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110TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { 110-____

IMPLEMENTING RECOMMENDATIONS OF THE 9/11
COMMISSION ACT OF 2007

_____, 2007.—Ordered to be printed

Mr. THOMPSON of Mississippi, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 1]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1), to provide for the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Implementing Recommendations of the 9/11 Commission
4 Act of 2007”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for
6 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HOMELAND SECURITY GRANTS

Sec. 101. Homeland Security Grant Program.

Sec. 102. Other amendments to the Homeland Security Act of 2002.

Sec. 103. Amendments to the Post-Katrina Emergency Management Reform
Act of 2006.

Sec. 104. Technical and conforming amendments.

TITLE II—EMERGENCY MANAGEMENT PERFORMANCE GRANTS

Sec. 201. Emergency management performance grant program.

Sec. 202. Grants for construction of emergency operations centers.

**TITLE III—ENSURING COMMUNICATIONS INTEROPERABILITY FOR
FIRST RESPONDERS**

Sec. 301. Interoperable emergency communications grant program.

Sec. 302. Border interoperability demonstration project.

**TITLE IV—STRENGTHENING USE OF THE INCIDENT COMMAND
SYSTEM**

Sec. 401. Definitions.

Sec. 402. National exercise program design.

Sec. 403. National exercise program model exercises.

Sec. 404. Preidentifying and evaluating multijurisdictional facilities to strength-
en incident command; private sector preparedness.

Sec. 405. Federal response capability inventory.

Sec. 406. Reporting requirements.

Sec. 407. Federal preparedness.

Sec. 408. Credentialing and typing.

Sec. 409. Model standards and guidelines for critical infrastructure workers.

Sec. 410. Authorization of appropriations.

**TITLE V—IMPROVING INTELLIGENCE AND INFORMATION SHAR-
ING WITHIN THE FEDERAL GOVERNMENT AND WITH STATE,
LOCAL, AND TRIBAL GOVERNMENTS**

Subtitle A—Homeland Security Information Sharing Enhancement

- Sec. 501. Homeland Security Advisory System and information sharing.
- Sec. 502. Intelligence Component Defined.
- Sec. 503. Role of intelligence components, training, and information sharing.
- Sec. 504. Information sharing.

Subtitle B—Homeland Security Information Sharing Partnerships

- Sec. 511. Department of Homeland Security State, Local, and Regional Fusion Center Initiative.
- Sec. 512. Homeland Security Information Sharing Fellows Program.
- Sec. 513. Rural Policing Institute.

Subtitle C—Interagency Threat Assessment and Coordination Group

- Sec. 521. Interagency Threat Assessment and Coordination Group.

Subtitle D—Homeland Security Intelligence Offices Reorganization

- Sec. 531. Office of Intelligence and Analysis and Office of Infrastructure Protection.

Subtitle E—Authorization of Appropriations

- Sec. 541. Authorization of appropriations.

TITLE VI—CONGRESSIONAL OVERSIGHT OF INTELLIGENCE

- Sec. 601. Availability to public of certain intelligence funding information.
- Sec. 602. Public Interest Declassification Board.
- Sec. 603. Sense of the Senate regarding a report on the 9/11 Commission recommendations with respect to intelligence reform and congressional intelligence oversight reform.
- Sec. 604. Availability of funds for the Public Interest Declassification Board.
- Sec. 605. Availability of the Executive Summary of the Report on Central Intelligence Agency Accountability Regarding the Terrorist Attacks of September 11, 2001.

TITLE VII—STRENGTHENING EFFORTS TO PREVENT TERRORIST TRAVEL

Subtitle A—Terrorist Travel

- Sec. 701. Report on international collaboration to increase border security, enhance global document security, and exchange terrorist information.

Subtitle B—Visa Waiver

- Sec. 711. Modernization of the visa waiver program.

Subtitle C—Strengthening Terrorism Prevention Programs

- Sec. 721. Strengthening the capabilities of the Human Smuggling and Trafficking Center.
- Sec. 722. Enhancements to the terrorist travel program.
- Sec. 723. Enhanced driver's license.
- Sec. 724. Western Hemisphere Travel Initiative.
- Sec. 725. Model ports-of-entry.

Subtitle D—Miscellaneous Provisions

Sec. 731. Report regarding border security.

TITLE VIII—PRIVACY AND CIVIL LIBERTIES

Sec. 801. Modification of authorities relating to Privacy and Civil Liberties Oversight Board.

Sec. 802. Department Privacy Officer.

Sec. 803. Privacy and civil liberties officers.

Sec. 804. Federal Agency Data Mining Reporting Act of 2007.

TITLE IX—PRIVATE SECTOR PREPAREDNESS

Sec. 901. Private sector preparedness.

Sec. 902. Responsibilities of the private sector Office of the Department.

TITLE X—IMPROVING CRITICAL INFRASTRUCTURE SECURITY

Sec. 1001. National Asset Database.

Sec. 1002. Risk assessments and report.

Sec. 1003. Sense of Congress regarding the inclusion of levees in the National Infrastructure Protection Plan.

TITLE XI—ENHANCED DEFENSES AGAINST WEAPONS OF MASS DESTRUCTION

Sec. 1101. National Biosurveillance Integration Center.

Sec. 1102. Biosurveillance efforts.

Sec. 1103. Interagency coordination to enhance defenses against nuclear and radiological weapons of mass destruction.

Sec. 1104. Integration of detection equipment and technologies.

TITLE XII—TRANSPORTATION SECURITY PLANNING AND INFORMATION SHARING

Sec. 1201. Definitions.

Sec. 1202. Transportation security strategic planning.

Sec. 1203. Transportation security information sharing.

Sec. 1204. National domestic preparedness consortium.

Sec. 1205. National transportation security center of excellence.

Sec. 1206. Immunity for reports of suspected terrorist activity or suspicious behavior and response.

TITLE XIII—TRANSPORTATION SECURITY ENHANCEMENTS

Sec. 1301. Definitions.

Sec. 1302. Enforcement authority.

Sec. 1303. Authorization of visible intermodal prevention and response teams.

Sec. 1304. Surface transportation security inspectors.

Sec. 1305. Surface transportation security technology information sharing.

Sec. 1306. TSA personnel limitations.

Sec. 1307. National explosives detection canine team training program.

Sec. 1308. Maritime and surface transportation security user fee study.

Sec. 1309. Prohibition of issuance of transportation security cards to convicted felons.

Sec. 1310. Roles of the Department of Homeland Security and the Department of Transportation.

TITLE XIV—PUBLIC TRANSPORTATION SECURITY

- Sec. 1401. Short title.
- Sec. 1402. Definitions.
- Sec. 1403. Findings.
- Sec. 1404. National Strategy for Public Transportation Security.
- Sec. 1405. Security assessments and plans.
- Sec. 1406. Public transportation security assistance.
- Sec. 1407. Security exercises.
- Sec. 1408. Public transportation security training program.
- Sec. 1409. Public transportation research and development.
- Sec. 1410. Information sharing.
- Sec. 1411. Threat assessments.
- Sec. 1412. Reporting requirements.
- Sec. 1413. Public transportation employee protections.
- Sec. 1414. Security background checks of covered individuals for public transportation.
- Sec. 1415. Limitation on fines and civil penalties.

TITLE XV—SURFACE TRANSPORTATION SECURITY

Subtitle A—General Provisions

- Sec. 1501. Definitions.
- Sec. 1502. Oversight and grant procedures.
- Sec. 1503. Authorization of appropriations.
- Sec. 1504. Public awareness.

Subtitle B—Railroad Security

- Sec. 1511. Railroad transportation security risk assessment and national strategy.
- Sec. 1512. Railroad carrier assessments and plans.
- Sec. 1513. Railroad security assistance.
- Sec. 1514. Systemwide Amtrak security upgrades.
- Sec. 1515. Fire and life safety improvements.
- Sec. 1516. Railroad carrier exercises.
- Sec. 1517. Railroad security training program.
- Sec. 1518. Railroad security research and development.
- Sec. 1519. Railroad tank car security testing.
- Sec. 1520. Railroad threat assessments.
- Sec. 1521. Railroad employee protections.
- Sec. 1522. Security background checks of covered individuals.
- Sec. 1523. Northern border railroad passenger report.
- Sec. 1524. International Railroad Security Program.
- Sec. 1525. Transmission line report.
- Sec. 1526. Railroad security enhancements.
- Sec. 1527. Applicability of District of Columbia law to certain Amtrak contracts.
- Sec. 1528. Railroad preemption clarification.

Subtitle C—Over-The-Road Bus and Trucking Security

- Sec. 1531. Over-the-road bus security assessments and plans.
- Sec. 1532. Over-the-road bus security assistance.
- Sec. 1533. Over-the-road bus exercises.
- Sec. 1534. Over-the-road bus security training program.

- Sec. 1535. Over-the-road bus security research and development.
- Sec. 1536. Motor carrier employee protections.
- Sec. 1537. Unified carrier registration system agreement.
- Sec. 1538. School bus transportation security.
- Sec. 1539. Technical amendment.
- Sec. 1540. Truck security assessment.
- Sec. 1541. Memorandum of understanding annex.
- Sec. 1542. DHS Inspector General report on trucking security grant program.

Subtitle D—Hazardous Material and Pipeline Security

- Sec. 1551. Railroad routing of security-sensitive materials.
- Sec. 1552. Railroad security-sensitive material tracking.
- Sec. 1553. Hazardous materials highway routing.
- Sec. 1554. Motor carrier security-sensitive material tracking.
- Sec. 1555. Hazardous materials security inspections and study.
- Sec. 1556. Technical corrections.
- Sec. 1557. Pipeline security inspections and enforcement.
- Sec. 1558. Pipeline security and incident recovery plan.

TITLE XVI—AVIATION

- Sec. 1601. Airport checkpoint screening fund.
- Sec. 1602. Screening of cargo carried aboard passenger aircraft.
- Sec. 1603. In-line baggage screening.
- Sec. 1604. In-line baggage system deployment.
- Sec. 1605. Strategic plan to test and implement advanced passenger prescreening system.
- Sec. 1606. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight.
- Sec. 1607. Strengthening explosives detection at passenger screening checkpoints.
- Sec. 1608. Research and development of aviation transportation security technology.
- Sec. 1609. Blast-resistant cargo containers.
- Sec. 1610. Protection of passenger planes from explosives.
- Sec. 1611. Specialized training.
- Sec. 1612. Certain TSA personnel limitations not to apply.
- Sec. 1613. Pilot project to test different technologies at airport exit lanes.
- Sec. 1614. Security credentials for airline crews.
- Sec. 1615. Law enforcement officer biometric credential.
- Sec. 1616. Repair station security.
- Sec. 1617. General aviation security.
- Sec. 1618. Extension of authorization of aviation security funding.

TITLE XVII—MARITIME CARGO

- Sec. 1701. Container scanning and seals.

TITLE XVIII—PREVENTING WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM

- Sec. 1801. Findings.
- Sec. 1802. Definitions.

Subtitle A—Repeal and Modification of Limitations on Assistance for Prevention of WMD Proliferation and Terrorism

Sec. 1811. Repeal and modification of limitations on assistance for prevention of weapons of mass destruction proliferation and terrorism.

Subtitle B—Proliferation Security Initiative

Sec. 1821. Proliferation Security Initiative improvements and authorities.

Sec. 1822. Authority to provide assistance to cooperative countries.

Subtitle C—Assistance to Accelerate Programs to Prevent Weapons of Mass Destruction Proliferation and Terrorism

Sec. 1831. Statement of policy.

Sec. 1832. Authorization of appropriations for the Department of Defense Cooperative Threat Reduction Program.

Sec. 1833. Authorization of appropriations for the Department of Energy programs to prevent weapons of mass destruction proliferation and terrorism.

Subtitle D—Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism

Sec. 1841. Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

Sec. 1842. Sense of Congress on United States-Russia cooperation and coordination on the prevention of weapons of mass destruction proliferation and terrorism.

Subtitle E—Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism

Sec. 1851. Establishment of Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

Sec. 1852. Purposes of Commission.

Sec. 1853. Composition of Commission.

Sec. 1854. Responsibilities of Commission.

Sec. 1855. Powers of Commission.

Sec. 1856. Nonapplicability of Federal Advisory Committee Act.

Sec. 1857. Report.

Sec. 1858. Termination.

Sec. 1859. Funding.

TITLE XIX—INTERNATIONAL COOPERATION ON ANTITERRORISM TECHNOLOGIES

Sec. 1901. Promoting antiterrorism capabilities through international cooperation.

Sec. 1902. Transparency of funds.

TITLE XX—9/11 COMMISSION INTERNATIONAL IMPLEMENTATION

Sec. 2001. Short title.

Sec. 2002. Definition.

Subtitle A—Quality Educational Opportunities in Predominantly Muslim Countries.

Sec. 2011. Findings; Policy.

Sec. 2012. International Muslim Youth Opportunity Fund.

- Sec. 2013. Annual report to Congress.
Sec. 2014. Extension of program to provide grants to American-sponsored schools in predominantly Muslim Countries to provide scholarships.

Subtitle B—Democracy and Development in the Broader Middle East Region

- Sec. 2021. Middle East Foundation.

Subtitle C—Reaffirming United States Moral Leadership

- Sec. 2031. Advancing United States interests through public diplomacy.
Sec. 2032. Oversight of international broadcasting.
Sec. 2033. Expansion of United States scholarship, exchange, and library programs in predominantly Muslim countries.
Sec. 2034. United States policy toward detainees.

Subtitle D—Strategy for the United States Relationship With Afghanistan, Pakistan, and Saudi Arabia

- Sec. 2041. Afghanistan.
Sec. 2042. Pakistan.
Sec. 2043. Saudi Arabia.

TITLE XXI—ADVANCING DEMOCRATIC VALUES

- Sec. 2101. Short title.
Sec. 2102. Findings.
Sec. 2103. Statement of policy.
Sec. 2104. Definitions.

Subtitle A—Activities to Enhance the Promotion of Democracy

- Sec. 2111. Democracy Promotion at the Department of State.
Sec. 2112. Democracy Fellowship Program.
Sec. 2113. Investigations of violations of international humanitarian law.

Subtitle B—Strategies and Reports on Human Rights and the Promotion of Democracy

- Sec. 2121. Strategies, priorities, and annual report.
Sec. 2122. Translation of human rights reports.

Subtitle C—Advisory Committee on Democracy Promotion and the Internet Website of the Department of State

- Sec. 2131. Advisory Committee on Democracy Promotion.
Sec. 2132. Sense of Congress regarding the Internet website of the Department of State.

Subtitle D—Training in Democracy and Human Rights; Incentives

- Sec. 2141. Training in democracy promotion and the protection of human rights.
Sec. 2142. Sense of Congress regarding ADVANCE Democracy Award.
Sec. 2143. Personnel policies at the Department of State.

Subtitle E—Cooperation With Democratic Countries

Sec. 2151. Cooperation with democratic countries.

Subtitle F—Funding for Promotion of Democracy

Sec. 2161. The United Nations Democracy Fund.

Sec. 2162. United States democracy assistance programs.

TITLE XXII—INTEROPERABLE EMERGENCY COMMUNICATIONS

Sec. 2201. Interoperable emergency communications.

Sec. 2202. Clarification of congressional intent.

Sec. 2203. Cross border interoperability reports.

Sec. 2204. Extension of short quorum.

Sec. 2205. Requiring reports to be submitted to certain committees.

TITLE XXIII—EMERGENCY COMMUNICATIONS MODERNIZATION

Sec. 2301. Short title.

Sec. 2302. Funding for program.

Sec. 2303. NTIA coordination of E-911 implementation.

TITLE XXIV—MISCELLANEOUS PROVISIONS

Sec. 2401. Quadrennial homeland security review.

Sec. 2402. Sense of the Congress regarding the prevention of radicalization leading to ideologically-based violence.

Sec. 2403. Requiring reports to be submitted to certain committees.

Sec. 2404. Demonstration project.

Sec. 2405. Under Secretary for Management of Department of Homeland Security.

1 TITLE I—HOMELAND SECURITY
2 GRANTS

3 SEC. 101. HOMELAND SECURITY GRANT PROGRAM.

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

6 “TITLE XX—HOMELAND
7 SECURITY GRANTS

8 “SEC. 2001. DEFINITIONS.

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

10 “(1) ADMINISTRATOR.—The term ‘Adminis-
11 trator’ means the Administrator of the Federal
12 Emergency Management Agency.

1 “(2) APPROPRIATE COMMITTEES OF CON-
2 GRESS.—The term ‘appropriate committees of Con-
3 gress’ means—

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

6 “(B) those committees of the House of
7 Representatives that the Speaker of the House
8 of Representatives determines appropriate.

9 “(3) CRITICAL INFRASTRUCTURE SECTORS.—
10 The term ‘critical infrastructure sectors’ means the
11 following sectors, in both urban and rural areas:

12 “(A) Agriculture and food.

13 “(B) Banking and finance.

14 “(C) Chemical industries.

15 “(D) Commercial facilities.

16 “(E) Commercial nuclear reactors, mate-
17 rials, and waste.

18 “(F) Dams.

19 “(G) The defense industrial base.

20 “(H) Emergency services.

21 “(I) Energy.

22 “(J) Government facilities.

23 “(K) Information technology.

24 “(L) National monuments and icons.

25 “(M) Postal and shipping.

1 “(N) Public health and health care.

2 “(O) Telecommunications.

3 “(P) Transportation systems.

4 “(Q) Water.

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

7 “(A) any Indian tribe—

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

10 “(ii) that operates a law enforcement
11 or emergency response agency with the ca-
12 pacity to respond to calls for law enforce-
13 ment or emergency services;

14 “(iii)(I) that is located on or near an
15 international border or a coastline bor-
16 dering an ocean (including the Gulf of
17 Mexico) or international waters;

18 “(II) that is located within 10 miles of
19 a system or asset included on the
20 prioritized critical infrastructure list estab-
21 lished under section 210E(a)(2) or has
22 such a system or asset within its territory;

23 “(III) that is located within or contig-
24 uous to 1 of the 50 most populous metro-

1 politan statistical areas in the United
2 States; or

3 “(IV) the jurisdiction of which in-
4 cludes not less than 1,000 square miles of
5 Indian country, as that term is defined in
6 section 1151 of title 18, United States
7 Code; and

8 “(iv) that certifies to the Secretary
9 that a State has not provided funds under
10 section 2003 or 2004 to the Indian tribe or
11 consortium of Indian tribes for the purpose
12 for which direct funding is sought; and

13 “(B) a consortium of Indian tribes, if each
14 tribe satisfies the requirements of subparagraph
15 (A).

16 “(5) ELIGIBLE METROPOLITAN AREA.—The
17 term ‘eligible metropolitan area’ means any of the
18 100 most populous metropolitan statistical areas in
19 the United States.

20 “(6) HIGH-RISK URBAN AREA.—The term
21 ‘high-risk urban area’ means a high-risk urban area
22 designated under section 2003(b)(3)(A).

23 “(7) INDIAN TRIBE.—The term ‘Indian tribe’
24 has the meaning given that term in section 4(e) of

1 the Indian Self-Determination Act (25 U.S.C.
2 450b(e)).

3 “(8) METROPOLITAN STATISTICAL AREA.—The
4 term ‘metropolitan statistical area’ means a metro-
5 politan statistical area, as defined by the Office of
6 Management and Budget.

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

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

16 “(11) POPULATION DENSITY.—The term ‘popu-
17 lation density’ means population divided by land
18 area in square miles.

19 “(12) QUALIFIED INTELLIGENCE ANALYST.—
20 The term ‘qualified intelligence analyst’ means an
21 intelligence analyst (as that term is defined in sec-
22 tion 210A(j)), including law enforcement per-
23 sonnel—

24 “(A) who has successfully completed train-
25 ing to ensure baseline proficiency in intelligence

1 analysis and production, as determined by the
2 Secretary, which may include training using a
3 curriculum developed under section 209; or

4 “(B) whose experience ensures baseline
5 proficiency in intelligence analysis and produc-
6 tion equivalent to the training required under
7 subparagraph (A), as determined by the Sec-
8 retary.

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

16 “(14) TRIBAL GOVERNMENT.—The term ‘tribal
17 government’ means the government of an Indian
18 tribe.

19 **“Subtitle A—Grants to States and** 20 **High-Risk Urban Areas**

21 **“SEC. 2002. HOMELAND SECURITY GRANT PROGRAMS.**

22 “(a) GRANTS AUTHORIZED.—The Secretary, through
23 the Administrator, may award grants under sections 2003
24 and 2004 to State, local, and tribal governments.

1 “(b) PROGRAMS NOT AFFECTED.—This subtitle shall
2 not be construed to affect any of the following Federal
3 programs:

4 “(1) Firefighter and other assistance programs
5 authorized under the Federal Fire Prevention and
6 Control Act of 1974 (15 U.S.C. 2201 et seq.).

7 “(2) Grants authorized under the Robert T.
8 Stafford Disaster Relief and Emergency Assistance
9 Act (42 U.S.C. 5121 et seq.).

10 “(3) Emergency Management Performance
11 Grants under the amendments made by title II of
12 the Implementing Recommendations of the 9/11
13 Commission Act of 2007.

14 “(4) Grants to protect critical infrastructure,
15 including port security grants authorized under sec-
16 tion 70107 of title 46, United States Code, and the
17 grants authorized under title XIV, XV, and XVI of
18 the Implementing Recommendations of the 9/11
19 Commission Act of 2007 and the amendments made
20 by such titles.

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

1 “(6) The Interoperable Emergency Communica-
2 tions Grant Program authorized under title XVIII.

3 “(7) Grant programs other than those adminis-
4 tered by the Department.

5 “(c) RELATIONSHIP TO OTHER LAWS.—

6 “(1) IN GENERAL.—The grant programs au-
7 thorized under sections 2003 and 2004 shall
8 supercede all grant programs authorized under sec-
9 tion 1014 of the USA PATRIOT Act (42 U.S.C.
10 3714).

11 “(2) ALLOCATION.—The allocation of grants
12 authorized under section 2003 or 2004 shall be gov-
13 erned by the terms of this subtitle and not by any
14 other provision of law.

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

16 “(a) ESTABLISHMENT.—There is established an
17 Urban Area Security Initiative to provide grants to assist
18 high-risk urban areas in preventing, preparing for, pro-
19 tecting against, and responding to acts of terrorism.

20 “(b) ASSESSMENT AND DESIGNATION OF HIGH-RISK
21 URBAN AREAS.—

22 “(1) IN GENERAL.—The Administrator shall
23 designate high-risk urban areas to receive grants
24 under this section based on procedures under this
25 subsection.

1 “(2) INITIAL ASSESSMENT.—

2 “(A) IN GENERAL.—For each fiscal year,
3 the Administrator shall conduct an initial as-
4 sessment of the relative threat, vulnerability,
5 and consequences from acts of terrorism faced
6 by each eligible metropolitan area, including
7 consideration of—

8 “(i) the factors set forth in subpara-
9 graphs (A) through (H) and (K) of section
10 2007(a)(1); and

11 “(ii) information and materials sub-
12 mitted under subparagraph (B).

13 “(B) SUBMISSION OF INFORMATION BY
14 ELIGIBLE METROPOLITAN AREAS.—Prior to
15 conducting each initial assessment under sub-
16 paragraph (A), the Administrator shall provide
17 each eligible metropolitan area with, and shall
18 notify each eligible metropolitan area of, the op-
19 portunity to—

20 “(i) submit information that the eligi-
21 ble metropolitan area believes to be rel-
22 evant to the determination of the threat,
23 vulnerability, and consequences it faces
24 from acts of terrorism; and

1 “(ii) review the risk assessment con-
2 ducted by the Department of that eligible
3 metropolitan area, including the bases for
4 the assessment by the Department of the
5 threat, vulnerability, and consequences
6 from acts of terrorism faced by that eligi-
7 ble metropolitan area, and remedy erro-
8 neous or incomplete information.

9 “(3) DESIGNATION OF HIGH-RISK URBAN
10 AREAS.—

11 “(A) DESIGNATION.—

12 “(i) IN GENERAL.—For each fiscal
13 year, after conducting the initial assess-
14 ment under paragraph (2), and based on
15 that assessment, the Administrator shall
16 designate high-risk urban areas that may
17 submit applications for grants under this
18 section.

19 “(ii) ADDITIONAL AREAS.—Notwith-
20 standing paragraph (2), the Administrator
21 may—

22 “(I) in any case where an eligible
23 metropolitan area consists of more
24 than 1 metropolitan division (as that
25 term is defined by the Office of Man-

1 agement and Budget) designate more
2 than 1 high-risk urban area within a
3 single eligible metropolitan area; and

4 “(II) designate an area that is
5 not an eligible metropolitan area as a
6 high-risk urban area based on the as-
7 sessment by the Administrator of the
8 relative threat, vulnerability, and con-
9 sequences from acts of terrorism faced
10 by the area.

11 “(iii) RULE OF CONSTRUCTION.—

12 Nothing in this subsection may be con-
13 strued to require the Administrator to—

14 “(I) designate all eligible metro-
15 politan areas that submit information
16 to the Administrator under paragraph
17 (2)(B)(i) as high-risk urban areas; or

18 “(II) designate all areas within
19 an eligible metropolitan area as part
20 of the high-risk urban area.

21 “(B) JURISDICTIONS INCLUDED IN HIGH-
22 RISK URBAN AREAS.—

23 “(i) IN GENERAL.—In designating
24 high-risk urban areas under subparagraph
25 (A), the Administrator shall determine

1 which jurisdictions, at a minimum, shall be
2 included in each high-risk urban area.

3 “(ii) ADDITIONAL JURISDICTIONS.—A
4 high-risk urban area designated by the Ad-
5 ministrator may, in consultation with the
6 State or States in which such high-risk
7 urban area is located, add additional juris-
8 dictions to the high-risk urban area.

9 “(c) APPLICATION.—

10 “(1) IN GENERAL.—An area designated as a
11 high-risk urban area under subsection (b) may apply
12 for a grant under this section.

13 “(2) MINIMUM CONTENTS OF APPLICATION.—
14 In an application for a grant under this section, a
15 high-risk urban area shall submit—

16 “(A) a plan describing the proposed divi-
17 sion of responsibilities and distribution of fund-
18 ing among the local and tribal governments in
19 the high-risk urban area;

20 “(B) the name of an individual to serve as
21 a high-risk urban area liaison with the Depart-
22 ment and among the various jurisdictions in the
23 high-risk urban area; and

1 “(C) such information in support of the
2 application as the Administrator may reason-
3 ably require.

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

7 “(4) STATE REVIEW AND TRANSMISSION.—

8 “(A) IN GENERAL.—To ensure consistency
9 with State homeland security plans, a high-risk
10 urban area applying for a grant under this sec-
11 tion shall submit its application to each State
12 within which any part of that high-risk urban
13 area is located for review before submission of
14 such application to the Department.

15 “(B) DEADLINE.—Not later than 30 days
16 after receiving an application from a high-risk
17 urban area under subparagraph (A), a State
18 shall transmit the application to the Depart-
19 ment.

20 “(C) OPPORTUNITY FOR STATE COM-
21 MENT.—If the Governor of a State determines
22 that an application of a high-risk urban area is
23 inconsistent with the State homeland security
24 plan of that State, or otherwise does not sup-
25 port the application, the Governor shall—

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

3 “(ii) provide an explanation of the
4 reason for not supporting the application
5 at the time of transmission of the applica-
6 tion.

7 “(5) OPPORTUNITY TO AMEND.—In considering
8 applications for grants under this section, the Ad-
9 ministrator shall provide applicants with a reason-
10 able opportunity to correct defects in the application,
11 if any, before making final awards.

12 “(d) DISTRIBUTION OF AWARDS.—

13 “(1) IN GENERAL.—If the Administrator ap-
14 proves the application of a high-risk urban area for
15 a grant under this section, the Administrator shall
16 distribute the grant funds to the State or States in
17 which that high-risk urban area is located.

18 “(2) STATE DISTRIBUTION OF FUNDS.—

19 “(A) IN GENERAL.—Not later than 45
20 days after the date that a State receives grant
21 funds under paragraph (1), that State shall
22 provide the high-risk urban area awarded that
23 grant not less than 80 percent of the grant
24 funds. Any funds retained by a State shall be

1 expended on items, services, or activities that
2 benefit the high-risk urban area.

3 “(B) FUNDS RETAINED.—A State shall
4 provide each relevant high-risk urban area with
5 an accounting of the items, services, or activi-
6 ties on which any funds retained by the State
7 under subparagraph (A) were expended.

8 “(3) INTERSTATE URBAN AREAS.—If parts of a
9 high-risk urban area awarded a grant under this
10 section are located in 2 or more States, the Adminis-
11 trator shall distribute to each such State—

12 “(A) a portion of the grant funds in ac-
13 cordance with the proposed distribution set
14 forth in the application; or

15 “(B) if no agreement on distribution has
16 been reached, a portion of the grant funds de-
17 termined by the Administrator to be appro-
18 priate.

19 “(4) CERTIFICATIONS REGARDING DISTRIBU-
20 TION OF GRANT FUNDS TO HIGH-RISK URBAN
21 AREAS.—A State that receives grant funds under
22 paragraph (1) shall certify to the Administrator that
23 the State has made available to the applicable high-
24 risk urban area the required funds under paragraph
25 (2).

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

4 “(1) \$850,000,000 for fiscal year 2008;

5 “(2) \$950,000,000 for fiscal year 2009;

6 “(3) \$1,050,000,000 for fiscal year 2010;

7 “(4) \$1,150,000,000 for fiscal year 2011;

8 “(5) \$1,300,000,000 for fiscal year 2012; and

9 “(6) such sums as are necessary for fiscal year
10 2013, and each fiscal year thereafter.

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

12 “(a) ESTABLISHMENT.—There is established a State
13 Homeland Security Grant Program to assist State, local,
14 and tribal governments in preventing, preparing for, pro-
15 tecting against, and responding to acts of terrorism.

16 “(b) APPLICATION.—

17 “(1) IN GENERAL.—Each State may apply for
18 a grant under this section, and shall submit such in-
19 formation in support of the application as the Ad-
20 ministrator may reasonably require.

21 “(2) MINIMUM CONTENTS OF APPLICATION.—

22 The Administrator shall require that each State in-
23 clude in its application, at a minimum—

24 “(A) the purpose for which the State seeks
25 grant funds and the reasons why the State

1 needs the grant to meet the target capabilities
2 of that State;

3 “(B) a description of how the State plans
4 to allocate the grant funds to local governments
5 and Indian tribes; and

6 “(C) a budget showing how the State in-
7 tends to expend the grant funds.

8 “(3) ANNUAL APPLICATIONS.—Applicants for
9 grants under this section shall apply or reapply on
10 an annual basis.

11 “(c) DISTRIBUTION TO LOCAL AND TRIBAL GOVERN-
12 MENTS.—

13 “(1) IN GENERAL.—Not later than 45 days
14 after receiving grant funds, any State receiving a
15 grant under this section shall make available to local
16 and tribal governments, consistent with the applica-
17 ble State homeland security plan—

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

20 “(B) with the consent of local and tribal
21 governments, items, services, or activities hav-
22 ing a value of not less than 80 percent of the
23 amount of the grant; or

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

1 items, services, or activities having a total value
2 of not less than 80 percent of the amount of
3 the grant.

4 “(2) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—
5 A State shall certify to the Administrator that the
6 State has made the distribution to local and tribal
7 governments required under paragraph (1).
8

9 “(3) EXTENSION OF PERIOD.—The Governor of
10 a State may request in writing that the Adminis-
11 trator extend the period under paragraph (1) for an
12 additional period of time. The Administrator may
13 approve such a request if the Administrator deter-
14 mines that the resulting delay in providing grant
15 funding to the local and tribal governments is nec-
16 essary to promote effective investments to prevent,
17 prepare for, protect against, or respond to acts of
18 terrorism.

19 “(4) EXCEPTION.—Paragraph (1) shall not
20 apply to the District of Columbia, the Common-
21 wealth of Puerto Rico, American Samoa, the Com-
22 monwealth of the Northern Mariana Islands, Guam,
23 or the Virgin Islands.

24 “(5) DIRECT FUNDING.—If a State fails to
25 make the distribution to local or tribal governments

1 required under paragraph (1) in a timely fashion, a
2 local or tribal government entitled to receive such
3 distribution may petition the Administrator to re-
4 quest that grant funds be provided directly to the
5 local or tribal government.

6 “(d) MULTISTATE APPLICATIONS.—

7 “(1) IN GENERAL.—Instead of, or in addition
8 to, any application for a grant under subsection (b),
9 2 or more States may submit an application for a
10 grant under this section in support of multistate ef-
11 forts to prevent, prepare for, protect against, and re-
12 spond to acts of terrorism.

13 “(2) ADMINISTRATION OF GRANT.—If a group
14 of States applies for a grant under this section, such
15 States shall submit to the Administrator at the time
16 of application a plan describing—

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

19 “(B) the distribution of funding among the
20 States that are parties to the application.

21 “(e) MINIMUM ALLOCATION.—

22 “(1) IN GENERAL.—In allocating funds under
23 this section, the Administrator shall ensure that—

24 “(A) except as provided in subparagraph
25 (B), each State receives, from the funds appro-

1 appropriated for the State Homeland Security Grant
2 Program established under this section, not less
3 than an amount equal to—

4 “(i) 0.375 percent of the total funds
5 appropriated for grants under this section
6 and section 2003 in fiscal year 2008;

7 “(ii) 0.365 percent of the total funds
8 appropriated for grants under this section
9 and section 2003 in fiscal year 2009;

10 “(iii) 0.36 percent of the total funds
11 appropriated for grants under this section
12 and section 2003 in fiscal year 2010;

13 “(iv) 0.355 percent of the total funds
14 appropriated for grants under this section
15 and section 2003 in fiscal year 2011; and

16 “(v) 0.35 percent of the total funds
17 appropriated for grants under this section
18 and section 2003 in fiscal year 2012 and
19 in each fiscal year thereafter; and

20 “(B) for each fiscal year, American Samoa,
21 the Commonwealth of the Northern Mariana Is-
22 lands, Guam, and the Virgin Islands each re-
23 ceive, from the funds appropriated for the State
24 Homeland Security Grant Program established
25 under this section, not less than an amount

1 equal to 0.08 percent of the total funds appro-
2 priated for grants under this section and sec-
3 tion 2003.

