

110TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

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

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**A BILL**

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

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

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

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

3   **SEC. 3. TABLE OF CONTENTS.**

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

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

TITLE I—AUTHORIZATION OF APPROPRIATIONS

- Sec. 101. Department of Homeland Security.

TITLE II—POLICY, MANAGEMENT, AND INTEGRATION  
IMPROVEMENTS

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

TITLE III—PROCUREMENT POLICY AND RESOURCES  
IMPROVEMENTS

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

TITLE IV—WORKFORCE PROVISIONS

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

## 3

TITLE V—INTELLIGENCE AND INFORMATION-SHARING  
PROVISIONS

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

TITLE VI—CYBER SECURITY INFRASTRUCTURE PROTECTION  
IMPROVEMENTS

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

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

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

## TITLE VIII—BORDER SECURITY PROVISIONS

## Subtitle A—Border Security Generally

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

## Subtitle B—Customs and Border Protection Agriculture Specialists

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

## TITLE IX—PREPAREDNESS AND RESPONSE PROVISIONS

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21          (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

24                          (A) in the table of contents in section

25                          1(b)—

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

“TITLE IV—BORDER AND TRANSPORTATION SECURITY”.

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

“Subtitle A—Border and Transportation Security”.

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

“Sec. 441. Transfer of functions.”;

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

“TITLE VI—POLICY, PLANNING, AND OPERATIONS  
COORDINATION

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

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

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

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

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

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

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

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

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

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

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

15 (H) in section 441—

16 (i) in the section heading, by striking

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

19 and

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

23 (I) in section 442(a)—



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

4 (ii) in paragraph (3)—

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

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

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

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

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

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

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

3 (2) OTHER LAWS.—

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

7 (i) in subsection (a)—

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

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

15 (ii) in subsection (b)—

16 (I) by striking “Under”; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

                  “Subtitle B—Operations Coordination and Planning

                  “Sec. 611. Operations Coordination and Planning.

                  “Subtitle C—Quadrennial Homeland Security Review

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

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

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

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

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

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

23 (b) CONSOLIDATION.—

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

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

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

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

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

14          (3) OTHER MISSION SUPPORT ACTIVITIES.—

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “(c) BOARDS AND COUNCILS.—

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

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

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

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

26 (b) REPORTING REQUIREMENTS.—

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

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

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

13           (2) ANNUAL REPORT.—

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

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

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

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

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

“Sec. 707. Department investment review.”.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8           (a) REPORT.—

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

14                 (A) the Secretary;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12           (1) in subsection (a)—

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

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

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

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

8 “(b) REPORTS.—

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

10 and

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

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

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

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

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

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

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

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

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

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

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

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

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

4       (a) REPORT.—

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

11                   (A) the Secretary;

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

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

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

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

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

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



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

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

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

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

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

20 (A) shall include, at a minimum—

21 (i) program management positions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (1) procurements by vessels in foreign waters;

8 or

9 (2) emergency procurements.

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

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

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

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

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

9 (i) TRAINING DURING FISCAL YEAR 2008.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

10                                   “(ii) shall not include—

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

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

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

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

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

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

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

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

1 associated with the adoption of such authority  
2 to—

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

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

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

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

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

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

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

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

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

16 (d) LIMITATION.—

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

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

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

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

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

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

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

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

18          (a) REPRESENTATION OF MINORITIES.—

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

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

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

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

5                   (1) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Sec. 708. Chief Learning Officer.”.

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

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

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

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

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

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

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

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

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

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

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

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

19       “(e) PROTECTION OF PRIVACY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 “(c) RESPONSIBILITIES.—

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

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

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

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

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

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

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

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

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



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

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

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

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

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

1 “(4) COLLABORATION.—

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

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

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

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

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

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

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

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘agency’—

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

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

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

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

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

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

26 “(c) DIRECTOR.—

1           “(1) ESTABLISHMENT AND APPOINTMENT.—

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

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

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

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

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

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

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

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

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

4           “(d) DEPUTY DIRECTORS.—

5           “(1) ESTABLISHMENT AND APPOINTMENT.—

6           There are 2 Deputy Directors of the National Cyber  
7           Security Center, who shall report to the Director.

8           “(2) DETAILEE AND EMPLOYEE.—

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

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

21           “(e) PRIMARY MISSIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           “(f) AUTHORITIES OF THE DIRECTOR.—

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 “(4) REVIEW AND INSPECTION.—

21 “(A) IN GENERAL.—The Director may—

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

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

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

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

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

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

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

16 “(g) REPORTS.—

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

20 “(2) CONTENTS.—

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           “(B) the National Academy of Sciences;

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

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

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

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

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

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

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

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

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

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

12 “(e) AUTHORIZATION OF APPROPRIATIONS.—

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

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

21 (b) TECHNICAL AND CONFORMING AMENDMENT.—

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

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

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

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

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

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

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

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

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

26 (c) FUNCTIONS.—

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

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

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

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

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

14           (d) CHAIRPERSON.—

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

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

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

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

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

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

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

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

16 (2) in subsection (d)—

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

11 “(c) RESPONSIBILITIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 “(a) DEFINITIONS.—In this section—

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

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

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

21 “(c) ACCESS TO RECORDS AND DATA.—

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



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

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

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

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

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

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

3 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—

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

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

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

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

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

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

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

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

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

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

23 (f) OPERATIONAL PLAN.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (a) IN GENERAL.—

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

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

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

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

25 “(A) MATERIAL THREAT.—

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

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

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

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

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



1 the following two categories of coun-  
2 termeasures:

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

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

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

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

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

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

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

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

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

4 (B) in paragraph (2)—

5 (i) in subparagraph (B)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (c) WORKFORCE STAFFING MODEL.—

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

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

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

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

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

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

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

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

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

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

1 (9) the date training was completed;

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

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

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

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

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

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

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



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

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

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

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

13 (3) make staffing allocation decisions.

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

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

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

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

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

25 “(3) MOBILE ENROLLMENT TEAMS.—

1 “(A) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

24                    “(D) FEES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22                  “(b) FINANCIAL ASSISTANCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Subtitle C—Other Grant Programs

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

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

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

18 It is the sense of the Senate that—

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



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

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

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

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

17 (3) there should be continued and additional  
18 support for customs and border protection agri-  
19 culture specialists and their unique mission.

20 **SEC. 812. INCREASE IN NUMBER OF U.S. CUSTOMS AND**  
21 **BORDER PROTECTION AGRICULTURE SPE-**  
22 **CIALISTS.**

23 (a) IN GENERAL.—Subject to the availability of ap-  
24 propriations, the Secretary shall increase the number of  
25 full-time customs and border protection agriculture spe-

1 cialists for United States ports of entry by not fewer than  
2 195 each fiscal year, for fiscal years 2009 through 2013,  
3 over the number of customs and border protection agri-  
4 culture specialists authorized on the last day of the pre-  
5 vious fiscal year.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated to the Department for  
8 the purpose of increasing the number of customs and bor-  
9 der protection agriculture specialists such sums as nec-  
10 essary for fiscal years 2009 through 2013.

11 **SEC. 813. AGRICULTURE SPECIALIST CAREER TRACK.**

12 (a) IN GENERAL.—The Secretary, acting through the  
13 Commissioner responsible for U.S. Customs and Border  
14 Protection—

15 (1) shall ensure that appropriate career paths  
16 for customs and border protection agriculture spe-  
17 cialists are identified, including the education, train-  
18 ing, experience, and assignments necessary for ca-  
19 reer progression within U.S. Customs and Border  
20 Protection;

21 (2) shall publish information on the career  
22 paths described in paragraph (1); and

23 (3) may establish criteria by which appro-  
24 priately qualified U.S. Customs and Border Protec-

1           tion technicians may be promoted to customs and  
2           border protection agriculture specialists.

3           (b) EDUCATION, TRAINING, AND EXPERIENCE.—The  
4 Secretary, acting through the Commissioner responsible  
5 for U.S. Customs and Border Protection, shall ensure that  
6 all customs and border protection agriculture specialists  
7 are provided the opportunity to acquire the education,  
8 training, and experience necessary to qualify for pro-  
9 motion within U.S. Customs and Border Protection.

10 **SEC. 814. AGRICULTURE SPECIALIST RECRUITMENT AND**  
11 **RETENTION.**

12           Not later than 270 days after the date of enactment  
13 of this Act, the Secretary, acting through the Commis-  
14 sioner responsible for U.S. Customs and Border Protec-  
15 tion, shall develop a plan for more effective recruitment  
16 and retention of qualified customs and border protection  
17 agriculture specialists, including numerical goals for in-  
18 creased recruitment and retention and the use of bonuses  
19 and other incentives where appropriate and permissible  
20 under existing laws and regulations.

21 **SEC. 815. RETIREMENT PROVISIONS FOR AGRICULTURE**  
22 **SPECIALISTS AND SEIZED PROPERTY SPE-**  
23 **CIALISTS.**

24           (a) AMENDMENTS RELATING TO THE CIVIL SERVICE  
25 RETIREMENT SYSTEM.—

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

3           (A) by striking “and” at the end of para-  
4 graph (30);

5           (B) by striking the period at the end of  
6 paragraph (31) and inserting a semicolon; and

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

8           “(32) ‘customs and border protection agri-  
9 culture specialist’ means an employee in the Depart-  
10 ment of Homeland Security—

11           “(A) who holds a position within the GS-  
12 0401 job series (determined by applying the cri-  
13 teria in effect as of September 1, 2008) or any  
14 successor position; and

15           “(B) whose duties include activities relat-  
16 ing to preventing the introduction of harmful  
17 pests, plant and animal diseases, and other bio-  
18 logical threats at ports of entry, including any  
19 such employee who is transferred directly to a  
20 supervisory or administrative position in the  
21 Department of Homeland Security after per-  
22 forming such duties in 1 or more positions (as  
23 described in subparagraph (A)) for at least 3  
24 years;

1           “(33) ‘customs and border protection seized  
2 property specialist’ means an employee in the De-  
3 partment of Homeland Security—

4           “(A) who holds a position within the GS-  
5 1801 job series (determined by applying the cri-  
6 teria in effect as of September 1, 2008) or any  
7 successor position; and

8           “(B) whose duties include activities relat-  
9 ing to the efficient and effective custody, man-  
10 agement, and disposition of seized or forfeited  
11 property, including any such employee who is  
12 transferred directly to a supervisory or adminis-  
13 trative position in the Department of Homeland  
14 Security after performing such duties in 1 or  
15 more positions (as described in subparagraph  
16 (A)) for at least 3 years; and”.

