lacked valid certifications in one or more of these areas.

This review also found that FPS did little to ensure compliance with rules and regulations and failed to conduct inspections of guard posts after regular business hours. When GAO investigators tested these posts, they found some guards sleeping on an overnight shift.

In another example, an inattentive guard allowed a baby in a carrier to pass through an x-ray machine on its conveyor belt. That guard was fired, but he ultimately won a lawsuit against the FPS because the agency could not document that he had received required training on the machine.

A few months earlier, in April 2009, the Department of Homeland Security's Inspector General also found critical failings in the FPS contract guard program. The Inspector General's recommendations included many concrete steps to strengthen contract guard performance, such as improving the award and management of contracts and increasing the amount of training and number of compliance inspections.

These reports demonstrate that American taxpayers are simply not receiving the security they have paid for and that they expect FPS to provide. The reports also show the vulnerabilities facing Federal employees and Federal infrastructure because of lax security.

While shining a light on these failings in multiple hearings, our Committee pressed the FPS to take action to close these security gaps. Although some tentative steps have been taken by FPS, we can no longer wait for OMB and DHS to implement the absolutely critical security measures necessary to help protect our Federal buildings, our Federal employees, and the American public.

The legislation that I introduce today, with Senators LIEBERMAN, AKAKA, and VOINOVICH, would help close these security gaps at our Federal buildings.

First, the bill would mandate the Interagency Security Committee, which was established by Executive Order 6 months after the Oklahoma City bombing, to increase security standards at Federal facilities. The ISC, comprised of representatives from agencies across the government, would establish risk-based performance standards for the security of federal buildings. FPS would then enforce these requirements based on the risk tier assigned the facility by the ISC.

Prior reports clearly demonstrate that FPS lacks authority to require tenant agencies of a Federal facility to comply with recommended security countermeasures.

For example, although FPS may ask tenant agencies to purchase or repair security equipment like cameras and x-ray machines, based on the ISC's recommended security countermeasures, these tenant agencies can refuse to purchase or repair the equipment based on cost.

Since FPS has no enforcement mechanism, these machines are not upgraded, or remain inoperable, and security suffers. With so much at stake, tenant agencies should not be able to effectively overrule the security experts on the ISC and at FPS.

To address this problem, our legislation would provide FPS the authority needed to mandate the implementation of security measures at a facility. FPS also would have the authority to inspect federal facilities to enforce compliance.

The bill would allow the FPS Director to charge additional fees if tenant agencies fail to comply with applicable security standards. In such cases, the Secretary also must notify Congress of the non-compliant facilities.

Our bill also would require an independent analysis of FPS's long-term staffing needs.

The Government has an obligation to protect our Nation's security, and our Federal buildings are targets for violence. This legislation would provide FPS with stronger authority to improve security at our Federal buildings. The American public that relies on these facilities and the Federal employees who work in them deserve better and more reliable protection.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 630—DESIGNATING NOVEMBER 28, 2010, AS ''DRIVE SAFER SUNDAY''

Mr. ISAKSON (for himself, Mr. CHAMBLISS, and Ms. KLOBUCHAR) submitted the following resolution; which was considered and agreed to:

S. RES. 630

Whereas motor vehicle travel is the primary means of transportation in the United States;

Whereas every individual traveling on the roads and highways needs to drive in a safer manner in order to reduce deaths and injuries that result from motor vehicle accidents;

Whereas according to the National Highway Traffic Safety Administration, wearing a seat belt saves more than 15,000 lives each year;

Whereas the Senate wants all people of the United States to understand the life-saving importance of wearing a seat belt and encourages motorists to drive safely, not just during the holiday season, but every time they get behind the wheel; and

Whereas the Sunday after Thanksgiving is the busiest highway traffic day of the year: Now, therefore, be it

Resolved, That the Senate—

(1) encourages—

(A) high schools, colleges, universities, administrators, teachers, primary schools, and secondary schools to launch campus-wide educational campaigns to urge students to be focused on safety when driving;

(B) national trucking firms to alert their drivers to be especially focused on driving safely on the Sunday after Thanksgiving, and to publicize the importance of the day through use of Citizen's Band (''CB'') radios and truck stops across the Nation;

(C) clergy to remind their members to travel safely when attending services and gatherings;

(D) law enforcement personnel to remind drivers and passengers to drive safely, particularly on the Sunday after Thanksgiving; and

(E) all people of the United States to use the Sunday after Thanksgiving as an opportunity to educate themselves about highway safety; and