4 “(2) EFFECT OF MULTISTATE AWARD ON
5 STATE MINIMUM.—Any portion of a multistate
6 award provided to a State under subsection (d) shall
7 be considered in calculating the minimum State allo-
8 cation under this subsection.

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

12 “(1) \$950,000,000 for each of fiscal years 2008
13 through 2012; and

14 “(2) such sums as are necessary for fiscal year
15 2013, and each fiscal year thereafter.

16 **“SEC. 2005. GRANTS TO DIRECTLY ELIGIBLE TRIBES.**

17 “(a) IN GENERAL.—Notwithstanding section
18 2004(b), the Administrator may award grants to directly
19 eligible tribes under section 2004.

20 “(b) TRIBAL APPLICATIONS.—A directly eligible tribe
21 may apply for a grant under section 2004 by submitting
22 an application to the Administrator that includes, as ap-
23 propriate, the information required for an application by
24 a State under section 2004(b).

25 “(c) CONSISTENCY WITH STATE PLANS.—

1 “(1) IN GENERAL.—To ensure consistency with
2 any applicable State homeland security plan, a di-
3 rectly eligible tribe applying for a grant under sec-
4 tion 2004 shall provide a copy of its application to
5 each State within which any part of the tribe is lo-
6 cated for review before the tribe submits such appli-
7 cation to the Department.

8 “(2) OPPORTUNITY FOR COMMENT.—If the
9 Governor of a State determines that the application
10 of a directly eligible tribe is inconsistent with the
11 State homeland security plan of that State, or other-
12 wise does not support the application, not later than
13 30 days after the date of receipt of that application
14 the Governor shall—

15 “(A) notify the Administrator, in writing,
16 of that fact; and

17 “(B) provide an explanation of the reason
18 for not supporting the application.

19 “(d) FINAL AUTHORITY.—The Administrator shall
20 have final authority to approve any application of a di-
21 rectly eligible tribe. The Administrator shall notify each
22 State within the boundaries of which any part of a directly
23 eligible tribe is located of the approval of an application
24 by the tribe.

1 “(e) PRIORITIZATION.—The Administrator shall allo-
2 cate funds to directly eligible tribes in accordance with the
3 factors applicable to allocating funds among States under
4 section 2007.

5 “(f) DISTRIBUTION OF AWARDS TO DIRECTLY ELIGI-
6 BLE TRIBES.—If the Administrator awards funds to a di-
7 rectly eligible tribe under this section, the Administrator
8 shall distribute the grant funds directly to the tribe and
9 not through any State.

10 “(g) MINIMUM ALLOCATION.—

11 “(1) IN GENERAL.—In allocating funds under
12 this section, the Administrator shall ensure that, for
13 each fiscal year, directly eligible tribes collectively re-
14 ceive, from the funds appropriated for the State
15 Homeland Security Grant Program established
16 under section 2004, not less than an amount equal
17 to 0.1 percent of the total funds appropriated for
18 grants under sections 2003 and 2004.

19 “(2) EXCEPTION.—This subsection shall not
20 apply in any fiscal year in which the Adminis-
21 trator—

22 “(A) receives fewer than 5 applications
23 under this section; or

24 “(B) does not approve at least 2 applica-
25 tions under this section.

1 “(h) TRIBAL LIAISON.—A directly eligible tribe ap-
2 plying for a grant under section 2004 shall designate an
3 individual to serve as a tribal liaison with the Department
4 and other Federal, State, local, and regional government
5 officials concerning preventing, preparing for, protecting
6 against, and responding to acts of terrorism.

7 “(i) ELIGIBILITY FOR OTHER FUNDS.—A directly el-
8 igible tribe that receives a grant under section 2004 may
9 receive funds for other purposes under a grant from the
10 State or States within the boundaries of which any part
11 of such tribe is located and from any high-risk urban area
12 of which it is a part, consistent with the homeland security
13 plan of the State or high-risk urban area.

14 “(j) STATE OBLIGATIONS.—

15 “(1) IN GENERAL.—States shall be responsible
16 for allocating grant funds received under section
17 2004 to tribal governments in order to help those
18 tribal communities achieve target capabilities not
19 achieved through grants to directly eligible tribes.

20 “(2) DISTRIBUTION OF GRANT FUNDS.—With
21 respect to a grant to a State under section 2004, an
22 Indian tribe shall be eligible for funding directly
23 from that State, and shall not be required to seek
24 funding from any local government.

1 “(3) IMPOSITION OF REQUIREMENTS.—A State
2 may not impose unreasonable or unduly burdensome
3 requirements on an Indian tribe as a condition of
4 providing the Indian tribe with grant funds or re-
5 sources under section 2004.

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

9 **“SEC. 2006. TERRORISM PREVENTION.**

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

12 “(1) IN GENERAL.—The Administrator shall
13 ensure that not less than 25 percent of the total
14 combined funds appropriated for grants under sec-
15 tions 2003 and 2004 is used for law enforcement
16 terrorism prevention activities.

17 “(2) LAW ENFORCEMENT TERRORISM PREVEN-
18 TION ACTIVITIES.—Law enforcement terrorism pre-
19 vention activities include—

20 “(A) information sharing and analysis;

21 “(B) target hardening;

22 “(C) threat recognition;

23 “(D) terrorist interdiction;

24 “(E) overtime expenses consistent with a

25 State homeland security plan, including for the

1 provision of enhanced law enforcement oper-
2 ations in support of Federal agencies, including
3 for increased border security and border cross-
4 ing enforcement;

5 “(F) establishing, enhancing, and staffing
6 with appropriately qualified personnel State,
7 local, and regional fusion centers that comply
8 with the guidelines established under section
9 210A(i);

10 “(G) paying salaries and benefits for per-
11 sonnel, including individuals employed by the
12 grant recipient on the date of the relevant grant
13 application, to serve as qualified intelligence an-
14 alysts;

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

19 “(I) any other terrorism prevention activity
20 authorized by the Administrator.

21 “(3) PARTICIPATION OF UNDERREPRESENTED
22 COMMUNITIES IN FUSION CENTERS.—The Adminis-
23 trator shall ensure that grant funds described in
24 paragraph (1) are used to support the participation,
25 as appropriate, of law enforcement and other emer-

1 agency response providers from rural and other
2 underrepresented communities at risk from acts of
3 terrorism in fusion centers.

4 “(b) OFFICE FOR STATE AND LOCAL LAW ENFORCE-
5 MENT.—

6 “(1) ESTABLISHMENT.—There is established in
7 the Policy Directorate of the Department an Office
8 for State and Local Law Enforcement, which shall
9 be headed by an Assistant Secretary for State and
10 Local Law Enforcement.

11 “(2) QUALIFICATIONS.—The Assistant Sec-
12 retary for State and Local Law Enforcement shall
13 have an appropriate background with experience in
14 law enforcement, intelligence, and other
15 counterterrorism functions.

16 “(3) ASSIGNMENT OF PERSONNEL.—The Sec-
17 retary shall assign to the Office for State and Local
18 Law Enforcement permanent staff and, as appro-
19 priate and consistent with sections 506(c)(2), 821,
20 and 888(d), other appropriate personnel detailed
21 from other components of the Department to carry
22 out the responsibilities under this subsection.

23 “(4) RESPONSIBILITIES.—The Assistant Sec-
24 retary for State and Local Law Enforcement shall—

1 “(A) lead the coordination of Department-
2 wide policies relating to the role of State and
3 local law enforcement in preventing, preparing
4 for, protecting against, and responding to nat-
5 ural disasters, acts of terrorism, and other
6 man-made disasters within the United States;

7 “(B) serve as a liaison between State,
8 local, and tribal law enforcement agencies and
9 the Department;

10 “(C) coordinate with the Office of Intel-
11 ligence and Analysis to ensure the intelligence
12 and information sharing requirements of State,
13 local, and tribal law enforcement agencies are
14 being addressed;

15 “(D) work with the Administrator to en-
16 sure that law enforcement and terrorism-fo-
17 cused grants to State, local, and tribal govern-
18 ment agencies, including grants under sections
19 2003 and 2004, the Commercial Equipment Di-
20 rect Assistance Program, and other grants ad-
21 ministered by the Department to support fusion
22 centers and law enforcement-oriented programs,
23 are appropriately focused on terrorism preven-
24 tion activities;

1 “(E) coordinate with the Science and
2 Technology Directorate, the Federal Emergency
3 Management Agency, the Department of Jus-
4 tice, the National Institute of Justice, law en-
5 forcement organizations, and other appropriate
6 entities to support the development, promulga-
7 tion, and updating, as necessary, of national
8 voluntary consensus standards for training and
9 personal protective equipment to be used in a
10 tactical environment by law enforcement offi-
11 cers; and

12 “(F) conduct, jointly with the Adminis-
13 trator, a study to determine the efficacy and
14 feasibility of establishing specialized law en-
15 forcement deployment teams to assist State,
16 local, and tribal governments in responding to
17 natural disasters, acts of terrorism, or other
18 man-made disasters and report on the results of
19 that study to the appropriate committees of
20 Congress.

21 “(5) RULE OF CONSTRUCTION.—Nothing in
22 this subsection shall be construed to diminish,
23 supersede, or replace the responsibilities, authorities,
24 or role of the Administrator.

1 **“SEC. 2007. PRIORITIZATION.**

2 “(a) IN GENERAL.—In allocating funds among
3 States and high-risk urban areas applying for grants
4 under section 2003 or 2004, the Administrator shall con-
5 sider, for each State or high-risk urban area—

6 “(1) its relative threat, vulnerability, and con-
7 sequences from acts of terrorism, including consider-
8 ation of—

9 “(A) its population, including appropriate
10 consideration of military, tourist, and commuter
11 populations;

12 “(B) its population density;

13 “(C) its history of threats, including
14 whether it has been the target of a prior act of
15 terrorism;

16 “(D) its degree of threat, vulnerability,
17 and consequences related to critical infrastruc-
18 ture (for all critical infrastructure sectors) or
19 key resources identified by the Administrator or
20 the State homeland security plan, including
21 threats, vulnerabilities, and consequences re-
22 lated to critical infrastructure or key resources
23 in nearby jurisdictions;

24 “(E) the most current threat assessments
25 available to the Department;

1 “(F) whether the State has, or the high-
2 risk urban area is located at or near, an inter-
3 national border;

4 “(G) whether it has a coastline bordering
5 an ocean (including the Gulf of Mexico) or
6 international waters;

7 “(H) its likely need to respond to acts of
8 terrorism occurring in nearby jurisdictions;

9 “(I) the extent to which it has unmet tar-
10 get capabilities;

11 “(J) in the case of a high-risk urban area,
12 the extent to which that high-risk urban area
13 includes—

14 “(i) those incorporated municipalities,
15 counties, parishes, and Indian tribes within
16 the relevant eligible metropolitan area, the
17 inclusion of which will enhance regional ef-
18 forts to prevent, prepare for, protect
19 against, and respond to acts of terrorism;
20 and

21 “(ii) other local and tribal govern-
22 ments in the surrounding area that are
23 likely to be called upon to respond to acts
24 of terrorism within the high-risk urban
25 area; and

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

3 “(2) the anticipated effectiveness of the pro-
4 posed use of the grant by the State or high-risk
5 urban area in increasing the ability of that State or
6 high-risk urban area to prevent, prepare for, protect
7 against, and respond to acts of terrorism, to meet its
8 target capabilities, and to otherwise reduce the over-
9 all risk to the high-risk urban area, the State, or the
10 Nation.

11 “(b) TYPES OF THREAT.—In assessing threat under
12 this section, the Administrator shall consider the following
13 types of threat to critical infrastructure sectors and to
14 populations in all areas of the United States, urban and
15 rural:

16 “(1) Biological.

17 “(2) Chemical.

18 “(3) Cyber.

19 “(4) Explosives.

20 “(5) Incendiary.

21 “(6) Nuclear.

22 “(7) Radiological.

23 “(8) Suicide bombers.

24 “(9) Such other types of threat determined rel-
25 evant by the Administrator.

1 **“SEC. 2008. USE OF FUNDS.**

2 “(a) PERMITTED USES.—Grants awarded under sec-
3 tion 2003 or 2004 may be used to achieve target capabili-
4 ties related to preventing, preparing for, protecting
5 against, and responding to acts of terrorism, consistent
6 with a State homeland security plan and relevant local,
7 tribal, and regional homeland security plans, through—

8 “(1) developing and enhancing homeland secu-
9 rity, emergency management, or other relevant
10 plans, assessments, or mutual aid agreements;

11 “(2) designing, conducting, and evaluating
12 training and exercises, including training and exer-
13 cises conducted under section 512 of this Act and
14 section 648 of the Post-Katrina Emergency Manage-
15 ment Reform Act of 2006 (6 U.S.C. 748);

16 “(3) protecting a system or asset included on
17 the prioritized critical infrastructure list established
18 under section 210E(a)(2);

19 “(4) purchasing, upgrading, storing, or main-
20 taining equipment, including computer hardware and
21 software;

22 “(5) ensuring operability and achieving inter-
23 operability of emergency communications;

24 “(6) responding to an increase in the threat
25 level under the Homeland Security Advisory System,

1 or to the needs resulting from a National Special Se-
2 curity Event;

3 “(7) establishing, enhancing, and staffing with
4 appropriately qualified personnel State, local, and
5 regional fusion centers that comply with the guide-
6 lines established under section 210A(i);

7 “(8) enhancing school preparedness;

8 “(9) supporting public safety answering points;

9 “(10) paying salaries and benefits for per-
10 sonnel, including individuals employed by the grant
11 recipient on the date of the relevant grant applica-
12 tion, to serve as qualified intelligence analysts;

13 “(11) paying expenses directly related to ad-
14 ministration of the grant, except that such expenses
15 may not exceed 3 percent of the amount of the
16 grant;

17 “(12) any activity permitted under the Fiscal
18 Year 2007 Program Guidance of the Department for
19 the State Homeland Security Grant Program, the
20 Urban Area Security Initiative (including activities
21 permitted under the full-time counterterrorism staff-
22 ing pilot), or the Law Enforcement Terrorism Pre-
23 vention Program; and

24 “(13) any other appropriate activity, as deter-
25 mined by the Administrator.

1 “(b) LIMITATIONS ON USE OF FUNDS.—

2 “(1) IN GENERAL.—Funds provided under sec-
3 tion 2003 or 2004 may not be used—

4 “(A) to supplant State or local funds, ex-
5 cept that nothing in this paragraph shall pro-
6 hibit the use of grant funds provided to a State
7 or high-risk urban area for otherwise permis-
8 sible uses under subsection (a) on the basis that
9 a State or high-risk urban area has previously
10 used State or local funds to support the same
11 or similar uses; or

12 “(B) for any State or local government
13 cost-sharing contribution.

14 “(2) PERSONNEL.—

15 “(A) IN GENERAL.—Not more than 50
16 percent of the amount awarded to a grant re-
17 cipient under section 2003 or 2004 in any fiscal
18 year may be used to pay for personnel, includ-
19 ing overtime and backfill costs, in support of
20 the permitted uses under subsection (a).

21 “(B) WAIVER.—At the request of the re-
22 cipient of a grant under section 2003 or 2004,
23 the Administrator may grant a waiver of the
24 limitation under subparagraph (A).

25 “(3) CONSTRUCTION.—

1 “(A) IN GENERAL.—A grant awarded
2 under section 2003 or 2004 may not be used to
3 acquire land or to construct buildings or other
4 physical facilities.

5 “(B) EXCEPTIONS.—

6 “(i) IN GENERAL.—Notwithstanding
7 subparagraph (A), nothing in this para-
8 graph shall prohibit the use of a grant
9 awarded under section 2003 or 2004 to
10 achieve target capabilities related to pre-
11 venting, preparing for, protecting against,
12 or responding to acts of terrorism, includ-
13 ing through the alteration or remodeling of
14 existing buildings for the purpose of mak-
15 ing such buildings secure against acts of
16 terrorism.

17 “(ii) REQUIREMENTS FOR EXCEP-
18 TION.—No grant awarded under section
19 2003 or 2004 may be used for a purpose
20 described in clause (i) unless—

21 “(I) specifically approved by the
22 Administrator;

23 “(II) any construction work oc-
24 curs under terms and conditions con-
25 sistent with the requirements under

1 section 611(j)(9) of the Robert T.
2 Stafford Disaster Relief and Emer-
3 gency Assistance Act (42 U.S.C.
4 5196(j)(9)); and

5 “(III) the amount allocated for
6 purposes under clause (i) does not ex-
7 ceed the greater of \$1,000,000 or 15
8 percent of the grant award.

9 “(4) RECREATION.—Grants awarded under this
10 subtitle may not be used for recreational or social
11 purposes.

12 “(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this
13 subtitle shall be construed to prohibit State, local, or tribal
14 governments from using grant funds under sections 2003
15 and 2004 in a manner that enhances preparedness for dis-
16 asters unrelated to acts of terrorism, if such use assists
17 such governments in achieving target capabilities related
18 to preventing, preparing for, protecting against, or re-
19 sponding to acts of terrorism.

20 “(d) REIMBURSEMENT OF COSTS.—

21 “(1) PAID-ON-CALL OR VOLUNTEER REIM-
22 BURSEMENT.—In addition to the activities described
23 in subsection (a), a grant under section 2003 or
24 2004 may be used to provide a reasonable stipend
25 to paid-on-call or volunteer emergency response pro-

1 viders who are not otherwise compensated for travel
2 to or participation in training or exercises related to
3 the purposes of this subtitle. Any such reimburse-
4 ment shall not be considered compensation for pur-
5 poses of rendering an emergency response provider
6 an employee under the Fair Labor Standards Act of
7 1938 (29 U.S.C. 201 et seq.).

8 “(2) PERFORMANCE OF FEDERAL DUTY.—An
9 applicant for a grant under section 2003 or 2004
10 may petition the Administrator to use the funds
11 from its grants under those sections for the reim-
12 bursement of the cost of any activity relating to pre-
13 venting, preparing for, protecting against, or re-
14 sponding to acts of terrorism that is a Federal duty
15 and usually performed by a Federal agency, and
16 that is being performed by a State or local govern-
17 ment under agreement with a Federal agency.

18 “(e) FLEXIBILITY IN UNSPENT HOMELAND SECU-
19 RITY GRANT FUNDS.—Upon request by the recipient of
20 a grant under section 2003 or 2004, the Administrator
21 may authorize the grant recipient to transfer all or part
22 of the grant funds from uses specified in the grant agree-
23 ment to other uses authorized under this section, if the
24 Administrator determines that such transfer is in the in-
25 terests of homeland security.

1 “(f) EQUIPMENT STANDARDS.—If an applicant for a
2 grant under section 2003 or 2004 proposes to upgrade
3 or purchase, with assistance provided under that grant,
4 new equipment or systems that do not meet or exceed any
5 applicable national voluntary consensus standards devel-
6 oped under section 647 of the Post-Katrina Emergency
7 Management Reform Act of 2006 (6 U.S.C. 747), the ap-
8 plicant shall include in its application an explanation of
9 why such equipment or systems will serve the needs of
10 the applicant better than equipment or systems that meet
11 or exceed such standards.

12 **“Subtitle B—Grants Administration**

13 **“SEC. 2021. ADMINISTRATION AND COORDINATION.**

14 “(a) REGIONAL COORDINATION.—The Administrator
15 shall ensure that—

16 “(1) all recipients of grants administered by the
17 Department to prevent, prepare for, protect against,
18 or respond to natural disasters, acts of terrorism, or
19 other man-made disasters (excluding assistance pro-
20 vided under section 203, title IV, or title V of the
21 Robert T. Stafford Disaster Relief and Emergency
22 Assistance Act (42 U.S.C. 5133, 5170 et seq., and
23 5191 et seq.)) coordinate, as appropriate, their pre-
24 vention, preparedness, and protection efforts with

1 neighboring State, local, and tribal governments;
2 and

3 “(2) all high-risk urban areas and other recipi-
4 ents of grants administered by the Department to
5 prevent, prepare for, protect against, or respond to
6 natural disasters, acts of terrorism, or other man-
7 made disasters (excluding assistance provided under
8 section 203, title IV, or title V of the Robert T.
9 Stafford Disaster Relief and Emergency Assistance
10 Act (42 U.S.C. 5133, 5170 et seq., and 5191 et
11 seq.)) that include or substantially affect parts or all
12 of more than 1 State coordinate, as appropriate,
13 across State boundaries, including, where appro-
14 priate, through the use of regional working groups
15 and requirements for regional plans.

16 “(b) PLANNING COMMITTEES.—

17 “(1) IN GENERAL.—Any State or high-risk
18 urban area receiving a grant under section 2003 or
19 2004 shall establish a planning committee to assist
20 in preparation and revision of the State, regional, or
21 local homeland security plan and to assist in deter-
22 mining effective funding priorities for grants under
23 sections 2003 and 2004.

24 “(2) COMPOSITION.—

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

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

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

11 “(B) GEOGRAPHIC REPRESENTATION.—
12 The members of the planning committee shall
13 be a representative group of individuals from
14 the counties, cities, towns, and Indian tribes
15 within the State or high-risk urban area, in-
16 cluding, as appropriate, representatives of rural,
17 high-population, and high-threat jurisdictions.

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

25 “(c) INTERAGENCY COORDINATION.—

1 “(1) IN GENERAL.—Not later than 12 months
2 after the date of enactment of the Implementing
3 Recommendations of the 9/11 Commission Act of
4 2007, the Secretary (acting through the Adminis-
5 trator), the Attorney General, the Secretary of
6 Health and Human Services, and the heads of other
7 agencies providing assistance to State, local, and
8 tribal governments for preventing, preparing for,
9 protecting against, and responding to natural disas-
10 ters, acts of terrorism, and other man-made disas-
11 ters, shall jointly—

12 “(A) compile a comprehensive list of Fed-
13 eral grant programs for State, local, and tribal
14 governments for preventing, preparing for, pro-
15 tecting against, and responding to natural dis-
16 asters, acts of terrorism, and other man-made
17 disasters;

18 “(B) compile the planning, reporting, ap-
19 plication, and other requirements and guidance
20 for the grant programs described in subpara-
21 graph (A);

22 “(C) develop recommendations, as appro-
23 priate, to—

24 “(i) eliminate redundant and duplica-
25 tive requirements for State, local, and trib-

1 al governments, including onerous applica-
2 tion and ongoing reporting requirements;

3 “(ii) ensure accountability of the pro-
4 grams to the intended purposes of such
5 programs;

6 “(iii) coordinate allocation of grant
7 funds to avoid duplicative or inconsistent
8 purchases by the recipients;

9 “(iv) make the programs more acces-
10 sible and user friendly to applicants; and

11 “(v) ensure the programs are coordi-
12 nated to enhance the overall preparedness
13 of the Nation;

14 “(D) submit the information and rec-
15 ommendations under subparagraphs (A), (B),
16 and (C) to the appropriate committees of Con-
17 gress; and

18 “(E) provide the appropriate committees of
19 Congress, the Comptroller General, and any of-
20 ficer or employee of the Government Account-
21 ability Office with full access to any information
22 collected or reviewed in preparing the submis-
23 sion under subparagraph (D).

24 “(2) SCOPE OF TASK.—Nothing in this sub-
25 section shall authorize the elimination, or the alter-

1 ation of the purposes, as delineated by statute, regu-
2 lation, or guidance, of any grant program that exists
3 on the date of the enactment of the Implementing
4 Recommendations of the 9/11 Commission Act of
5 2007, nor authorize the review or preparation of
6 proposals on the elimination, or the alteration of
7 such purposes, of any such grant program.

8 “(d) SENSE OF CONGRESS.—It is the sense of Con-
9 gress that, in order to ensure that the Nation is most ef-
10 fectively able to prevent, prepare for, protect against, and
11 respond to all hazards, including natural disasters, acts
12 of terrorism, and other man-made disasters—

13 “(1) the Department should administer a coher-
14 ent and coordinated system of both terrorism-foc-
15 used and all-hazards grants;

16 “(2) there should be a continuing and appro-
17 priate balance between funding for terrorism-focused
18 and all-hazards preparedness, as reflected in the au-
19 thorizations of appropriations for grants under the
20 amendments made by titles I and II, as applicable,
21 of the Implementing Recommendations of the 9/11
22 Commission Act of 2007; and

23 “(3) with respect to terrorism-focused grants, it
24 is necessary to ensure both that the target capabili-
25 ties of the highest risk areas are achieved quickly

1 and that basic levels of preparedness, as measured
2 by the attainment of target capabilities, are achieved
3 nationwide.

4 **“SEC. 2022. ACCOUNTABILITY.**

5 **“(a) AUDITS OF GRANT PROGRAMS.—**

6 **“(1) COMPLIANCE REQUIREMENTS.—**

7 **“(A) AUDIT REQUIREMENT.—**Each recipi-
8 ent of a grant administered by the Department
9 that expends not less than \$500,000 in Federal
10 funds during its fiscal year shall submit to the
11 Administrator a copy of the organization-wide
12 financial and compliance audit report required
13 under chapter 75 of title 31, United States
14 Code.

15 **“(B) ACCESS TO INFORMATION.—**The De-
16 partment and each recipient of a grant adminis-
17 tered by the Department shall provide the
18 Comptroller General and any officer or em-
19 ployee of the Government Accountability Office
20 with full access to information regarding the ac-
21 tivities carried out related to any grant admin-
22 istered by the Department.

23 **“(C) IMPROPER PAYMENTS.—**Consistent
24 with the Improper Payments Information Act of
25 2002 (31 U.S.C. 3321 note), for each of the

1 grant programs under sections 2003 and 2004
2 of this title and section 662 of the Post-Katrina
3 Emergency Management Reform Act of 2006
4 (6 U.S.C. 762), the Administrator shall specify
5 policies and procedures for—

6 “(i) identifying activities funded under
7 any such grant program that are suscep-
8 tible to significant improper payments; and

9 “(ii) reporting any improper payments
10 to the Department.

11 “(2) AGENCY PROGRAM REVIEW.—

12 “(A) IN GENERAL.—Not less than once
13 every 2 years, the Administrator shall conduct,
14 for each State and high-risk urban area receiv-
15 ing a grant administered by the Department, a
16 programmatic and financial review of all grants
17 awarded by the Department to prevent, prepare
18 for, protect against, or respond to natural dis-
19 asters, acts of terrorism, or other man-made
20 disasters, excluding assistance provided under
21 section 203, title IV, or title V of the Robert T.
22 Stafford Disaster Relief and Emergency Assist-
23 ance Act (42 U.S.C. 5133, 5170 et seq., and
24 5191 et seq.).

1 “(B) CONTENTS.—Each review under sub-
2 paragraph (A) shall, at a minimum, examine—

3 “(i) whether the funds awarded were
4 used in accordance with the law, program
5 guidance, and State homeland security
6 plans or other applicable plans; and

7 “(ii) the extent to which funds award-
8 ed enhanced the ability of a grantee to pre-
9 vent, prepare for, protect against, and re-
10 spond to natural disasters, acts of ter-
11 rorism, and other man-made disasters.

12 “(C) AUTHORIZATION OF APPROPRIA-
13 TIONS.—In addition to any other amounts au-
14 thorized to be appropriated to the Adminis-
15 trator, there are authorized to be appropriated
16 to the Administrator for reviews under this
17 paragraph—

18 “(i) \$8,000,000 for each of fiscal
19 years 2008, 2009, and 2010; and

20 “(ii) such sums as are necessary for
21 fiscal year 2011, and each fiscal year
22 thereafter.

23 “(3) OFFICE OF INSPECTOR GENERAL PER-
24 FORMANCE AUDITS.—

1 “(A) IN GENERAL.—In order to ensure the
2 effective and appropriate use of grants adminis-
3 tered by the Department, the Inspector General
4 of the Department each year shall conduct au-
5 dits of a sample of States and high-risk urban
6 areas that receive grants administered by the
7 Department to prevent, prepare for, protect
8 against, or respond to natural disasters, acts of
9 terrorism, or other man-made disasters, exclud-
10 ing assistance provided under section 203, title
11 IV, or title V of the Robert T. Stafford Disaster
12 Relief and Emergency Assistance Act (42
13 U.S.C. 5133, 5170 et seq., and 5191 et seq.).

14 “(B) DETERMINING SAMPLES.—The sam-
15 ple selected for audits under subparagraph (A)
16 shall be—

17 “(i) of an appropriate size to—

18 “(I) assess the overall integrity
19 of the grant programs described in
20 subparagraph (A); and

21 “(II) act as a deterrent to finan-
22 cial mismanagement; and

23 “(ii) selected based on—

24 “(I) the size of the grants award-
25 ed to the recipient;

1 “(II) the past grant management
2 performance of the recipient;

3 “(III) concerns identified by the
4 Administrator, including referrals
5 from the Administrator; and

6 “(IV) such other factors as deter-
7 mined by the Inspector General of the
8 Department.

9 “(C) COMPREHENSIVE AUDITING.—During
10 the 7-year period beginning on the date of en-
11 actment of the Implementing Recommendations
12 of the 9/11 Commission Act of 2007, the In-
13 spector General of the Department shall con-
14 duct not fewer than 1 audit of each State that
15 receives funds under a grant under section
16 2003 or 2004.

17 “(D) REPORT BY THE INSPECTOR GEN-
18 ERAL.—

19 “(i) IN GENERAL.—The Inspector
20 General of the Department shall submit to
21 the appropriate committees of Congress an
22 annual consolidated report regarding the
23 audits completed during the fiscal year be-
24 fore the date of that report.

1 “(ii) CONTENTS.—Each report sub-
2 mitted under clause (i) shall describe, for
3 the fiscal year before the date of that re-
4 port—

5 “(I) the audits conducted under
6 subparagraph (A);

7 “(II) the findings of the Inspec-
8 tor General with respect to the audits
9 conducted under subparagraph (A);

10 “(III) whether the funds awarded
11 were used in accordance with the law,
12 program guidance, and State home-
13 land security plans and other applica-
14 ble plans; and

15 “(IV) the extent to which funds
16 awarded enhanced the ability of a
17 grantee to prevent, prepare for, pro-
18 tect against, and respond to natural
19 disasters, acts of terrorism and other
20 man-made disasters.

21 “(iii) DEADLINE.—For each year, the
22 report required under clause (i) shall be
23 submitted not later than December 31.

24 “(E) PUBLIC AVAILABILITY ON
25 WEBSITE.—The Inspector General of the De-

1 partment shall make each audit conducted
2 under subparagraph (A) available on the
3 website of the Inspector General, subject to re-
4 daction as the Inspector General determines
5 necessary to protect classified and other sen-
6 sitive information.

7 “(F) PROVISION OF INFORMATION TO AD-
8 MINISTRATOR.—The Inspector General of the
9 Department shall provide to the Administrator
10 any findings and recommendations from audits
11 conducted under subparagraph (A).

12 “(G) EVALUATION OF GRANTS MANAGE-
13 MENT AND OVERSIGHT.—Not later than 1 year
14 after the date of enactment of the Imple-
15 menting Recommendations of the 9/11 Commis-
16 sion Act of 2007, the Inspector General of the
17 Department shall review and evaluate the
18 grants management and oversight practices of
19 the Federal Emergency Management Agency,
20 including assessment of and recommendations
21 relating to—

22 “(i) the skills, resources, and capabili-
23 ties of the workforce; and

1 “(ii) any additional resources and
2 staff necessary to carry out such manage-
3 ment and oversight.

4 “(H) AUTHORIZATION OF APPROPRIA-
5 TIONS.—In addition to any other amounts au-
6 thorized to be appropriated to the Inspector
7 General of the Department, there are author-
8 ized to be appropriated to the Inspector General
9 of the Department for audits under subpara-
10 graph (A)—

11 “(i) \$8,500,000 for each of fiscal
12 years 2008, 2009, and 2010; and

13 “(ii) such sums as are necessary for
14 fiscal year 2011, and each fiscal year
15 thereafter.

16 “(4) PERFORMANCE ASSESSMENT.—In order to
17 ensure that States and high-risk urban areas are
18 using grants administered by the Department appro-
19 priately to meet target capabilities and preparedness
20 priorities, the Administrator shall—

21 “(A) ensure that any such State or high-
22 risk urban area conducts or participates in ex-
23 ercises under section 648(b) of the Post-
24 Katrina Emergency Management Reform Act of
25 2006 (6 U.S.C. 748(b));

1 “(B) use performance metrics in accord-
2 ance with the comprehensive assessment system
3 under section 649 of the Post-Katrina Emer-
4 gency Management Reform Act of 2006 (6
5 U.S.C. 749) and ensure that any such State or
6 high-risk urban area regularly tests its progress
7 against such metrics through the exercises re-
8 quired under subparagraph (A);

9 “(C) use the remedial action management
10 program under section 650 of the Post-Katrina
11 Emergency Management Reform Act of 2006
12 (6 U.S.C. 750); and

13 “(D) ensure that each State receiving a
14 grant administered by the Department submits
15 a report to the Administrator on its level of pre-
16 paredness, as required by section 652(c) of the
17 Post-Katrina Emergency Management Reform
18 Act of 2006 (6 U.S.C. 752(c)).