17           (2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOS-  
18 ITS.—Section 8334 of title 5, United States Code, is  
19 amended—

20           (A) in subsection (a)(1)(A), by striking “or  
21 customs and border protection officer,” and in-  
22 serting “or customs and border protection offi-  
23 cer, customs and border protection agriculture  
24 specialist, or customs and border protection  
25 seized property specialist”; and

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

“Customs and border protection agriculture specialist and customs and border protection seized property specialist	7.5 After April 1, 2009.”.
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3 (3) MANDATORY SEPARATION.—The first sentence of section 8335(b)(1) of title 5, United States  
4 Code, is amended by striking “or customs and border  
5 protection officer” and inserting “or customs  
6 and border protection officer, customs and border  
7 protection agriculture specialist, or customs and border  
8 protection seized property specialist”.

9  
10 (4) IMMEDIATE RETIREMENT.—Section 8336 of  
11 title 5, United States Code, is amended—

12 (A) in subsection (c)(1), by striking “or  
13 customs and border protection officer” and inserting  
14 “or customs and border protection officer, customs and border protection agriculture  
15 specialist, or customs and border protection  
16 seized property specialist”; and

17  
18 (B) in subsections (m) and (n), by striking  
19 “or as a customs and border protection officer”  
20 and inserting “or as a customs and border protection  
21 officer, customs and border protection  
22 agriculture specialist, or customs and border  
23 protection seized property specialist”.

1 (b) AMENDMENTS RELATING TO THE FEDERAL EM-  
2 PLOYEES' RETIREMENT SYSTEM.—

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

5 (A) in paragraph (35), by striking “and”  
6 at the end;

7 (B) in paragraph (36), by striking the pe-  
8 riod and inserting a semicolon; and

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

10 “(37) ‘customs and border protection agri-  
11 culture specialist’ means an employee in the Depart-  
12 ment of Homeland Security—

13 “(A) who holds a position within the GS-  
14 0401 job series (determined by applying the cri-  
15 teria in effect as of September 1, 2008) or any  
16 successor position; and

17 “(B) whose duties include activities relat-  
18 ing to preventing the introduction of harmful  
19 pests, plant and animal diseases, and other bio-  
20 logical threats at ports of entry, including any  
21 such employee who is transferred directly to a  
22 supervisory or administrative position in the  
23 Department of Homeland Security after per-  
24 forming such duties (as described in subpara-

1 graph (B)) in 1 or more positions (as described  
2 in subparagraph (A)) for at least 3 years;

3 “(38) ‘customs and border protection seized  
4 property specialist’ means an employee in the De-  
5 partment of Homeland Security—

6 “(A) who holds a position within the GS-  
7 1801 job series (determined by applying the cri-  
8 teria in effect as of September 1, 2008) or any  
9 successor position; and

10 “(B) whose duties include activities relat-  
11 ing to the efficient and effective custody, man-  
12 agement, and disposition of seized or forfeited  
13 property, including any such employee who is  
14 transferred directly to a supervisory or adminis-  
15 trative position in the Department of Homeland  
16 Security after performing such duties (as de-  
17 scribed in subparagraph (B)) in 1 or more posi-  
18 tions (as described in subparagraph (A)) for at  
19 least 3 years; and”.

20 (2) IMMEDIATE RETIREMENT.—Paragraphs (1)  
21 and (2) of section 8412(d) of title 5, United States  
22 Code, are amended by striking “or customs and bor-  
23 der protection officer” and inserting “or customs  
24 and border protection officer, customs and border



1 protection agriculture specialist, or customs and bor-  
2 der protection seized property specialist”.

3 (3) COMPUTATION OF BASIC ANNUITY.—Section  
4 8415(h)(2) of title 5, United States Code, is amend-  
5 ed by striking “or customs and border protection of-  
6 ficer”; and inserting “or customs and border protec-  
7 tion officer, customs and border protection agri-  
8 culture specialist, or customs and border protection  
9 seized property specialist”.

10 (4) DEDUCTIONS FROM PAY.—The table con-  
11 tained in section 8422(a)(3) of title 5, United States  
12 Code, is amended by adding at the end the fol-  
13 lowing:

Customs and border protection  
agriculture specialist and  
customs and border protec-  
tion seized property specialist

7.5 After April 1, 2009.

14 (5) GOVERNMENT CONTRIBUTIONS.—Para-  
15 graphs (1)(B)(i) and (3) of section 8423(a) of title  
16 5, United States Code, are amended by inserting  
17 “customs and border protection agriculture special-  
18 ists, and customs and border protection seized prop-  
19 erty specialists” after “customs and border protec-  
20 tion officers,” each place it appears.

21 (6) MANDATORY SEPARATION.—Section  
22 8425(b)(1) of title 5, United States Code, is amend-  
23 ed—

1 (A) by striking “or customs and border  
2 protection officer who” and inserting “or cus-  
3 toms and border protection officer, customs and  
4 border protection agriculture specialist, or cus-  
5 toms and border protection seized property spe-  
6 cialist who”; and

7 (B) by striking “or customs and border  
8 protection officer as the case may be” and in-  
9 serting “or customs and border protection offi-  
10 cer, customs and border protection agriculture  
11 specialist, or customs and border protection  
12 seized property specialist as the case may be”.

13 (c) MAXIMUM AGE FOR ORIGINAL APPOINTMENT.—  
14 Section 3307(g) of title 5, United States Code, is amended  
15 by striking “customs and border protection officer, as de-  
16 fined by section 8401(36)” and inserting “customs and  
17 border protection officer, customs and border protection  
18 agriculture specialist, and customs and border protection  
19 seized property specialist, as defined by section 8401 (36),  
20 (37), and (38), respectively”.

21 (d) REGULATIONS.—Any regulations necessary to  
22 carry out the amendments made by this section shall be  
23 prescribed by the Director of the Office of Personnel Man-  
24 agement in consultation with the Secretary.

25 (e) EFFECTIVE DATE; TRANSITION RULES.—

1           (1) EFFECTIVE DATE.—The amendments made  
2           by this section shall become effective on the first day  
3           of the first pay period beginning at least 6 months  
4           after the date of the enactment of this Act.

5           (2) TRANSITION RULES.—

6           (A) NONAPPLICABILITY OF MANDATORY  
7           SEPARATION PROVISIONS TO CERTAIN INDIVID-  
8           UALS.—The amendments made by subsections  
9           (a)(3) and (b)(6), respectively, shall not apply  
10          to an individual first appointed as a customs  
11          and border protection agriculture specialist or  
12          customs and border protection seized property  
13          officer before the effective date under para-  
14          graph (1).

15          (B) TREATMENT OF PRIOR SERVICE.—

16           (i) GENERAL RULE.—Except as pro-  
17           vided in clause (ii), nothing in this section  
18           or any amendment made by this section  
19           shall be considered to apply with respect to  
20           any service performed as a customs and  
21           border protection agriculture specialist or  
22           customs and border protection seized prop-  
23           erty specialist before the effective date  
24           under paragraph (1).

25           (ii) EXCEPTIONS.—

1 (I) Service described in section  
2 8331(32) or 8401(37) of title 5,  
3 United States Code (as amended by  
4 this section) rendered before the effec-  
5 tive date under paragraph (1) may be  
6 taken into account to determine if an  
7 individual who is serving on or after  
8 such effective date then qualifies as a  
9 customs and border protection agri-  
10 culture specialist by virtue of holding  
11 a supervisory or administrative posi-  
12 tion in the Department.

13 (II) Service described in section  
14 8331(33) or 8401(38) of title 5,  
15 United States Code (as amended by  
16 this section) rendered before the effec-  
17 tive date under paragraph (1) may be  
18 taken into account to determine if an  
19 individual who is serving on or after  
20 such effective date then qualifies as a  
21 customs and border protection agri-  
22 culture specialist by virtue of holding  
23 a supervisory or administrative posi-  
24 tion in the Department.

1           (C) MINIMUM ANNUITY AMOUNT.—The an-  
2           nuity of an individual serving as a customs and  
3           border protection agriculture specialist or cus-  
4           toms and border protection seized property spe-  
5           cialist on the effective date under paragraph (1)  
6           pursuant to an appointment made before that  
7           date shall, to the extent that its computation is  
8           based on service rendered as a customs and  
9           border protection agriculture specialist or cus-  
10          toms and border protection seized property spe-  
11          cialist, respectively, on or after that date, be at  
12          least equal to the amount that would be pay-  
13          able—

14                   (i) to the extent that such service is  
15                   subject to the Civil Service Retirement  
16                   System, by applying section 8339(d) of  
17                   title 5, United States Code, with respect to  
18                   such service; and

19                   (ii) to the extent such service is sub-  
20                   ject to the Federal Employees Retirement  
21                   System, by applying section 8415(d) of  
22                   title 5, United States Code, with respect to  
23                   such service.

24           (D) RULE OF CONSTRUCTION.—Nothing in  
25           the amendment made by subsection (c) shall be



1 (II) to be treated as if sub-  
2 sections (a) and (b) had never been  
3 enacted.

4 Failure to make a timely election under  
5 this paragraph shall be treated in the same  
6 way as an election made under subclause  
7 (I) on the last day allowable under clause  
8 (ii).

9 (ii) DEADLINE.—An election under  
10 this paragraph shall not be effective unless  
11 it is made at least 14 days before the ef-  
12 fective date under paragraph (1).

13 (4) DEFINITIONS.—For purposes of this sub-  
14 section—

15 (A) the term “customs and border protec-  
16 tion agriculture specialist” has the meaning  
17 given such term by section 8331(32) or  
18 8401(37) of title 5, United States Code (as  
19 amended by this section).

20 (B) the term “customs and border protec-  
21 tion seized property specialist” has the meaning  
22 given such term by section 8331(33) or  
23 8401(38) of title 5, United States Code (as  
24 amended by this section).

1           (5) EXCLUSION.—Nothing in this section or  
2 any amendment made by this section shall be consid-  
3 ered to afford any election or to otherwise apply with  
4 respect to any individual who, as of the day before  
5 the date of the enactment of this Act—

6           (A) holds a position within U.S. Customs  
7 and Border Protection; and

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

12 **SEC. 816. EQUIPMENT SUPPORT.**

13       Not later than 90 days after the date of enactment  
14 of this Act, the Commissioner responsible for U.S. Cus-  
15 toms and Border Protection shall—

16           (1) determine the minimum equipment and  
17 other resources at U.S. Customs and Border Protec-  
18 tion agriculture inspection stations and facilities that  
19 are necessary for customs and border protection ag-  
20 riculture specialists to carry out their mission fully  
21 and effectively;

22           (2) complete an inventory of the equipment and  
23 other resources available at each U.S. Customs and  
24 Border Protection agriculture inspection station and  
25 facility;



1           (3) identify the gaps between the necessary  
2 level of equipment and other resources and those  
3 available at agriculture inspection stations and facili-  
4 ties; and

5           (4) develop a plan to address any gaps identi-  
6 fied under paragraph (3).

7 **SEC. 817. REPORTS.**

8           (a) IMPLEMENTATION OF ACTION PLANS AND  
9 EQUIPMENT SUPPORT.—Not later than 90 days after the  
10 date of enactment of this Act, the Secretary, acting  
11 through the Commissioner responsible for U.S. Customs  
12 and Border Protection, shall submit to the Committee on  
13 Homeland Security and Governmental Affairs of the Sen-  
14 ate and the Committee on Homeland Security of the  
15 House of Representatives a report on—

16           (1) the status of the implementation of action  
17 plans developed by the Animal and Plant Health In-  
18 spection Service-U.S. Customs and Border Protec-  
19 tion Joint Task Force on Improved Agriculture In-  
20 spection;

21           (2) the findings of the Commissioner under sec-  
22 tion 816; and

23           (3) the plan described in section 816(4).

24           (b) IMPLEMENTATION OF SUBTITLE.—Not later than  
25 1 year after the date of enactment of this Act, the Sec-

1 retary, acting through the Commissioner responsible for  
2 U.S. Customs and Border Protection, shall submit to the  
3 Committee on Homeland Security and Governmental Af-  
4 fairs of the Senate and the Committee on Homeland Secu-  
5 rity of the House of Representatives a report on—

6 (1) the implementation of the requirements of  
7 this subtitle not addressed in the report required  
8 under subsection (a); and

9 (2) any additional legal authority believed nec-  
10 essary to carry out the Department’s agriculture in-  
11 spection mission effectively.

## 12 **TITLE IX—PREPAREDNESS AND** 13 **RESPONSE PROVISIONS**

### 14 **SEC. 901. NATIONAL PLANNING.**

15 Title V of the Homeland Security Act of 2002 (6  
16 U.S.C. 311) is amended by adding at the end the fol-  
17 lowing:

### 18 **“SEC. 525. NATIONAL PLANNING.**

19 “(a) DEFINITIONS.—In this section—

20 “(1) the term ‘operations plan’ means a plan  
21 that—

22 “(A) identifies the resource, personnel, and  
23 asset allocations necessary to execute the objec-  
24 tives of a strategic plan and turn strategic pri-  
25 orities into operational execution; and

1           “(B) contains a full description of specific  
2           roles, responsibilities, tasks, integration, and ac-  
3           tions required under the plan; and

4           “(2) the term ‘strategic plan’ means a plan  
5           that—

6           “(A) outlines strategic priorities and broad  
7           national strategic objectives, and describes in-  
8           tended outcomes; and

9           “(B) defines the mission, identifies au-  
10          thorities, delineates roles, responsibilities, and  
11          essential tasks, and determines and prioritizes  
12          required capabilities.

13          “(b) NATIONAL PLANNING SYSTEM.—The President,  
14          through the Secretary and the Administrator, in conjunc-  
15          tion with the heads of appropriate Federal departments  
16          and agencies, and in consultation with the National Advi-  
17          sory Council established under section 508, shall develop  
18          a national planning system that—

19          “(1) provides common processes across Federal  
20          departments and agencies for developing plans to  
21          prevent, prepare for, protect against, respond to,  
22          and recover from natural disasters, acts of ter-  
23          rorism, and other man-made disasters;

24          “(2) includes a process for modifying plans de-  
25          scribed under paragraph (1) to reflect developments

1 in risk, capabilities, or policies and incorporate les-  
2 sons learned from exercises and events;

3 “(3) provides for the development of—

4 “(A) strategic guidance that outlines broad  
5 national strategic objectives and priorities and  
6 is intended to guide the development of stra-  
7 tegic and operations plans;

8 “(B) strategic plans to address those haz-  
9 ards that pose the greatest risk, including nat-  
10 ural disasters, acts of terrorism, and other  
11 man-made disasters, and, where appropriate,  
12 the national planning scenarios prescribed in  
13 section 645 of the Post-Katrina Emergency  
14 Management Reform Act of 2006 (6 U.S.C.  
15 745); and

16 “(C) operations plans by all relevant Fed-  
17 eral departments and agencies, including oper-  
18 ations plans required under section 653(b) of  
19 the Post-Katrina Emergency Management Re-  
20 form Act of 2006 (6 U.S.C. 753(b)) and such  
21 other operations plans as necessary for the exe-  
22 cution of the roles and responsibilities identified  
23 by such strategic plans; and

24 “(D) such other plans as the Secretary de-  
25 termines necessary;

1           “(4) includes practical planning instruction and  
2           planning templates that may be voluntarily used or  
3           adapted by State, local, and tribal governments, in  
4           order to promote consistent planning for all hazards,  
5           including natural disasters, acts of terrorism, and  
6           other man-made disasters, across Federal, State,  
7           local, and tribal governments; and

8           “(5) includes processes for linking Federal  
9           plans with those of State, local, and tribal govern-  
10          ments.

11          “(c) STATE, LOCAL, AND TRIBAL PLANNING.—The  
12          Secretary, through the Administrator, shall—

13               “(1) promote the planning system developed  
14               under subsection (b) to State and local governments  
15               and provide assistance, as appropriate, with the de-  
16               velopment of plans to prevent, prepare for, protect  
17               against, respond to, and recover from all hazards,  
18               including natural disasters, acts of terrorism and  
19               other man-made disasters; and

20               “(2) develop a means by which strategic and  
21               operations plans developed by State, local, and tribal  
22               governments and Federal strategic and operations  
23               plans developed under the national planning system  
24               required under subsection (b), may be coordinated  
25               and aligned.

1           “(d) REPORT.—Not later than 1 year after the date  
2 of enactment of this section, and every year thereafter  
3 until the date that is 11 years after such date of enact-  
4 ment, the Secretary shall submit to the Committee on  
5 Homeland Security and Governmental Affairs of the Sen-  
6 ate and the Committee on Homeland Security of the  
7 House of Representatives a report on—

8           “(1) the status of the national planning system  
9 required under subsections (b), and a document de-  
10 scribing the system;

11           “(2) the status of strategic guidance and stra-  
12 tegic and operations plans and other plans developed  
13 under the national planning system;

14           “(3) the current ability of Federal departments  
15 and agencies to execute the plans developed under  
16 the national planning system and any additional re-  
17 sources required to enable execution of such plans;  
18 and

19           “(4) the extent to which State, local, and tribal  
20 planning efforts and Federal planning efforts are  
21 being coordinated.”.

22 **SEC. 902. PREDISASTER HAZARD MITIGATION.**

23           (a) IN GENERAL.—

24           (1) ALLOCATION OF FUNDS.—Section 203(f) of  
25 the Robert T. Stafford Disaster Relief and Emer-

1 agency Assistance Act (42 U.S.C. 5133(f)) is amend-  
2 ed to read as follows:

3 “(f) ALLOCATION OF FUNDS.—

4 “(1) IN GENERAL.—The President shall award  
5 financial assistance under this section on a competi-  
6 tive basis and in accordance with the criteria in sub-  
7 section (g).

8 “(2) MINIMUM AND MAXIMUM AMOUNTS.—In  
9 providing financial assistance under this section, the  
10 President shall ensure that the amount of financial  
11 assistance made available to a State (including  
12 amounts made available to local governments of the  
13 State) for a fiscal year—

14 “(A) is not less than the lesser of—

15 “(i) \$575,000; and

16 “(ii) the amount that is equal to 1  
17 percent of the total funds appropriated to  
18 carry out this section for the fiscal year;  
19 and

20 “(B) does not exceed the amount that is  
21 equal to 15 percent of the total funds appro-  
22 priated to carry out this section for the fiscal  
23 year.”.

24 (2) AUTHORIZATION OF APPROPRIATIONS.—

25 Section 203(m) of the Robert T. Stafford Disaster

1 Relief and Emergency Assistance Act (42 U.S.C.  
2 5133(m)) is amended to read as follows:

3 “(m) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated to carry out this sec-  
5 tion—

6 “(1) \$210,000,000 for fiscal year 2009;

7 “(2) \$220,000,000 for fiscal year 2010;

8 “(3) \$230,000,000 for fiscal year 2011;

9 “(4) \$240,000,000 for fiscal year 2012; and

10 “(5) \$250,000,000 for fiscal year 2013.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

12 The Robert T. Stafford Disaster Relief and Emergency  
13 Assistance Act (42 U.S.C. 5121 et seq.) is amended—

14 (1) in section 204(b) (42 U.S.C. 5134(b)), by  
15 striking “Director” and inserting “Administrator”;

16 (2) in section 303(b) (42 U.S.C. 5144(b)), by  
17 striking “Director” each place it appears and insert-  
18 ing “Administrator”;

19 (3) in section 326(c)(3) (42 U.S.C.  
20 5165d(c)(3)), by striking “Director” and inserting  
21 “Administrator”;

22 (4) in section 404(b) (42 U.S.C. 5170c(b)), by  
23 striking “Director” each place it appears and insert-  
24 ing “Administrator”;



1           (5) in section 406 (42 U.S.C. 5172), by striking  
2           “Director” each place it appears and inserting “Ad-  
3           ministrators”;