19 “(5) CONSIDERATION OF ASSESSMENTS.—In
20 conducting program reviews and performance audits
21 under paragraphs (2) and (3), the Administrator
22 and the Inspector General of the Department shall
23 take into account the performance assessment ele-
24 ments required under paragraph (4).

1 “(6) RECOVERY AUDITS.—The Administrator
2 shall conduct a recovery audit (as that term is de-
3 fined by the Director of the Office of Management
4 and Budget under section 3561 of title 31, United
5 States Code) for any grant administered by the De-
6 partment with a total value of not less than
7 \$1,000,000, if the Administrator finds that—

8 “(A) a financial audit has identified im-
9 proper payments that can be recouped; and

10 “(B) it is cost effective to conduct a recov-
11 ery audit to recapture the targeted funds.

12 “(7) REMEDIES FOR NONCOMPLIANCE.—

13 “(A) IN GENERAL.—If, as a result of a re-
14 view or audit under this subsection or other-
15 wise, the Administrator finds that a recipient of
16 a grant under this title has failed to substan-
17 tially comply with any provision of law or with
18 any regulations or guidelines of the Department
19 regarding eligible expenditures, the Adminis-
20 trator shall—

21 “(i) reduce the amount of payment of
22 grant funds to the recipient by an amount
23 equal to the amount of grants funds that
24 were not properly expended by the recipi-
25 ent;

1 “(ii) limit the use of grant funds to
2 programs, projects, or activities not af-
3 fected by the failure to comply;

4 “(iii) refer the matter to the Inspector
5 General of the Department for further in-
6 vestigation;

7 “(iv) terminate any payment of grant
8 funds to be made to the recipient; or

9 “(v) take such other action as the Ad-
10 ministrators determines appropriate.

11 “(B) DURATION OF PENALTY.—The Ad-
12 ministrators shall apply an appropriate penalty
13 under subparagraph (A) until such time as the
14 Administrator determines that the grant recipi-
15 ent is in full compliance with the law and with
16 applicable guidelines or regulations of the De-
17 partment.

18 “(b) REPORTS BY GRANT RECIPIENTS.—

19 “(1) QUARTERLY REPORTS ON HOMELAND SE-
20 CURITY SPENDING.—

21 “(A) IN GENERAL.—As a condition of re-
22 ceiving a grant under section 2003 or 2004, a
23 State, high-risk urban area, or directly eligible
24 tribe shall, not later than 30 days after the end
25 of each Federal fiscal quarter, submit to the

1 Administrator a report on activities performed
2 using grant funds during that fiscal quarter.

3 “(B) CONTENTS.—Each report submitted
4 under subparagraph (A) shall at a minimum in-
5 clude, for the applicable State, high-risk urban
6 area, or directly eligible tribe, and each sub-
7 grantee thereof—

8 “(i) the amount obligated to that re-
9 cipient under section 2003 or 2004 in that
10 quarter;

11 “(ii) the amount of funds received and
12 expended under section 2003 or 2004 by
13 that recipient in that quarter; and

14 “(iii) a summary description of ex-
15 penditures made by that recipient using
16 such funds, and the purposes for which
17 such expenditures were made.

18 “(C) END-OF-YEAR REPORT.—The report
19 submitted under subparagraph (A) by a State,
20 high-risk urban area, or directly eligible tribe
21 relating to the last quarter of any fiscal year
22 shall include—

23 “(i) the amount and date of receipt of
24 all funds received under the grant during
25 that fiscal year;

1 “(ii) the identity of, and amount pro-
2 vided to, any subgrantee for that grant
3 during that fiscal year;

4 “(iii) the amount and the dates of dis-
5 bursements of all such funds expended in
6 compliance with section 2021(a)(1) or
7 under mutual aid agreements or other
8 sharing arrangements that apply within
9 the State, high-risk urban area, or directly
10 eligible tribe, as applicable, during that fis-
11 cal year; and

12 “(iv) how the funds were used by each
13 recipient or subgrantee during that fiscal
14 year.

15 “(2) ANNUAL REPORT.—Any State applying for
16 a grant under section 2004 shall submit to the Ad-
17 ministrator annually a State preparedness report, as
18 required by section 652(c) of the Post-Katrina
19 Emergency Management Reform Act of 2006 (6
20 U.S.C. 752(c)).

21 “(c) REPORTS BY THE ADMINISTRATOR.—

22 “(1) FEDERAL PREPAREDNESS REPORT.—The
23 Administrator shall submit to the appropriate com-
24 mittees of Congress annually the Federal Prepared-
25 ness Report required under section 652(a) of the

1 Post-Katrina Emergency Management Reform Act
2 of 2006 (6 U.S.C. 752(a)).

3 “(2) RISK ASSESSMENT.—

4 “(A) IN GENERAL.—For each fiscal year,
5 the Administrator shall provide to the appro-
6 priate committees of Congress a detailed and
7 comprehensive explanation of the methodologies
8 used to calculate risk and compute the alloca-
9 tion of funds for grants administered by the
10 Department, including—

11 “(i) all variables included in the risk
12 assessment and the weights assigned to
13 each such variable;

14 “(ii) an explanation of how each such
15 variable, as weighted, correlates to risk,
16 and the basis for concluding there is such
17 a correlation; and

18 “(iii) any change in the methodologies
19 from the previous fiscal year, including
20 changes in variables considered, weighting
21 of those variables, and computational
22 methods.

23 “(B) CLASSIFIED ANNEX.—The informa-
24 tion required under subparagraph (A) shall be
25 provided in unclassified form to the greatest ex-

1 tent possible, and may include a classified
2 annex if necessary.

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

6 “(i) October 31; or

7 “(ii) 30 days before the issuance of
8 any program guidance for grants adminis-
9 tered by the Department.

10 “(3) TRIBAL FUNDING REPORT.—At the end of
11 each fiscal year, the Administrator shall submit to
12 the appropriate committees of Congress a report set-
13 ting forth the amount of funding provided during
14 that fiscal year to Indian tribes under any grant
15 program administered by the Department, whether
16 provided directly or through a subgrant from a State
17 or high-risk urban area.”.

18 **SEC. 102. OTHER AMENDMENTS TO THE HOMELAND SECU-**
19 **RITY ACT OF 2002.**

20 (a) NATIONAL ADVISORY COUNCIL.—Section 508(b)
21 of the Homeland Security Act of 2002 (6 U.S.C. 318(b))
22 is amended—

23 (1) by striking “The National Advisory” the
24 first place that term appears and inserting the fol-
25 lowing:

1 “(1) IN GENERAL.—The National Advisory”;
2 and

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

4 “(2) CONSULTATION ON GRANTS.—To ensure
5 input from and coordination with State, local, and
6 tribal governments and emergency response pro-
7 viders, the Administrator shall regularly consult and
8 work with the National Advisory Council on the ad-
9 ministration and assessment of grant programs ad-
10 ministered by the Department, including with re-
11 spect to the development of program guidance and
12 the development and evaluation of risk-assessment
13 methodologies, as appropriate.”

14 (b) EVACUATION PLANNING.—Section 512(b)(5)(A)
15 of the Homeland Security Act of 2002 (6 U.S.C.
16 321a(b)(5)(A)) is amended by inserting “, including the
17 elderly” after “needs”.

18 **SEC. 103. AMENDMENTS TO THE POST-KATRINA EMER-**
19 **GENCY MANAGEMENT REFORM ACT OF 2006.**

20 (a) FUNDING EFFICACY.—Section 652(a)(2) of the
21 Post-Katrina Emergency Management Reform Act of
22 2006 (6 U.S.C. 752(a)(2)) is amended—

23 (1) in subparagraph (C), by striking “and” at
24 the end;

1 (2) in subparagraph (D), by striking the period
2 at the end and inserting “; and”; and

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

4 “(E) an evaluation of the extent to which
5 grants administered by the Department, includ-
6 ing grants under title XX of the Homeland Se-
7 curity Act of 2002—

8 “(i) have contributed to the progress
9 of State, local, and tribal governments in
10 achieving target capabilities; and

11 “(ii) have led to the reduction of risk
12 from natural disasters, acts of terrorism,
13 or other man-made disasters nationally
14 and in State, local, and tribal jurisdic-
15 tions.”.

16 (b) STATE PREPAREDNESS REPORT.—Section
17 652(c)(2)(D) of the Post-Katrina Emergency Manage-
18 ment Reform Act of 2006 (6 U.S.C. 752(c)(2)(D)) is
19 amended by striking “an assessment of resource needs”
20 and inserting “a discussion of the extent to which target
21 capabilities identified in the applicable State homeland se-
22 curity plan and other applicable plans remain unmet and
23 an assessment of resources needed”.

1 **SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS.**

2 (a) IN GENERAL.—The Homeland Security Act of
3 2002 (6 U.S.C. 101 et seq.) is amended—

4 (1) by redesignating title XVIII, as added by
5 the SAFE Port Act (Public Law 109–347; 120 Stat.
6 1884), as title XIX;

7 (2) by redesignating sections 1801 through
8 1806, as added by the SAFE Port Act (Public Law
9 109–347; 120 Stat. 1884), as sections 1901 through
10 1906, respectively;

11 (3) in section 1904(a), as so redesignated, by
12 striking “section 1802” and inserting “section
13 1902”;

14 (4) in section 1906, as so redesignated, by
15 striking “section 1802(a)” each place that term ap-
16 pears and inserting “section 1902(a)”; and

17 (5) in the table of contents in section 1(b), by
18 striking the items relating to title XVIII and sec-
19 tions 1801 through 1806, as added by the SAFE
20 Port Act (Public Law 109–347; 120 Stat. 1884),
21 and inserting the following:

“TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE

“Sec. 1901. Domestic Nuclear Detection Office.

“Sec. 1902. Mission of Office.

“Sec. 1903. Hiring authority.

“Sec. 1904. Testing authority.

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

“Sec. 1906. Contracting and grant making authorities.

“TITLE XX—HOMELAND SECURITY GRANTS

“Sec. 2001. Definitions:

“Subtitle A—Grants to States and High-Risk Urban Areas

“Sec. 2002. Homeland Security Grant Programs.

“Sec. 2003. Urban Area Security Initiative.

“Sec. 2004. State Homeland Security Grant Program.

“Sec. 2005. Grants to directly eligible tribes.

“Sec. 2006. Terrorism prevention.

“Sec. 2007. Prioritization.

“Sec. 2008. Use of funds.

“Subtitle B—Grants Administration

“Sec. 2021. Administration and coordination.

“Sec. 2022. Accountability.”.

1 **TITLE II—EMERGENCY MANAGE-**
2 **MENT PERFORMANCE**
3 **GRANTS**

4 **SEC. 201. EMERGENCY MANAGEMENT PERFORMANCE**
5 **GRANT PROGRAM.**

6 Section 662 of the Post-Katrina Emergency Manage-
7 ment Reform Act of 2006 (6 U.S.C. 762) is amended to
8 read as follows:

9 **“SEC. 662. EMERGENCY MANAGEMENT PERFORMANCE**
10 **GRANTS PROGRAM.**

11 “(a) DEFINITIONS.—In this section—

12 “(1) the term ‘program’ means the emergency
13 management performance grants program described
14 in subsection (b); and

15 “(2) the term ‘State’ has the meaning given
16 that term in section 102 of the Robert T. Stafford
17 Disaster Relief and Emergency Assistance Act (42
18 U.S.C. 5122).

1 “(b) IN GENERAL.—The Administrator of the Fed-
2 eral Emergency Management Agency shall continue imple-
3 mentation of an emergency management performance
4 grants program, to make grants to States to assist State,
5 local, and tribal governments in preparing for all hazards,
6 as authorized by the Robert T. Stafford Disaster Relief
7 and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

8 “(c) FEDERAL SHARE.—Except as otherwise specifi-
9 cally provided by title VI of the Robert T. Stafford Dis-
10 aster Relief and Emergency Assistance Act (42 U.S.C.
11 5121 et seq.), the Federal share of the cost of an activity
12 carried out using funds made available under the program
13 shall not exceed 50 percent.

14 “(d) APPORTIONMENT.—For fiscal year 2008, and
15 each fiscal year thereafter, the Administrator shall appor-
16 tion the amounts appropriated to carry out the program
17 among the States as follows:

18 “(1) BASELINE AMOUNT.—The Administrator
19 shall first apportion 0.25 percent of such amounts to
20 each of American Samoa, the Commonwealth of the
21 Northern Mariana Islands, Guam, and the Virgin Is-
22 lands and 0.75 percent of such amounts to each of
23 the remaining States.

1 “(2) REMAINDER.—The Administrator shall ap-
2 portion the remainder of such amounts in the ratio
3 that—

4 “(A) the population of each State; bears to

5 “(B) the population of all States.

6 “(e) CONSISTENCY IN ALLOCATION.—Notwith-
7 standing subsection (d), in any fiscal year before fiscal
8 year 2013 in which the appropriation for grants under this
9 section is equal to or greater than the appropriation for
10 emergency management performance grants in fiscal year
11 2007, no State shall receive an amount under this section
12 for that fiscal year less than the amount that State re-
13 ceived in fiscal year 2007.

14 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
15 is authorized to be appropriated to carry out the pro-
16 gram—

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

18 “(2) for fiscal year 2009, \$535,000,000;

19 “(3) for fiscal year 2010, \$680,000,000;

20 “(4) for fiscal year 2011, \$815,000,000; and

21 “(5) for fiscal year 2012, \$950,000,000.”.

1 **SEC. 202. GRANTS FOR CONSTRUCTION OF EMERGENCY OP-**
2 **ERATIONS CENTERS.**

3 Section 614 of the Robert T. Stafford Disaster Relief
4 and Emergency Assistance Act (42 U.S.C. 5196c) is
5 amended to read as follows:

6 **“SEC. 614. GRANTS FOR CONSTRUCTION OF EMERGENCY**
7 **OPERATIONS CENTERS.**

8 “(a) GRANTS.—The Administrator of the Federal
9 Emergency Management Agency may make grants to
10 States under this title for equipping, upgrading, and con-
11 structing State and local emergency operations centers.

12 “(b) FEDERAL SHARE.—Notwithstanding any other
13 provision of this title, the Federal share of the cost of an
14 activity carried out using amounts from grants made
15 under this section shall not exceed 75 percent.”

16 **TITLE III—ENSURING COMMU-**
17 **NICATIONS INTEROPER-**
18 **ABILITY FOR FIRST RE-**
19 **SPONDERS**

20 **SEC. 301. INTEROPERABLE EMERGENCY COMMUNICATIONS**
21 **GRANT PROGRAM.**

22 (a) ESTABLISHMENT.—Title XVIII of the Homeland
23 Security Act of 2002 (6 U.S.C. 571 et seq.) is amended
24 by adding at the end the following new section:

1 **“SEC. 1809. INTEROPERABLE EMERGENCY COMMUNICA-**
2 **TIONS GRANT PROGRAM.**

3 “(a) **ESTABLISHMENT.**—The Secretary shall estab-
4 lish the Interoperable Emergency Communications Grant
5 Program to make grants to States to carry out initiatives
6 to improve local, tribal, statewide, regional, national and,
7 where appropriate, international interoperable emergency
8 communications, including communications in collective
9 response to natural disasters, acts of terrorism, and other
10 man-made disasters.

11 “(b) **POLICY.**—The Director for Emergency Commu-
12 nications shall ensure that a grant awarded to a State
13 under this section is consistent with the policies estab-
14 lished pursuant to the responsibilities and authorities of
15 the Office of Emergency Communications under this title,
16 including ensuring that activities funded by the grant—

17 “(1) comply with the statewide plan for that
18 State required by section 7303(f) of the Intelligence
19 Reform and Terrorism Prevention Act of 2004 (6
20 U.S.C. 194(f)); and

21 “(2) comply with the National Emergency Com-
22 munications Plan under section 1802, when com-
23 pleted.

24 “(c) **ADMINISTRATION.**—

25 “(1) **IN GENERAL.**—The Administrator of the
26 Federal Emergency Management Agency shall ad-

1 minister the Interoperable Emergency Communica-
2 tions Grant Program pursuant to the responsibilities
3 and authorities of the Administrator under title V of
4 the Act.

5 “(2) GUIDANCE.—In administering the grant
6 program, the Administrator shall ensure that the
7 use of grants is consistent with guidance established
8 by the Director of Emergency Communications pur-
9 suant to section 7303(a)(1)(H) of the Intelligence
10 Reform and Terrorism Prevention Act of 2004 (6
11 U.S.C. 194(a)(1)(H)).

12 “(d) USE OF FUNDS.—A State that receives a grant
13 under this section shall use the grant to implement that
14 State’s Statewide Interoperability Plan required under
15 section 7303(f) of the Intelligence Reform and Terrorism
16 Prevention Act of 2004 (6 U.S.C. 194(f)) and approved
17 under subsection (e), and to assist with activities deter-
18 mined by the Secretary to be integral to interoperable
19 emergency communications.

20 “(e) APPROVAL OF PLANS.—

21 “(1) APPROVAL AS CONDITION OF GRANT.—Be-
22 fore a State may receive a grant under this section,
23 the Director of Emergency Communications shall
24 approve the State’s Statewide Interoperable Commu-
25 nications Plan required under section 7303(f) of the

1 Intelligence Reform and Terrorism Prevention Act
2 of 2004 (6 U.S.C. 194(f)).

3 “(2) PLAN REQUIREMENTS.—In approving a
4 plan under this subsection, the Director of Emer-
5 gency Communications shall ensure that the plan—

6 “(A) is designed to improve interoper-
7 ability at the city, county, regional, State and
8 interstate level;

9 “(B) considers any applicable local or re-
10 gional plan; and

11 “(C) complies, to the maximum extent
12 practicable, with the National Emergency Com-
13 munications Plan under section 1802.

14 “(3) APPROVAL OF REVISIONS.—The Director
15 of Emergency Communications may approve revi-
16 sions to a State’s plan if the Director determines
17 that doing so is likely to further interoperability.

18 “(f) LIMITATIONS ON USES OF FUNDS.—

19 “(1) IN GENERAL.—The recipient of a grant
20 under this section may not use the grant—

21 “(A) to supplant State or local funds;

22 “(B) for any State or local government
23 cost-sharing contribution; or

24 “(C) for recreational or social purposes.

1 “(2) PENALTIES.—In addition to other rem-
2 edies currently available, the Secretary may take
3 such actions as necessary to ensure that recipients
4 of grant funds are using the funds for the purpose
5 for which they were intended.

6 “(g) LIMITATIONS ON AWARD OF GRANTS.—

7 “(1) NATIONAL EMERGENCY COMMUNICATIONS
8 PLAN REQUIRED.—The Secretary may not award a
9 grant under this section before the date on which
10 the Secretary completes and submits to Congress the
11 National Emergency Communications Plan required
12 under section 1802.

13 “(2) VOLUNTARY CONSENSUS STANDARDS.—
14 The Secretary may not award a grant to a State
15 under this section for the purchase of equipment
16 that does not meet applicable voluntary consensus
17 standards, unless the State demonstrates that there
18 are compelling reasons for such purchase.

19 “(h) AWARD OF GRANTS.—In approving applications
20 and awarding grants under this section, the Secretary
21 shall consider—

22 “(1) the risk posed to each State by natural
23 disasters, acts of terrorism, or other manmade disas-
24 ters, including—

1 “(A) the likely need of a jurisdiction within
2 the State to respond to such risk in nearby ju-
3 risdictions;

4 “(B) the degree of threat, vulnerability,
5 and consequences related to critical infrastruc-
6 ture (from all critical infrastructure sectors) or
7 key resources identified by the Administrator or
8 the State homeland security and emergency
9 management plans, including threats to,
10 vulnerabilities of, and consequences from dam-
11 age to critical infrastructure and key resources
12 in nearby jurisdictions;

13 “(C) the size of the population and density
14 of the population of the State, including appro-
15 priate consideration of military, tourist, and
16 commuter populations;

17 “(D) whether the State is on or near an
18 international border;

19 “(E) whether the State encompasses an
20 economically significant border crossing; and

21 “(F) whether the State has a coastline bor-
22 dering an ocean, a major waterway used for
23 interstate commerce, or international waters,
24 and

1 “(2) the anticipated effectiveness of the State’s
2 proposed use of grant funds to improve interoper-
3 ability.

4 “(i) OPPORTUNITY TO AMEND APPLICATIONS.—In
5 considering applications for grants under this section, the
6 Administrator shall provide applicants with a reasonable
7 opportunity to correct defects in the application, if any,
8 before making final awards.

9 “(j) MINIMUM GRANT AMOUNTS.—

10 “(1) STATES.—In awarding grants under this
11 section, the Secretary shall ensure that for each fis-
12 cal year, except as provided in paragraph (2), no
13 State receives a grant in an amount that is less than
14 the following percentage of the total amount appro-
15 priated for grants under this section for that fiscal
16 year:

17 “(A) For fiscal year 2008, 0.50 percent.

18 “(B) For fiscal year 2009, 0.50 percent.

19 “(C) For fiscal year 2010, 0.45 percent.

20 “(D) For fiscal year 2011, 0.40 percent.

21 “(E) For fiscal year 2012 and each subse-
22 quent fiscal year, 0.35 percent.

23 “(2) TERRITORIES AND POSSESSIONS.—In
24 awarding grants under this section, the Secretary
25 shall ensure that for each fiscal year, American

1 Samoa, the Commonwealth of the Northern Mariana
2 Islands, Guam, and the Virgin Islands each receive
3 grants in amounts that are not less than 0.08 per-
4 cent of the total amount appropriated for grants
5 under this section for that fiscal year.

6 “(k) CERTIFICATION.—Each State that receives a
7 grant under this section shall certify that the grant is used
8 for the purpose for which the funds were intended and
9 in compliance with the State’s approved Statewide Inter-
10 operable Communications Plan.

11 “(l) STATE RESPONSIBILITIES.—

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

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

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

23 “(C) grant funds combined with other eli-
24 gible expenditures having a total value of not

1 less than 80 percent of the amount of the
2 grant.

3 “(2) ALLOCATION OF FUNDS.—A State that re-
4 ceives a grant under this section shall allocate grant
5 funds to tribal governments in the State to assist
6 tribal communities in improving interoperable com-
7 munications, in a manner consistent with the State-
8 wide Interoperable Communications Plan. A State
9 may not impose unreasonable or unduly burdensome
10 requirements on a tribal government as a condition
11 of providing grant funds or resources to the tribal
12 government.

13 “(3) PENALTIES.—If a State violates the re-
14 quirements of this subsection, in addition to other
15 remedies available to the Secretary, the Secretary
16 may terminate or reduce the amount of the grant
17 awarded to that State or transfer grant funds pre-
18 viously awarded to the State directly to the appro-
19 priate local or tribal government.

20 “(m) REPORTS.—

21 “(1) ANNUAL REPORTS BY STATE GRANT RE-
22 CIPIENTS.—A State that receives a grant under this
23 section shall annually submit to the Director of
24 Emergency Communications a report on the
25 progress of the State in implementing that State’s

1 Statewide Interoperable Communications Plans re-
2 quired under section 7303(f) of the Intelligence Re-
3 form and Terrorism Prevention Act of 2004 (6
4 U.S.C. 194(f)) and achieving interoperability at the
5 city, county, regional, State, and interstate levels.
6 The Director shall make the reports publicly avail-
7 able, including by making them available on the
8 Internet website of the Office of Emergency Commu-
9 nications, subject to any redactions that the Director
10 determines are necessary to protect classified or
11 other sensitive information.

12 “(2) ANNUAL REPORTS TO CONGRESS.—At
13 least once each year, the Director of Emergency
14 Communications shall submit to Congress a report
15 on the use of grants awarded under this section and
16 any progress in implementing Statewide Interoper-
17 able Communications Plans and improving inter-
18 operability at the city, county, regional, State, and
19 interstate level, as a result of the award of such
20 grants.

21 “(n) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion shall be construed or interpreted to preclude a State
23 from using a grant awarded under this section for interim
24 or long-term Internet Protocol-based interoperable solu-
25 tions.

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

4 “(1) for fiscal year 2008, such sums as may be
5 necessary;

6 “(2) for each of fiscal years 2009 through
7 2012, \$400,000,000; and

8 “(3) for each subsequent fiscal year, such sums
9 as may be necessary.”.

10 (b) CLERICAL AMENDMENT.— The table of contents
11 in section 1(b) of such Act is amended by inserting after
12 the item relating to section 1808 the following:

“Sec. 1809. Interoperable Emergency Communications Grant Program.”.

13 (c) INTEROPERABLE COMMUNICATIONS PLANS.—
14 Section 7303 of the Intelligence Reform and Terrorist
15 Prevention Act of 2004 (6 U.S.C. 194) is amended—

16 (1) in subsection (f)—

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

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

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

22 “(6) include information on the governance
23 structure used to develop the plan, including such
24 information about all agencies and organizations

1 that participated in developing the plan and the
2 scope and timeframe of the plan; and

3 “(7) describe the method by which multi-juris-
4 dictional, multidisciplinary input is provided from all
5 regions of the jurisdiction, including any high-threat
6 urban areas located in the jurisdiction, and the proc-
7 ess for continuing to incorporate such input.”;

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

10 (d) NATIONAL EMERGENCY COMMUNICATIONS
11 PLAN.—Section 1802(c) of the Homeland Security Act of
12 2002 (6 U.S.C. 652(c)) is amended—

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

15 (2) in paragraph (9), by striking the period at
16 the end and inserting “; and”; and

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

18 “(10) set a date, including interim benchmarks,
19 as appropriate, by which State, local, and tribal gov-
20 ernments, Federal departments and agencies, and
21 emergency response providers expect to achieve a
22 baseline level of national interoperable communica-
23 tions, as that term is defined under section
24 7303(g)(1) of the Intelligence Reform and Terrorism
25 Prevention Act of 2004 (6 U.S.C. 194(g)(1)).”

1 **SEC. 302. BORDER INTEROPERABILITY DEMONSTRATION**
2 **PROJECT.**

3 (a) IN GENERAL.—Title XVIII of the Homeland Se-
4 curity Act of 2002 (6 U.S.C. 571 et seq.) is amended by
5 adding at the end the following new section:

6 **“SEC. 1810. BORDER INTEROPERABILITY DEMONSTRATION**
7 **PROJECT.**

8 “(a) IN GENERAL.—

9 “(1) ESTABLISHMENT.—The Secretary, acting
10 through the Director of the Office of Emergency
11 Communications (referred to in this section as the
12 ‘Director’), and in coordination with the Federal
13 Communications Commission and the Secretary of
14 Commerce, shall establish an International Border
15 Community Interoperable Communications Dem-
16 onstration Project (referred to in this section as the
17 ‘demonstration project’).

18 “(2) MINIMUM NUMBER OF COMMUNITIES.—
19 The Director shall select no fewer than 6 commu-
20 nities to participate in a demonstration project.

21 “(3) LOCATION OF COMMUNITIES.—No fewer
22 than 3 of the communities selected under paragraph
23 (2) shall be located on the northern border of the
24 United States and no fewer than 3 of the commu-
25 nities selected under paragraph (2) shall be located
26 on the southern border of the United States.

1 “(b) CONDITIONS.—The Director, in coordination
2 with the Federal Communications Commission and the
3 Secretary of Commerce, shall ensure that the project is
4 carried out as soon as adequate spectrum is available as
5 a result of the 800 megahertz rebanding process in border
6 areas, and shall ensure that the border projects do not
7 impair or impede the rebanding process, but under no cir-
8 cumstances shall funds be distributed under this section
9 unless the Federal Communications Commission and the
10 Secretary of Commerce agree that these conditions have
11 been met.

12 “(c) PROGRAM REQUIREMENTS.—Consistent with
13 the responsibilities of the Office of Emergency Commu-
14 nications under section 1801, the Director shall foster
15 local, tribal, State, and Federal interoperable emergency
16 communications, as well as interoperable emergency com-
17 munications with appropriate Canadian and Mexican au-
18 thorities in the communities selected for the demonstra-
19 tion project. The Director shall—

20 “(1) identify solutions to facilitate interoperable
21 communications across national borders expedi-
22 tiously;

23 “(2) help ensure that emergency response pro-
24 viders can communicate with each other in the event

1 of natural disasters, acts of terrorism, and other
2 man-made disasters;

3 “(3) provide technical assistance to enable
4 emergency response providers to deal with threats
5 and contingencies in a variety of environments;

6 “(4) identify appropriate joint-use equipment to
7 ensure communications access;

8 “(5) identify solutions to facilitate communica-
9 tions between emergency response providers in com-
10 munities of differing population densities; and

11 “(6) take other actions or provide equipment as
12 the Director deems appropriate to foster interoper-
13 able emergency communications.

14 “(d) DISTRIBUTION OF FUNDS.—

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

20 “(2) OTHER PARTICIPANTS.—A State shall
21 make the funds available promptly to the local and
22 tribal governments and emergency response pro-
23 viders selected by the Secretary to participate in the
24 demonstration project.

1 “(3) REPORT.—Not later than 90 days after a
2 State receives funds under this subsection the State
3 shall report to the Director on the status of the dis-
4 tribution of such funds to local and tribal govern-
5 ments.

6 “(e) MAXIMUM PERIOD OF GRANTS.—The Director
7 may not fund any participant under the demonstration
8 project for more than 3 years.

9 “(f) TRANSFER OF INFORMATION AND KNOWL-
10 EDGE.—The Director shall establish mechanisms to en-
11 sure that the information and knowledge gained by par-
12 ticipants in the demonstration project are transferred
13 among the participants and to other interested parties, in-
14 cluding other communities that submitted applications to
15 the participant in the project.

16 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
17 is authorized to be appropriated for grants under this sec-
18 tion such sums as may be necessary.”.

19 “(b) CLERICAL AMENDMENT.—The table of contents
20 in section 1(b) of that Act is amended by inserting after
21 the item relating to section 1809 the following:

“Sec. 1810. Border interoperability demonstration project.”

1 **TITLE IV—STRENGTHENING USE**
2 **OF THE INCIDENT COMMAND**
3 **SYSTEM**

4 **SEC. 401. DEFINITIONS.**

5 (a) IN GENERAL.—Section 501 of the Homeland Se-
6 curity Act of 2002 (6 U.S.C. 311) is amended—

7 (1) by redesignating paragraphs (10) and (11)
8 as paragraphs (12) and (13), respectively;

9 (2) by redesignating paragraphs (4) through
10 (9) as paragraphs (5) through (10), respectively;

11 (3) by inserting after paragraph (3) the fol-
12 lowing:

13 “(4) the terms ‘credentialed’ and ‘credentialing’
14 mean having provided, or providing, respectively,
15 documentation that identifies personnel and authen-
16 ticates and verifies the qualifications of such per-
17 sonnel by ensuring that such personnel possess a
18 minimum common level of training, experience,
19 physical and medical fitness, and capability appro-
20 priate for a particular position in accordance with
21 standards created under section 510;”;

22 (4) by inserting after paragraph (10), as so re-
23 designated, the following:

24 “(11) the term ‘resources’ means personnel and
25 major items of equipment, supplies, and facilities

1 available or potentially available for responding to a
2 natural disaster, act of terrorism, or other man-
3 made disaster;”;

4 (5) in paragraph (12), as so redesignated, by
5 striking “and” at the end;

6 (6) in paragraph (13), as so redesignated, by
7 striking the period at the end and inserting “; and”;
8 and

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

10 “(14) the terms ‘typed’ and ‘typing’ mean hav-
11 ing evaluated, or evaluating, respectively, a resource
12 in accordance with standards created under section
13 510.”.

14 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

15 Section 641 of the Post-Katrina Emergency Management
16 Reform Act of 2006 (6 U.S.C. 741) is amended—

17 (1) by redesignating paragraphs (2) through
18 (10) as paragraphs (3) through (11), respectively;

19 (2) by inserting after paragraph (1) the fol-
20 lowing:

21 “(2) CREDENTIALLED; CREDENTIALING.—The
22 terms ‘credentialed’ and ‘credentialing’ have the
23 meanings given those terms in section 501 of the
24 Homeland Security Act of 2002 (6 U.S.C. 311).”;

25 and

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

2 “(12) RESOURCES.—The term ‘resources’ has
3 the meaning given that term in section 501 of the
4 Homeland Security Act of 2002 (6 U.S.C. 311).

5 “(13) TYPE.—The term ‘type’ means a classi-
6 fication of resources that refers to the capability of
7 a resource.

8 “(14) TYPED; TYPING.—The terms ‘typed’ and
9 ‘typing’ have the meanings given those terms in sec-
10 tion 501 of the Homeland Security Act of 2002 (6
11 U.S.C. 311).”

12 **SEC. 402. NATIONAL EXERCISE PROGRAM DESIGN.**

13 Section 648(b)(2)(A) of the Post-Katrina Emergency
14 Management Reform Act of 2006 (6 U.S.C. 748(b)(2)(A))
15 is amended by striking clauses (iv) and (v) and inserting
16 the following:

17 “(iv) designed to provide for the sys-
18 tematic evaluation of readiness and en-
19 hance operational understanding of the in-
20 cident command system and relevant mu-
21 tual aid agreements;

22 “(v) designed to address the unique
23 requirements of populations with special
24 needs, including the elderly; and

1 “(vi) designed to promptly develop
2 after-action reports and plans for quickly
3 incorporating lessons learned into future
4 operations; and”.

5 **SEC. 403. NATIONAL EXERCISE PROGRAM MODEL EXER-**
6 **CISES.**

7 Section 648(b)(2)(B) of the Post-Katrina Emergency
8 Management Reform Act of 2006 (6 U.S.C. 748(b)(2)(B))
9 is amended by striking “shall provide” and all that follows
10 through “of exercises” and inserting the following: “shall
11 include a selection of model exercises that State, local, and
12 tribal governments can readily adapt for use and provide
13 assistance to State, local, and tribal governments with the
14 design, implementation, and evaluation of exercises
15 (whether a model exercise program or an exercise designed
16 locally)”.