4           (6) in section 602(a) (42 U.S.C. 5195a(a))—

5                 (A) in paragraph (4), by striking “Direc-  
6                 tor” and inserting “Administrator”; and

7                 (B) by striking paragraph (7) and insert-  
8                 ing the following:

9                 “(7) ADMINISTRATOR.—The term ‘Adminis-  
10                 trator’ means the Administrator of the Federal  
11                 Emergency Management Agency.”;

12           (7) in sections 603 through 613 (42 U.S.C.  
13           5195b et seq.), by striking “Director” each place it  
14           appears and inserting “Administrator”;

15           (8) in sections 616 and 621 (42 U.S.C. 5196f  
16           and 5197), by striking “Director” each place it ap-  
17           pears and inserting “Administrator”;

18           (9) in section 622 (42 U.S.C. 5197a)—

19                 (A) in subsection (a), by striking “Direc-  
20                 tor” each place it appears and inserting “Ad-  
21                 ministrators”;

22                 (B) in subsection (b), by striking “Direc-  
23                 tor” and inserting “Administrator”; and

24                 (C) in subsection (c)—

1 (i) by striking “Director” the first  
2 place it appears and inserting “Adminis-  
3 trator”; and

4 (ii) by striking “Director of the Fed-  
5 eral Emergency Management Agency”  
6 each place it appears and inserting “Ad-  
7 ministrator”;

8 (10) in sections 623 and 624 (42 U.S.C. 5197b  
9 and 5197c), by striking “Director” each place it ap-  
10 pears and inserting “Administrator”; and

11 (11) in section 629 (42 U.S.C. 5197h), by  
12 striking “Director” each place it appears and insert-  
13 ing “Administrator”.

14 (c) PROGRAM ELIGIBILITY.—Section 203(e) of the  
15 Robert T. Stafford Disaster Relief and Emergency Assist-  
16 ance Act (42 U.S.C. 5133(e)) is amended—

17 (1) by redesignating paragraph (2) as para-  
18 graph (3); and

19 (2) by inserting after paragraph (1) the fol-  
20 lowing:

21 “(2) FLOOD CONTROL PROJECTS.—

22 “(A) IN GENERAL.—A State may use not  
23 more than 25 percent of the financial assistance  
24 under this section made available to the State  
25 in a fiscal year (including any such financial as-

1           sistance made available to local governments of  
2           the State) for flood control projects.

3           “(B) DEFINITION.—In this paragraph, the  
4           term ‘flood control project’—

5                   “(i) means—

6                           “(I) a project relating to the con-  
7                           struction, demolition, repair, or im-  
8                           provement of a dam, dike, levee,  
9                           floodwall, seawall, groin, jetty, or  
10                          breakwater;

11                           “(II) a waterway channelization;  
12                          or

13                           “(III) an erosion project relating  
14                           to beach nourishment or renourish-  
15                           ment; and

16                          “(ii) does not include any project the  
17                          maintenance of which is the responsibility  
18                          of a Federal department or agency, includ-  
19                          ing the Corps of Engineers.”.

20 **SEC. 903. COMMUNITY PREPAREDNESS.**

21           Title V of the Homeland Security Act of 2002 (6  
22 U.S.C. 311), as amended by section 901 of this Act, is  
23 amended by adding at the end the following:

1 **“SEC. 526. COMMUNITY PREPAREDNESS.**

2 “(a) IN GENERAL.—The Administrator shall assist  
3 State, local, and tribal governments in enhancing and pro-  
4 moting the preparedness of individuals and communities  
5 for natural disasters, acts of terrorism, and other man-  
6 made disasters.

7 “(b) COORDINATION.—Where appropriate, the Ad-  
8 ministrator shall coordinate with private sector and non-  
9 governmental organizations to promote community pre-  
10 paredness.

11 “(c) DIRECTOR.—The Administrator shall appoint a  
12 Director of Community Preparedness to coordinate and  
13 oversee the Agency’s community preparedness activities.”.

14 **SEC. 904. METROPOLITAN MEDICAL RESPONSE SYSTEM.**

15 (a) IN GENERAL.—Title XX of the Homeland Secu-  
16 rity Act of 2002 (6 U.S.C. 311 et seq.), as amended by  
17 section 804 of this Act, is amended by adding at the end  
18 the following:

19 **“SEC. 2042. METROPOLITAN MEDICAL RESPONSE SYSTEM.**

20 “(a) IN GENERAL.—There is in the Department a  
21 Metropolitan Medical Response System, which shall assist  
22 State, local, and tribal governments in preparing for and  
23 responding to mass casualty incidents resulting from nat-  
24 ural disasters, acts of terrorism and other man-made dis-  
25 asters.

26 “(b) FINANCIAL ASSISTANCE.—

1 “(1) AUTHORIZATION OF GRANTS.—

2 “(A) IN GENERAL.—The Secretary,  
3 through the Administrator, may make grants  
4 under this section to State, local, and tribal  
5 governments to assist in preparing for and re-  
6 sponding to mass casualty incidents resulting  
7 from natural disasters, acts of terrorism, and  
8 other man-made disasters.

9 “(B) CONSULTATION.—In developing guid-  
10 ance for grants authorized under this section,  
11 the Administrator shall consult with the Chief  
12 Medical Officer.

13 “(2) USE OF FUNDS.—

14 “(A) IN GENERAL.—A grant made under  
15 this section may be used in support of public  
16 health and medical preparedness, including—

17 “(i) medical surge capacity;

18 “(ii) mass prophylaxis;

19 “(iii) chemical, biological, radiological,  
20 nuclear, and explosive detection, response,  
21 and decontamination capabilities;

22 “(iv) mass triage;

23 “(v) planning;

24 “(vi) information sharing and collabo-  
25 ration capabilities;

1 “(vii) medicinal stockpiling;  
2 “(viii) fatality management;  
3 “(ix) training and exercises;  
4 “(x) integration and coordination of  
5 the activities and capabilities of public  
6 health personnel and medical care pro-  
7 viders with those of other emergency re-  
8 sponse providers as well as private sector  
9 and nonprofit organizations; and  
10 “(xi) such other activities as the Ad-  
11 ministrator may provide.

12 “(3) ELIGIBILITY.—

13 “(A) IN GENERAL.—Any jurisdiction that  
14 received funds through the Metropolitan Med-  
15 ical Response System in fiscal year 2008 shall  
16 be eligible to receive a grant under this section.

17 “(B) ADDITIONAL JURISDICTIONS.—

18 “(i) UNREPRESENTED STATES.—

19 “(I) IN GENERAL.—For any  
20 State in which no jurisdiction received  
21 funds through the Metropolitan Med-  
22 ical Response System in fiscal year  
23 2008, or in which funding was re-  
24 ceived only through another State, the  
25 metropolitan statistical area in such

1 State with the largest population shall  
2 be eligible to receive a grant under  
3 this section.

4 “(II) LIMITATION.—For each of  
5 fiscal years 2009 through 2011, no  
6 jurisdiction that would otherwise be  
7 eligible to receive grants under sub-  
8 clause (I) shall receive a grant under  
9 this section if it would result in any  
10 jurisdiction under subparagraph (A)  
11 receiving less funding than such juris-  
12 diction received in fiscal year 2008.

13 “(ii) OTHER JURISDICTIONS.—

14 “(I) IN GENERAL.—The Admin-  
15 istrator, at the discretion of the Ad-  
16 ministrator, may determine that addi-  
17 tional jurisdictions are eligible to re-  
18 ceive grants under this section.

19 “(II) LIMITATION.—For each of  
20 fiscal years 2009 through 2011, the  
21 eligibility of any additional jurisdic-  
22 tion to receive grants under this sec-  
23 tion is subject to the availability of  
24 appropriations beyond that necessary  
25 to—

1                   “(aa) ensure that each juris-  
2                   diction eligible to receive a grant  
3                   under subparagraph (A) does not  
4                   receive less funding than such ju-  
5                   risdiction received in fiscal year  
6                   2008; and

7                   “(bb) provide grants to ju-  
8                   risdictions eligible under clause  
9                   (i).

10                   “(C) REGIONAL COORDINATION.—The Ad-  
11                   ministrator shall ensure that each recipient of a  
12                   grant under this section, as a condition of re-  
13                   ceiving such grant, is actively coordinating its  
14                   preparedness efforts with surrounding jurisdic-  
15                   tions, with the government of the State in  
16                   which the jurisdiction is located, and with emer-  
17                   gency response providers from all relevant dis-  
18                   ciplines, to effectively enhance regional pre-  
19                   paredness.

20                   “(4) DISTRIBUTION OF FUNDS.—

21                   “(A) ALLOCATION.—For each fiscal year,  
22                   the Administrator shall allocate funds for  
23                   grants under this section among eligible juris-  
24                   dictions in the same manner that such alloca-  
25                   tions were made in fiscal year 2008.



1 “(B) STATE DISTRIBUTION OF FUNDS.—

2 “(i) IN GENERAL.—The Administrator  
3 shall distribute grant funds under this sec-  
4 tion to the State in which the jurisdiction  
5 receiving a grant under this section is lo-  
6 cated.

7 “(ii) PASS THROUGH.—Subject to  
8 clause (iii), not later than 45 days after  
9 the date on which a State receives grant  
10 funds under clause (i), the State shall pro-  
11 vide the jurisdiction receiving the grant  
12 100 percent of the grant funds.

13 “(iii) EXCEPTION.—The Adminis-  
14 trator, in the discretion of the Adminis-  
15 trator, may permit a State to provide to a  
16 jurisdiction receiving a grant under this  
17 section 90 percent of the grant funds  
18 awarded if doing so would not result in  
19 any jurisdiction eligible for a grant under  
20 paragraph (3)(A) receiving less funding  
21 than such jurisdiction received in fiscal  
22 year 2008.

23 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
24 are authorized to be appropriated to carry out the pro-  
25 gram—

1           “(1) \$75,000,000 for each of fiscal years 2009  
2 through 2013; and

3           “(2) such sums as may be necessary for each  
4 of fiscal years 2014 and 2015.”.

5 (b) PROGRAM REVIEW.—

6           (1) IN GENERAL.—The Administrator and the  
7 Chief Medical Officer shall conduct a review of the  
8 Metropolitan Medical Response System authorized  
9 under section 2042 of the Homeland Security Act of  
10 2002, as added by subsection (a), including an ex-  
11 amination of—

12                   (A) the goals and objectives of the Metro-  
13 politan Medical Response System;

14                   (B) the extent to which the goals and ob-  
15 jectives are being met;

16                   (C) the performance metrics that can best  
17 help assess whether the Metropolitan Medical  
18 Response System is succeeding;

19                   (D) how the Metropolitan Medical Re-  
20 sponse System can be improved;

21                   (E) how the Metropolitan Medical Re-  
22 sponse System does or does not relate to other  
23 Department-supported preparedness programs;

24                   (F) how eligibility for financial assistance,  
25 and the allocation of financial assistance, under



1 through “used” and inserting the following:  
2 “The Administrator shall permit the recipient  
3 of a grant under section 2003 or 2004 to use  
4 grant funds”; and

5 (B) in paragraph (10), by inserting “, re-  
6 gardless of whether such analysts are current or  
7 new full-time employees or contract employees”  
8 after “analysts”; and

9 (2) in subsection (b)—

10 (A) by redesignating paragraphs (3) and  
11 (4) as paragraphs (4) and (5), respectively; and

12 (B) by inserting after paragraph (2) the  
13 following:

14 “(3) LIMITATIONS ON DISCRETION.—

15 “(A) IN GENERAL.—With respect to the  
16 use of amounts awarded to a grant recipient  
17 under section 2003 or 2004 for personnel costs  
18 in accordance with paragraph (2) of this sub-  
19 section, the Administrator may not—

20 “(i) impose a limit on the amount of  
21 the award that may be used to pay for per-  
22 sonnel, or personnel-related, costs that is  
23 higher or lower than the percent limit im-  
24 posed in paragraph (2)(A); or

1                   “(ii) impose any additional limitation  
2                   on the portion of the funds of a recipient  
3                   that may be used for a specific type, pur-  
4                   pose, or category of personnel, or per-  
5                   sonnel-related, costs.

6                   “(B) ANALYSTS.—If amounts awarded to  
7                   a grant recipient under section 2003 or 2004  
8                   are used for paying salary or benefits of a  
9                   qualified intelligence analyst under subsection  
10                  (a)(10), the Administrator shall make such  
11                  amounts available without time limitations  
12                  placed on the period of time that the analyst  
13                  can serve under the grant.”.

14 **SEC. 907. COMMERCIAL EQUIPMENT DIRECT ASSISTANCE**  
15 **PROGRAM.**

16                  Title XX of the Homeland Security Act of 2002 (6  
17 U.S.C. 601 et seq.), as amended by section 904 of this  
18 Act, is amended by adding at the end the following:

19 **“SEC. 2043. COMMERCIAL EQUIPMENT DIRECT ASSISTANCE**  
20 **PROGRAM.**

21                  “(a) ESTABLISHMENT.—The Secretary, through the  
22 Administrator, is authorized to provide equipment, equip-  
23 ment training, and equipment technical assistance to as-  
24 sist State and local law enforcement and other emergency  
25 response providers in preventing, preparing for, protecting

1 against, responding to, and recovering from natural disas-  
2 ters, acts of terrorism, and other man-made disasters.

3 “(b) ELIGIBILITY.—A law enforcement agency, fire  
4 department, emergency medical service, emergency man-  
5 agement agency, public safety agency, or other emergency  
6 response agency shall be eligible to apply for direct equip-  
7 ment, training, and technical assistance under this section,  
8 if such an applicant—

9 “(1) has not received equipment funding or  
10 other assistance under a grant under the Assistance  
11 to Firefighters Grant Program during the 2-year pe-  
12 riod ending on the application deadline for the Com-  
13 mercial Equipment Direct Assistance Program in  
14 any fiscal year; and

15 “(2) has not received equipment funding, or  
16 other assistance under a grant under section 2003  
17 during the 2-year period ending on the application  
18 deadline for the Commercial Equipment Direct As-  
19 sistance Program in any fiscal year.

20 “(c) APPLICATION.—

21 “(1) IN GENERAL.—An applicant for direct  
22 equipment, training, or technical assistance under  
23 this section shall submit such information in support  
24 of the application as the Administrator may require,  
25 including an explanation of how any requested

1 equipment will be used to support a system of mu-  
2 tual aid among neighboring jurisdictions.

3 “(2) STATE CONCURRENCE.—

4 “(A) IN GENERAL.—An emergency re-  
5 sponse agency submitting an application for di-  
6 rect equipment, training, or technical assistance  
7 under this section shall provide a copy of the  
8 application to the State within which the agency  
9 is located not later than the date on which the  
10 agency submits the application to the Adminis-  
11 trator.

12 “(B) NOTICE.—If the Governor of a State  
13 determines that the application of an emergency  
14 response agency provided under subparagraph  
15 (A) is inconsistent with the homeland security  
16 plan of that State, or otherwise does not sup-  
17 port the application, not later than 30 days  
18 after receipt of that application the Governor  
19 shall—

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

22 “(ii) provide an explanation of the  
23 reason for not supporting the application.

24 “(d) LIMITATIONS ON DIRECT ASSISTANCE.—

1           “(1) TRAINING AND TECHNICAL ASSISTANCE.—  
2           Not more than 40 percent of the amount appro-  
3           priated pursuant to the authorization of appropria-  
4           tions under this section in any fiscal year may be  
5           used to pay for training and technical assistance.

6           “(2) VOLUNTARY CONSENSUS STANDARDS.—  
7           The Administrator may not directly provide to a law  
8           enforcement or other emergency response agency  
9           under this section equipment that does not meet ap-  
10          plicable voluntary consensus standards, unless the  
11          agency demonstrates that there are compelling rea-  
12          sons for such provision of equipment.

13          “(3) PROHIBITION AND OTHER USE.—No  
14          amount appropriated pursuant to the authorization  
15          of appropriations under this section may be used for  
16          an assessment and validation program or for any  
17          other purpose or program not provided for in this  
18          section.

19          “(e) AUTHORIZATION OF APPROPRIATIONS.—There  
20          is authorized to be appropriated to carry out this section  
21          \$50,000,000 for each of fiscal years 2009 through 2012.”.

22          **SEC. 908. TASK FORCE FOR EMERGENCY READINESS.**

23          Title V of the Homeland Security Act of 2002 (6  
24          U.S.C. 311 et seq.), as amended by section 903 of this  
25          Act, is amended by adding at the end the following:



1 **“SEC. 527. TASK FORCE FOR EMERGENCY READINESS.**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘national planning scenarios’  
4 means the national planning scenarios developed  
5 under section 645 of the Post Katrina Emergency  
6 Management Reform Act of 2006 (6 U.S.C. 745);  
7 and

8 “(2) the term ‘operational readiness’ has the  
9 meaning given that term in section 641 of the Post-  
10 Katrina Emergency Management Reform Act of  
11 2006 (6 U.S.C. 741).

12 “(b) PILOT PROGRAM.—

13 “(1) IN GENERAL.—The Administrator, in co-  
14 ordination with the Secretary of Defense, shall es-  
15 tablish, for the purposes set out in subsection (c), a  
16 Task Force for Emergency Readiness pilot program  
17 for fiscal years 2010, 2011, and 2012.

18 “(2) TASK FORCE ESTABLISHMENT.—Under  
19 the program described in paragraph (1), the Admin-  
20 istrator shall establish a Task Force for Emergency  
21 Readiness in not fewer than 5 States.

22 “(3) TASK FORCE MEMBERSHIP.—Each task  
23 force established under the program under this sub-  
24 section shall consist of—

25 “(A) State and local emergency planners  
26 from the applicable State, including National

1 Guard planners in State status, appointed by  
2 the Governor of the applicable State;

3 “(B) experienced emergency planners from  
4 the Agency, designated by the Administrator, in  
5 conjunction with the Regional Administrator for  
6 the applicable State; and

7 “(C) experienced emergency planners from  
8 the Department of Defense, designated by the  
9 Secretary of Defense, which may include civil-  
10 ian and military personnel.

11 “(c) PURPOSES.—The purpose of the Task Force for  
12 Emergency Readiness pilot program authorized under  
13 subsection (b) is to assist each State participating in the  
14 pilot program in—

15 “(1) planning to prevent, prepare for, protect  
16 against, respond to, and recover from catastrophic  
17 incidents, including, as appropriate, incidents identi-  
18 fied in the national planning scenarios;

19 “(2) coordinating the planning efforts of the  
20 State with those of other States;

21 “(3) coordinating planning efforts of the State  
22 with those of the Federal Government;

23 “(4) using plans developed to respond to cata-  
24 strophic incidents for training and exercises con-  
25 sistent with section 648 of the Post-Katrina Emer-

1 agency Management Reform Act of 2006 (6 U.S.C.  
2 748); and

3 “(5) monitoring and improving the operational  
4 readiness of the State, consistent with the national  
5 preparedness system required by chapter 1 of sub-  
6 title C of title VI of the Post Katrina Emergency  
7 Management Reform Act of 2006 (6 U.S.C. 741 et  
8 seq.).

9 “(d) DIRECTION.—The planning activities of a task  
10 force established under this section shall be directed by  
11 the Governor of the applicable State.

12 “(e) PARTICIPATING STATES.—The States partici-  
13 pating in the Task Force for Emergency Readiness pilot  
14 program shall be selected—

15 “(1) by the Administrator, with the consent of  
16 the Governor of the applicable State and in coordi-  
17 nation with the Regional Administrator of the appli-  
18 cable region of the Agency; and

19 “(2) to the maximum extent practicable, from  
20 different regions of the Agency.

21 “(f) REPORT.—Not later than 2 years after the date  
22 of enactment of the Department of Homeland Security  
23 Authorization Act of 2008 and 2009, the Administrator,  
24 in conjunction with the Assistant Secretary of Defense for  
25 Homeland Defense, shall submit to the Committee on

1 Homeland Security and Governmental Affairs of the Sen-  
2 ate and the Committee on Homeland Security of the  
3 House of Representatives a report on the implementation  
4 and effectiveness of the Task Force for Emergency Readiness  
5 ness pilot program, and shall provide recommendations for  
6 modifications to or expansion of the program.

7 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated such sums as may be  
9 necessary to carry out this section.”.