17 **SEC. 404. PREIDENTIFYING AND EVALUATING MULTIJURIS-**
18 **DICTIONAL FACILITIES TO STRENGTHEN IN-**
19 **CIDENT COMMAND; PRIVATE SECTOR PRE-**
20 **PAREDNESS.**

21 Section 507(c)(2) of the Homeland Security Act of
22 2002 (6 U.S.C. 317(c)(2)) is amended—

23 (1) in subparagraph (H) by striking “and” at
24 the end;

1 (2) by redesignating subparagraph (I) as sub-
2 paragraph (K); and

3 (3) by inserting after subparagraph (H) the fol-
4 lowing:

5 “(I) coordinating with the private sector to
6 help ensure private sector preparedness for nat-
7 ural disasters, acts of terrorism, and other
8 man-made disasters;

9 “(J) assisting State, local, and tribal gov-
10 ernments, where appropriate, to preidentify and
11 evaluate suitable sites where a multijuris-
12 dictional incident command system may quickly
13 be established and operated from, if the need
14 for such a system arises; and”.

15 **SEC. 405. FEDERAL RESPONSE CAPABILITY INVENTORY.**

16 Section 651 of the Post-Katrina Emergency Manage-
17 ment Reform Act of 2006 (6 U.S.C. 751) is amended—

18 (1) in subsection (b)—

19 (A) in the matter preceding paragraph (1),
20 by striking “The inventory” and inserting “For
21 each Federal agency with responsibilities under
22 the National Response Plan, the inventory”;

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

1 (C) by redesignating paragraph (2) as
2 paragraph (4); and

3 (D) by inserting after paragraph (1) the
4 following:

5 “(2) a list of personnel credentialed in accord-
6 ance with section 510 of the Homeland Security Act
7 of 2002 (6 U.S.C. 320);

8 “(3) a list of resources typed in accordance with
9 section 510 of the Homeland Security Act of 2002
10 (6 U.S.C. 320); and”; and

11 (2) in subsection (d)—

12 (A) in paragraph (1), by striking “capabili-
13 ties, readiness” and all that follows and insert-
14 ing the following: “—

15 “(A) capabilities;

16 “(B) readiness;

17 “(C) the compatibility of equipment;

18 “(D) credentialed personnel; and

19 “(E) typed resources;”;

20 (B) in paragraph (2), by inserting “of ca-
21 pabilities, credentialed personnel, and typed re-
22 sources” after “rapid deployment”; and

23 (C) in paragraph (3), by striking “inven-
24 tories” and inserting “the inventory described
25 in subsection (a)”.

1 **SEC. 406. REPORTING REQUIREMENTS.**

2 Section 652(a)(2) of the Post-Katrina Emergency
3 Management Reform Act of 2006 (6 U.S.C. 752(a)(2)),
4 as amended by section 103, is further amended—

5 (1) in subparagraph (C), by striking “section
6 651(a);” and inserting “section 651, including the
7 number and type of credentialed personnel in each
8 category of personnel trained and ready to respond
9 to a natural disaster, act of terrorism, or other man-
10 made disaster;”;

11 (2) in subparagraph (D), by striking “and” at
12 the end;

13 (3) in subparagraph (E), by striking the period
14 at the end and inserting “; and”; and

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

16 “(F) a discussion of whether the list of
17 credentialed personnel of the Agency described
18 in section 651(b)(2)—

19 “(i) complies with the strategic
20 human capital plan developed under sec-
21 tion 10102 of title 5, United States Code;
22 and

23 “(ii) is sufficient to respond to a nat-
24 ural disaster, act of terrorism, or other
25 man-made disaster, including a cata-
26 strophic incident.”.

1 **SEC. 407. FEDERAL PREPAREDNESS.**

2 Section 653 of the Post-Katrina Emergency Manage-
3 ment Reform Act of 2006 (6 U.S.C. 753) is amended—

4 (1) in subsection (a)—

5 (A) in the matter preceding paragraph (1),
6 by striking “coordinating, primary, or sup-
7 porting”;

8 (B) in paragraph (2), by inserting “, in-
9 cluding credentialing of personnel and typing of
10 resources likely needed to respond to a natural
11 disaster, act of terrorism, or other man-made
12 disaster in accordance with section 510 of the
13 Homeland Security Act of 2002 (6 U.S.C.
14 320)” before the semicolon at the end;

15 (C) in paragraph (3), by striking “and” at
16 the end;

17 (D) in paragraph (4), by striking the pe-
18 riod at the end and inserting “; and”; and

19 (E) by adding at the end the following:

20 “(5) regularly updates, verifies the accuracy of,
21 and provides to the Administrator the information in
22 the inventory required under section 651.”; and

23 (2) in subsection (d)—

24 (A) by inserting “to the Committee on
25 Homeland Security and Governmental Affairs
26 of the Senate and the Committee on Homeland

1 Security and the Committee on Transportation
2 and Infrastructure of the House of Representa-
3 tives” after “The President shall certify”; and
4 (B) by striking “coordinating, primary, or
5 supporting”.

6 **SEC. 408. CREDENTIALING AND TYPING.**

7 Section 510 of the Homeland Security Act of 2002
8 (6 U.S.C. 320) is amended—

9 (1) by striking “The Administrator” and insert-
10 ing the following:

11 “(a) IN GENERAL.—The Administrator”;

12 (2) in subsection (a), as so designated, by strik-
13 ing “credentialing of personnel and typing of” and
14 inserting “for credentialing and typing of incident
15 management personnel, emergency response pro-
16 viders, and other personnel (including temporary
17 personnel) and”; and

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

19 “(b) DISTRIBUTION.—

20 “(1) IN GENERAL.—Not later than 1 year after
21 the date of enactment of the Implementing Rec-
22 ommendations of the 9/11 Commission Act of 2007,
23 the Administrator shall provide the standards devel-
24 oped under subsection (a), including detailed written
25 guidance, to—

1 “(A) each Federal agency that has respon-
2 sibilities under the National Response Plan to
3 aid that agency with credentialing and typing
4 incident management personnel, emergency re-
5 sponse providers, and other personnel (includ-
6 ing temporary personnel) and resources likely
7 needed to respond to a natural disaster, act of
8 terrorism, or other man-made disaster; and

9 “(B) State, local, and tribal governments,
10 to aid such governments with credentialing and
11 typing of State, local, and tribal incident man-
12 agement personnel, emergency response pro-
13 viders, and other personnel (including tem-
14 porary personnel) and resources likely needed to
15 respond to a natural disaster, act of terrorism,
16 or other man-made disaster.

17 “(2) ASSISTANCE.—The Administrator shall
18 provide expertise and technical assistance to aid
19 Federal, State, local, and tribal government agencies
20 with credentialing and typing incident management
21 personnel, emergency response providers, and other
22 personnel (including temporary personnel) and re-
23 sources likely needed to respond to a natural dis-
24 aster, act of terrorism, or other man-made disaster.

1 “(c) CREDENTIALING AND TYPING OF PER-
2 SONNEL.—Not later than 6 months after receiving the
3 standards provided under subsection (b), each Federal
4 agency with responsibilities under the National Response
5 Plan shall ensure that incident management personnel,
6 emergency response providers, and other personnel (in-
7 cluding temporary personnel) and resources likely needed
8 to respond to a natural disaster, act of terrorism, or other
9 manmade disaster are credentialed and typed in accord-
10 ance with this section.

11 “(d) CONSULTATION ON HEALTH CARE STAND-
12 ARDS.—In developing standards for credentialing health
13 care professionals under this section, the Administrator
14 shall consult with the Secretary of Health and Human
15 Services.”.

16 **SEC. 409. MODEL STANDARDS AND GUIDELINES FOR CRIT-**
17 **ICAL INFRASTRUCTURE WORKERS.**

18 “(a) IN GENERAL.—Title V of the Homeland Security
19 Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding
20 at the end the following:

21 **“SEC. 522. MODEL STANDARDS AND GUIDELINES FOR CRIT-**
22 **ICAL INFRASTRUCTURE WORKERS.**

23 “(a) IN GENERAL.—Not later than 12 months after
24 the date of enactment of the Implementing Recommenda-
25 tions of the 9/11 Commission Act of 2007, and in coordi-

1 nation with appropriate national professional organiza-
2 tions, Federal, State, local, and tribal government agen-
3 cies, and private-sector and nongovernmental entities, the
4 Administrator shall establish model standards and guide-
5 lines for credentialing critical infrastructure workers that
6 may be used by a State to credential critical infrastructure
7 workers that may respond to a natural disaster, act of ter-
8 rorism, or other man-made disaster.

9 “(b) DISTRIBUTION AND ASSISTANCE.—The Admin-
10 istrator shall provide the standards developed under sub-
11 section (a), including detailed written guidance, to State,
12 local, and tribal governments, and provide expertise and
13 technical assistance to aid such governments with
14 credentialing critical infrastructure workers that may re-
15 spond to a natural disaster, act of terrorism, or other
16 manmade disaster.”.

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—
18 The table of contents in section 1(b) of the Homeland Se-
19 curity Act of 2002 (6 U.S.C. 101(b)) is amended by in-
20 serting after the item relating to section 521 the following:
“Sec. 522. Model standards and guidelines for critical infrastructure workers.”.

21 **SEC. 410. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated such sums
23 as necessary to carry out this title and the amendments
24 made by this title.

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

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

9 **SEC. 501. HOMELAND SECURITY ADVISORY SYSTEM AND IN-**
10 **FORMATION SHARING.**

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

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

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

17 **“(a) REQUIREMENT.—**The Secretary shall administer
18 the Homeland Security Advisory System in accordance
19 with this section to provide advisories or warnings regard-
20 ing the threat or risk that acts of terrorism will be com-
21 mitted on the homeland to Federal, State, local, and tribal
22 government authorities and to the people of the United
23 States, as appropriate. The Secretary shall exercise pri-
24 mary responsibility for providing such advisories or warn-
25 ings.

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

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

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

10 “(3) provide, in each such advisory or warning,
11 specific information and advice regarding appro-
12 priate protective measures and countermeasures that
13 may be taken in response to the threat or risk, at
14 the maximum level of detail practicable to enable in-
15 dividuals, government entities, emergency response
16 providers, and the private sector to act appro-
17 priately;

18 “(4) whenever possible, limit the scope of each
19 such advisory or warning to a specific region, local-
20 ity, or economic sector believed to be under threat
21 or at risk; and

22 “(5) not, in issuing any advisory or warning,
23 use color designations as the exclusive means of
24 specifying homeland security threat conditions that
25 are the subject of the advisory or warning.

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

2 “(a) INFORMATION SHARING.—Consistent with sec-
3 tion 1016 of the Intelligence Reform and Terrorism Pre-
4 vention Act of 2004 (6 U.S.C. 485), the Secretary, acting
5 through the Under Secretary for Intelligence and Analysis,
6 shall integrate the information and standardize the format
7 of the products of the intelligence components of the De-
8 partment containing homeland security information, ter-
9 rorism information, weapons of mass destruction informa-
10 tion, or national intelligence (as defined in section 3(5)
11 of the National Security Act of 1947 (50 U.S.C. 401a(5)))
12 except for any internal security protocols or personnel in-
13 formation of such intelligence components, or other ad-
14 ministrative processes that are administered by any chief
15 security officer of the Department.

16 “(b) INFORMATION SHARING AND KNOWLEDGE
17 MANAGEMENT OFFICERS.—For each intelligence compo-
18 nent of the Department, the Secretary shall designate an
19 information sharing and knowledge management officer
20 who shall report to the Under Secretary for Intelligence
21 and Analysis regarding coordinating the different systems
22 used in the Department to gather and disseminate home-
23 land security information or national intelligence (as de-
24 fined in section 3(5) of the National Security Act of 1947
25 (50 U.S.C. 401a(5))).

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

3 “(1) ESTABLISHMENT OF BUSINESS PROC-
4 ESSES.—The Secretary, acting through the Under
5 Secretary for Intelligence and Analysis or the Assist-
6 ant Secretary for Infrastructure Protection, as ap-
7 propriate, shall—

8 “(A) establish Department-wide procedures
9 for the review and analysis of information pro-
10 vided by State, local, and tribal governments
11 and the private sector;

12 “(B) as appropriate, integrate such infor-
13 mation into the information gathered by the
14 Department and other departments and agen-
15 cies of the Federal Government; and

16 “(C) make available such information, as
17 appropriate, within the Department and to
18 other departments and agencies of the Federal
19 Government.

20 “(2) FEEDBACK.—The Secretary shall develop
21 mechanisms to provide feedback regarding the anal-
22 ysis and utility of information provided by any entity
23 of State, local, or tribal government or the private
24 sector that provides such information to the Depart-
25 ment.

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

2 “(1) TRAINING.—The Secretary, acting through
3 the Under Secretary for Intelligence and Analysis or
4 the Assistant Secretary for Infrastructure Protec-
5 tion, as appropriate, shall provide to employees of
6 the Department opportunities for training and edu-
7 cation to develop an understanding of—

8 “(A) the definitions of homeland security
9 information and national intelligence (as de-
10 fined in section 3(5) of the National Security
11 Act of 1947 (50 U.S.C. 401a(5))); and

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

14 “(i) might qualify as homeland secu-
15 rity information or national intelligence;
16 and

17 “(ii) might be relevant to the Office of
18 Intelligence and Analysis and the intel-
19 ligence components of the Department.

20 “(2) EVALUATIONS.—The Under Secretary for
21 Intelligence and Analysis shall—

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

1 formation or national intelligence, sharing infor-
2 mation within the Department, as described in
3 this title, and participating in the information
4 sharing environment established under section
5 1016 of the Intelligence Reform and Terrorism
6 Prevention Act of 2004 (6 U.S.C. 485); and

7 “(B) provide to the appropriate component
8 heads regular reports regarding the evaluations
9 under subparagraph (A).

10 **“SEC. 205. COMPREHENSIVE INFORMATION TECHNOLOGY**
11 **NETWORK ARCHITECTURE.**

12 “(a) ESTABLISHMENT.—The Secretary, acting
13 through the Under Secretary for Intelligence and Analysis,
14 shall establish, consistent with the policies and procedures
15 developed under section 1016 of the Intelligence Reform
16 and Terrorism Prevention Act of 2004 (6 U.S.C. 485),
17 and consistent with the enterprise architecture of the De-
18 partment, a comprehensive information technology net-
19 work architecture for the Office of Intelligence and Anal-
20 ysis that connects the various databases and related infor-
21 mation technology assets of the Office of Intelligence and
22 Analysis and the intelligence components of the Depart-
23 ment in order to promote internal information sharing
24 among the intelligence and other personnel of the Depart-
25 ment.

1 “(b) COMPREHENSIVE INFORMATION TECHNOLOGY
2 NETWORK ARCHITECTURE DEFINED.—The term ‘com-
3 prehensive information technology network architecture’
4 means an integrated framework for evolving or maintain-
5 ing existing information technology and acquiring new in-
6 formation technology to achieve the strategic management
7 and information resources management goals of the Office
8 of Intelligence and Analysis.

9 **“SEC. 206. COORDINATION WITH INFORMATION SHARING**
10 **ENVIRONMENT.**

11 “(a) GUIDANCE.—All activities to comply with sec-
12 tions 203, 204, and 205 shall be—

13 “(1) consistent with any policies, guidelines,
14 procedures, instructions, or standards established
15 under section 1016 of the Intelligence Reform and
16 Terrorism Prevention Act of 2004 (6 U.S.C. 485);

17 “(2) implemented in coordination with, as ap-
18 propriate, the program manager for the information
19 sharing environment established under that section;

20 “(3) consistent with any applicable guidance
21 issued by the Director of National Intelligence; and

22 “(4) consistent with any applicable guidance
23 issued by the Secretary relating to the protection of
24 law enforcement information or proprietary informa-
25 tion.

1 “(b) CONSULTATION.—In carrying out the duties and
2 responsibilities under this subtitle, the Under Secretary
3 for Intelligence and Analysis shall take into account the
4 views of the heads of the intelligence components of the
5 Department.”.

6 (2) TECHNICAL AND CONFORMING AMEND-
7 MENTS.—

8 (A) IN GENERAL.—Section 201(d) of the
9 Homeland Security Act of 2002 (6 U.S.C.
10 121(d)) is amended—

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

12 (ii) by redesignating paragraphs (8)
13 through (19) as paragraphs (7) through
14 (18), respectively.

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

“Sec. 203. Homeland Security Advisory System.

“Sec. 204. Homeland security information sharing.

“Sec. 205. Comprehensive information technology network architecture.

“Sec. 206. Coordination with information sharing environment.”.

20 (b) OFFICE OF INTELLIGENCE AND ANALYSIS AND
21 OFFICE OF INFRASTRUCTURE PROTECTION.—Section
22 201(d) of the Homeland Security Act of 2002 (6 U.S.C.
23 121(d)) is amended—

1 (1) in paragraph (1), by inserting “, in support
2 of the mission responsibilities of the Department
3 and the functions of the National Counterterrorism
4 Center established under section 119 of the National
5 Security Act of 1947 (50 U.S.C. 404o),” after “and
6 to integrate such information”; and

7 (2) by striking paragraph (7), as redesignated
8 by subsection (a)(2)(A)(ii) of this section, and in-
9 serting the following:

10 “(7) To review, analyze, and make rec-
11 ommendations for improvements to the policies and
12 procedures governing the sharing of information
13 within the scope of the information sharing environ-
14 ment established under section 1016 of the Intel-
15 ligence Reform and Terrorism Prevention Act of
16 2004 (6 U.S.C. 485), including homeland security
17 information, terrorism information, and weapons of
18 mass destruction information, and any policies,
19 guidelines, procedures, instructions, or standards es-
20 tablished under that section.”.

21 (c) REPORT ON COMPREHENSIVE INFORMATION
22 TECHNOLOGY NETWORK ARCHITECTURE.—Not later
23 than 120 days after the date of enactment of this Act,
24 the Secretary of Homeland Security shall submit to the
25 Committee on Homeland Security and Governmental Af-

1 fairs of the Senate and the Committee on Homeland Secu-
2 rity of the House of Representatives a report on the
3 progress of the Secretary in developing the comprehensive
4 information technology network architecture required
5 under section 205 of the Homeland Security Act of 2002,
6 as added by subsection (a). The report shall include:

7 (1) a description of the priorities for the devel-
8 opment of the comprehensive information technology
9 network architecture and a rationale for such prior-
10 ities;

11 (2) an explanation of how the various compo-
12 nents of the comprehensive information technology
13 network architecture will work together and inter-
14 connect;

15 (3) a description of the technological challenges
16 that the Secretary expects the Office of Intelligence
17 and Analysis will face in implementing the com-
18 prehensive information technology network architec-
19 ture;

20 (4) a description of the technological options
21 that are available or are in development that may be
22 incorporated into the comprehensive information
23 technology network architecture, the feasibility of in-
24 corporating such options, and the advantages and
25 disadvantages of doing so;

1 (5) an explanation of any security protections
2 to be developed as part of the comprehensive infor-
3 mation technology network architecture;

4 (6) a description of safeguards for civil liberties
5 and privacy to be built into the comprehensive infor-
6 mation technology network architecture; and

7 (7) an operational best practices plan.

8 **SEC. 502. INTELLIGENCE COMPONENT DEFINED.**

9 (a) IN GENERAL.—Section 2 of the Homeland Secu-
10 rity Act of 2002 (6 U.S.C. 101) is amended—

11 (1) by redesignating paragraphs (9) through
12 (16) as paragraphs (10) through (17), respectively;
13 and

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

16 “(9) The term ‘intelligence component of the
17 Department’ means any element or entity of the De-
18 partment that collects, gathers, processes, analyzes,
19 produces, or disseminates intelligence information
20 within the scope of the information sharing environ-
21 ment, including homeland security information, ter-
22 rorism information, and weapons of mass destruc-
23 tion information, or national intelligence, as defined
24 under section 3(5) of the National Security Act of
25 1947 (50 U.S.C. 401a(5)), except—

1 “(A) the United States Secret Service; and
2 “(B) the Coast Guard, when operating
3 under the direct authority of the Secretary of
4 Defense or Secretary of the Navy pursuant to
5 section 3 of title 14, United States Code, except
6 that nothing in this paragraph shall affect or
7 diminish the authority and responsibilities of
8 the Commandant of the Coast Guard to com-
9 mand or control the Coast Guard as an armed
10 force or the authority of the Director of Na-
11 tional Intelligence with respect to the Coast
12 Guard as an element of the intelligence commu-
13 nity (as defined under section 3(4) of the Na-
14 tional Security Act of 1947 (50 U.S.C.
15 401a(4)).”.

16 (b) RECEIPT OF INFORMATION FROM UNITED
17 STATES SECRET SERVICE.—

18 (1) IN GENERAL.—The Under Secretary for In-
19 telligence and Analysis shall receive from the United
20 States Secret Service homeland security information,
21 terrorism information, weapons of mass destruction
22 information (as these terms are defined in Section
23 1016 of the Intelligence Reform and Terrorism Pre-
24 vention Act of 2004 (6 U.S.C. 485)), or national in-
25 telligence, as defined in Section 3(5) of the National

1 Security Act of 1947 (50 U.S.C. 401a(5)), as well
2 as suspect information obtained in criminal inves-
3 tigations. The United States Secret Service shall co-
4 operate with the Under Secretary for Intelligence
5 and Analysis with respect to activities under sections
6 204 and 205 of the Homeland Security Act of 2002.

7 (2) SAVINGS CLAUSE.—Nothing in this Act
8 shall interfere with the operation of Section 3056(g)
9 of Title 18, United States Code, or with the author-
10 ity of the Secretary of Homeland Security or the Di-
11 rector of the United States Secret Service regarding
12 the budget of the United States Secret Service.

13 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

14 (1) HOMELAND SECURITY ACT OF 2002.—Para-
15 graph (13) of section 501 of the Homeland Security
16 Act of 2002 (6 U.S.C. 311), as redesignated by sec-
17 tion 401, is amended by striking “section 2(10)(B)”
18 and inserting “section 2(11)(B)”.

19 (2) OTHER LAW.—Section 712(a) of title 14,
20 United States Code, is amended by striking “section
21 2(15) of the Homeland Security Act of 2002 (6
22 U.S.C. 101(15))” and inserting “section 2(16) of
23 the Homeland Security Act of 2002 (6 U.S.C.
24 101(16))”.

1 **SEC. 503. ROLE OF INTELLIGENCE COMPONENTS, TRAIN-**
2 **ING, AND INFORMATION SHARING.**

3 (a) IN GENERAL.—Subtitle A of title II of the Home-
4 land Security Act of 2002 is further amended by adding
5 at the end the following:

6 **“SEC. 207. INTELLIGENCE COMPONENTS.**

7 “Subject to the direction and control of the Secretary,
8 and consistent with any applicable guidance issued by the
9 Director of National Intelligence, the responsibilities of
10 the head of each intelligence component of the Depart-
11 ment are as follows:

12 “(1) To ensure that the collection, processing,
13 analysis, and dissemination of information within
14 the scope of the information sharing environment,
15 including homeland security information, terrorism
16 information, weapons of mass destruction informa-
17 tion, and national intelligence (as defined in section
18 3(5) of the National Security Act of 1947 (50
19 U.S.C. 401a(5))), are carried out effectively and ef-
20 ficiently in support of the intelligence mission of the
21 Department, as led by the Under Secretary for In-
22 telligence and Analysis.

23 “(2) To otherwise support and implement the
24 intelligence mission of the Department, as led by the
25 Under Secretary for Intelligence and Analysis.

1 “(3) To incorporate the input of the Under Sec-
2 retary for Intelligence and Analysis with respect to
3 performance appraisals, bonus or award rec-
4 ommendations, pay adjustments, and other forms of
5 commendation.

6 “(4) To coordinate with the Under Secretary
7 for Intelligence and Analysis in developing policies
8 and requirements for the recruitment and selection
9 of intelligence officials of the intelligence component.

10 “(5) To advise and coordinate with the Under
11 Secretary for Intelligence and Analysis on any plan
12 to reorganize or restructure the intelligence compo-
13 nent that would, if implemented, result in realign-
14 ments of intelligence functions.

15 “(6) To ensure that employees of the intel-
16 ligence component have knowledge of, and comply
17 with, the programs and policies established by the
18 Under Secretary for Intelligence and Analysis and
19 other appropriate officials of the Department and
20 that such employees comply with all applicable laws
21 and regulations.

22 “(7) To perform such other activities relating to
23 such responsibilities as the Secretary may provide.

1 **“SEC. 208. TRAINING FOR EMPLOYEES OF INTELLIGENCE**
2 **COMPONENTS.**

3 “The Secretary shall provide training and guidance
4 for employees, officials, and senior executives of the intel-
5 ligence components of the Department to develop knowl-
6 edge of laws, regulations, operations, policies, procedures,
7 and programs that are related to the functions of the De-
8 partment relating to the collection, processing, analysis,
9 and dissemination of information within the scope of the
10 information sharing environment, including homeland se-
11 curity information, terrorism information, and weapons of
12 mass destruction information, or national intelligence (as
13 defined in section 3(5) of the National Security Act of
14 1947 (50 U.S.C. 401a(5))).

15 **“SEC. 209. INTELLIGENCE TRAINING DEVELOPMENT FOR**
16 **STATE AND LOCAL GOVERNMENT OFFICIALS.**

17 “(a) CURRICULUM.—The Secretary, acting through
18 the Under Secretary for Intelligence and Analysis, shall—

19 “(1) develop a curriculum for training State,
20 local, and tribal government officials, including law
21 enforcement officers, intelligence analysts, and other
22 emergency response providers, in the intelligence
23 cycle and Federal laws, practices, and regulations re-
24 garding the development, handling, and review of in-
25 telligence and other information; and

1 “(2) ensure that the curriculum includes execu-
2 tive level training for senior level State, local, and
3 tribal law enforcement officers, intelligence analysts,
4 and other emergency response providers.

5 “(b) TRAINING.—To the extent possible, the Federal
6 Law Enforcement Training Center and other existing
7 Federal entities with the capacity and expertise to train
8 State, local, and tribal government officials based on the
9 curriculum developed under subsection (a) shall be used
10 to carry out the training programs created under this sec-
11 tion. If such entities do not have the capacity, resources,
12 or capabilities to conduct such training, the Secretary may
13 approve another entity to conduct such training.

14 “(c) CONSULTATION.—In carrying out the duties de-
15 scribed in subsection (a), the Under Secretary for Intel-
16 ligence and Analysis shall consult with the Director of the
17 Federal Law Enforcement Training Center, the Attorney
18 General, the Director of National Intelligence, the Admin-
19 istrator of the Federal Emergency Management Agency,
20 and other appropriate parties, such as private industry,
21 institutions of higher education, nonprofit institutions,
22 and other intelligence agencies of the Federal Government.

23 **“SEC. 210. INFORMATION SHARING INCENTIVES.**

24 “(a) AWARDS.—In making cash awards under chap-
25 ter 45 of title 5, United States Code, the President or

1 the head of an agency, in consultation with the program
2 manager designated under section 1016 of the Intelligence
3 Reform and Terrorism Prevention Act of 2004 (6 U.S.C.
4 485), may consider the success of an employee in appro-
5 priately sharing information within the scope of the infor-
6 mation sharing environment established under that sec-
7 tion, including homeland security information, terrorism
8 information, and weapons of mass destruction informa-
9 tion, or national intelligence (as defined in section 3(5)
10 of the National Security Act of 1947 (50 U.S.C. 401a(5)),
11 in a manner consistent with any policies, guidelines, proce-
12 dures, instructions, or standards established by the Presi-
13 dent or, as appropriate, the program manager of that envi-
14 ronment for the implementation and management of that
15 environment.

16 “(b) OTHER INCENTIVES.—The head of each depart-
17 ment or agency described in section 1016(i) of the Intel-
18 ligence Reform and Terrorism Prevention Act of 2004 (6
19 U.S.C. 485(i)), in consultation with the program manager
20 designated under section 1016 of the Intelligence Reform
21 and Terrorism Prevention Act of 2004 (6 U.S.C. 485),
22 shall adopt best practices regarding effective ways to edu-
23 cate and motivate officers and employees of the Federal
24 Government to participate fully in the information sharing
25 environment, including—

1 “(1) promotions and other nonmonetary
2 awards; and

3 “(2) publicizing information sharing accom-
4 plishments by individual employees and, where ap-
5 propriate, the tangible end benefits that resulted.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 in section 1(b) of the Homeland Security Act of 2002 (6
8 U.S.C. 101 et seq.) is amended further by inserting after
9 the item relating to section 206 the following:

“Sec. 207. Intelligence components.

“Sec. 208. Training for employees of intelligence components.

“Sec. 209. Intelligence training development for State and local government of-
ficials.

“Sec. 210. Information sharing incentives.”.

10 **SEC. 504. INFORMATION SHARING.**

11 Section 1016 of the Intelligence Reform and Ter-
12 rorism Prevention Act of 2004 (6 U.S.C. 485) is amend-
13 ed—

14 (1) in subsection (a)—

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

18 (B) by inserting before paragraph (2), as
19 so redesignated, the following:

20 “(1) HOMELAND SECURITY INFORMATION.—

21 The term ‘homeland security information’ has the
22 meaning given that term in section 892(f) of the
23 Homeland Security Act of 2002 (6 U.S.C. 482(f)).”;

1 (C) by striking paragraph (3), as so reded-
2 igned, and inserting the following:

3 “(3) INFORMATION SHARING ENVIRONMENT.—
4 The terms ‘information sharing environment’ and
5 ‘ISE’ mean an approach that facilitates the sharing
6 of terrorism and homeland security information,
7 which may include any method determined necessary
8 and appropriate for carrying out this section.”

9 (D) by striking paragraph (5), as so reded-
10 igned, and inserting the following:

11 “(5) TERRORISM INFORMATION.—The term
12 ‘terrorism information’—

13 “(A) means all information, whether col-
14 lected, produced, or distributed by intelligence,
15 law enforcement, military, homeland security,
16 or other activities relating to—

17 “(i) the existence, organization, capa-
18 bilities, plans, intentions, vulnerabilities,
19 means of finance or material support, or
20 activities of foreign or international ter-
21 rorist groups or individuals, or of domestic
22 groups or individuals involved in
23 transnational terrorism;

24 “(ii) threats posed by such groups or
25 individuals to the United States, United

1 States persons, or United States interests,
2 or to those of other nations;

3 “(iii) communications of or by such
4 groups or individuals; or

5 “(iv) groups or individuals reasonably
6 believed to be assisting or associated with
7 such groups or individuals; and

8 “(B) includes weapons of mass destruction
9 information.”; and

10 (E) by adding at the end the following:

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

24 (2) in subsection (b)(2)—

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

3 (B) in subparagraph (I), by striking the
4 period at the end and inserting a semicolon;
5 and

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

7 “(J) integrates the information within the
8 scope of the information sharing environment,
9 including any such information in legacy tech-
10 nologies;

11 “(K) integrates technologies, including all
12 legacy technologies, through Internet-based
13 services, consistent with appropriate security
14 protocols and safeguards, to enable connectivity
15 among required users at the Federal, State,
16 and local levels;

17 “(L) allows the full range of analytic and
18 operational activities without the need to cen-
19 tralize information within the scope of the in-
20 formation sharing environment;

21 “(M) permits analysts to collaborate both
22 independently and in a group (commonly known
23 as ‘collective and noncollective collaboration’),
24 and across multiple levels of national security

1 information and controlled unclassified informa-
2 tion;

3 “(N) provides a resolution process that en-
4 ables changes by authorized officials regarding
5 rules and policies for the access, use, and reten-
6 tion of information within the scope of the in-
7 formation sharing environment; and

8 “(O) incorporates continuous, real-time,
9 and immutable audit capabilities, to the max-
10 imum extent practicable.”;

11 (3) in subsection (f)—

12 (A) in paragraph (1)—

13 (i) by striking “during the two-year
14 period beginning on the date of designation
15 under this paragraph unless sooner re-
16 moved from service and replaced” and in-
17 serting “until removed from service or re-
18 placed”; and

19 (ii) by striking “The program man-
20 ager shall have and exercise government-
21 wide authority.” and inserting “The pro-
22 gram manager, in consultation with the
23 head of any affected department or agency,
24 shall have and exercise governmentwide
25 authority over the sharing of information

1 within the scope of the information sharing
2 environment, including homeland security
3 information, terrorism information, and
4 weapons of mass destruction information,
5 by all Federal departments, agencies, and
6 components, irrespective of the Federal de-
7 partment, agency, or component in which
8 the program manager may be administra-
9 tively located, except as otherwise expressly
10 provided by law.”; and

11 (B) in paragraph (2)(A)—

12 (i) by redesignating clause (iii) as
13 clause (v); and

14 (ii) by striking clause (ii) and insert-
15 ing the following:

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

19 “(iii) consistent with the direction and
20 policies issued by the President, the Direc-
21 tor of National Intelligence, and the Direc-
22 tor of the Office of Management and
23 Budget, issue governmentwide procedures,
24 guidelines, instructions, and functional
25 standards, as appropriate, for the manage-

1 ment, development, and proper operation
2 of the ISE;

3 “(iv) identify and resolve information
4 sharing disputes between Federal depart-
5 ments, agencies, and components; and”;

6 (4) in subsection (g)—

7 (A) in paragraph (1), by striking “during
8 the two-year period beginning on the date of
9 the initial designation of the program manager
10 by the President under subsection (f)(1), unless
11 sooner removed from service and replaced” and
12 inserting “until removed from service or re-
13 placed”;

14 (B) in paragraph (2)—

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

17 (ii) by redesignating subparagraph
18 (G) as subparagraph (I); and

19 (iii) by inserting after subparagraph
20 (F) the following:

21 “(G) assist the program manager in identi-
22 fying and resolving information sharing dis-
23 putes between Federal departments, agencies,
24 and components;

1 “(H) identify appropriate personnel for as-
2 signment to the program manager to support
3 staffing needs identified by the program man-
4 ager; and”;

5 (C) in paragraph (4), by inserting “(in-
6 cluding any subsidiary group of the Information
7 Sharing Council)” before “shall not be subject”;
8 and

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

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

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

19 (6) by striking subsection (j) and inserting the
20 following:

21 “(j) REPORT ON THE INFORMATION SHARING ENVI-
22 RONMENT.—

23 “(1) IN GENERAL.—Not later than 180 days
24 after the date of enactment of the Implementing
25 Recommendations of the 9/11 Commission Act of

1 2007, the President shall report to the Committee
2 on Homeland Security and Governmental Affairs of
3 the Senate, the Select Committee on Intelligence of
4 the Senate, the Committee on Homeland Security of
5 the House of Representatives, and the Permanent
6 Select Committee on Intelligence of the House of
7 Representatives on the feasibility of—

8 “(A) eliminating the use of any marking or
9 process (including ‘Originator Control’) in-
10 tended to, or having the effect of, restricting
11 the sharing of information within the scope of
12 the information sharing environment, including
13 homeland security information, terrorism infor-
14 mation, and weapons of mass destruction infor-
15 mation, between and among participants in the
16 information sharing environment, unless the
17 President has—

18 “(i) specifically exempted categories of
19 information from such elimination; and

20 “(ii) reported that exemption to the
21 committees of Congress described in the
22 matter preceding this subparagraph; and

23 “(B) continuing to use Federal agency
24 standards in effect on such date of enactment
25 for the collection, sharing, and access to infor-

1 mation within the scope of the information
2 sharing environment, including homeland secu-
3 rity information, terrorism information, and
4 weapons of mass destruction information, relat-
5 ing to citizens and lawful permanent residents;

6 “(C) replacing the standards described in
7 subparagraph (B) with a standard that would
8 allow mission-based or threat-based permission
9 to access or share information within the scope
10 of the information sharing environment, includ-
11 ing homeland security information, terrorism
12 information, and weapons of mass destruction
13 information, for a particular purpose that the
14 Federal Government, through an appropriate
15 process established in consultation with the Pri-
16 vacy and Civil Liberties Oversight Board estab-
17 lished under section 1061, has determined to be
18 lawfully permissible for a particular agency,
19 component, or employee (commonly known as
20 an ‘authorized use’ standard); and

21 “(D) the use of anonymized data by Fed-
22 eral departments, agencies, or components col-
23 lecting, possessing, disseminating, or handling
24 information within the scope of the information
25 sharing environment, including homeland secu-

1 rity information, terrorism information, and
2 weapons of mass destruction information, in
3 any cases in which—

4 “(i) the use of such information is
5 reasonably expected to produce results ma-
6 terially equivalent to the use of information
7 that is transferred or stored in a non-
8 anonymized form; and

9 “(ii) such use is consistent with any
10 mission of that department, agency, or
11 component (including any mission under a
12 Federal statute or directive of the Presi-
13 dent) that involves the storage, retention,
14 sharing, or exchange of personally identifi-
15 able information.