10 **SEC. 909. TECHNICAL AND CONFORMING AMENDMENTS.**

11 (a) IN GENERAL.—Section 514 of the Homeland Security  
12 Act of 2002 (6 U.S.C. 321c) is amended by adding  
13 at the end the following:

14 “(d) DIRECTOR OF GRANT PROGRAMS.—There shall  
15 be in the Agency a Director of Grant Programs, who shall  
16 be appointed by the President by and with the advice and  
17 consent of the Senate.”.

18 (b) TABLE OF CONTENTS.—The table of contents in  
19 section 1(b) of the Homeland Security Act of 2002 (6  
20 U.S.C. 101 et seq.) is amended—

21 (1) by inserting after the item relating to section  
22 524 the following:

“Sec. 525. National planning.

“Sec. 526. Community Preparedness.

“Sec. 527. Task force for emergency readiness.”; and

1           (2) by adding after the item relating to section  
2           2041, as added by section 804 of this Act, the fol-  
3           lowing:

“Sec. 2042. Metropolitan Medical Response System.

“Sec. 2043. Commercial Equipment Direct Assistance Program.”.

4           **TITLE X—NATIONAL BOMBING**  
5           **PREVENTION ACT**

6           **SEC. 1001. BOMBING PREVENTION.**

7           (a) IN GENERAL.—Subtitle A of title II of the Home-  
8           land Security Act of 2002 (6 U.S.C. 121 et seq.), as  
9           amended by section 501 of this Act, is amended by adding  
10          at the end the following:

11          **“SEC. 210G. OFFICE FOR BOMBING PREVENTION.**

12          “(a) IN GENERAL.—There is in the Department an  
13          Office for Bombing Prevention (in this section referred to  
14          as ‘the Office’) within the Office of Infrastructure Protec-  
15          tion.

16          “(b) RESPONSIBILITIES.—The Office shall have the  
17          primary responsibility within the Department for enhanc-  
18          ing the ability, and coordinating the efforts, of the Nation  
19          to deter, detect, prevent, protect against, and respond to  
20          terrorist explosive attacks, including by—

21                  “(1) serving as the lead agency of the Depart-  
22                  ment for ensuring that programs designed to  
23                  counter terrorist explosive attacks nationwide, func-

1       tion together efficiently to meet the evolving threat  
2       from explosives and improvised explosive devices;

3           “(2) coordinating, in consultation with the Na-  
4       tional Domestic Preparedness Consortium of the De-  
5       partment and in coordination with the Attorney  
6       General, national and intergovernmental bombing  
7       prevention training activities to ensure those activi-  
8       ties work toward achieving common national goals;

9           “(3) conducting, in coordination with the Attor-  
10      ney General, analysis of the capabilities and require-  
11      ments necessary for State and local governments to  
12      deter, prevent, detect, protect against, and assist in  
13      any response to terrorist explosive attacks by—

14           “(A) maintaining a national analysis data-  
15      base on the capabilities of bomb squads, explo-  
16      sive detection canine teams, tactics teams, and  
17      public safety dive teams; and

18           “(B) applying the analysis derived from  
19      the database described in subparagraph (A)  
20      in—

21           “(i) evaluating progress toward clos-  
22      ing identified gaps relating to applicable  
23      national strategic goals and standards; and

24           “(ii) informing decisions relating to  
25      homeland security policy, assistance, train-

1           ing, research, development efforts, and  
2           testing and evaluation, and related require-  
3           ments;

4           “(4) promoting secure information sharing of  
5           sensitive material relating to terrorist explosives and  
6           promoting security awareness, including by—

7                 “(A) operating and maintaining a secure  
8                 information sharing system that allows the  
9                 sharing of critical information relating to ter-  
10                rorist explosive attack tactics, techniques, and  
11                procedures;

12               “(B) in consultation with the Attorney  
13                General, educating the public and private sec-  
14                tors about explosive precursor chemicals;

15               “(C) working with international partners,  
16                in coordination with the Office for International  
17                Affairs of the Department and the Attorney  
18                General, to develop and share effective practices  
19                to deter, prevent, detect, protect, and respond  
20                to terrorist explosive attacks; and

21               “(D) executing national public awareness  
22                and vigilance campaigns relating to terrorist ex-  
23                plosive threats, preventing explosive attacks,  
24                and activities and measures underway to safe-  
25                guard the Nation;

1           “(5) assisting, in consultation with the Admin-  
2           istrator of the Federal Emergency Management  
3           Agency, State and local governments in developing  
4           multijurisdictional improvised explosive devices secu-  
5           rity plans for high-risk jurisdictions;

6           “(6) helping to ensure, in coordination with the  
7           Under Secretary for Science and Technology and the  
8           Administrator of the Federal Emergency Manage-  
9           ment Agency, the identification and availability of  
10          effective technology applications through field pilot  
11          testing and acquisition of such technology applica-  
12          tions by Federal, State, and local governments to  
13          deter, prevent, detect, protect, and respond to ter-  
14          rorist explosive attacks;

15          “(7) coordinating, in consultation with the At-  
16          torney General, other departments and agencies of  
17          Federal, State, and local government, and the pri-  
18          vate sector, the efforts of the Department to assist  
19          in the development and promulgation of national ex-  
20          plosives detection canine training, certification, and  
21          performance standards;

22          “(8) coordinating the efforts to implement with-  
23          in the Department applicable explosives detection  
24          training, certification, and performance standards;



1           “(9) ensuring the implementation of any rec-  
2           ommendations and responsibilities of the Depart-  
3           ment contained in the national strategy described in  
4           section 210H, including developing, maintaining,  
5           and tracking progress toward achieving objectives to  
6           reduce the Nation’s vulnerability to terrorist attacks  
7           using explosives or improvised explosive devices; and

8           “(10) developing, in coordination with the Ad-  
9           ministrator of the Federal Emergency Management  
10          Agency, programmatic guidance and permitted uses  
11          for bombing prevention activities funded by home-  
12          land security assistance administered by the Depart-  
13          ment.

14          “(c) AUTHORIZATION OF APPROPRIATIONS.—

15                 “(1) IN GENERAL.—There are authorized to be  
16                 appropriated to carry out this section—

17                         “(A) \$25,000,000 for each of fiscal years  
18                         2009 through 2010; and

19                         “(B) such sums as are necessary for each  
20                         fiscal year thereafter.

21                 “(2) AVAILABILITY.—Amounts made available  
22                 pursuant to this subsection shall remain available  
23                 until expended.

1 **“SEC. 210H. NATIONAL STRATEGY.**

2 “(a) IN GENERAL.—The President shall develop and  
3 periodically update a national strategy to prevent and pre-  
4 pare for terrorist attacks in the United States using explo-  
5 sives or improvised explosive devices.

6 “(b) DEVELOPMENT.—Not later than 90 days after  
7 the date of enactment of this section, the President shall  
8 develop the national strategy described in subsection (a).

9 “(c) REPORTING.—Not later than 6 months after the  
10 date of submission of the report regarding each quadren-  
11 nial homeland security review conducted under section  
12 621(c), the President shall submit to the Committee on  
13 Homeland Security and Governmental Affairs of the Sen-  
14 ate and the Committee on Homeland Security of the  
15 House of Representatives a report regarding the national  
16 strategy described in subsection (a), which shall include  
17 recommendations, if any, for deterring, preventing, detect-  
18 ing, protecting against, and responding to terrorist attacks  
19 in the United States using explosives or improvised explo-  
20 sive devices, including any such recommendations relating  
21 to coordinating the efforts of Federal, State, local, and  
22 tribal governments, emergency response providers, and the  
23 private sector.”.

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

1 inserting after the item relating to section 210F, as added  
2 by section 501 of this Act, the following:

“Sec. 210G. Office for Bombing Prevention.  
“Sec. 210H. National strategy.”.

3 **SEC. 1002. EXPLOSIVES TECHNOLOGY DEVELOPMENT AND**  
4 **TRANSFER.**

5 (a) IN GENERAL.—Title III of the Homeland Secu-  
6 rity Act of 2002 (6 U.S.C. 181 et seq.), as amended by  
7 section 703 of this Act, is amended by adding at the end  
8 the following:

9 **“SEC. 320. EXPLOSIVES RESEARCH AND DEVELOPMENT.**

10 “(a) IN GENERAL.—The Secretary, acting through  
11 the Under Secretary for Science and Technology, and in  
12 coordination with the Under Secretary for National Pro-  
13 tection and Programs, the Attorney General, the Secretary  
14 of Defense, and the head of any other relevant Federal  
15 department or agency, shall—

16 “(1) evaluate and assess nonmilitary research,  
17 development, testing, and evaluation activities of the  
18 Federal Government relating to the detection and  
19 prevention of, protection against, and response to ex-  
20 plosive attacks within the United States; and

21 “(2) make recommendations for enhancing co-  
22 ordination of the research, development, testing, and  
23 evaluation activities described in paragraph (1).

1           “(b) **MILITARY RESEARCH.**—The Secretary, acting  
2 through the Under Secretary for Science and Technology,  
3 and in coordination with the Under Secretary for National  
4 Protection and Programs, shall coordinate with the Sec-  
5 retary of Defense, the Attorney General, and the head of  
6 any other relevant Federal department or agency to en-  
7 sure that, to the maximum extent possible, military infor-  
8 mation and research, development, testing, and evaluation  
9 activities relating to the detection and prevention of, pro-  
10 tection against, and response to explosive attacks, and the  
11 development of tools and technologies necessary to neu-  
12 tralize and disable explosive devices, are applied to non-  
13 military uses.

14 **“SEC. 321. TECHNOLOGY TRANSFER.**

15           “(a) **IN GENERAL.**—The Secretary, acting through  
16 the Under Secretary for Science and Technology, and in  
17 coordination with the Under Secretary for National Pro-  
18 tection and Programs and the Attorney General, shall es-  
19 tablish a technology transfer program to facilitate the  
20 identification, modification, and commercialization of tech-  
21 nology and equipment for use by State and local govern-  
22 mental agencies, emergency response providers, and the  
23 private sector to deter, prevent, detect, protect, and re-  
24 spond to explosive attacks within the United States.

1       “(b) PROGRAM.—The activities under the program  
2 established under subsection (a) shall include—

3           “(1) applying the analysis conducted under sec-  
4 tion 210G(b)(3) of the capabilities and requirements  
5 of bomb squads, explosive detection canine teams,  
6 tactical teams, and public safety dive teams of State  
7 and local governments, to assist in the determination  
8 of training and technology requirements for State  
9 and local governments, emergency response pro-  
10 viders, and the private sector;

11           “(2) identifying available technologies designed  
12 to deter, prevent, detect, protect, or respond to ex-  
13 plosive attacks that have been, or are in the process  
14 of being, developed, tested, evaluated, or dem-  
15 onstrated by the Department, other Federal agen-  
16 cies, the private sector, foreign governments, or  
17 international organizations;

18           “(3) reviewing whether a technology described  
19 in paragraph (2) may be useful in assisting Federal,  
20 State, or local governments, emergency response  
21 providers, or the private sector in detecting, deter-  
22 ring, preventing, or responding to explosive attacks;

23           “(4) communicating, in coordination with the  
24 Attorney General, to Federal, State, and local gov-  
25 ernments, emergency response providers, and the

1 private sector the availability of any technology de-  
2 scribed in paragraph (2), including providing the  
3 specifications of such technology, indicating whether  
4 such technology satisfies applicable standards, and  
5 identifying grants, if any, available from the Depart-  
6 ment to purchase such technology; and

7 “(5) developing and assisting in the deployment  
8 of electronic countermeasures to protect high-risk  
9 critical infrastructure and key resources.

10 “(c) WORKING GROUP.—To facilitate the transfer of  
11 military technologies, the Secretary, acting through the  
12 Under Secretary for Science and Technology, in coordina-  
13 tion with the Attorney General and the Secretary of De-  
14 fense, and in a manner consistent with protection of sen-  
15 sitive sources and methods, shall establish a working  
16 group, or use an appropriate interagency body in existence  
17 on the date of enactment of this section, to advise and  
18 assist in the identification of military technologies de-  
19 signed to deter, prevent, detect, protect, or respond to ex-  
20 plosive attacks that are in the process of being developed,  
21 or are developed, by the Department of Defense or the  
22 private sector.”.

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

1 inserting after the item relating to section 319, as added  
2 by section 703 of this Act, the following:

“Sec. 320. Explosives research and development.

“Sec. 321. Technology transfer.”.

3 **SEC. 1003. SAVINGS CLAUSE.**

4 Nothing in this title or the amendments made by this  
5 title may be construed to limit or otherwise affect the au-  
6 thorities or responsibilities of the Attorney General.

7 **TITLE XI—FEDERAL PROTEC-**  
8 **TIVE SERVICE AUTHORIZA-**  
9 **TION**

10 **SEC. 1101. AUTHORIZATION OF FEDERAL PROTECTIVE**  
11 **SERVICE PERSONNEL.**

12 (a) IN GENERAL.—The Secretary shall ensure that—

13 (1) in fiscal year 2009 the Federal Protective  
14 Service maintains not fewer than 1,200 full-time  
15 equivalent employees, including not fewer than 900  
16 full-time equivalent police officers, inspectors, area  
17 commanders, and criminal investigators who, while  
18 working, are directly engaged on a daily basis pro-  
19 tecting and enforcing laws at Federal buildings; and

20 (2) in fiscal year 2010 the Federal Protective  
21 Service maintains not fewer than 1,300 full-time  
22 equivalent employees, including not fewer than 950  
23 full-time equivalent police officers, inspectors, area  
24 commanders, and criminal investigators who, while

1 working, are directly engaged on a daily basis pro-  
2 tecting and enforcing laws at Federal buildings.

3 (b) REPORT.—

4 (1) IN GENERAL.—Not later than 270 days  
5 after the date of enactment of this Act, the Sec-  
6 retary shall submit a report on recommendations for  
7 a funding structure for the Federal Protective Serv-  
8 ice to—

9 (A) the Committee on Appropriations of  
10 the Senate;

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

13 (C) the Committee on Appropriations of  
14 the House of Representatives;

15 (D) the Committee on Homeland Security  
16 of the House of Representatives; and

17 (E) the Committee on Transportation and  
18 Infrastructure of the House of Representatives.

19 (2) CONTENTS.—The report submitted under  
20 this subsection shall include—

21 (A) an evaluation of whether all, part, or  
22 none of the Federal Protective Service should  
23 be funded by fee collections, direct appropria-  
24 tions, or an alternative funding mechanism;



1           (B) an evaluation of the basis for assessing  
2           any security fees charged to agencies which uti-  
3           lize the Federal Protective Service, including  
4           whether such fees should be assessed based on  
5           square footage of facilities or by some other  
6           means; and

7           (C) an evaluation of assessing an enhanced  
8           security fee, in addition to a basic security fee,  
9           to facilities or agencies which require an en-  
10          hanced level of service from the Federal Protec-  
11          tive Service.

12          (c) ADJUSTMENT OF FEES.—The Federal Protective  
13          Service shall adjust fees as necessary to ensure collections  
14          are sufficient to carry out subsection (a).

15          (d) AUTHORIZATION OF APPROPRIATIONS.—There  
16          are authorized to be appropriated to carry out subsection  
17          (a)—

18               (1) \$650,000,000 for fiscal year 2009; and

19               (2) \$675,000,000 for fiscal year 2010.

20          (e) SAVINGS CLAUSE.—Nothing in this section shall  
21          prohibit the Federal Protective Service from continuing to  
22          provide reimbursable security and law enforcement serv-  
23          ices as requested by other Federal agencies and organiza-  
24          tions, without limitation to the appropriations authorized  
25          by this section.

1 **SEC. 1102. REPORT ON PERSONNEL NEEDS OF THE FED-**  
2 **ERAL PROTECTIVE SERVICE.**

3 (a) IN GENERAL.—Not later than 1 year after the  
4 date of enactment of this Act, the Secretary shall enter  
5 into a contract with an independent consultant to—

6 (1) prepare a report that recommends the ap-  
7 propriate level and composition of staffing required  
8 to accomplish the law enforcement response,  
9 proactive patrols, 24-hour service in major metro-  
10 politan areas, support to building security commit-  
11 tees, assistance with emergency plans, supervision  
12 and monitoring of contract guards, implementation  
13 and maintenance of security systems and counter-  
14 measures, and other missions of the Federal Protec-  
15 tive Service, including recommendations for full-time  
16 equivalent police officers, inspectors, area com-  
17 manders, criminal investigators, canine units, ad-  
18 ministrative and support staff, and contract security  
19 guards; and

20 (2) submit the report to—

21 (A) the Secretary;

22 (B) the Committee on Homeland Security  
23 and Governmental Affairs of the Senate;

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

1 (D) the Committee on Transportation and  
2 Infrastructure of the House of Representatives;  
3 and

4 (E) the Committees on Appropriations of  
5 the Senate and the House of Representatives.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated such sums as necessary  
8 to carry out this section.

9 **SEC. 1103. AUTHORITY FOR FEDERAL PROTECTIVE SERV-**  
10 **ICE OFFICERS AND INVESTIGATORS TO**  
11 **CARRY WEAPONS DURING OFF-DUTY TIMES.**

12 Section 1315(b)(2) of title 40, United States Code,  
13 is amended by striking “While engaged in the performance  
14 of official duties, an” and inserting “An”.

15 **SEC. 1104. AMENDMENTS RELATING TO THE CIVIL SERVICE**  
16 **RETIREMENT SYSTEM.**

17 (a) AMENDMENTS RELATING TO THE CIVIL SERVICE  
18 RETIREMENT SYSTEM.—

19 (1) DEFINITIONS.—Section 8331 of title 5,  
20 United States Code, as amended by section 815 of  
21 this Act, is amended by adding at the end the fol-  
22 lowing:

23 “(34) ‘Federal protective service officer’ means  
24 an employee in the Federal Protective Service, De-  
25 partment of Homeland Security—

1           “(A) who holds a position within the GS–  
2           0083, GS–0080, GS–1801, or GS–1811 job se-  
3           ries (determined applying the criteria in effect  
4           as of September 1, 2007 or any successor posi-  
5           tion; and

6           “(B) who are authorized to carry firearms  
7           and empowered to make arrests in the perform-  
8           ance of duties related to the protection of build-  
9           ings, grounds and property that are owned, oc-  
10          cupied, or secured by the Federal Government  
11          (including any agency, instrumentality or wholly  
12          owned or mixed-ownership corporation thereof)  
13          and the persons on the property, including any  
14          such employee who is transferred directly to a  
15          supervisory or administrative position in the  
16          Department of Homeland Security after per-  
17          forming such duties in 1 or more positions (as  
18          described under subparagraph (A)) for at least  
19          3 years.”.

20           (2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOS-  
21          ITS.—Section 8334 of title 5, United States Code, as  
22          amended by section 815 of this Act, is amended—

23                   (A) in subsection (a)(1)(A), by inserting  
24                   “Federal protective service officer,” before “or  
25                   customs and border protection officer,”; and

1 (B) in the table contained in subsection  
2 (c), by adding at the end the following:

“Federal Protective Service Officer 7.5 After June 29, 2009.”.

3 (3) MANDATORY SEPARATION.—The first sen-  
4 tence of section 8335(b)(1) of title 5, United States  
5 Code, as amended by section 815 of this Act, is  
6 amended by inserting “Federal protective service of-  
7 ficer,” before “or customs and border protection of-  
8 ficer,”.

9 (4) IMMEDIATE RETIREMENT.—Section 8336 of  
10 title 5, United States Code, as amended by section  
11 815 of this Act, is amended—

12 (A) in subsection (c)(1), by inserting “Fed-  
13 eral protective service officer,” before “or cus-  
14 toms and border protection officer,”; and

15 (B) in subsections (m) and (n), by insert-  
16 ing “as a Federal protective service officer,” be-  
17 fore “or as a customs and border protection of-  
18 ficer,”.