16 “(2) DEFINITION.—In this subsection, the term
17 ‘anonymized data’ means data in which the indi-
18 vidual to whom the data pertains is not identifiable
19 with reasonable efforts, including information that
20 has been encrypted or hidden through the use of
21 other technology.

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

1 “(1) activities associated with the implementa-
2 tion of the information sharing environment, includ-
3 ing—

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

6 “(B) any additional implementation initia-
7 tives to enhance and expedite the creation of
8 the information sharing environment; and

9 “(2) identifying and resolving information shar-
10 ing disputes between Federal departments, agencies,
11 and components under subsection (f)(2)(A)(iv).

12 “(I) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to carry out this section
14 \$30,000,000 for each of fiscal years 2008 and 2009.”

15 **Subtitle B—Homeland Security**
16 **Information Sharing Partnerships**

17 **SEC. 511. DEPARTMENT OF HOMELAND SECURITY STATE,**
18 **LOCAL, AND REGIONAL FUSION CENTER INI-**
19 **TIATIVE.**

20 (a) IN GENERAL.—Subtitle A of title II of the Home-
21 land Security Act of 2002 (6 U.S.C. 121 et seq.) is further
22 amended by adding at the end the following:

1 **“SEC. 210A. DEPARTMENT OF HOMELAND SECURITY STATE,**
2 **LOCAL, AND REGIONAL FUSION CENTER INI-**
3 **TIATIVE.**

4 “(a) **ESTABLISHMENT.**—The Secretary, in consulta-
5 tion with the program manager of the information sharing
6 environment established under section 1016 of the Intel-
7 ligence Reform and Terrorism Prevention Act of 2004 (6
8 U.S.C. 485), the Attorney General, the Privacy Officer of
9 the Department, the Officer for Civil Rights and Civil Lib-
10 erties of the Department, and the Privacy and Civil Lib-
11 erties Oversight Board established under section 1061 of
12 the Intelligence Reform and Terrorism Prevention Act of
13 2004 (5 U.S.C. 601 note), shall establish a Department
14 of Homeland Security State, Local, and Regional Fusion
15 Center Initiative to establish partnerships with State,
16 local, and regional fusion centers.

17 “(b) **DEPARTMENT SUPPORT AND COORDINATION.**—
18 Through the Department of Homeland Security State,
19 Local, and Regional Fusion Center Initiative, and in co-
20 ordination with the principal officials of participating
21 State, local, or regional fusion centers and the officers des-
22 igned as the Homeland Security Advisors of the States,
23 the Secretary shall—

24 “(1) provide operational and intelligence advice
25 and assistance to State, local, and regional fusion
26 centers;

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

4 “(3) conduct tabletop and live training exercises
5 to regularly assess the capability of individual and
6 regional networks of State, local, and regional fusion
7 centers to integrate the efforts of such networks
8 with the efforts of the Department;

9 “(4) coordinate with other relevant Federal en-
10 tities engaged in homeland security-related activities;

11 “(5) provide analytic and reporting advice and
12 assistance to State, local, and regional fusion cen-
13 ters;

14 “(6) review information within the scope of the
15 information sharing environment, including home-
16 land security information, terrorism information,
17 and weapons of mass destruction information, that
18 is gathered by State, local, and regional fusion cen-
19 ters, and to incorporate such information, as appro-
20 priate, into the Department’s own such information;

21 “(7) provide management assistance to State,
22 local, and regional fusion centers;

23 “(8) serve as a point of contact to ensure the
24 dissemination of information within the scope of the
25 information sharing environment, including home-

1 land security information, terrorism information,
2 and weapons of mass destruction information;

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

6 “(10) provide State, local, and regional fusion
7 centers with expertise on Department resources and
8 operations;

9 “(11) provide training to State, local, and re-
10 gional fusion centers and encourage such fusion cen-
11 ters to participate in terrorism threat-related exer-
12 cises conducted by the Department; and

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

15 “(c) PERSONNEL ASSIGNMENT.—

16 “(1) IN GENERAL.—The Under Secretary for
17 Intelligence and Analysis shall, to the maximum ex-
18 tent practicable, assign officers and intelligence ana-
19 lysts from components of the Department to partici-
20 pating State, local, and regional fusion centers.

21 “(2) PERSONNEL SOURCES.—Officers and intel-
22 ligence analysts assigned to participating fusion cen-
23 ters under this subsection may be assigned from the
24 following Department components, in coordination
25 with the respective component head and in consulta-

1 tion with the principal officials of participating fu-
2 sion centers:

3 “(A) Office of Intelligence and Analysis.

4 “(B) Office of Infrastructure Protection.

5 “(C) Transportation Security Administra-
6 tion.

7 “(D) United States Customs and Border
8 Protection.

9 “(E) United States Immigration and Cus-
10 toms Enforcement.

11 “(F) United States Coast Guard.

12 “(G) Other components of the Depart-
13 ment, as determined by the Secretary.

14 “(3) QUALIFYING CRITERIA.—

15 “(A) IN GENERAL.—The Secretary shall
16 develop qualifying criteria for a fusion center to
17 participate in the assigning of Department offi-
18 cers or intelligence analysts under this section.

19 “(B) CRITERIA.—Any criteria developed
20 under subparagraph (A) may include—

21 “(i) whether the fusion center,
22 through its mission and governance struc-
23 ture, focuses on a broad counterterrorism
24 approach, and whether that broad ap-

1 proach is pervasive through all levels of the
2 organization;

3 “(ii) whether the fusion center has
4 sufficient numbers of adequately trained
5 personnel to support a broad
6 counterterrorism mission;

7 “(iii) whether the fusion center has—

8 “(I) access to relevant law en-
9 forcement, emergency response, pri-
10 vate sector, open source, and national
11 security data; and

12 “(II) the ability to share and
13 analytically utilize that data for lawful
14 purposes;

15 “(iv) whether the fusion center is ade-
16 quately funded by the State, local, or re-
17 gional government to support its
18 counterterrorism mission; and

19 “(v) the relevancy of the mission of
20 the fusion center to the particular source
21 component of Department officers or intel-
22 ligence analysts.

23 “(4) PREREQUISITE.—

24 “(A) INTELLIGENCE ANALYSIS, PRIVACY,
25 AND CIVIL LIBERTIES TRAINING.—Before being

1 assigned to a fusion center under this section,
2 an officer or intelligence analyst shall under-
3 go—

4 “(i) appropriate intelligence analysis
5 or information sharing training using an
6 intelligence-led policing curriculum that is
7 consistent with—

8 “(I) standard training and edu-
9 cation programs offered to Depart-
10 ment law enforcement and intelligence
11 personnel; and

12 “(II) the Criminal Intelligence
13 Systems Operating Policies under part
14 23 of title 28, Code of Federal Regu-
15 lations (or any corresponding similar
16 rule or regulation);

17 “(ii) appropriate privacy and civil lib-
18 erties training that is developed, supported,
19 or sponsored by the Privacy Officer ap-
20 pointed under section 222 and the Officer
21 for Civil Rights and Civil Liberties of the
22 Department, in consultation with the Pri-
23 vacy and Civil Liberties Oversight Board
24 established under section 1061 of the In-

1 intelligence Reform and Terrorism Preven-
2 tion Act of 2004 (5 U.S.C. 601 note); and

3 “(iii) such other training prescribed
4 by the Under Secretary for Intelligence
5 and Analysis.

6 “(B) PRIOR WORK EXPERIENCE IN
7 AREA.—In determining the eligibility of an offi-
8 cer or intelligence analyst to be assigned to a
9 fusion center under this section, the Under Sec-
10 retary for Intelligence and Analysis shall con-
11 sider the familiarity of the officer or intelligence
12 analyst with the State, locality, or region, as de-
13 termined by such factors as whether the officer
14 or intelligence analyst—

15 “(i) has been previously assigned in
16 the geographic area; or

17 “(ii) has previously worked with intel-
18 ligence officials or law enforcement or
19 other emergency response providers from
20 that State, locality, or region.

21 “(5) EXPEDITED SECURITY CLEARANCE PROC-
22 ESSING.—The Under Secretary for Intelligence and
23 Analysis—

24 “(A) shall ensure that each officer or intel-
25 ligence analyst assigned to a fusion center

1 under this section has the appropriate security
2 clearance to contribute effectively to the mission
3 of the fusion center; and

4 “(B) may request that security clearance
5 processing be expedited for each such officer or
6 intelligence analyst and may use available funds
7 for such purpose.

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

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

16 “(1) assist law enforcement agencies and other
17 emergency response providers of State, local, and
18 tribal governments and fusion center personnel in
19 using information within the scope of the informa-
20 tion sharing environment, including homeland secu-
21 rity information, terrorism information, and weapons
22 of mass destruction information, to develop a com-
23 prehensive and accurate threat picture;

24 “(2) review homeland security-relevant informa-
25 tion from law enforcement agencies and other emer-

1 agency response providers of State, local, and tribal
2 government;

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

7 “(4) assist in the dissemination of such prod-
8 ucts, as coordinated by the Under Secretary for In-
9 telligence and Analysis, to law enforcement agencies
10 and other emergency response providers of State,
11 local, and tribal government, other fusion centers,
12 and appropriate Federal agencies.

13 “(e) BORDER INTELLIGENCE PRIORITY.—

14 “(1) IN GENERAL.—The Secretary shall make
15 it a priority to assign officers and intelligence ana-
16 lysts under this section from United States Customs
17 and Border Protection, United States Immigration
18 and Customs Enforcement, and the Coast Guard to
19 participating State, local, and regional fusion centers
20 located in jurisdictions along land or maritime bor-
21 ders of the United States in order to enhance the in-
22 tegrity of and security at such borders by helping
23 Federal, State, local, and tribal law enforcement au-
24 thorities to identify, investigate, and otherwise inter-

1 dict persons, weapons, and related contraband that
2 pose a threat to homeland security.

3 “(2) BORDER INTELLIGENCE PRODUCTS.—
4 When performing the responsibilities described in
5 subsection (d), officers and intelligence analysts as-
6 signed to participating State, local, and regional fu-
7 sion centers under this section shall have, as a pri-
8 mary responsibility, the creation of border intel-
9 ligence products that—

10 “(A) assist State, local, and tribal law en-
11 forcement agencies in deploying their resources
12 most efficiently to help detect and interdict ter-
13 rorists, weapons of mass destruction, and re-
14 lated contraband at land or maritime borders of
15 the United States;

16 “(B) promote more consistent and timely
17 sharing of border security-relevant information
18 among jurisdictions along land or maritime bor-
19 ders of the United States; and

20 “(C) enhance the Department’s situational
21 awareness of the threat of acts of terrorism at
22 or involving the land or maritime borders of the
23 United States.

24 “(f) DATABASE ACCESS.—In order to fulfill the ob-
25 jectives described under subsection (d), each officer or in-

1 intelligence analyst assigned to a fusion center under this
2 section shall have appropriate access to all relevant Fed-
3 eral databases and information systems, consistent with
4 any policies, guidelines, procedures, instructions, or stand-
5 ards established by the President or, as appropriate, the
6 program manager of the information sharing environment
7 for the implementation and management of that environ-
8 ment.

9 “(g) CONSUMER FEEDBACK.—

10 “(1) IN GENERAL.—The Secretary shall create
11 a voluntary mechanism for any State, local, or tribal
12 law enforcement officer or other emergency response
13 provider who is a consumer of the intelligence or
14 other information products referred to in subsection
15 (d) to provide feedback to the Department on the
16 quality and utility of such intelligence products.

17 “(2) REPORT.—Not later than one year after
18 the date of the enactment of the Implementing Rec-
19 ommendations of the 9/11 Commission Act of 2007,
20 and annually thereafter, the Secretary shall submit
21 to the Committee on Homeland Security and Gov-
22 ernmental Affairs of the Senate and the Committee
23 on Homeland Security of the House of Representa-
24 tives a report that includes a description of the con-
25 sumer feedback obtained under paragraph (1) and,

1 if applicable, how the Department has adjusted its
2 production of intelligence products in response to
3 that consumer feedback.

4 “(h) RULE OF CONSTRUCTION.—

5 “(1) IN GENERAL.—The authorities granted
6 under this section shall supplement the authorities
7 granted under section 201(d) and nothing in this
8 section shall be construed to abrogate the authorities
9 granted under section 201(d).

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

16 “(i) GUIDELINES.—The Secretary, in consultation
17 with the Attorney General, shall establish guidelines for
18 fusion centers created and operated by State and local
19 governments, to include standards that any such fusion
20 center shall—

21 “(1) collaboratively develop a mission state-
22 ment, identify expectations and goals, measure per-
23 formance, and determine effectiveness for that fu-
24 sion center;

1 “(2) create a representative governance struc-
2 ture that includes law enforcement officers and other
3 emergency response providers and, as appropriate,
4 the private sector;

5 “(3) create a collaborative environment for the
6 sharing of intelligence and information among Fed-
7 eral, State, local, and tribal government agencies
8 (including law enforcement officers and other emer-
9 gency response providers), the private sector, and
10 the public, consistent with any policies, guidelines,
11 procedures, instructions, or standards established by
12 the President or, as appropriate, the program man-
13 ager of the information sharing environment;

14 “(4) leverage the databases, systems, and net-
15 works available from public and private sector enti-
16 ties, in accordance with all applicable laws, to maxi-
17 mize information sharing;

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

21 “(6) provide, in coordination with the Privacy
22 Officer of the Department and the Officer for Civil
23 Rights and Civil Liberties of the Department, appro-
24 priate privacy and civil liberties training for all

1 State, local, tribal, and private sector representatives
2 at the fusion center;

3 “(7) ensure appropriate security measures are
4 in place for the facility, data, and personnel;

5 “(8) select and train personnel based on the
6 needs, mission, goals, and functions of that fusion
7 center;

8 “(9) offer a variety of intelligence and informa-
9 tion services and products to recipients of fusion
10 center intelligence and information; and

11 “(10) incorporate law enforcement officers,
12 other emergency response providers, and, as appro-
13 priate, the private sector, into all relevant phases of
14 the intelligence and fusion process, consistent with
15 the mission statement developed under paragraph
16 (1), either through full time representatives or liai-
17 son relationships with the fusion center to enable the
18 receipt and sharing of information and intelligence.

19 “(j) DEFINITIONS.—In this section—

20 “(1) the term ‘fusion center’ means a collabo-
21 rative effort of 2 or more Federal, State, local, or
22 tribal government agencies that combines resources,
23 expertise, or information with the goal of maxi-
24 mizing the ability of such agencies to detect, pre-

1 vent, investigate, apprehend, and respond to criminal
2 or terrorist activity;

3 “(2) the term ‘information sharing environ-
4 ment’ means the information sharing environment
5 established under section 1016 of the Intelligence
6 Reform and Terrorism Prevention Act of 2004 (6
7 U.S.C. 485);

8 “(3) the term ‘intelligence analyst’ means an
9 individual who regularly advises, administers, super-
10 vises, or performs work in the collection, gathering,
11 analysis, evaluation, reporting, production, or dis-
12 semination of information on political, economic, so-
13 cial, cultural, physical, geographical, scientific, or
14 military conditions, trends, or forces in foreign or
15 domestic areas that directly or indirectly affect na-
16 tional security;

17 “(4) the term ‘intelligence-led policing’ means
18 the collection and analysis of information to produce
19 an intelligence end product designed to inform law
20 enforcement decision making at the tactical and
21 strategic levels; and

22 “(5) the term ‘terrorism information’ has the
23 meaning given that term in section 1016 of the In-
24 telligence Reform and Terrorism Prevention Act of
25 2004 (6 U.S.C. 485).

1 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
2 is authorized to be appropriated \$10,000,000 for each of
3 fiscal years 2008 through 2012, to carry out this section,
4 except for subsection (i), including for hiring officers and
5 intelligence analysts to replace officers and intelligence an-
6 alysts who are assigned to fusion centers under this sec-
7 tion.”.

8 (b) TRAINING FOR PREDEPLOYED OFFICERS AND
9 ANALYSTS.—An officer or analyst assigned to a fusion
10 center by the Secretary of Homeland Security before the
11 date of the enactment of this Act shall undergo the train-
12 ing described in section 210A(c)(4)(A) of the Homeland
13 Security Act of 2002, as added by subsection (a), by not
14 later than six months after such date.

15 (c) TECHNICAL AND CONFORMING AMENDMENT.—
16 The table of contents in section 1(b) of the Homeland Se-
17 curity Act of 2002 (6 U.S.C. 101 et seq.) is further
18 amended by inserting after the item relating to section
19 210 the following:

“Sec. 210A. Department of Homeland Security State, Local, and Regional In-
formation Fusion Center Initiative.”.

20 (d) REPORTS.—

21 (1) CONCEPT OF OPERATIONS.—Not later than
22 90 days after the date of enactment of this Act and
23 before the Department of Homeland Security State,
24 Local, and Regional Fusion Center Initiative under

1 section 210A of the Homeland Security Act of 2002,
2 as added by subsection (a), (in this section referred
3 to as the “program”) has been implemented, the
4 Secretary, in consultation with the Privacy Officer of
5 the Department, the Officer for Civil Rights and
6 Civil Liberties of the Department, and the Privacy
7 and Civil Liberties Oversight Board established
8 under section 1061 of the Intelligence Reform and
9 Terrorism Prevention Act of 2004 (5 U.S.C. 601
10 note), shall submit to the Committee on Homeland
11 Security and Governmental Affairs of the Senate
12 and the Committee on Homeland Security of the
13 House of Representatives a report that contains a
14 concept of operations for the program, which shall—

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

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

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

23 (D) contain a developed set of qualitative
24 instruments (including surveys and expert inter-

1 views) to assess the extent to which stake-
2 holders believe their needs are being met; and
3 (E) include a privacy and civil liberties im-
4 pact assessment.

5 (2) PRIVACY AND CIVIL LIBERTIES.—Not later
6 than 1 year after the date of the enactment of this
7 Act, the Privacy Officer of the Department of
8 Homeland Security and the Officer for Civil Lib-
9 erties and Civil Rights of the Department of Home-
10 land Security, consistent with any policies of the Pri-
11 vacy and Civil Liberties Oversight Board established
12 under section 1061 of the Intelligence Reform and
13 Terrorism Prevention Act of 2004 (5 U.S.C. 601
14 note), shall submit to the Committee on Homeland
15 Security and Governmental Affairs of the Senate
16 and the Committee on Homeland Security of the
17 House of Representatives, the Secretary of Home-
18 land Security, the Under Secretary of Homeland Se-
19 curity for Intelligence and Analysis, and the Privacy
20 and Civil Liberties Oversight Board a report on the
21 privacy and civil liberties impact of the program.

22 **SEC. 512. HOMELAND SECURITY INFORMATION SHARING**
23 **FELLOWS PROGRAM.**

24 (a) ESTABLISHMENT OF PROGRAM.—Subtitle A of
25 title II of the Homeland Security Act of 2002 (6 U.S.C.

1 121 et seq.) is further amended by adding at the end the
2 following:

3 **“SEC. 210B. HOMELAND SECURITY INFORMATION SHARING**

4 **FELLOWS PROGRAM.**

5 **“(a) ESTABLISHMENT.—**

6 **“(1) IN GENERAL.—**The Secretary, acting
7 through the Under Secretary for Intelligence and
8 Analysis, and in consultation with the Chief Human
9 Capital Officer, shall establish a fellowship program
10 in accordance with this section for the purpose of—

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

18 **“(i)** the relevant missions and capa-
19 bilities of the Department and other Fed-
20 eral agencies; and

21 **“(ii)** the role, programs, products, and
22 personnel of the Office of Intelligence and
23 Analysis; and

24 **“(B)** promoting information sharing be-
25 tween the Department and State, local, and

1 tribal law enforcement officers and intelligence
2 analysts by assigning such officers and analysts
3 to—

4 “(i) serve as a point of contact in the
5 Department to assist in the representation
6 of State, local, and tribal information re-
7 quirements;

8 “(ii) identify information within the
9 scope of the information sharing environ-
10 ment, including homeland security infor-
11 mation, terrorism information, and weap-
12 ons of mass destruction information, that
13 is of interest to State, local, and tribal law
14 enforcement officers, intelligence analysts,
15 and other emergency response providers;

16 “(iii) assist Department analysts in
17 preparing and disseminating products de-
18 rived from information within the scope of
19 the information sharing environment, in-
20 cluding homeland security information, ter-
21 rorism information, and weapons of mass
22 destruction information, that are tailored
23 to State, local, and tribal law enforcement
24 officers and intelligence analysts and de-

1 signed to prepare for and thwart acts of
2 terrorism; and

3 “(iv) assist Department analysts in
4 preparing products derived from informa-
5 tion within the scope of the information
6 sharing environment, including homeland
7 security information, terrorism informa-
8 tion, and weapons of mass destruction in-
9 formation, that are tailored to State, local,
10 and tribal emergency response providers
11 and assist in the dissemination of such
12 products through appropriate Department
13 channels.

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

17 “(b) ELIGIBILITY.—

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

21 “(A) have homeland security-related re-
22 sponsibilities;

23 “(B) be eligible for an appropriate security
24 clearance;

1 “(C) possess a valid need for access to
2 classified information, as determined by the
3 Under Secretary for Intelligence and Analysis;

4 “(D) be an employee of an eligible entity;
5 and

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

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

17 “(A) a State, local, or regional fusion cen-
18 ter;

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

23 “(C) a State or local law enforcement or
24 other government entity with port, border, or

1 agricultural responsibilities, as determined by
2 the Secretary;

3 “(D) a tribal law enforcement or other au-
4 thority; or

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

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

11 “(d) PROCEDURES FOR NOMINATION AND SELEC-
12 TION.—

13 “(1) IN GENERAL.—The Under Secretary for
14 Intelligence and Analysis shall establish procedures
15 to provide for the nomination and selection of indi-
16 viduals to participate in the Homeland Security In-
17 formation Sharing Fellows Program.

18 “(2) LIMITATIONS.—The Under Secretary for
19 Intelligence and Analysis shall—

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

23 “(B) ensure that the number of Informa-
24 tion Sharing Fellows selected does not impede

1 the activities of the Office of Intelligence and
2 Analysis.”.

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 further
6 amended by inserting after the item relating to section
7 210A the following:

“Sec. 210B. Homeland Security Information Sharing Fellows Program.”.

8 (c) REPORTS.—

9 (1) CONCEPT OF OPERATIONS.—Not later than
10 90 days after the date of enactment of this Act, and
11 before the implementation of the Homeland Security
12 Information Sharing Fellows Program under section
13 210B of the Homeland Security Act of 2002, as
14 added by subsection (a), (in this section referred to
15 as the “Program”) the Secretary, in consultation
16 with the Privacy Officer of the Department, the Of-
17 ficer for Civil Rights and Civil Liberties of the De-
18 partment, and the Privacy and Civil Liberties Over-
19 sight Board established under section 1061 of the
20 Intelligence Reform and Terrorism Prevention Act
21 of 2004 (5 U.S.C. 601 note), shall submit to the
22 Committee on Homeland Security and Governmental
23 Affairs of the Senate and the Committee on Home-
24 land Security of the House of Representatives a re-
25 port that contains a concept of operations for the

1 Program, which shall include a privacy and civil lib-
2 erties impact assessment.

3 (2) REVIEW OF PRIVACY IMPACT.—Not later
4 than 1 year after the date on which the program is
5 implemented, the Privacy Officer of the Department
6 and the Officer for Civil Rights and Civil Liberties
7 of the Department, consistent with any policies of
8 the Privacy and Civil Liberties Oversight Board es-
9 tablished under section 1061 of the Intelligence Re-
10 form and Terrorism Prevention Act of 2004 (5
11 U.S.C. 601 note), shall submit to the Committee on
12 Homeland Security and Governmental Affairs of the
13 Senate and the Committee on Homeland Security of
14 the House of Representatives, the Secretary of
15 Homeland Security, the Under Secretary of Home-
16 land Security for Intelligence and Analysis, and the
17 Privacy and Civil Liberties Oversight Board, a re-
18 port on the privacy and civil liberties impact of the
19 program.

20 **SEC. 513. RURAL POLICING INSTITUTE.**

21 (a) ESTABLISHMENT.—Subtitle A of title II of the
22 Homeland Security Act of 2002 (6 U.S.C. 121 et seq.)
23 is further amended by adding at the end the following:

1 **“SEC. 210C. RURAL POLICING INSTITUTE.**

2 “(a) IN GENERAL.—The Secretary shall establish a
3 Rural Policing Institute, which shall be administered by
4 the Federal Law Enforcement Training Center, to target
5 training to law enforcement agencies and other emergency
6 response providers located in rural areas. The Secretary,
7 through the Rural Policing Institute, shall—

8 “(1) evaluate the needs of law enforcement
9 agencies and other emergency response providers in
10 rural areas;

11 “(2) develop expert training programs designed
12 to address the needs of law enforcement agencies
13 and other emergency response providers in rural
14 areas as identified in the evaluation conducted under
15 paragraph (1), including training programs about
16 intelligence-led policing and protections for privacy,
17 civil rights, and civil liberties;

18 “(3) provide the training programs developed
19 under paragraph (2) to law enforcement agencies
20 and other emergency response providers in rural
21 areas; and

22 “(4) conduct outreach efforts to ensure that
23 local and tribal governments in rural areas are
24 aware of the training programs developed under
25 paragraph (2) so they can avail themselves of such
26 programs.

1 “(b) CURRICULA.—The training at the Rural Polic-
2 ing Institute established under subsection (a) shall—

3 “(1) be configured in a manner so as not to du-
4 plicate or displace any law enforcement or emer-
5 gency response program of the Federal Law En-
6 forcement Training Center or a local or tribal gov-
7 ernment entity in existence on the date of enactment
8 of the Implementing Recommendations of the 9/11
9 Commission Act of 2007; and

10 “(2) to the maximum extent practicable, be de-
11 livered in a cost-effective manner at facilities of the
12 Department, on closed military installations with
13 adequate training facilities, or at facilities operated
14 by the participants.

15 “(c) DEFINITION.—In this section, the term ‘rural’
16 means an area that is not located in a metropolitan statis-
17 tical area, as defined by the Office of Management and
18 Budget.

19 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to carry out this section
21 (including for contracts, staff, and equipment)—

22 “(1) \$10,000,000 for fiscal year 2008; and

23 “(2) \$5,000,000 for each of fiscal years 2009
24 through 2013.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in section 1(b) of such Act is further amended by inserting
3 after the item relating to section 210B the following:

“Sec. 210C. Rural Policing Institute.”.

4 **Subtitle C—Interagency Threat As-**
5 **essment and Coordination**
6 **Group**

7 **SEC. 521. INTERAGENCY THREAT ASSESSMENT AND CO-**
8 **ORDINATION GROUP.**

9 (a) ESTABLISHMENT.—Subtitle A of title II of the
10 Homeland Security Act of 2002 (6 U.S.C. 121 et seq.)
11 is further amended by adding at the end the following:

12 **“SEC. 210D. INTERAGENCY THREAT ASSESSMENT AND CO-**
13 **ORDINATION GROUP.**

14 “(a) IN GENERAL.—To improve the sharing of infor-
15 mation within the scope of the information sharing envi-
16 ronment established under section 1016 of the Intelligence
17 Reform and Terrorism Prevention Act of 2004 (6 U.S.C.
18 485) with State, local, tribal, and private sector officials,
19 the Director of National Intelligence, through the program
20 manager for the information sharing environment, in co-
21 ordination with the Secretary, shall coordinate and oversee
22 the creation of an Interagency Threat Assessment and Co-
23 ordination Group (referred to in this section as the
24 ‘ITACG’).

1 “(b) COMPOSITION OF ITACG.—The ITACG shall
2 consist of—

3 “(1) an ITACG Advisory Council to set policy
4 and develop processes for the integration, analysis,
5 and dissemination of federally-coordinated informa-
6 tion within the scope of the information sharing en-
7 vironment, including homeland security information,
8 terrorism information, and weapons of mass destruc-
9 tion information; and

10 “(2) an ITACG Detail comprised of State,
11 local, and tribal homeland security and law enforce-
12 ment officers and intelligence analysts detailed to
13 work in the National Counterterrorism Center with
14 Federal intelligence analysts for the purpose of inte-
15 grating, analyzing, and assisting in the dissemina-
16 tion of federally-coordinated information within the
17 scope of the information sharing environment, in-
18 cluding homeland security information, terrorism in-
19 formation, and weapons of mass destruction infor-
20 mation, through appropriate channels identified by
21 the ITACG Advisory Council.

22 “(c) RESPONSIBILITIES OF PROGRAM MANAGER.—
23 The program manager, in consultation with the Informa-
24 tion Sharing Council, shall—

1 “(1) monitor and assess the efficacy of the
2 ITACG; and

3 “(2) not later than 180 days after the date of
4 the enactment of the Implementing Recommendations
5 of the 9/11 Commission Act of 2007, and at
6 least annually thereafter, submit to the Secretary,
7 the Attorney General, the Director of National Intel-
8 ligence, the Committee on Homeland Security and
9 Governmental Affairs of the Senate and the Com-
10 mittee on Homeland Security of the House of Rep-
11 resentatives a report on the progress of the ITACG.

12 “(d) RESPONSIBILITIES OF SECRETARY.—The Sec-
13 retary, or the Secretary’s designee, in coordination with
14 the Director of the National Counterterrorism Center and
15 the ITACG Advisory Council, shall—

16 “(1) create policies and standards for the cre-
17 ation of information products derived from informa-
18 tion within the scope of the information sharing en-
19 vironment, including homeland security information,
20 terrorism information, and weapons of mass destruc-
21 tion information, that are suitable for dissemination
22 to State, local, and tribal governments and the pri-
23 vate sector;

24 “(2) evaluate and develop processes for the
25 timely dissemination of federally-coordinated infor-

1 mation within the scope of the information sharing
2 environment, including homeland security informa-
3 tion, terrorism information, and weapons of mass
4 destruction information, to State, local, and tribal
5 governments and the private sector;

6 “(3) establish criteria and a methodology for in-
7 dicating to State, local, and tribal governments and
8 the private sector the reliability of information with-
9 in the scope of the information sharing environment,
10 including homeland security information, terrorism
11 information, and weapons of mass destruction infor-
12 mation, disseminated to them;

13 “(4) educate the intelligence community about
14 the requirements of the State, local, and tribal
15 homeland security, law enforcement, and other emer-
16 gency response providers regarding information
17 within the scope of the information sharing environ-
18 ment, including homeland security information, ter-
19 rorism information, and weapons of mass destruc-
20 tion information;

21 “(5) establish and maintain the ITACG Detail,
22 which shall assign an appropriate number of State,
23 local, and tribal homeland security and law enforce-
24 ment officers and intelligence analysts to work in the
25 National Counterterrorism Center who shall—

1 “(A) educate and advise National
2 Counterterrorism Center intelligence analysts
3 about the requirements of the State, local, and
4 tribal homeland security and law enforcement
5 officers, and other emergency response pro-
6 viders regarding information within the scope of
7 the information sharing environment, including
8 homeland security information, terrorism infor-
9 mation, and weapons of mass destruction infor-
10 mation;

11 “(B) assist National Counterterrorism
12 Center intelligence analysts in integrating, ana-
13 lyzing, and otherwise preparing versions of
14 products derived from information within the
15 scope of the information sharing environment,
16 including homeland security information, ter-
17 rorism information, and weapons of mass de-
18 struction information that are unclassified or
19 classified at the lowest possible level and suit-
20 able for dissemination to State, local, and tribal
21 homeland security and law enforcement agen-
22 cies in order to help deter and prevent terrorist
23 attacks;

24 “(C) implement, in coordination with Na-
25 tional Counterterrorism Center intelligence ana-

1 lysts, the policies, processes, procedures, stand-
2 ards, and guidelines developed by the ITACG
3 Advisory Council;

4 “(D) assist in the dissemination of prod-
5 ucts derived from information within the scope
6 of the information sharing environment, includ-
7 ing homeland security information, terrorism
8 information, and weapons of mass destruction
9 information, to State, local, and tribal jurisdic-
10 tions only through appropriate channels identi-
11 fied by the ITACG Advisory Council; and

12 “(E) report directly to the senior intel-
13 ligence official from the Department under
14 paragraph (6);

15 “(6) detail a senior intelligence official from the
16 Department of Homeland Security to the National
17 Counterterrorism Center, who shall—

18 “(A) manage the day-to-day operations of
19 the ITACG Detail;

20 “(B) report directly to the Director of the
21 National Counterterrorism Center or the Direc-
22 tor’s designee; and

23 “(C) in coordination with the Director of
24 the Federal Bureau of Investigation, and sub-
25 ject to the approval of the Director of the Na-

1 tional Counterterrorism Center, select a deputy
2 from the pool of available detailees from the
3 Federal Bureau of Investigation in the National
4 Counterterrorism Center; and

5 “(7) establish, within the ITACG Advisory
6 Council, a mechanism to select law enforcement offi-
7 cers and intelligence analysts for placement in the
8 National Counterterrorism Center consistent with
9 paragraph (5), using criteria developed by the
10 ITACG Advisory Council that shall encourage par-
11 ticipation from a broadly representative group of
12 State, local, and tribal homeland security and law
13 enforcement agencies.

14 “(e) MEMBERSHIP.—The Secretary, or the Sec-
15 retary’s designee, shall serve as the chair of the ITACG
16 Advisory Council, which shall include—

17 “(1) representatives of—

18 “(A) the Department;

19 “(B) the Federal Bureau of Investigation;

20 “(C) the National Counterterrorism Cen-
21 ter;

22 “(D) the Department of Defense;

23 “(E) the Department of Energy;

24 “(F) the Department of State; and

25 “(G) other Federal entities as appropriate;

1 “(2) the program manager of the information
2 sharing environment, designated under section
3 1016(f) of the Intelligence Reform and Terrorism
4 Prevention Act of 2004 (6 U.S.C. 485(f)), or the
5 program manager’s designee; and

6 “(3) executive level law enforcement and intel-
7 ligence officials from State, local, and tribal govern-
8 ments.

9 “(f) CRITERIA.—The Secretary, in consultation with
10 the Director of National Intelligence, the Attorney Gen-
11 eral, and the program manager of the information sharing
12 environment established under section 1016 of the Intel-
13 ligence Reform and Terrorism Prevention Act of 2004 (6
14 U.S.C. 485), shall—

15 “(1) establish procedures for selecting members
16 of the ITACG Advisory Council and for the proper
17 handling and safeguarding of products derived from
18 information within the scope of the information
19 sharing environment, including homeland security
20 information, terrorism information, and weapons of
21 mass destruction information, by those members;
22 and

23 “(2) ensure that at least 50 percent of the
24 members of the ITACG Advisory Council are from
25 State, local, and tribal governments.

1 “(g) OPERATIONS.—

2 “(1) IN GENERAL.—Beginning not later than
3 90 days after the date of enactment of the Imple-
4 menting Recommendations of the 9/11 Commission
5 Act of 2007, the ITACG Advisory Council shall meet
6 regularly, but not less than quarterly, at the facili-
7 ties of the National Counterterrorism Center of the
8 Office of the Director of National Intelligence.

9 “(2) MANAGEMENT.—Pursuant to section
10 119(f)(E) of the National Security Act of 1947 (50
11 U.S.C. 404o(f)(E)), the Director of the National
12 Counterterrorism Center, acting through the senior
13 intelligence official from the Department of Home-
14 land Security detailed pursuant to subsection (d)(6),
15 shall ensure that—

16 “(A) the products derived from informa-
17 tion within the scope of the information sharing
18 environment, including homeland security infor-
19 mation, terrorism information, and weapons of
20 mass destruction information, prepared by the
21 National Counterterrorism Center and the
22 ITACG Detail for distribution to State, local,
23 and tribal homeland security and law enforce-
24 ment agencies reflect the requirements of such
25 agencies and are produced consistently with the

1 policies, processes, procedures, standards, and
2 guidelines established by the ITACG Advisory
3 Council;

4 “(B) in consultation with the ITACG Advi-
5 sory Council and consistent with sections
6 102A(f)(1)(B)(iii) and 119(f)(E) of the Na-
7 tional Security Act of 1947 (50 U.S.C. 402 et
8 seq.), all products described in subparagraph
9 (A) are disseminated through existing channels
10 of the Department and the Department of Jus-
11 tice and other appropriate channels to State,
12 local, and tribal government officials and other
13 entities;

14 “(C) all detailees under subsection (d)(5)
15 have appropriate access to all relevant informa-
16 tion within the scope of the information sharing
17 environment, including homeland security infor-
18 mation, terrorism information, and weapons of
19 mass destruction information, available at the
20 National Counterterrorism Center in order to
21 accomplish the objectives under that paragraph;

22 “(D) all detailees under subsection (d)(5)
23 have the appropriate security clearances and
24 are trained in the procedures for handling,
25 processing, storing, and disseminating classified

1 products derived from information within the
2 scope of the information sharing environment,
3 including homeland security information, ter-
4 rorism information, and weapons of mass de-
5 struction information; and

6 “(E) all detailees under subsection (d)(5)
7 complete appropriate privacy and civil liberties
8 training.

9 “(h) INAPPLICABILITY OF THE FEDERAL ADVISORY
10 COMMITTEE ACT.—The Federal Advisory Committee Act
11 (5 U.S.C. App.) shall not apply to the ITACG or any sub-
12 sidiary groups thereof.

13 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated such sums as may be
15 necessary for each of fiscal years 2008 through 2012 to
16 carry out this section, including to obtain security clear-
17 ances for the State, local, and tribal participants in the
18 ITACG.”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 in section 1(b) of such Act is amended by inserting after
21 the item relating to section 210C the following:

“Sec. 210D. Interagency Threat Assessment and Coordination Group.”.

22 (c) PRIVACY AND CIVIL LIBERTIES IMPACT ASSESS-
23 MENT.—Not later than 90 days after the date of the en-
24 actment of this Act, the Privacy Officer and the Officer
25 for Civil Rights and Civil Liberties of the Department of

1 Homeland Security and the Chief Privacy and Civil Lib-
2 erties Officer for the Department of Justice, in consulta-
3 tion with the Civil Liberties Protection Officer of the Of-
4 fice of the Director of National Intelligence, shall submit
5 to the Secretary of Homeland Security, the Director of
6 the Federal Bureau of Investigation, the Attorney Gen-
7 eral, the Director of the National Counterterrorism Cen-
8 ter, the Director of National Intelligence, the Privacy and
9 Civil Liberties Oversight Board, and the Committee on
10 Homeland Security and Governmental Affairs of the Sen-
11 ate, the Committee on Homeland Security of the House
12 of Representatives, the Select Committee on Intelligence
13 of the Senate, and the Permanent Select Committee on
14 Intelligence of the House of Representatives, a privacy and
15 civil liberties impact assessment of the Interagency Threat
16 Assessment and Coordination Group under section 210D
17 of the Homeland Security Act of 2002, as added by sub-
18 section (a), including the use of State, local, and tribal
19 detailees at the National Counterterrorism Center, as de-
20 scribed in subsection (d)(5) of that section.

1 **Subtitle D—Homeland Security**
2 **Intelligence Offices Reorganization**

3 **SEC. 531. OFFICE OF INTELLIGENCE AND ANALYSIS AND**
4 **OFFICE OF INFRASTRUCTURE PROTECTION.**

5 (a) IN GENERAL.—Section 201 of the Homeland Se-
6 curity Act of 2002 (6 U.S.C. 201) is amended—

7 (1) in the section heading, by striking “**DIREC-**
8 **TORATE FOR INFORMATION**” and inserting “**IN-**
9 **FORMATION AND**”;

10 (2) by striking subsections (a) through (c) and
11 inserting the following:

12 “(a) INTELLIGENCE AND ANALYSIS AND INFRA-
13 STRUCTURE PROTECTION.—There shall be in the Depart-
14 ment an Office of Intelligence and Analysis and an Office
15 of Infrastructure Protection.

16 “(b) UNDER SECRETARY FOR INTELLIGENCE AND
17 ANALYSIS AND ASSISTANT SECRETARY FOR INFRASTRUC-
18 TURE PROTECTION.—

19 “(1) OFFICE OF INTELLIGENCE AND ANAL-
20 YSIS.—The Office of Intelligence and Analysis shall
21 be headed by an Under Secretary for Intelligence
22 and Analysis, who shall be appointed by the Presi-
23 dent, by and with the advice and consent of the Sen-
24 ate.

1 “(2) CHIEF INTELLIGENCE OFFICER.—The
2 Under Secretary for Intelligence and Analysis shall
3 serve as the Chief Intelligence Officer of the Depart-
4 ment.

5 “(3) OFFICE OF INFRASTRUCTURE PROTEC-
6 TION.—The Office of Infrastructure Protection shall
7 be headed by an Assistant Secretary for Infrastruc-
8 ture Protection, who shall be appointed by the Presi-
9 dent.

10 “(c) DISCHARGE OF RESPONSIBILITIES.—The Sec-
11 retary shall ensure that the responsibilities of the Depart-
12 ment relating to information analysis and infrastructure
13 protection, including those described in subsection (d), are
14 carried out through the Under Secretary for Intelligence
15 and Analysis or the Assistant Secretary for Infrastructure
16 Protection, as appropriate.”;

17 (3) in subsection (d)—

18 (A) in the subsection heading, by striking
19 “UNDER SECRETARY” and inserting “SEC-
20 RETARY RELATING TO INTELLIGENCE AND
21 ANALYSIS AND INFRASTRUCTURE PROTEC-
22 TION”;

23 (B) in the matter preceding paragraph (1),
24 by striking “Subject to the direction” and all
25 that follows through “Infrastructure Protec-

1 tion” and inserting the following: “The respon-
2 sibilities of the Secretary relating to intelligence
3 and analysis and infrastructure protection”;

4 (C) in paragraph (9), as redesignated
5 under section 510(a)(2)(A)(ii), by striking “Di-
6 rector of Central Intelligence” and inserting
7 “Director of National Intelligence”;

8 (D) in paragraph (11)(B), as so redesign-
9 ated, by striking “Director of Central Intel-
10 ligence” and inserting “Director of National In-
11 telligence”;

12 (E) by redesignating paragraph (18), as so
13 redesignated, as paragraph (24); and

14 (F) by inserting after paragraph (17), as
15 so redesignated, the following:

16 “(18) To coordinate and enhance integration
17 among the intelligence components of the Depart-
18 ment, including through strategic oversight of the
19 intelligence activities of such components.

20 “(19) To establish the intelligence collection,
21 processing, analysis, and dissemination priorities,
22 policies, processes, standards, guidelines, and proce-
23 dures for the intelligence components of the Depart-
24 ment, consistent with any directions from the Presi-

1 dent and, as applicable, the Director of National In-
2 telligence.

3 “(20) To establish a structure and process to
4 support the missions and goals of the intelligence
5 components of the Department.

6 “(21) To ensure that, whenever possible, the
7 Department—

8 “(A) produces and disseminates unclassi-
9 fied reports and analytic products based on
10 open-source information; and

11 “(B) produces and disseminates such re-
12 ports and analytic products contemporaneously
13 with reports or analytic products concerning the
14 same or similar information that the Depart-
15 ment produced and disseminated in a classified
16 format.

17 “(22) To establish within the Office of Intel-
18 ligence and Analysis an internal continuity of oper-
19 ations plan.

20 “(23) Based on intelligence priorities set by the
21 President, and guidance from the Secretary and, as
22 appropriate, the Director of National Intelligence—

23 “(A) to provide to the heads of each intel-
24 ligence component of the Department guidance

1 for developing the budget pertaining to the ac-
2 tivities of such component; and

3 “(B) to present to the Secretary a rec-
4 ommendation for a consolidated budget for the
5 intelligence components of the Department, to-
6 gether with any comments from the heads of
7 such components.”;

8 (4) in subsection (e)(1)—

9 (A) by striking “Directorate” the first
10 place that term appears and inserting “Office
11 of Intelligence and Analysis and the Office of
12 Infrastructure Protection”; and

13 (B) by striking “the Directorate in dis-
14 charging” and inserting “such offices in dis-
15 charging”;

16 (5) in subsection (f)(1), by striking “Direc-
17 torate” and inserting “Office of Intelligence and
18 Analysis and the Office of Infrastructure Protec-
19 tion”; and

20 (6) In subsection (g), in the matter preceding
21 paragraph (1), by striking “Under Secretary for In-
22 formation Analysis and Infrastructure Protection”
23 and inserting “Office of Intelligence and Analysis
24 and the Office of Infrastructure Protection”.

25 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

1 (1) IN GENERAL.—Such Act is further amend-
2 ed—

3 (A) in section 223, by striking “Under
4 Secretary for Information Analysis and Infra-
5 structure Protection” and inserting “Under
6 Secretary for Intelligence and Analysis, in co-
7 operation with the Assistant Secretary for In-
8 frastructure Protection”;

9 (B) in section 224, by striking “Under
10 Secretary for Information Analysis and Infra-
11 structure Protection” and inserting “Assistant
12 Secretary for Infrastructure Protection”;

13 (C) in section 302(3), by striking “Under
14 Secretary for Information Analysis and Infra-
15 structure Protection” and inserting “Under
16 Secretary for Intelligence and Analysis and the
17 Assistant Secretary for Infrastructure Protec-
18 tion”; and

19 (D) in section 521(d)—

20 (i) in paragraph (1), by striking “Di-
21 rectorate for Information Analysis and In-
22 frastructure Protection” and inserting
23 “Office of Intelligence and Analysis”; and

24 (ii) in paragraph (2), by striking
25 “Under Secretary for Information Analysis

1 and Infrastructure Protection” and insert-
2 ing “Under Secretary for Intelligence and
3 Analysis”.

4 (2) ADDITIONAL UNDER SECRETARY.—Section
5 103(a) of the Homeland Security Act of 2002 (6
6 U.S.C. 113(a)) is amended—

7 (A) by redesignating paragraphs (8) and
8 (9) as paragraphs (9) and (10), respectively;
9 and

10 (B) by inserting after paragraph (7) the
11 following:

12 “(8) An Under Secretary responsible for over-
13 seeing critical infrastructure protection,
14 cybersecurity, and other related programs of the De-
15 partment.”.

16 (3) HEADING.—Subtitle A of title II of the
17 Homeland Security Act of 2002 (6 U.S.C. 121 et
18 seq.) is amended in the subtitle heading by striking
19 “**Directorate for Information**” and inserting
20 “**Information and**”.

21 (4) TABLE OF CONTENTS.—The Homeland Se-
22 curity Act of 2002 (6 U.S.C. 101 et seq.) is amend-
23 ed in the table of contents in section 1(b)—

1 (A) by striking the items relating to sub-
2 title A of title II and section 201 and inserting
3 the following:

“Subtitle A—Information and Analysis and Infrastructure Protection; Access
to Information

“Sec. 201. Information and Analysis and Infrastructure Protection.”; and

4 (5) NATIONAL SECURITY ACT OF 1947.—Sec-
5 tion 106(b)(2)(I) of the National Security Act of
6 1947 (50 U.S.C. 403-6) is amended to read as fol-
7 lows:

8 “(I) The Under Secretary of Homeland Se-
9 curity for Intelligence and Analysis.”.

10 (c) TREATMENT OF INCUMBENT.—The individual ad-
11 ministratively performing the duties of the Under Sec-
12 retary for Intelligence and Analysis as of the date of the
13 enactment of this Act may continue to perform such duties
14 after the date on which the President nominates an indi-
15 vidual to serve as the Under Secretary pursuant to section
16 201 of the Homeland Security Act of 2002, as amended
17 by this section, and until the individual so appointed as-
18 sumes the duties of the position

19 **Subtitle E—Authorization of**
20 **Appropriations**

21 **SEC. 541. AUTHORIZATION OF APPROPRIATIONS.**

22 There is authorized to be appropriated for each of
23 fiscal years 2008 through 2012 such sums as may be nec-

1 essary to carry out this title and the amendments made
2 by this title.

3 **TITLE VI—CONGRESSIONAL**
4 **OVERSIGHT OF INTELLIGENCE**

5 **SEC. 601. AVAILABILITY TO PUBLIC OF CERTAIN INTEL-**
6 **LIGENCE FUNDING INFORMATION.**

7 (a) **AMOUNTS APPROPRIATED EACH FISCAL YEAR.**—
8 Not later than 30 days after the end of each fiscal year
9 beginning with fiscal year 2007, the Director of National
10 Intelligence shall disclose to the public the aggregate
11 amount of funds appropriated by Congress for the Na-
12 tional Intelligence Program for such fiscal year.

13 (b) **WAIVER.**—Beginning with fiscal year 2009, the
14 President may waive or postpone the disclosure required
15 by subsection (a) for any fiscal year by, not later than
16 30 days after the end of such fiscal year, submitting to
17 the Select Committee on Intelligence of the Senate and
18 Permanent Select Committee on Intelligence of the House
19 of Representatives—

20 (1) a statement, in unclassified form, that the
21 disclosure required in subsection (a) for that fiscal
22 year would damage national security; and

23 (2) a statement detailing the reasons for the
24 waiver or postponement, which may be submitted in
25 classified form.

1 (c) DEFINITION.—As used in this section, the term
2 “National Intelligence Program” has the meaning given
3 the term in section 3(6) of the National Security Act of
4 1947 (50 U.S.C. 401a(6)).

5 **SEC. 602. PUBLIC INTEREST DECLASSIFICATION BOARD.**

6 The Public Interest Declassification Act of 2000 (50
7 U.S.C. 435 note) is amended—

8 (1) by striking “Director of Central Intel-
9 ligence” each place that term appears and inserting
10 “Director of National Intelligence”;

11 (2) in section 704(e)—

12 (A) by striking “If requested” and insert-
13 ing the following:

14 “(1) IN GENERAL.—If requested”; and

15 (B) by adding at the end the following:

16 “(2) AUTHORITY OF BOARD.—Upon receiving a
17 congressional request described in section 703(b)(5),
18 the Board may conduct the review and make the
19 recommendations described in that section, regard-
20 less of whether such a review is requested by the
21 President.

22 “(3) REPORTING.—Any recommendations sub-
23 mitted to the President by the Board under section
24 703(b)(5), shall be submitted to the chairman and
25 ranking minority member of the committee of Con-

1 gress that made the request relating to such rec-
2 ommendations.”;

3 (3) in section 705(c), in the subsection heading,
4 by striking “DIRECTOR OF CENTRAL INTEL-
5 LIGENCE” and inserting “DIRECTOR OF NATIONAL
6 INTELLIGENCE”; and

7 (4) in section 710(b), by striking “8 years after
8 the date” and all that follows and inserting “on De-
9 cember 31, 2012.”.

10 **SEC. 603. SENSE OF THE SENATE REGARDING A REPORT ON**
11 **THE 9/11 COMMISSION RECOMMENDATIONS**
12 **WITH RESPECT TO INTELLIGENCE REFORM**
13 **AND CONGRESSIONAL INTELLIGENCE OVER-**
14 **SIGHT REFORM.**

15 (a) FINDINGS.—Congress makes the following find-
16 ings:

17 (1) The National Commission on Terrorist At-
18 tacks Upon the United States (referred to in this
19 section as the “9/11 Commission”) conducted a
20 lengthy review of the facts and circumstances relat-
21 ing to the terrorist attacks of September 11, 2001,
22 including those relating to the intelligence commu-
23 nity, law enforcement agencies, and the role of con-
24 gressional oversight and resource allocation.

1 (2) In its final report, the 9/11 Commission
2 found that—

3 (A) congressional oversight of the intel-
4 ligence activities of the United States is dys-
5 functional;

6 (B) under the rules of the Senate and the
7 House of Representatives in effect at the time
8 the report was completed, the committees of
9 Congress charged with oversight of the intel-
10 ligence activities lacked the power, influence,
11 and sustained capability to meet the daunting
12 challenges faced by the intelligence community
13 of the United States;

14 (C) as long as such oversight is governed
15 by such rules of the Senate and the House of
16 Representatives, the people of the United States
17 will not get the security they want and need;

18 (D) a strong, stable, and capable congres-
19 sional committee structure is needed to give the
20 intelligence community of the United States ap-
21 propriate oversight, support, and leadership;
22 and

23 (E) the reforms recommended by the 9/11
24 Commission in its final report will not succeed

1 if congressional oversight of the intelligence
2 community in the United States is not changed.

3 (3) The 9/11 Commission recommended struc-
4 tural changes to Congress to improve the oversight
5 of intelligence activities.

6 (4) Congress has enacted some of the rec-
7 ommendations made by the 9/11 Commission and is
8 considering implementing additional recommenda-
9 tions of the 9/11 Commission.

10 (5) The Senate adopted Senate Resolution 445
11 in the 108th Congress to address some of the intel-
12 ligence oversight recommendations of the 9/11 Com-
13 mission by abolishing term limits for the members of
14 the Select Committee on Intelligence, clarifying ju-
15 risdiction for intelligence-related nominations, and
16 streamlining procedures for the referral of intel-
17 ligence-related legislation, but other aspects of the 9/
18 11 Commission recommendations regarding intel-
19 ligence oversight have not been implemented.

20 (b) SENSE OF THE SENATE.—It is the sense of the
21 Senate that the Committee on Homeland Security and
22 Governmental Affairs and the Select Committee on Intel-
23 ligence of the Senate each, or jointly, should—

24 (1) undertake a review of the recommendations
25 made in the final report of the 9/11 Commission

1 with respect to intelligence reform and congressional
2 intelligence oversight reform;

3 (2) review and consider any other suggestions,
4 options, or recommendations for improving intel-
5 ligence oversight; and

6 (3) not later than December 21, 2007, submit
7 to the Senate a report that includes the rec-
8 ommendations of the committees, if any, for car-
9 rying out such reforms.

10 **SEC. 604. AVAILABILITY OF FUNDS FOR THE PUBLIC INTER-**
11 **EST DECLASSIFICATION BOARD.**

12 Section 21067 of the Continuing Appropriations Res-
13 olution, 2007 (division B of Public Law 109-289; 120
14 Stat. 1311), as amended by Public Law 109-369 (120
15 Stat. 2642), Public Law 109-383 (120 Stat. 2678), and
16 Public Law 110-5, is amended by adding at the end the
17 following new subsection:

18 “(c) From the amount provided by this section, the
19 National Archives and Records Administration may obli-
20 gate monies necessary to carry out the activities of the
21 Public Interest Declassification Board.”.

1 **SEC. 605. AVAILABILITY OF THE EXECUTIVE SUMMARY OF**
2 **THE REPORT ON CENTRAL INTELLIGENCE**
3 **AGENCY ACCOUNTABILITY REGARDING THE**
4 **TERRORIST ATTACKS OF SEPTEMBER 11,**
5 **2001.**

6 (a) **PUBLIC AVAILABILITY.**—Not later than 30 days
7 after the date of the enactment of this Act, the Director
8 of the Central Intelligence Agency shall prepare and make
9 available to the public a version of the Executive Summary
10 of the report entitled the “Office of Inspector General Re-
11 port on Central Intelligence Agency Accountability Re-
12 garding Findings and Conclusions of the Joint Inquiry
13 into Intelligence Community Activities Before and After
14 the Terrorist Attacks of September 11, 2001” issued in
15 June 2005 that is declassified to the maximum extent pos-
16 sible, consistent with national security.

17 (b) **REPORT TO CONGRESS.**—The Director of the
18 Central Intelligence Agency shall submit to Congress a
19 classified annex to the redacted Executive Summary made
20 available under subsection (a) that explains the reason
21 that any redacted material in the Executive Summary was
22 withheld from the public.

1 **TITLE VII—STRENGTHENING EF-**
2 **FORTS TO PREVENT TER-**
3 **RORIST TRAVEL**

4 **Subtitle A—Terrorist Travel**

5 **SEC. 701. REPORT ON INTERNATIONAL COLLABORATION**
6 **TO INCREASE BORDER SECURITY, ENHANCE**
7 **GLOBAL DOCUMENT SECURITY, AND EX-**
8 **CHANGE TERRORIST INFORMATION.**

9 (a) **REPORT REQUIRED.**—Not later than 270 days
10 after the date of the enactment of this Act, the Secretary
11 of State and the Secretary of Homeland Security, in con-
12 junction with the Director of National Intelligence and the
13 heads of other appropriate Federal departments and agen-
14 cies, shall submit to the appropriate congressional commit-
15 tees a report on efforts of the Government of the United
16 States to collaborate with international partners and allies
17 of the United States to increase border security, enhance
18 global document security, and exchange terrorism infor-
19 mation.

20 (b) **CONTENTS.**—The report required by subsection

21 (a) shall outline—

22 (1) all presidential directives, programs, and
23 strategies for carrying out and increasing United
24 States Government efforts described in subsection

25 (a);

1 (2) the goals and objectives of each of these ef-
2 forts;

3 (3) the progress made in each of these efforts;
4 and

5 (4) the projected timelines for each of these ef-
6 forts to become fully functional and effective.

7 (c) DEFINITION.—In this section, the term “appro-
8 priate congressional committees” means—

9 (1) the Committee on Foreign Affairs, the
10 Committee on Homeland Security, the Committee on
11 the Judiciary, and the Permanent Select Committee
12 on Intelligence of the House of Representatives; and

13 (2) the Committee on Foreign Relations, the
14 Committee on Homeland Security and Governmental
15 Affairs, the Committee on the Judiciary, and the Se-
16 lect Committee on Intelligence of the Senate.

17 **Subtitle B—Visa Waiver**

18 **SEC. 711. MODERNIZATION OF THE VISA WAIVER PRO-** 19 **GRAM.**

20 (a) SHORT TITLE.—This section may be cited as the
21 “Secure Travel and Counterterrorism Partnership Act of
22 2007”.

23 (b) SENSE OF CONGRESS.—It is the sense of Con-
24 gress that—

1 (1) the United States should modernize and
2 strengthen the security of the visa waiver program
3 under section 217 of the Immigration and Nation-
4 ality Act (8 U.S.C. 1187) by simultaneously—

5 (A) enhancing program security require-
6 ments; and

7 (B) extending visa-free travel privileges to
8 nationals of foreign countries that are partners
9 in the war on terrorism—

10 (i) that are actively cooperating with
11 the United States to prevent terrorist trav-
12 el, including sharing counterterrorism and
13 law enforcement information; and

14 (ii) whose nationals have dem-
15 onstrated their compliance with the provi-
16 sions of the Immigration and Nationality
17 Act regarding the purpose and duration of
18 their admission to the United States; and

19 (2) the modernization described in paragraph
20 (1) will—

21 (A) enhance bilateral cooperation on crit-
22 ical counterterrorism and information sharing
23 initiatives;

1 (B) support and expand tourism and busi-
2 ness opportunities to enhance long-term eco-
3 nomic competitiveness; and

4 (C) strengthen bilateral relationships.

5 (c) DISCRETIONARY VISA WAIVER PROGRAM EXPAN-
6 SION.—Section 217(c) of the Immigration and Nationality
7 Act (8 U.S.C. 1187(c)) is amended by adding at the end
8 the following new paragraphs:

9 “(8) NONIMMIGRANT VISA REFUSAL RATE
10 FLEXIBILITY.—

11 “(A) CERTIFICATION.—

12 “(i) IN GENERAL.—On the date on
13 which an air exit system is in place that
14 can verify the departure of not less than
15 97 percent of foreign nationals who exit
16 through airports of the United States and
17 the electronic travel authorization system
18 required under subsection (h)(3) is fully
19 operational, the Secretary of Homeland Se-
20 curity shall certify to Congress that such
21 air exit system and electronic travel au-
22 thorization system are in place.

23 “(ii) NOTIFICATION TO CONGRESS.—
24 The Secretary shall notify Congress in
25 writing of the date on which the air exit

1 system under clause (i) fully satisfies the
2 biometric requirements specified in sub-
3 section (i).

4 “(iii) TEMPORARY SUSPENSION OF
5 WAIVER AUTHORITY.—Notwithstanding
6 any certification made under clause (i), if
7 the Secretary has not notified Congress in
8 accordance with clause (ii) by June 30,
9 2009, the Secretary’s waiver authority
10 under subparagraph (B) shall be sus-
11 pended beginning on July 1, 2009, until
12 such time as the Secretary makes such no-
13 tification.

14 “(iv) RULE OF CONSTRUCTION.—
15 Nothing in this paragraph shall be con-
16 strued as in any way abrogating the re-
17 porting requirements under subsection
18 (i)(3).

19 “(B) WAIVER.—After certification by the
20 Secretary under subparagraph (A), the Sec-
21 retary, in consultation with the Secretary of
22 State, may waive the application of paragraph
23 (2)(A) for a country if—

24 “(i) the country meets all security re-
25 quirements of this section;

1 “(ii) the Secretary of Homeland Security
2 determines that the totality of the
3 country’s security risk mitigation measures
4 provide assurance that the country’s participation
5 in the program would not compromise the law enforcement,
6 security interests, or enforcement of the immigration
7 laws of the United States;
8

9 “(iii) there has been a sustained reduction
10 in the rate of refusals for non-immigrant visas for
11 nationals of the country and conditions exist to continue
12 such reduction;
13

14 “(iv) the country cooperated with the
15 Government of the United States on counterterrorism
16 initiatives, information sharing, and preventing terrorist
17 travel before the date of its designation as a program
18 country, and the Secretary of Homeland Security and the
19 Secretary of State determine that such cooperation will
20 continue; and
21

22 “(v)(I) the rate of refusals for non-immigrant
23 visitor visas for nationals of the
24

1 country during the previous full fiscal year
2 was not more than ten percent; or

3 “(II) the visa overstay rate for the
4 country for the previous full fiscal year
5 does not exceed the maximum visa overstay
6 rate, once such rate is established under
7 subparagraph (C).

8 “(C) MAXIMUM VISA OVERSTAY RATE.—

9 “(i) REQUIREMENT TO ESTABLISH.—

10 After certification by the Secretary under
11 subparagraph (A), the Secretary and the
12 Secretary of State jointly shall use infor-
13 mation from the air exit system referred to
14 in such subparagraph to establish a max-
15 imum visa overstay rate for countries par-
16 ticipating in the program pursuant to a
17 waiver under subparagraph (B). The Sec-
18 retary of Homeland Security shall certify
19 to Congress that such rate would not com-
20 promise the law enforcement, security in-
21 terests, or enforcement of the immigration
22 laws of the United States.

23 “(ii) VISA OVERSTAY RATE DE-
24 FINED.—In this paragraph the term ‘visa

1 overstay rate' means, with respect to a
2 country, the ratio of—

3 “(I) the total number of nation-
4 als of that country who were admitted
5 to the United States on the basis of a
6 nonimmigrant visa whose periods of
7 authorized stays ended during a fiscal
8 year but who remained unlawfully in
9 the United States beyond such peri-
10 ods; to

11 “(II) the total number of nation-
12 als of that country who were admitted
13 to the United States on the basis of a
14 nonimmigrant visa during that fiscal
15 year.

16 “(iii) REPORT AND PUBLICATION.—
17 The Secretary of Homeland Security shall
18 on the same date submit to Congress and
19 publish in the Federal Register informa-
20 tion relating to the maximum visa overstay
21 rate established under clause (i). Not later
22 than 60 days after such date, the Sec-
23 retary shall issue a final maximum visa
24 overstay rate above which a country may
25 not participate in the program.

1 “(9) DISCRETIONARY SECURITY-RELATED CON-
2 SIDERATIONS.—In determining whether to waive the
3 application of paragraph (2)(A) for a country, pur-
4 suant to paragraph (8), the Secretary of Homeland
5 Security, in consultation with the Secretary of State,
6 shall take into consideration other factors affecting
7 the security of the United States, including—

8 “(A) airport security standards in the
9 country;

10 “(B) whether the country assists in the op-
11 eration of an effective air marshal program;

12 “(C) the standards of passports and travel
13 documents issued by the country; and

14 “(D) other security-related factors, includ-
15 ing the country’s cooperation with the United
16 States’ initiatives toward combating terrorism
17 and the country’s cooperation with the United
18 States intelligence community in sharing infor-
19 mation regarding terrorist threats.”.