19 (b) AMENDMENTS RELATING TO THE FEDERAL EM-  
20 PLOYEES RETIREMENT SYSTEM.—

21 (1) DEFINITIONS.—Section 8401 of title 5,  
22 United States Code, as amended by section 815 of  
23 this Act, is amended by adding at the end the fol-  
24 lowing:

1           “(39) ‘Federal protective service officer’ means  
2           an employee in the Federal Protective Service, De-  
3           partment of Homeland Security—

4                   “(A) who holds a position within the GS-  
5                   0083, GS-0080, GS-1801, or GS-1811 job se-  
6                   ries (determined applying the criteria in effect  
7                   as of September 1, 2007 or any successor posi-  
8                   tion; and

9                   “(B) who are authorized to carry firearms  
10                  and empowered to make arrests in the perform-  
11                  ance of duties related to the protection of build-  
12                  ings, grounds and property that are owned, oc-  
13                  cupied, or secured by the Federal Government  
14                  (including any agency, instrumentality or wholly  
15                  owned or mixed-ownership corporation thereof)  
16                  and the persons on the property, including any  
17                  such employee who is transferred directly to a  
18                  supervisory or administrative position in the  
19                  Department of Homeland Security after per-  
20                  forming such duties in 1 or more positions (as  
21                  described under subparagraph (A)) for at least  
22                  3 years.”.

23                  (2) IMMEDIATE RETIREMENT.—Paragraphs (1)  
24                  and (2) of section 8412(d) of title 5, United States  
25                  Code, as amended by section 815 of this Act, are

1       amended by inserting “Federal protective service of-  
2       ficer,” before “or customs and border protection of-  
3       ficer,”.

4           (3) COMPUTATION OF BASIC ANNUITY.—Section  
5       8415(h)(2) of title 5, United States Code, as amend-  
6       ed by section 815 of this Act, is amended by insert-  
7       ing “Federal protective service officer,” before “or  
8       customs and border protection officer,”.

9           (4) DEDUCTIONS FROM PAY.—The table con-  
10       tained in section 8422(a)(3) of title 5, United States  
11       Code, as amended by section 815 of this Act, is  
12       amended by adding at the end the following:

“Federal Protective Service Officer     7.5     After June 29, 2009.”.

13           (5) GOVERNMENT CONTRIBUTIONS.—Para-  
14       graphs (1)(B)(i) and (3) of section 8423(a) of title  
15       5, United States Code, as amended by section 815  
16       of this Act, are amended by inserting “Federal pro-  
17       tective service officer,” before “customs and border  
18       protection officer,” each place it appears.

19           (6) MANDATORY SEPARATION.—Section  
20       8425(b)(1) of title 5, United States Code, as amend-  
21       ed by section 815 of this Act, is amended—

22           (A) by inserting “Federal protective service  
23       officer who,” before “or customs and border

1 protection officer,” the first place it appears;  
2 and

3 (B) inserting “Federal protective service  
4 officer,” before “or customs and border protec-  
5 tion officer,” the second place it appears.

6 (c) MAXIMUM AGE FOR ORIGINAL APPOINTMENT.—  
7 Section 3307 of title 5, United States Code, is amended  
8 by adding at the end the following:

9 “(h) The Secretary of Homeland Security may deter-  
10 mine and fix the maximum age limit for an original ap-  
11 pointment to a position as a Federal protective service of-  
12 ficer, as defined by section 8401(39).”.

13 (d) REGULATIONS.—Any regulations necessary to  
14 carry out the amendments made by this section shall be  
15 prescribed by the Director of the Office of Personnel Man-  
16 agement in consultation with the Secretary.

17 (e) EFFECTIVE DATE; TRANSITION RULES; FUND-  
18 ING.—

19 (1) EFFECTIVE DATE.—The amendments made  
20 by this section shall become effective on the later of  
21 June 30, 2009, or the first day of the first pay pe-  
22 riod beginning at least 6 months after the date of  
23 the enactment of this Act.

24 (2) TRANSITION RULES.—



1           (A) NONAPPLICABILITY OF MANDATORY  
2 SEPARATION PROVISIONS TO CERTAIN INDIVID-  
3 UALS.—The amendments made by subsections  
4 (a)(3) and (b)(6), respectively, shall not apply  
5 to an individual first appointed as a Federal  
6 protective service officer before the effective  
7 date under paragraph (1).

8           (B) TREATMENT OF PRIOR FEDERAL PRO-  
9 TECTIVE SERVICE OFFICER SERVICE.—

10           (i) GENERAL RULE.—Except as pro-  
11 vided in clause (ii), nothing in this section  
12 shall be considered to apply with respect to  
13 any service performed as a Federal protec-  
14 tive service officer before the effective date  
15 under paragraph (1).

16           (ii) EXCEPTION.—Service described in  
17 section 8331(34) and 8401(39) of title 5,  
18 United States Code (as amended by this  
19 section) rendered before the effective date  
20 under paragraph (1) may be taken into ac-  
21 count to determine if an individual who is  
22 serving on or after such effective date then  
23 qualifies as a Federal protective service of-  
24 ficer by virtue of holding a supervisory or

1 administrative position in the Department  
2 of Homeland Security.

3 (C) MINIMUM ANNUITY AMOUNT.—The an-  
4 nuity of an individual serving as a Federal pro-  
5 tective service officer on the effective date  
6 under paragraph (1) pursuant to an appoint-  
7 ment made before that date shall, to the extent  
8 that its computation is based on service ren-  
9 dered as a Federal protective service officer on  
10 or after that date, be at least equal to the  
11 amount that would be payable to the extent  
12 that such service is subject to the Civil Service  
13 Retirement System or Federal Employees Re-  
14 tirement System, as appropriate, by applying  
15 section 8339(d) of title 5, United States Code,  
16 with respect to such service.

17 (D) RULE OF CONSTRUCTION.—Nothing in  
18 the amendment made by subsection (c) shall be  
19 considered to apply with respect to any appoint-  
20 ment made before the effective date under para-  
21 graph (1).

22 (3) FEES AND AUTHORIZATIONS OF APPROPRIA-  
23 TIONS.—

24 (A) FEES.—The Federal Protective Service  
25 shall adjust fees as necessary to ensure collec-

1           tions are sufficient to carry out amendments  
2           made in this section.

3           (B) AUTHORIZATION OF APPROPRIA-  
4           TIONS.—There are authorized to be appro-  
5           priated such sums as are necessary to carry out  
6           this section.

7           (4) ELECTION.—

8           (A) INCUMBENT DEFINED.—For purposes  
9           of this paragraph, the term “incumbent” means  
10          an individual who is serving as an Federal pro-  
11          tective service officer on the date of the enact-  
12          ment of this Act.

13          (B) NOTICE REQUIREMENT.—Not later  
14          than 30 days after the date of the enactment of  
15          this Act, the Director of the Office of Personnel  
16          Management shall take measures reasonably de-  
17          signed to ensure that incumbents are notified  
18          as to their election rights under this paragraph,  
19          and the effect of making or not making a time-  
20          ly election.

21          (C) ELECTION AVAILABLE TO INCUM-  
22          BENTS.—

23                  (i) IN GENERAL.—An incumbent may  
24                  elect, for all purposes, either—

1 (I) to be treated in accordance  
2 with the amendments made by sub-  
3 section (a) or (b), as applicable; or

4 (II) to be treated as if sub-  
5 sections (a) and (b) had never been  
6 enacted.

7 (ii) FAILURE TO MAKE A TIMELY  
8 ELECTION.—Failure to make a timely elec-  
9 tion under clause (i) shall be treated in the  
10 same way as an election made under clause  
11 (i)(I) on the last day allowable under  
12 clause (iii).

13 (iii) DEADLINE.—An election under  
14 this subparagraph shall not be effective  
15 unless it is made at least 14 days before  
16 the effective date under paragraph (1).

17 (5) DEFINITION.—For the purposes of this sub-  
18 section, the term “Federal protective service officer”  
19 has the meaning given such term by section  
20 8331(34) or 8401(39) of title 5, United States Code  
21 (as amended by this section).

22 (6) EXCLUSION.—Nothing in this section or  
23 any amendment made by this section shall be consid-  
24 ered to afford any election or to otherwise apply with

1       respect to any individual who, as of the day before  
2       the date of the enactment of this Act—

3               (A) holds a positions within the Federal  
4       Protective Service; and

5               (B) is considered a law enforcement offi-  
6       cers for purposes of subchapter III of chapter  
7       83 or chapter 84 of title 5, United States Code,  
8       by virtue of such position.

9       **SEC. 1105. FEDERAL PROTECTIVE SERVICE CONTRACTS.**

10       (a) PROHIBITION ON AWARD OF CONTRACTS TO ANY  
11       BUSINESS CONCERN OWNED, CONTROLLED, OR OPER-  
12       ATED BY AN INDIVIDUAL CONVICTED OF A FELONY.—

13               (1) IN GENERAL.—The Secretary, acting  
14       through the Assistant Secretary of U.S. Immigration  
15       and Customs Enforcement—

16               (A) shall promulgate regulations estab-  
17       lishing guidelines for the prohibition of contract  
18       awards for the provision of guard services  
19       under the contract security guard program of  
20       the Federal Protective Service to any business  
21       concern that is owned, controlled, or operated  
22       by an individual who has been convicted of a  
23       felony; and

24               (B) may consider permanent or interim  
25       prohibitions when promulgating the regulations.

1           (2) CONTENTS.—The regulations under this  
2 subsection shall—

3           (A) identify which serious felonies may  
4 prohibit a contractor from being awarded a con-  
5 tract;

6           (B) require contractors to provide informa-  
7 tion regarding any relevant felony convictions  
8 when submitting bids or proposals; and

9           (C) provide guidelines for the contracting  
10 officer to assess present responsibility, miti-  
11 gating factors, and the risk associated with the  
12 previous conviction, and allow the contracting  
13 officer to award a contract under certain cir-  
14 cumstances.

15       (b) REGULATIONS.—Not later than 6 months after  
16 the date of the enactment of this Act, the Secretary shall  
17 issue regulations to carry out this section.

18       (c) REPORT ON GOVERNMENT-WIDE APPLICA-  
19 BILITY.—Not later than 18 months after the date of en-  
20 actment of the Act, the Administrator for Federal Pro-  
21 curement Policy shall submit a report on establishing simi-  
22 lar guidelines government-wide to—

23           (1) the Committee on Homeland Security and  
24 Governmental Affairs of the Senate; and

1           (2) the Committee on Oversight and Govern-  
2           ment Reform of the House of Representatives.