20 (d) SECURITY ENHANCEMENTS TO THE VISA WAIV-
21 ER PROGRAM.—

22 (1) IN GENERAL.—Section 217 of the Immigra-
23 tion and Nationality Act (8 U.S.C. 1187) is amend-
24 ed—

1 (A) in subsection (a), in the flush text fol-
2 lowing paragraph (9)—

3 (i) by striking “Operators of aircraft”
4 and inserting the following:

5 “(10) ELECTRONIC TRANSMISSION OF IDENTI-
6 FICATION INFORMATION.—Operators of aircraft”;
7 and

8 (ii) by adding at the end the following
9 new paragraph:

10 “(11) ELIGIBILITY DETERMINATION UNDER
11 THE ELECTRONIC TRAVEL AUTHORIZATION SYS-
12 TEM.—Beginning on the date on which the elec-
13 tronic travel authorization system developed under
14 subsection (h)(3) is fully operational, each alien
15 traveling under the program shall, before applying
16 for admission to the United States, electronically
17 provide to the system biographical information and
18 such other information as the Secretary of Home-
19 land Security shall determine necessary to determine
20 the eligibility of, and whether there exists a law en-
21 forcement or security risk in permitting, the alien to
22 travel to the United States. Upon review of such bio-
23 graphical information, the Secretary of Homeland
24 Security shall determine whether the alien is eligible
25 to travel to the United States under the program.”;

1 (B) in subsection (c)—

2 (i) in paragraph (2)—

3 (I) by amending subparagraph

4 (D) to read as follows:

5 “(D) REPORTING LOST AND STOLEN PASS-
6 PORTS.—The government of the country enters
7 into an agreement with the United States to re-
8 port, or make available through Interpol or
9 other means as designated by the Secretary of
10 Homeland Security, to the United States Gov-
11 ernment information about the theft or loss of
12 passports within a strict time limit and in a
13 manner specified in the agreement.”; and

14 (II) by adding at the end the fol-
15 lowing new subparagraphs:

16 “(E) REPATRIATION OF ALIENS.—The
17 government of the country accepts for repatri-
18 ation any citizen, former citizen, or national of
19 the country against whom a final executable
20 order of removal is issued not later than three
21 weeks after the issuance of the final order of re-
22 moval. Nothing in this subparagraph creates
23 any duty for the United States or any right for
24 any alien with respect to removal or release.
25 Nothing in this subparagraph gives rise to any

1 cause of action or claim under this paragraph
2 or any other law against any official of the
3 United States or of any State to compel the re-
4 lease, removal, or consideration for release or
5 removal of any alien.

6 “(F) PASSENGER INFORMATION EX-
7 CHANGE.—The government of the country en-
8 ters into an agreement with the United States
9 to share information regarding whether citizens
10 and nationals of that country traveling to the
11 United States represent a threat to the security
12 or welfare of the United States or its citizens.”;

13 (ii) in paragraph (5)—

14 (I) by striking “Attorney Gen-
15 eral” each place it appears and insert-
16 ing “Secretary of Homeland Secu-
17 rity”; and

18 (II) in subparagraph (A)(i)—

19 (aa) in subclause (II), by
20 striking “and” at the end;

21 (bb) in subclause (III)—

22 (AA) by striking “and
23 the Committee on Inter-
24 national Relations” and in-
25 serting “, the Committee on

1 Foreign Affairs, and the
2 Committee on Homeland Se-
3 curity,” and by striking
4 “and the Committee on For-
5 eign Relations” and insert-
6 ing “, the Committee on
7 Foreign Relations, and the
8 Committee on Homeland Se-
9 curity and Governmental Af-
10 fairs”; and

11 (BB) by striking the
12 period at the end and insert-
13 ing “; and”; and

14 (cc) by adding at the end
15 the following new subclause:

16 “(IV) shall submit to Congress a
17 report regarding the implementation
18 of the electronic travel authorization
19 system under subsection (h)(3) and
20 the participation of new countries in
21 the program through a waiver under
22 paragraph (8).”; and

23 (III) in subparagraph (B), by
24 adding at the end the following new
25 clause:

1 “(iv) PROGRAM SUSPENSION AUTHOR-
2 ITY.—The Director of National Intelligence
3 shall immediately inform the Secretary of
4 Homeland Security of any current and
5 credible threat which poses an imminent
6 danger to the United States or its citizens
7 and originates from a country participating
8 in the visa waiver program. Upon receiving
9 such notification, the Secretary, in con-
10 sultation with the Secretary of State—

11 “(I) may suspend a country from
12 the visa waiver program without prior
13 notice;

14 “(II) shall notify any country
15 suspended under subclause (I) and, to
16 the extent practicable without dis-
17 closing sensitive intelligence sources
18 and methods, provide justification for
19 the suspension; and

20 “(III) shall restore the suspended
21 country’s participation in the visa
22 waiver program upon a determination
23 that the threat no longer poses an im-
24 minent danger to the United States or
25 its citizens.”; and

1 (iii) by adding at the end the fol-
2 lowing new paragraphs:

3 “(10) TECHNICAL ASSISTANCE.—The Secretary
4 of Homeland Security, in consultation with the Sec-
5 retary of State, shall provide technical assistance to
6 program countries to assist those countries in meet-
7 ing the requirements under this section. The Sec-
8 retary of Homeland Security shall ensure that the
9 program office within the Department of Homeland
10 Security is adequately staffed and has resources to
11 be able to provide such technical assistance, in addi-
12 tion to its duties to effectively monitor compliance of
13 the countries participating in the program with all
14 the requirements of the program.

15 “(11) INDEPENDENT REVIEW.—

16 “(A) IN GENERAL.—Prior to the admission
17 of a new country into the program under this
18 section, and in conjunction with the periodic
19 evaluations required under subsection (c)(5)(A),
20 the Director of National Intelligence shall con-
21 duct an independent intelligence assessment of
22 a nominated country and member of the pro-
23 gram.

24 “(B) REPORTING REQUIREMENT.—The Di-
25 rector shall provide to the Secretary of Home-

1 land Security, the Secretary of State, and the
2 Attorney General the independent intelligence
3 assessment required under subparagraph (A).

4 “(C) CONTENTS.—The independent intel-
5 ligence assessment conducted by the Director
6 shall include—

7 “(i) a review of all current, credible
8 terrorist threats of the subject country;

9 “(ii) an evaluation of the subject
10 country’s counterterrorism efforts;

11 “(iii) an evaluation as to the extent of
12 the country’s sharing of information bene-
13 ficial to suppressing terrorist movements,
14 financing, or actions;

15 “(iv) an assessment of the risks asso-
16 ciated with including the subject country in
17 the program; and

18 “(v) recommendations to mitigate the
19 risks identified in clause (iv).”;

20 (C) in subsection (d)—

21 (i) by striking “Attorney General”
22 and inserting “Secretary of Homeland Se-
23 curity” ; and

24 (ii) by adding at the end the following
25 new sentence: “The Secretary of Homeland

1 Security may not waive any eligibility re-
2 quirement under this section unless the
3 Secretary notifies, with respect to the
4 House of Representatives, the Committee
5 on Homeland Security, the Committee on
6 the Judiciary, the Committee on Foreign
7 Affairs, and the Committee on Appropria-
8 tions, and with respect to the Senate, the
9 Committee on Homeland Security and
10 Governmental Affairs, the Committee on
11 the Judiciary, the Committee on Foreign
12 Relations, and the Committee on Appro-
13 priations not later than 30 days before the
14 effective date of such waiver.”;

15 (D) in subsection (f)(5)—

16 (i) by striking “Attorney General”
17 each place it appears and inserting “Sec-
18 retary of Homeland Security”; and

19 (ii) by striking “of blank” and insert-
20 ing “or loss of”;

21 (E) in subsection (h), by adding at the end
22 the following new paragraph:

23 “(3) ELECTRONIC TRAVEL AUTHORIZATION
24 SYSTEM.—

1 “(A) SYSTEM.—The Secretary of Home-
2 land Security, in consultation with the Sec-
3 retary of State, shall develop and implement a
4 fully automated electronic travel authorization
5 system (referred to in this paragraph as the
6 ‘System’) to collect such biographical and other
7 information as the Secretary of Homeland Se-
8 curity determines necessary to determine, in ad-
9 vance of travel, the eligibility of, and whether
10 there exists a law enforcement or security risk
11 in permitting, the alien to travel to the United
12 States.

13 “(B) FEES.—The Secretary of Homeland
14 Security may charge a fee for the use of the
15 System, which shall be—

16 “(i) set at a level that will ensure re-
17 covery of the full costs of providing and
18 administering the System; and

19 “(ii) available to pay the costs in-
20 curred to administer the System.

21 “(C) VALIDITY.—

22 “(i) PERIOD.—The Secretary of
23 Homeland Security, in consultation with
24 the Secretary of State, shall prescribe reg-
25 ulations that provide for a period, not to

1 exceed three years, during which a deter-
2 mination of eligibility to travel under the
3 program will be valid. Notwithstanding any
4 other provision under this section, the Sec-
5 retary of Homeland Security may revoke
6 any such determination at any time and
7 for any reason.

8 “(ii) LIMITATION.—A determination
9 by the Secretary of Homeland Security
10 that an alien is eligible to travel to the
11 United States under the program is not a
12 determination that the alien is admissible
13 to the United States.

14 “(iii) NOT A DETERMINATION OF VISA
15 ELIGIBILITY.—A determination by the Sec-
16 retary of Homeland Security that an alien
17 who applied for authorization to travel to
18 the United States through the System is
19 not eligible to travel under the program is
20 not a determination of eligibility for a visa
21 to travel to the United States and shall not
22 preclude the alien from applying for a visa.

23 “(iv) JUDICIAL REVIEW.—Notwith-
24 standing any other provision of law, no

1 court shall have jurisdiction to review an
2 eligibility determination under the System.

3 “(D) REPORT.—Not later than 60 days
4 before publishing notice regarding the imple-
5 mentation of the System in the Federal Reg-
6 ister, the Secretary of Homeland Security shall
7 submit a report regarding the implementation
8 of the system to—

9 “(i) the Committee on Homeland Se-
10 curity of the House of Representatives;

11 “(ii) the Committee on the Judiciary
12 of the House of Representatives;

13 “(iii) the Committee on Foreign Af-
14 fairs of the House of Representatives;

15 “(iv) the Permanent Select Committee
16 on Intelligence of the House of Represent-
17 atives;

18 “(v) the Committee on Appropriations
19 of the House of Representatives;

20 “(vi) the Committee on Homeland Se-
21 curity and Governmental Affairs of the
22 Senate;

23 “(vii) the Committee on the Judiciary
24 of the Senate;

1 “(viii) the Committee on Foreign Re-
2 lations of the Senate;

3 “(ix) the Select Committee on Intel-
4 ligence of the Senate; and

5 “(x) the Committee on Appropriations
6 of the Senate.”; and

7 (F) by adding at the end the following new
8 subsection:

9 “(i) EXIT SYSTEM.—

10 “(1) IN GENERAL.—Not later than one year
11 after the date of the enactment of this subsection,
12 the Secretary of Homeland Security shall establish
13 an exit system that records the departure on a flight
14 leaving the United States of every alien participating
15 in the visa waiver program established under this
16 section.

17 “(2) SYSTEM REQUIREMENTS.—The system es-
18 tablished under paragraph (1) shall—

19 “(A) match biometric information of the
20 alien against relevant watch lists and immigra-
21 tion information; and

22 “(B) compare such biometric information
23 against manifest information collected by air
24 carriers on passengers departing the United

1 States to confirm such aliens have departed the
2 United States.

3 “(3) REPORT.—Not later than 180 days after
4 the date of the enactment of this subsection, the
5 Secretary shall submit to Congress a report that de-
6 scribes—

7 “(A) the progress made in developing and
8 deploying the exit system established under this
9 subsection; and

10 “(B) the procedures by which the Sec-
11 retary shall improve the method of calculating
12 the rates of nonimmigrants who overstay their
13 authorized period of stay in the United
14 States.”.

15 (2) EFFECTIVE DATE.—Section 217(a)(11) of
16 the Immigration and Nationality Act, as added by
17 paragraph (1)(A)(ii), shall take effect on the date
18 that is 60 days after the date on which the Sec-
19 retary of Homeland Security publishes notice in the
20 Federal Register of the requirement under such
21 paragraph.

22 (e) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Secretary of
24 Homeland Security such sums as may be necessary to

1 carry out this section and the amendments made by this
2 section.

3 **Subtitle C—Strengthening**
4 **Terrorism Prevention Programs**

5 **SEC. 721. STRENGTHENING THE CAPABILITIES OF THE**
6 **HUMAN SMUGGLING AND TRAFFICKING CEN-**
7 **TER.**

8 (a) **IN GENERAL.**—Section 7202 of the Intelligence
9 Reform and Terrorism Prevention Act of 2004 (8 U.S.C.
10 1777) is amended—

11 (1) in subsection (c)(1), by striking “address”
12 and inserting “integrate and disseminate intelligence
13 and information related to”;

14 (2) by redesignating subsections (d) and (e) as
15 subsections (g) and (h), respectively; and

16 (3) by inserting after subsection (c) the fol-
17 lowing new subsections:

18 “(d) **DIRECTOR.**—The Secretary of Homeland Secu-
19 rity shall nominate an official of the Government of the
20 United States to serve as the Director of the Center, in
21 accordance with the requirements of the memorandum of
22 understanding entitled the ‘Human Smuggling and Traf-
23 ficking Center (HSTC) Charter’.

24 “(e) **STAFFING OF THE CENTER.**—

1 “(1) IN GENERAL.—The Secretary of Homeland
2 Security, in cooperation with heads of other relevant
3 agencies and departments, shall ensure that the
4 Center is staffed with not fewer than 40 full-time
5 equivalent positions, including, as appropriate,
6 detailees from the following:

7 “(A) Agencies and offices within the De-
8 partment of Homeland Security, including the
9 following:

10 “(i) The Office of Intelligence and
11 Analysis.

12 “(ii) The Transportation Security Ad-
13 ministration.

14 “(iii) United States Citizenship and
15 Immigration Services.

16 “(iv) United States Customs and Bor-
17 der Protection.

18 “(v) The United States Coast Guard.

19 “(vi) United States Immigration and
20 Customs Enforcement.

21 “(B) Other departments, agencies, or enti-
22 ties, including the following:

23 “(i) The Central Intelligence Agency.

24 “(ii) The Department of Defense.

1 “(iii) The Department of the Treas-
2 ury.

3 “(iv) The National Counterterrorism
4 Center.

5 “(v) The National Security Agency.

6 “(vi) The Department of Justice.

7 “(vii) The Department of State.

8 “(viii) Any other relevant agency or
9 department.

10 “(2) EXPERTISE OF DETAILEES.—The Sec-
11 retary of Homeland Security, in cooperation with the
12 head of each agency, department, or other entity re-
13 ferred to in paragraph (1), shall ensure that the
14 detailees provided to the Center under such para-
15 graph include an adequate number of personnel who
16 are—

17 “(A) intelligence analysts or special agents
18 with demonstrated experience related to human
19 smuggling, trafficking in persons, or terrorist
20 travel; and

21 “(B) personnel with experience in the
22 areas of—

23 “(i) consular affairs;

24 “(ii) counterterrorism;

25 “(iii) criminal law enforcement;

1 “(iv) intelligence analysis;

2 “(v) prevention and detection of docu-
3 ment fraud;

4 “(vi) border inspection;

5 “(vii) immigration enforcement; or

6 “(viii) human trafficking and com-
7 bating severe forms of trafficking in per-
8 sons.

9 “(3) ENHANCED PERSONNEL MANAGEMENT.—

10 “(A) INCENTIVES FOR SERVICE IN CER-
11 TAIN POSITIONS.—

12 “(i) IN GENERAL.—The Secretary of
13 Homeland Security, and the heads of other
14 relevant agencies, shall prescribe regula-
15 tions or promulgate personnel policies to
16 provide incentives for service on the staff
17 of the Center, particularly for serving
18 terms of at least two years duration.

19 “(ii) FORMS OF INCENTIVES.—Incen-
20 tives under clause (i) may include financial
21 incentives, bonuses, and such other awards
22 and incentives as the Secretary and the
23 heads of other relevant agencies, consider
24 appropriate.

1 “(B) ENHANCED PROMOTION FOR SERVICE
2 AT THE CENTER.—Notwithstanding any other
3 provision of law, the Secretary of Homeland Se-
4 curity, and the heads of other relevant agencies,
5 shall ensure that personnel who are assigned or
6 detailed to service at the Center shall be consid-
7 ered for promotion at rates equivalent to or bet-
8 ter than similarly situated personnel of such
9 agencies who are not so assigned or detailed,
10 except that this subparagraph shall not apply in
11 the case of personnel who are subject to the
12 provisions of the Foreign Service Act of 1980.

13 “(f) ADMINISTRATIVE SUPPORT AND FUNDING.—
14 The Secretary of Homeland Security shall provide to the
15 Center the administrative support and funding required
16 for its maintenance, including funding for personnel, leas-
17 ing of office space, supplies, equipment, technology, train-
18 ing, and travel expenses necessary for the Center to carry
19 out its functions.”.

20 (b) REPORT.—Subsection (g) of section 7202 of the
21 Intelligence Reform and Terrorism Prevention Act of
22 2004, as redesignated by subsection (a)(2), is amended to
23 read as follows:

24 “(g) REPORT.—

1 “(1) INITIAL REPORT.—Not later than 180
2 days after December 17, 2004, the President shall
3 transmit to Congress a report regarding the imple-
4 mentation of this section, including a description of
5 the staffing and resource needs of the Center.

6 “(2) FOLLOW-UP REPORT.—Not later than 180
7 days after the date of the enactment of the Imple-
8 menting Recommendations of the 9/11 Commission
9 Act of 2007, the President shall transmit to Con-
10 gress a report regarding the operation of the Center
11 and the activities carried out by the Center, includ-
12 ing a description of—

13 “(A) the roles and responsibilities of each
14 agency or department that is participating in
15 the Center;

16 “(B) the mechanisms used to share infor-
17 mation among each such agency or department;

18 “(C) the personnel provided to the Center
19 by each such agency or department;

20 “(D) the type of information and reports
21 being disseminated by the Center;

22 “(E) any efforts by the Center to create a
23 centralized Federal Government database to
24 store information related to unlawful travel of
25 foreign nationals, including a description of any

1 such database and of the manner in which in-
2 formation utilized in such a database would be
3 collected, stored, and shared;

4 “(F) how each agency and department
5 shall utilize its resources to ensure that the
6 Center uses intelligence to focus and drive its
7 efforts;

8 “(G) efforts to consolidate networked sys-
9 tems for the Center;

10 “(H) the mechanisms for the sharing of
11 homeland security information from the Center
12 to the Office of Intelligence and Analysis, in-
13 cluding how such sharing shall be consistent
14 with section 1016(b);

15 “(I) the ability of participating personnel
16 in the Center to freely access necessary data-
17 bases and share information regarding issues
18 related to human smuggling, trafficking in per-
19 sons, and terrorist travel;

20 “(J) how the assignment of personnel to
21 the Center is incorporated into the civil service
22 career path of such personnel; and

23 “(K) cooperation and coordination efforts,
24 including any memorandums of understanding,
25 among participating agencies and departments

1 regarding issues related to human smuggling,
2 trafficking in persons, and terrorist travel.”

3 (c) COORDINATION WITH THE OFFICE OF INTEL-
4 LIGENCE AND ANALYSIS.—Section 7202 of the Intel-
5 ligence Reform and Terrorism Prevention Act of 2004 is
6 amended by adding after subsection (h), as redesignated
7 by subsection (a)(2), the following new subsection:

8 “(i) COORDINATION WITH THE OFFICE OF INTEL-
9 LIGENCE AND ANALYSIS.—The Office of Intelligence and
10 Analysis, in coordination with the Center, shall submit to
11 relevant State, local, and tribal law enforcement agencies
12 periodic reports regarding terrorist threats related to
13 human smuggling, human trafficking, and terrorist trav-
14 el.”

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to the Secretary of
17 Homeland Security \$20,000,000 for fiscal year 2008 to
18 carry out section 7202 of the Intelligence Reform and Ter-
19 rorism Prevention Act of 2004, as amended by this sec-
20 tion.

21 **SEC. 722. ENHANCEMENTS TO THE TERRORIST TRAVEL**
22 **PROGRAM.**

23 Section 7215 of the Intelligence Reform and Ter-
24 rorism Prevention Act of 2004 (6 U.S.C. 123) is amended
25 to read as follows:

1 **“SEC. 7215. TERRORIST TRAVEL PROGRAM.**

2 “(a) **REQUIREMENT TO ESTABLISH.**—Not later than
3 90 days after the date of the enactment of the Imple-
4 menting Recommendations of the 9/11 Commission Act of
5 2007, the Secretary of Homeland Security, in consultation
6 with the Director of the National Counterterrorism Center
7 and consistent with the strategy developed under section
8 7201, shall establish a program to oversee the implemen-
9 tation of the Secretary’s responsibilities with respect to
10 terrorist travel.

11 “(b) **HEAD OF THE PROGRAM.**—The Secretary of
12 Homeland Security shall designate an official of the De-
13 partment of Homeland Security to be responsible for car-
14 rying out the program. Such official shall be—

15 “(1) the Assistant Secretary for Policy of the
16 Department of Homeland Security; or

17 “(2) an official appointed by the Secretary who
18 reports directly to the Secretary.

19 “(c) **DUTIES.**—The official designated under sub-
20 section (b) shall assist the Secretary of Homeland Security
21 in improving the Department’s ability to prevent terrorists
22 from entering the United States or remaining in the
23 United States undetected by—

24 “(1) developing relevant strategies and policies;

1 “(2) reviewing the effectiveness of existing pro-
2 grams and recommending improvements, if nec-
3 essary;

4 “(3) making recommendations on budget re-
5 quests and on the allocation of funding and per-
6 sonnel;

7 “(4) ensuring effective coordination, with re-
8 spect to policies, programs, planning, operations,
9 and dissemination of intelligence and information re-
10 lated to terrorist travel—

11 “(A) among appropriate subdivisions of the
12 Department of Homeland Security, as deter-
13 mined by the Secretary and including—

14 “(i) United States Customs and Bor-
15 der Protection;

16 “(ii) United States Immigration and
17 Customs Enforcement;

18 “(iii) United States Citizenship and
19 Immigration Services;

20 “(iv) the Transportation Security Ad-
21 ministration; and

22 “(v) the United States Coast Guard;
23 and

1 “(B) between the Department of Home-
2 land Security and other appropriate Federal
3 agencies; and

4 “(5) serving as the Secretary’s primary point of
5 contact with the National Counterterrorism Center
6 for implementing initiatives related to terrorist trav-
7 el and ensuring that the recommendations of the
8 Center related to terrorist travel are carried out by
9 the Department.

10 “(d) REPORT.—Not later than 180 days after the
11 date of the enactment of the Implementing Recommenda-
12 tions of the 9/11 Commission Act of 2007, the Secretary
13 of Homeland Security shall submit to the Committee on
14 Homeland Security and Governmental Affairs of the Sen-
15 ate and the Committee on Homeland Security of the
16 House of Representatives a report on the implementation
17 of this section.”.

18 **SEC. 723. ENHANCED DRIVER’S LICENSE.**

19 Section 7209(b)(1) of the Intelligence Reform and
20 Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note)
21 is amended—

22 (1) in subparagraph (B)—

23 (A) in clause (vi), by striking “and” at the
24 end;

1 (B) in clause (vii), by striking the period
2 at the end and inserting “; and”; and

3 (C) by adding at the end the following new
4 clause:

5 “(viii) the signing of a memorandum
6 of agreement to initiate a pilot program
7 with not less than one State to determine
8 if an enhanced driver’s license, which is
9 machine-readable and tamper proof, not
10 valid for certification of citizenship for any
11 purpose other than admission into the
12 United States from Canada or Mexico, and
13 issued by such State to an individual, may
14 permit the individual to use the driver’s li-
15 cense to meet the documentation require-
16 ments under subparagraph (A) for entry
17 into the United States from Canada or
18 Mexico at land and sea ports of entry.”;
19 and

20 (2) by adding at the end the following new sub-
21 paragraph:

22 “(C) REPORT.—Not later than 180 days
23 after the initiation of the pilot program de-
24 scribed in subparagraph (B)(viii), the Secretary
25 of Homeland Security and the Secretary of

1 State shall submit to the appropriate congress-
2 sional committees a report which includes—

3 “(i) an analysis of the impact of the
4 pilot program on national security;

5 “(ii) recommendations on how to ex-
6 pand the pilot program to other States;

7 “(iii) any appropriate statutory
8 changes to facilitate the expansion of the
9 pilot program to additional States and to
10 citizens of Canada;

11 “(iv) a plan to screen individuals par-
12 ticipating in the pilot program against
13 United States terrorist watch lists; and

14 “(v) a recommendation for the type of
15 machine-readable technology that should
16 be used in enhanced driver’s licenses,
17 based on individual privacy considerations
18 and the costs and feasibility of incor-
19 porating any new technology into existing
20 driver’s licenses.”

21 **SEC. 724. WESTERN HEMISPHERE TRAVEL INITIATIVE.**

22 Before the Secretary of Homeland Security publishes
23 a final rule in the Federal Register implementing section
24 7209 of the Intelligence Reform and Terrorism Prevention
25 Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note)—

1 (1) the Secretary of Homeland Security shall
2 complete a cost-benefit analysis of the Western
3 Hemisphere Travel Initiative, authorized under such
4 section 7209; and

5 (2) the Secretary of State shall develop pro-
6 posals for reducing the execution fee charged for the
7 passport card, proposed at 71 Fed. Reg. 60928-32
8 (October 17, 2006), including the use of mobile ap-
9 plication teams, during implementation of the land
10 and sea phase of the Western Hemisphere Travel
11 Initiative, in order to encourage United States citi-
12 zens to apply for the passport card.

13 **SEC. 725. MODEL PORTS-OF-ENTRY.**

14 (a) IN GENERAL.—The Secretary of Homeland Secu-
15 rity shall—

16 (1) establish a model ports-of-entry program for
17 the purpose of providing a more efficient and wel-
18 coming international arrival process in order to fa-
19 cilitate and promote business and tourist travel to
20 the United States, while also improving security; and

21 (2) implement the program initially at the 20
22 United States international airports that have the
23 highest number of foreign visitors arriving annually
24 as of the date of the enactment of this Act.

1 (b) PROGRAM ELEMENTS.—The program shall in-
2 clude—

3 (1) enhanced queue management in the Federal
4 Inspection Services area leading up to primary in-
5 spection;

6 (2) assistance for foreign travelers once they
7 have been admitted to the United States, in con-
8 sultation, as appropriate, with relevant governmental
9 and nongovernmental entities; and

10 (3) instructional videos, in English and such
11 other languages as the Secretary determines appro-
12 priate, in the Federal Inspection Services area that
13 explain the United States inspection process and fea-
14 ture national, regional, or local welcome videos.

15 (c) ADDITIONAL CUSTOMS AND BORDER PROTEC-
16 TION OFFICERS FOR HIGH-VOLUME PORTS.—Subject to
17 the availability of appropriations, not later than the end
18 of fiscal year 2008 the Secretary of Homeland Security
19 shall employ not fewer than an additional 200 Customs
20 and Border Protection officers over the number of such
21 positions for which funds were appropriated for the pro-
22 ceeding fiscal year to address staff shortages at the 20
23 United States international airports that have the highest
24 number of foreign visitors arriving annually as of the date
25 of the enactment of this Act.

1 **Subtitle D—Miscellaneous**
2 **Provisions**

3 **SEC. 731. REPORT REGARDING BORDER SECURITY.**

4 (a) **IN GENERAL.**—Not later than 180 days after the
5 date of the enactment of this Act, the Secretary of Home-
6 land Security shall submit to Congress a report regarding
7 ongoing initiatives of the Department of Homeland Secu-
8 rity to improve security along the northern border of the
9 United States.

10 (b) **CONTENTS.**—The report submitted under sub-
11 section (a) shall—

12 (1) address the vulnerabilities along the north-
13 ern border of the United States; and

14 (2) provide recommendations to address such
15 vulnerabilities, including required resources needed
16 to protect the northern border of the United States.

17 (c) **GOVERNMENT ACCOUNTABILITY OFFICE.**—Not
18 later than 270 days after the date of the submission of
19 the report under subsection (a), the Comptroller General
20 of the United States shall submit to Congress a report
21 that—

22 (1) reviews and comments on the report under
23 subsection (a); and

1 (2) provides recommendations regarding any
2 additional actions necessary to protect the northern
3 border of the United States.

4 **TITLE VIII—PRIVACY AND CIVIL**
5 **LIBERTIES**

6 **SEC. 801. MODIFICATION OF AUTHORITIES RELATING TO**
7 **PRIVACY AND CIVIL LIBERTIES OVERSIGHT**
8 **BOARD.**

9 (a) MODIFICATION OF AUTHORITIES.—Section 1061
10 of the National Security Intelligence Reform Act of 2004
11 (5 U.S.C. 601 note) is amended to read as follows:

12 **“SEC. 1061. PRIVACY AND CIVIL LIBERTIES OVERSIGHT**
13 **BOARD.**

14 “(a) IN GENERAL.—There is established as an inde-
15 pendent agency within the executive branch a Privacy and
16 Civil Liberties Oversight Board (referred to in this section
17 as the ‘Board’).

18 “(b) FINDINGS.—Consistent with the report of the
19 National Commission on Terrorist Attacks Upon the
20 United States, Congress makes the following findings:

21 “(1) In conducting the war on terrorism, the
22 Government may need additional powers and may
23 need to enhance the use of its existing powers.

24 “(2) This shift of power and authority to the
25 Government calls for an enhanced system of checks

1 and balances to protect the precious liberties that
2 are vital to our way of life and to ensure that the
3 Government uses its powers for the purposes for
4 which the powers were given.

5 “(3) The National Commission on Terrorist At-
6 tacks Upon the United States correctly concluded
7 that ‘The choice between security and liberty is a
8 false choice, as nothing is more likely to endanger
9 America’s liberties than the success of a terrorist at-
10 tack at home. Our history has shown us that insecur-
11 ity threatens liberty. Yet, if our liberties are cur-
12 tailed, we lose the values that we are struggling to
13 defend.’

14 “(c) PURPOSE.—The Board shall—

15 “(1) analyze and review actions the executive
16 branch takes to protect the Nation from terrorism,
17 ensuring that the need for such actions is balanced
18 with the need to protect privacy and civil liberties;
19 and

20 “(2) ensure that liberty concerns are appro-
21 priately considered in the development and imple-
22 mentation of laws, regulations, and policies related
23 to efforts to protect the Nation against terrorism.

24 “(d) FUNCTIONS.—

1 “(1) ADVICE AND COUNSEL ON POLICY DEVEL-
2 OPMENT AND IMPLEMENTATION.—The Board
3 shall—

4 “(A) review proposed legislation, regula-
5 tions, and policies related to efforts to protect
6 the Nation from terrorism, including the devel-
7 opment and adoption of information sharing
8 guidelines under subsections (d) and (f) of sec-
9 tion 1016;

10 “(B) review the implementation of new and
11 existing legislation, regulations, and policies re-
12 lated to efforts to protect the Nation from ter-
13 rorism, including the implementation of infor-
14 mation sharing guidelines under subsections (d)
15 and (f) of section 1016;

16 “(C) advise the President and the depart-
17 ments, agencies, and elements of the executive
18 branch to ensure that privacy and civil liberties
19 are appropriately considered in the development
20 and implementation of such legislation, regula-
21 tions, policies, and guidelines; and

22 “(D) in providing advice on proposals to
23 retain or enhance a particular governmental
24 power, consider whether the department, agen-

1 cy, or element of the executive branch has es-
2 tablished—

3 “(i) that the need for the power is
4 balanced with the need to protect privacy
5 and civil liberties;

6 “(ii) that there is adequate super-
7 vision of the use by the executive branch of
8 the power to ensure protection of privacy
9 and civil liberties; and

10 “(iii) that there are adequate guide-
11 lines and oversight to properly confine its
12 use.

13 “(2) OVERSIGHT.—The Board shall continually
14 review—

15 “(A) the regulations, policies, and proce-
16 dures, and the implementation of the regula-
17 tions, policies, and procedures, of the depart-
18 ments, agencies, and elements of the executive
19 branch relating to efforts to protect the Nation
20 from terrorism to ensure that privacy and civil
21 liberties are protected;

22 “(B) the information sharing practices of
23 the departments, agencies, and elements of the
24 executive branch relating to efforts to protect
25 the Nation from terrorism to determine whether

1 they appropriately protect privacy and civil lib-
2 erties and adhere to the information sharing
3 guidelines issued or developed under subsections
4 (d) and (f) of section 1016 and to other gov-
5 erning laws, regulations, and policies regarding
6 privacy and civil liberties; and

7 “(C) other actions by the executive branch
8 relating to efforts to protect the Nation from
9 terrorism to determine whether such actions—

10 “(i) appropriately protect privacy and
11 civil liberties; and

12 “(ii) are consistent with governing
13 laws, regulations, and policies regarding
14 privacy and civil liberties.

15 “(3) RELATIONSHIP WITH PRIVACY AND CIVIL
16 LIBERTIES OFFICERS.—The Board shall—

17 “(A) receive and review reports and other
18 information from privacy officers and civil lib-
19 erties officers under section 1062;

20 “(B) when appropriate, make recommenda-
21 tions to such privacy officers and civil liberties
22 officers regarding their activities; and

23 “(C) when appropriate, coordinate the ac-
24 tivities of such privacy officers and civil liberties
25 officers on relevant interagency matters.

1 “(4) TESTIMONY.—The members of the Board
2 shall appear and testify before Congress upon re-
3 quest.

4 “(e) REPORTS.—

5 “(1) IN GENERAL.—The Board shall—

6 “(A) receive and review reports from pri-
7 vacy officers and civil liberties officers under
8 section 1062; and

9 “(B) periodically submit, not less than
10 semiannually, reports—

11 “(i)(I) to the appropriate committees
12 of Congress, including the Committee on
13 the Judiciary of the Senate, the Committee
14 on the Judiciary of the House of Rep-
15 resentatives, the Committee on Homeland
16 Security and Governmental Affairs of the
17 Senate, the Committee on Homeland Secu-
18 rity of the House of Representatives, the
19 Committee on Oversight and Government
20 Reform of the House of Representatives,
21 the Select Committee on Intelligence of the
22 Senate, and the Permanent Select Com-
23 mittee on Intelligence of the House of Rep-
24 resentatives; and

25 “(II) to the President; and

1 “(ii) which shall be in unclassified
2 form to the greatest extent possible, with a
3 classified annex where necessary.

4 “(2) CONTENTS.—Not less than 2 reports sub-
5 mitted each year under paragraph (1)(B) shall in-
6 clude—

7 “(A) a description of the major activities
8 of the Board during the preceding period;

9 “(B) information on the findings, conclu-
10 sions, and recommendations of the Board re-
11 sulting from its advice and oversight functions
12 under subsection (d);

13 “(C) the minority views on any findings,
14 conclusions, and recommendations of the Board
15 resulting from its advice and oversight func-
16 tions under subsection (d);

17 “(D) each proposal reviewed by the Board
18 under subsection (d)(1) that—

19 “(i) the Board advised against imple-
20 mentation; and

21 “(ii) notwithstanding such advice, ac-
22 tions were taken to implement; and

23 “(E) for the preceding period, any requests
24 submitted under subsection (g)(1)(D) for the

1 issuance of subpoenas that were modified or de-
2 nied by the Attorney General.

3 “(f) INFORMING THE PUBLIC.—The Board shall—

4 “(1) make its reports, including its reports to
5 Congress, available to the public to the greatest ex-
6 tent that is consistent with the protection of classi-
7 fied information and applicable law; and

8 “(2) hold public hearings and otherwise inform
9 the public of its activities, as appropriate and in a
10 manner consistent with the protection of classified
11 information and applicable law.

12 “(g) ACCESS TO INFORMATION.—

13 “(1) AUTHORIZATION.—If determined by the
14 Board to be necessary to carry out its responsibil-
15 ities under this section, the Board is authorized to—

16 “(A) have access from any department,
17 agency, or element of the executive branch, or
18 any Federal officer or employee of any such de-
19 partment, agency, or element, to all relevant
20 records, reports, audits, reviews, documents, pa-
21 pers, recommendations, or other relevant mate-
22 rial, including classified information consistent
23 with applicable law;

24 “(B) interview, take statements from, or
25 take public testimony from personnel of any de-

1 partment, agency, or element of the executive
2 branch, or any Federal officer or employee of
3 any such department, agency, or element;

4 “(C) request information or assistance
5 from any State, tribal, or local government; and

6 “(D) at the direction of a majority of the
7 members of the Board, submit a written re-
8 quest to the Attorney General of the United
9 States that the Attorney General require, by
10 subpoena, persons (other than departments,
11 agencies, and elements of the executive branch)
12 to produce any relevant information, docu-
13 ments, reports, answers, records, accounts, pa-
14 pers, and other documentary or testimonial evi-
15 dence.

16 “(2) REVIEW OF SUBPOENA REQUEST.—

17 “(A) IN GENERAL.—Not later than 30
18 days after the date of receipt of a request by
19 the Board under paragraph (1)(D), the Attor-
20 ney General shall—

21 “(i) issue the subpoena as requested;

22 or

23 “(ii) provide the Board, in writing,
24 with an explanation of the grounds on

1 which the subpoena request has been modi-
2 fied or denied.

3 “(B) NOTIFICATION.—If a subpoena re-
4 quest is modified or denied under subparagraph
5 (A)(ii), the Attorney General shall, not later
6 than 30 days after the date of that modification
7 or denial, notify the Committee on the Judici-
8 ary of the Senate and the Committee on the
9 Judiciary of the House of Representatives.

10 “(3) ENFORCEMENT OF SUBPOENA.—In the
11 case of contumacy or failure to obey a subpoena
12 issued pursuant to paragraph (1)(D), the United
13 States district court for the judicial district in which
14 the subpoenaed person resides, is served, or may be
15 found may issue an order requiring such person to
16 produce the evidence required by such subpoena.

17 “(4) AGENCY COOPERATION.—Whenever infor-
18 mation or assistance requested under subparagraph
19 (A) or (B) of paragraph (1) is, in the judgment of
20 the Board, unreasonably refused or not provided, the
21 Board shall report the circumstances to the head of
22 the department, agency, or element concerned with-
23 out delay. The head of the department, agency, or
24 element concerned shall ensure that the Board is
25 given access to the information, assistance, material,

1 or personnel the Board determines to be necessary
2 to carry out its functions.

3 “(h) MEMBERSHIP.—

4 “(1) MEMBERS.—The Board shall be composed
5 of a full-time chairman and 4 additional members,
6 who shall be appointed by the President, by and
7 with the advice and consent of the Senate.

8 “(2) QUALIFICATIONS.—Members of the Board
9 shall be selected solely on the basis of their profes-
10 sional qualifications, achievements, public stature,
11 expertise in civil liberties and privacy, and relevant
12 experience, and without regard to political affiliation,
13 but in no event shall more than 3 members of the
14 Board be members of the same political party. The
15 President shall, before appointing an individual who
16 is not a member of the same political party as the
17 President, consult with the leadership of that party,
18 if any, in the Senate and House of Representatives.

19 “(3) INCOMPATIBLE OFFICE.—An individual
20 appointed to the Board may not, while serving on
21 the Board, be an elected official, officer, or employee
22 of the Federal Government, other than in the capac-
23 ity as a member of the Board.

24 “(4) TERM.—Each member of the Board shall
25 serve a term of 6 years, except that—

1 “(A) a member appointed to a term of of-
2 fice after the commencement of such term may
3 serve under such appointment only for the re-
4 mainder of such term; and

5 “(B) upon the expiration of the term of of-
6 fice of a member, the member shall continue to
7 serve until the member’s successor has been ap-
8 pointed and qualified, except that no member
9 may serve under this subparagraph—

10 “(i) for more than 60 days when Con-
11 gress is in session unless a nomination to
12 fill the vacancy shall have been submitted
13 to the Senate; or

14 “(ii) after the adjournment sine die of
15 the session of the Senate in which such
16 nomination is submitted.

17 “(5) QUORUM AND MEETINGS.—The Board
18 shall meet upon the call of the chairman or a major-
19 ity of its members. Three members of the Board
20 shall constitute a quorum.

21 “(i) COMPENSATION AND TRAVEL EXPENSES.—

22 “(1) COMPENSATION.—

23 “(A) CHAIRMAN.—The chairman of the
24 Board shall be compensated at the rate of pay
25 payable for a position at level III of the Execu-

1 tive Schedule under section 5314 of title 5,
2 United States Code.

3 “(B) MEMBERS.—Each member of the
4 Board shall be compensated at a rate of pay
5 payable for a position at level IV of the Execu-
6 tive Schedule under section 5315 of title 5,
7 United States Code, for each day during which
8 that member is engaged in the actual perform-
9 ance of the duties of the Board.

10 “(2) TRAVEL EXPENSES.—Members of the
11 Board shall be allowed travel expenses, including per
12 diem in lieu of subsistence, at rates authorized for
13 persons employed intermittently by the Government
14 under section 5703(b) of title 5, United States Code,
15 while away from their homes or regular places of
16 business in the performance of services for the
17 Board.

18 “(j) STAFF.—

19 “(1) APPOINTMENT AND COMPENSATION.—The
20 chairman of the Board, in accordance with rules
21 agreed upon by the Board, shall appoint and fix the
22 compensation of a full-time executive director and
23 such other personnel as may be necessary to enable
24 the Board to carry out its functions, without regard
25 to the provisions of title 5, United States Code, gov-

1 erning appointments in the competitive service, and
2 without regard to the provisions of chapter 51 and
3 subchapter III of chapter 53 of such title relating to
4 classification and General Schedule pay rates, except
5 that no rate of pay fixed under this subsection may
6 exceed the equivalent of that payable for a position
7 at level V of the Executive Schedule under section
8 5316 of title 5, United States Code.

9 “(2) DETAILEES.—Any Federal employee may
10 be detailed to the Board without reimbursement
11 from the Board, and such detailee shall retain the
12 rights, status, and privileges of the detailee’s regular
13 employment without interruption.

14 “(3) CONSULTANT SERVICES.—The Board may
15 procure the temporary or intermittent services of ex-
16 perts and consultants in accordance with section
17 3109 of title 5, United States Code, at rates that do
18 not exceed the daily rate paid a person occupying a
19 position at level IV of the Executive Schedule under
20 section 5315 of such title.

21 “(k) SECURITY CLEARANCES.—

22 “(1) IN GENERAL.—The appropriate depart-
23 ments, agencies, and elements of the executive
24 branch shall cooperate with the Board to expedi-
25 tiously provide the Board members and staff with

1 appropriate security clearances to the extent possible
2 under existing procedures and requirements.

3 “(2) RULES AND PROCEDURES.—After con-
4 sultation with the Secretary of Defense, the Attor-
5 ney General, and the Director of National Intel-
6 ligence, the Board shall adopt rules and procedures
7 of the Board for physical, communications, com-
8 puter, document, personnel, and other security relat-
9 ing to carrying out the functions of the Board.

10 “(1) TREATMENT AS AGENCY, NOT AS ADVISORY
11 COMMITTEE.—The Board—

12 “(1) is an agency (as defined in section 551(1)
13 of title 5, United States Code); and

14 “(2) is not an advisory committee (as defined in
15 section 3(2) of the Federal Advisory Committee Act
16 (5 U.S.C. App.)).

17 “(m) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to carry out this section
19 amounts as follows:

20 “(1) For fiscal year 2008, \$5,000,000.

21 “(2) For fiscal year 2009, \$6,650,000.

22 “(3) For fiscal year 2010, \$8,300,000.

23 “(4) For fiscal year 2011, \$10,000,000.

24 “(5) For fiscal year 2012 and each subsequent
25 fiscal year, such sums as may be necessary.”

1 (b) SECURITY RULES AND PROCEDURES.—The Pri-
2 vacy and Civil Liberties Oversight Board shall promptly
3 adopt the security rules and procedures required under
4 section 1061(k)(2) of the National Security Intelligence
5 Reform Act of 2004 (as added by subsection (a) of this
6 section).

7 (c) TRANSITION PROVISIONS.—

8 (1) TREATMENT OF INCUMBENT MEMBERS OF
9 THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT
10 BOARD.—

11 (A) CONTINUATION OF SERVICE.—Any in-
12 dividual who is a member of the Privacy and
13 Civil Liberties Oversight Board on the date of
14 enactment of this Act may continue to serve on
15 the Board until 180 days after the date of en-
16 actment of this Act.

17 (B) TERMINATION OF TERMS.—The term
18 of any individual who is a member of the Pri-
19 vacy and Civil Liberties Oversight Board on the
20 date of enactment of this Act shall terminate
21 180 days after the date of enactment of this
22 Act.

23 (2) APPOINTMENTS.—

24 (A) IN GENERAL.—The President and the
25 Senate shall take such actions as necessary for

1 the President, by and with the advice and con-
2 sent of the Senate, to appoint members to the
3 Privacy and Civil Liberties Oversight Board as
4 constituted under the amendments made by
5 subsection (a) in a timely manner to provide for
6 the continuing operation of the Board and or-
7 derly implementation of this section.

8 (B) DESIGNATIONS.—In making the ap-
9 pointments described under subparagraph (A)
10 of the first members of the Privacy and Civil
11 Liberties Oversight Board as constituted under
12 the amendments made by subsection (a), the
13 President shall provide for the members to
14 serve terms of 2, 3, 4, 5, and 6 years beginning
15 on the effective date described under subsection
16 (d)(1), with the term of each such member to
17 be designated by the President.

18 (d) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 subsection (a) and subsection (b) shall take effect
21 180 days after the date of enactment of this Act.

22 (2) TRANSITION PROVISIONS.—Subsection (c)
23 shall take effect on the date of enactment of this
24 Act.

1 **SEC. 802. DEPARTMENT PRIVACY OFFICER.**

2 Section 222 of the Homeland Security Act of 2002

3 (6 U.S.C. 142) is amended—

4 (1) by inserting “(a) APPOINTMENT AND RE-
5 SPONSIBILITIES.—” before “The Secretary”; and

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

7 “(b) AUTHORITY TO INVESTIGATE.—

8 “(1) IN GENERAL.—The senior official ap-
9 pointed under subsection (a) may—

10 “(A) have access to all records, reports,
11 audits, reviews, documents, papers, rec-
12 ommendations, and other materials available to
13 the Department that relate to programs and op-
14 erations with respect to the responsibilities of
15 the senior official under this section;

16 “(B) make such investigations and reports
17 relating to the administration of the programs
18 and operations of the Department as are, in the
19 senior official’s judgment, necessary or desir-
20 able;

21 “(C) subject to the approval of the Sec-
22 retary, require by subpoena the production, by
23 any person other than a Federal agency, of all
24 information, documents, reports, answers,
25 records, accounts, papers, and other data and
26 documentary evidence necessary to performance

1 of the responsibilities of the senior official
2 under this section; and

3 “(D) administer to or take from any per-
4 son an oath, affirmation, or affidavit, whenever
5 necessary to performance of the responsibilities
6 of the senior official under this section.

7 “(2) ENFORCEMENT OF SUBPOENAS.—Any sub-
8 poena issued under paragraph (1)(C) shall, in the
9 case of contumacy or refusal to obey, be enforceable
10 by order of any appropriate United States district
11 court.

12 “(3) EFFECT OF OATHS.—Any oath, affirma-
13 tion, or affidavit administered or taken under para-
14 graph (1)(D) by or before an employee of the Pri-
15 vacy Office designated for that purpose by the senior
16 official appointed under subsection (a) shall have the
17 same force and effect as if administered or taken by
18 or before an officer having a seal of office.

19 “(c) SUPERVISION AND COORDINATION.—

20 “(1) IN GENERAL.—The senior official ap-
21 pointed under subsection (a) shall—

22 “(A) report to, and be under the general
23 supervision of, the Secretary; and

1 “(B) coordinate activities with the Inspec-
2 tor General of the Department in order to avoid
3 duplication of effort.

4 “(2) COORDINATION WITH THE INSPECTOR
5 GENERAL.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), the senior official appointed
8 under subsection (a) may investigate any mat-
9 ter relating to possible violations or abuse con-
10 cerning the administration of any program or
11 operation of the Department relevant to the
12 purposes under this section.

13 “(B) COORDINATION.—

14 “(i) REFERRAL.—Before initiating
15 any investigation described under subpara-
16 graph (A), the senior official shall refer the
17 matter and all related complaints, allega-
18 tions, and information to the Inspector
19 General of the Department.

20 “(ii) DETERMINATIONS AND NOTIFI-
21 CATIONS BY THE INSPECTOR GENERAL.—

22 “(I) IN GENERAL.—Not later
23 than 30 days after the receipt of a
24 matter referred under clause (i), the
25 Inspector General shall—

1 “(aa) make a determination
2 regarding whether the Inspector
3 General intends to initiate an
4 audit or investigation of the mat-
5 ter referred under clause (i); and

6 “(bb) notify the senior offi-
7 cial of that determination.

8 “(II) INVESTIGATION NOT INITI-
9 ATED.—If the Inspector General noti-
10 fies the senior official under subclause
11 (I)(bb) that the Inspector General in-
12 tended to initiate an audit or inves-
13 tigation, but does not initiate that
14 audit or investigation within 90 days
15 after providing that notification, the
16 Inspector General shall further notify
17 the senior official that an audit or in-
18 vestigation was not initiated. The fur-
19 ther notification under this subclause
20 shall be made not later than 3 days
21 after the end of that 90-day period.

22 “(iii) INVESTIGATION BY SENIOR OF-
23 FICIAL.—The senior official may inves-
24 tigate a matter referred under clause (i)
25 if—

1 “(I) the Inspector General noti-
2 fies the senior official under clause
3 (ii)(I)(bb) that the Inspector General
4 does not intend to initiate an audit or
5 investigation relating to that matter;
6 or

7 “(II) the Inspector General pro-
8 vides a further notification under
9 clause (ii)(II) relating to that matter.

10 “(iv) PRIVACY TRAINING.—Any em-
11 ployee of the Office of Inspector General
12 who audits or investigates any matter re-
13 ferred under clause (i) shall be required to
14 receive adequate training on privacy laws,
15 rules, and regulations, to be provided by
16 an entity approved by the Inspector Gen-
17 eral in consultation with the senior official
18 appointed under subsection (a).

19 “(d) NOTIFICATION TO CONGRESS ON REMOVAL.—
20 If the Secretary removes the senior official appointed
21 under subsection (a) or transfers that senior official to an-
22 other position or location within the Department, the Sec-
23 retary shall—

24 “(1) promptly submit a written notification of
25 the removal or transfer to Houses of Congress; and

1 “(2) include in any such notification the rea-
2 sons for the removal or transfer.

3 “(e) REPORTS BY SENIOR OFFICIAL TO CON-
4 GRESS.—The senior official appointed under subsection
5 (a) shall—

6 “(1) submit reports directly to the Congress re-
7 garding performance of the responsibilities of the
8 senior official under this section, without any prior
9 comment or amendment by the Secretary, Deputy
10 Secretary, or any other officer or employee of the
11 Department or the Office of Management and Budg-
12 et; and

13 “(2) inform the Committee on Homeland Secu-
14 rity and Governmental Affairs of the Senate and the
15 Committee on Homeland Security of the House of
16 Representatives not later than—

17 “(A) 30 days after the Secretary dis-
18 approves the senior official’s request for a sub-
19 poena under subsection (b)(1)(C) or the Sec-
20 retary substantively modifies the requested sub-
21 poena; or

22 “(B) 45 days after the senior official’s re-
23 quest for a subpoena under subsection
24 (b)(1)(C), if that subpoena has not either been
25 approved or disapproved by the Secretary.”.

1 **SEC. 803. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

2 (a) IN GENERAL.—Section 1062 of the National Se-
3 curity Intelligence Reform Act of 2004 (title I of Public
4 Law 108–458; 118 Stat. 3688) is amended to read as fol-
5 lows:

6 **“SEC. 1062. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

7 “(a) DESIGNATION AND FUNCTIONS.—The Attorney
8 General, the Secretary of Defense, the Secretary of State,
9 the Secretary of the Treasury, the Secretary of Health and
10 Human Services, the Secretary of Homeland Security, the
11 Director of National Intelligence, the Director of the Cen-
12 tral Intelligence Agency, and the head of any other depart-
13 ment, agency, or element of the executive branch des-
14 igned by the Privacy and Civil Liberties Oversight
15 Board under section 1061 to be appropriate for coverage
16 under this section shall designate not less than 1 senior
17 officer to serve as the principal advisor to—

18 “(1) assist the head of such department, agen-
19 cy, or element and other officials of such depart-
20 ment, agency, or element in appropriately consid-
21 ering privacy and civil liberties concerns when such
22 officials are proposing, developing, or implementing
23 laws, regulations, policies, procedures, or guidelines
24 related to efforts to protect the Nation against ter-
25 rorism;

1 “(2) periodically investigate and review depart-
2 ment, agency, or element actions, policies, proce-
3 dures, guidelines, and related laws and their imple-
4 mentation to ensure that such department, agency,
5 or element is adequately considering privacy and
6 civil liberties in its actions;

7 “(3) ensure that such department, agency, or
8 element has adequate procedures to receive, inves-
9 tigate, respond to, and redress complaints from indi-
10 viduals who allege such department, agency, or ele-
11 ment has violated their privacy or civil liberties; and

12 “(4) in providing advice on proposals to retain
13 or enhance a particular governmental power the offi-
14 cer shall consider whether such department, agency,
15 or element has established—

16 “(A) that the need for the power is bal-
17 anced with the need to protect privacy and civil
18 liberties;

19 “(B) that there is adequate supervision of
20 the use by such department, agency, or element
21 of the power to ensure protection of privacy and
22 civil liberties; and

23 “(C) that there are adequate guidelines
24 and oversight to properly confine its use.

25 “(b) EXCEPTION TO DESIGNATION AUTHORITY.—

1 “(1) PRIVACY OFFICERS.—In any department,
2 agency, or element referred to in subsection (a) or
3 designated by the Privacy and Civil Liberties Over-
4 sight Board, which has a statutorily created privacy
5 officer, such officer shall perform the functions spec-
6 ified in subsection (a) with respect to privacy.

7 “(2) CIVIL LIBERTIES OFFICERS.—In any de-
8 partment, agency, or element referred to in sub-
9 section (a) or designated by the Board, which has a
10 statutorily created civil liberties officer, such officer
11 shall perform the functions specified in subsection
12 (a) with respect to civil liberties.

13 “(c) SUPERVISION AND COORDINATION.—Each pri-
14 vacy officer or civil liberties officer described in subsection
15 (a) or (b) shall—

16 “(1) report directly to the head of the depart-
17 ment, agency, or element concerned; and

18 “(2) coordinate their activities with the Inspec-
19 tor General of such department, agency, or element
20 to avoid duplication of effort.

21 “(d) AGENCY COOPERATION.—The head of each de-
22 partment, agency, or element shall ensure that each pri-
23 vacy officer and civil liberties officer—

1 “(1) has the information, material, and re-
2 sources necessary to fulfill the functions of such offi-
3 cer;

4 “(2) is advised of proposed policy changes;

5 “(3) is consulted by decision makers; and

6 “(4) is given access to material and personnel
7 the officer determines to be necessary to carry out
8 the functions of such officer.

9 “(e) REPRISAL FOR MAKING COMPLAINT.—No ac-
10 tion constituting a reprisal, or threat of reprisal, for mak-
11 ing a complaint or for disclosing information to a privacy
12 officer or civil liberties officer described in subsection (a)
13 or (b), or to the Privacy and Civil Liberties Oversight
14 Board, that indicates a possible violation of privacy protec-
15 tions or civil liberties in the administration of the pro-
16 grams and operations of the Federal Government relating
17 to efforts to protect the Nation from terrorism shall be
18 taken by any Federal employee in a position to take such
19 action, unless the complaint was made or the information
20 was disclosed with the knowledge that it was false or with
21 willful disregard for its truth or falsity.

22 “(f) PERIODIC REPORTS.—

23 “(1) IN GENERAL.—The privacy officers and
24 civil liberties officers of each department, agency, or
25 element referred to or described in subsection (a) or

1 (b) shall periodically, but not less than quarterly,
2 submit a report on the activities of such officers—

3 “(A)(i) to the appropriate committees of
4 Congress, including the Committee on the Judi-
5 ciary of the Senate, the Committee on the Judi-
6 ciary of the House of Representatives, the Com-
7 mittee on Homeland Security and Govern-
8 mental Affairs of the Senate, the Committee on
9 Oversight and Government Reform of the
10 House of Representatives, the Select Committee
11 on Intelligence of the Senate, and the Perma-
12 nent Select Committee on Intelligence of the
13 House of Representatives;

14 “(ii) to the head of such department, agen-
15 cy, or element; and

16 “(iii) to the Privacy and Civil Liberties
17 Oversight Board; and

18 “(B) which shall be in unclassified form to
19 the greatest extent possible, with a classified
20 annex where necessary.

21 “(2) CONTENTS.—Each report submitted under
22 paragraph (1) shall include information on the dis-
23 charge of each of the functions of the officer con-
24 cerned, including—

1 “(A) information on the number and types
2 of reviews undertaken;

3 “(B) the type of advice provided and the
4 response given to such advice;

5 “(C) the number and nature of the com-
6 plaints received by the department, agency, or
7 element concerned for alleged violations; and

8 “(D) a summary of the disposition of such
9 complaints, the reviews and inquiries conducted,
10 and the impact of the activities of such officer.

11 “(g) INFORMING THE PUBLIC.—Each privacy officer
12 and civil liberties officer shall—

13 “(1) make the reports of such officer, including
14 reports to Congress, available to the public to the
15 greatest extent that is consistent with the protection
16 of classified information and applicable law; and

17 “(2) otherwise inform the public of the activi-
18 ties of such officer, as appropriate and in a manner
19 consistent with the protection of classified informa-
20 tion and applicable law.

21 “(h) SAVINGS CLAUSE.—Nothing in this section shall
22 be construed to limit or otherwise supplant any other au-
23 thorities or responsibilities provided by law to privacy offi-
24 cers or civil liberties officers.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 for the Intelligence Reform and Terrorism Prevention Act
3 of 2004 (Public Law 108–458) is amended by striking the
4 item relating to section 1062 and inserting the following
5 new item:

“Sec. 1062. Privacy and civil liberties officers.”.

6 **SEC. 804. FEDERAL AGENCY DATA MINING REPORTING ACT**
7 **OF 2007.**

8 (a) SHORT TITLE.—This section may be cited as the
9 “Federal Agency Data Mining Reporting Act of 2007”.

10 (b) DEFINITIONS.—In this section:

11 (1) DATA MINING.—The term “data mining”
12 means a program involving pattern-based queries,
13 searches, or other analyses of 1 or more electronic
14 databases, where—

15 (A) a department or agency of the Federal
16 Government, or a non-Federal entity acting on
17 behalf of the Federal Government, is con-
18 ducting the queries, searches, or other analyses
19 to discover or locate a predictive pattern or
20 anomaly indicative of terrorist or criminal activ-
21 ity on the part of any individual or individuals;

22 (B) the queries, searches, or other analyses
23 are not subject-based and do not use personal
24 identifiers of a specific individual, or inputs as-
25 sociated with a specific individual or group of

1 individuals, to retrieve information from the
2 database or databases; and

3 (C) the purpose of the queries, searches, or
4 other analyses is not solely—

5 (i) the detection of fraud, waste, or
6 abuse in a Government agency or program;
7 or

8 (ii) the security of a Government com-
9 puter system.

10 (2) DATABASE.—The term “database” does not
11 include telephone directories, news reporting, infor-
12 mation publicly available to any member of the pub-
13 lic without payment of a fee, or databases of judicial
14 and administrative opinions or other legal research
15 sources.

16 (c) REPORTS ON DATA MINING ACTIVITIES BY FED-
17 ERAL AGENCIES.—

18 (1) REQUIREMENT FOR REPORT.—The head of
19 each department or agency of the Federal Govern-
20 ment that is engaged in any activity to use or de-
21 velop data mining shall submit a report to Congress
22 on all such activities of the department or agency
23 under the jurisdiction of that official. The report
24 shall be produced in coordination with the privacy
25 officer of that department or agency, if applicable,

1 and shall be made available to the public, except for
2 an annex described in subparagraph (C).

3 (2) CONTENT OF REPORT.—Each report sub-
4 mitted under subparagraph (A) shall include, for
5 each activity to use or develop data mining, the fol-
6 lowing information:

7 (A) A thorough description of the data
8 mining activity, its goals, and, where appro-
9 priate, the target dates for the deployment of
10 the data mining activity.

11 (B) A thorough description of the data
12 mining technology that is being used or will be
13 used, including the basis for determining wheth-
14 er a particular pattern or anomaly is indicative
15 of terrorist or criminal activity.

16 (C) A thorough description of the data
17 sources that are being or will be used.

18 (D) An assessment of the efficacy or likely
19 efficacy of the data mining activity in providing
20 accurate information consistent with and valu-
21 able to the stated goals and plans for the use
22 or development of the data mining activity.

23 (E) An assessment of the impact or likely
24 impact of the implementation of the data min-
25 ing activity on the privacy and civil liberties of

1 individuals, including a thorough description of
2 the actions that are being taken or will be taken
3 with regard to the property, privacy, or other
4 rights or privileges of any individual or individ-
5 uals as a result of the implementation of the
6 data mining activity.

7 (F) A list and analysis of the laws and reg-
8 ulations that govern the information being or to
9 be collected, reviewed, gathered, analyzed, or
10 used in conjunction with the data mining activ-
11 ity, to the extent applicable in the context of
12 the data mining activity.

13 (G) A thorough discussion of the policies,
14 procedures, and guidelines that are in place or
15 that are to be developed and applied in the use
16 of such data mining activity in order to—

17 (i) protect the privacy and due process
18 rights of individuals, such as redress proce-
19 dures; and

20 (ii) ensure that only accurate and
21 complete information is collected, reviewed,
22 gathered, analyzed, or used, and guard
23 against any harmful consequences of po-
24 tential inaccuracies.

25 (3) ANNEX.—

1 (A) IN GENERAL.—A report under sub-
2 paragraph (A) shall include in an annex any
3 necessary—

4 (i) classified information;

5 (ii) law enforcement sensitive informa-
6 tion;

7 (iii) proprietary business information;

8 or

9 (iv) trade secrets (as that term is de-
10 fined in section 1839 of title 18, United
11 States Code).

12 (B) AVAILABILITY.—Any annex described
13 in clause (i)—

14 (i) shall be available, as appropriate,
15 and consistent with the National Security
16 Act of 1947 (50 U.S.C. 401 et seq.), to the
17 Committee on Homeland Security and
18 Governmental Affairs, the Committee on
19 the Judiciary, the Select Committee on In-
20 telligence, the Committee on Appropria-
21 tions, and the Committee on Banking,
22 Housing, and Urban Affairs of the Senate
23 and the Committee on Homeland Security,
24 the Committee on the Judiciary, the Per-
25 manent Select Committee on Intelligence,

1 the Committee on Appropriations, and the
2 Committee on Financial Services of the
3 House of Representatives; and

4 (ii) shall not be made available to the
5 public.

6 (4) TIME FOR REPORT.—Each report required
7 under subparagraph (A) shall be—

8 (A) submitted not later than 180 days
9 after the date of enactment of this Act; and

10 (B) updated not less frequently than annu-
11 ally thereafter, to include any activity to use or
12 develop data mining engaged in after the date
13 of the prior report submitted under subpara-
14 graph (A).

15 **TITLE IX—PRIVATE SECTOR** 16 **PREPAREDNESS**

17 **SEC. 901. PRIVATE SECTOR PREPAREDNESS.**

18 (a) IN GENERAL.—Title V of the Homeland Security
19 Act of 2002 (6 U.S.C. 311 et seq.), as amended by section
20 409, is further amended by adding at the end the fol-
21 lowing:

22 **“SEC. 523. GUIDANCE AND RECOMMENDATIONS.**

23 “(a) IN GENERAL.—Consistent with their respon-
24 sibilities and authorities under law, as of the day before
25 the date of the enactment of this section, the Adminis-

1 trator and the Assistant Secretary for Infrastructure Pro-
2 tection, in consultation with the private sector, may de-
3 velop guidance or recommendations and identify best prac-
4 tices to assist or foster action by the private sector in—

5 “(1) identifying potential hazards and assessing
6 risks and impacts;

7 “(2) mitigating the impact of a wide variety of
8 hazards, including weapons of mass destruction;

9 “(3) managing necessary emergency prepared-
10 ness and response resources;

11 “(4) developing mutual aid agreements;

12 “(5) developing and maintaining emergency
13 preparedness and response plans, and associated
14 operational procedures;

15 “(6) developing and conducting training and ex-
16 ercises to support and evaluate emergency prepared-
17 ness and response plans and operational procedures;

18 “(7) developing and conducting training pro-
19 grams for security guards to implement emergency
20 preparedness and response plans and operations pro-
21 cedures; and

22 “(8) developing procedures to respond to re-
23 quests for information from the media or the public.

1 “(b) ISSUANCE AND PROMOTION.—Any guidance or
2 recommendations developed or best practices identified
3 under subsection (a) shall be—

4 “(1) issued through the Administrator; and

5 “(2) promoted by the Secretary to the private
6 sector.

7 “(c) SMALL BUSINESS CONCERNS.—In developing
8 guidance or recommendations or identifying best practices
9 under subsection (a), the Administrator and the Assistant
10 Secretary for Infrastructure Protection shall take into
11 consideration small business concerns (under the meaning
12 given that term in section 3 of the Small Business Act
13 (15 U.S.C. 632)), including any need for separate guid-
14 ance or recommendations or best practices, as necessary
15 and appropriate.

16 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion may be construed to supersede any requirement es-
18 tablished under any other provision of law.

19 **“SEC. 524. VOLUNTARY PRIVATE SECTOR PREPAREDNESS**
20 **ACCREDITATION AND CERTIFICATION PRO-**
21 **GRAM.**

22 “(a) ESTABLISHMENT.—

23 “(1) IN GENERAL.—The Secretary, acting
24 through the officer designated under paragraph (2),
25 shall establish and implement the voluntary private

1 sector preparedness accreditation and certification
2 program in accordance with this section.

3 “(2) DESIGNATION OF OFFICER.—The Sec-
4 retary shall designate an officer responsible for the
5 accreditation and certification program under this
6 section. Such officer (hereinafter referred to in this
7 section as the ‘designated officer’) shall be one of
8 the following:

9 “(A) The Administrator, based on consid-
10 eration of—

11 “(i) the expertise of the Administrator
12 in emergency management and prepared-
13 ness in the United States; and

14 “(ii) the responsibilities of the Admin-
15 istrator as the principal advisor to the
16 President for all matters relating to emer-
17 gency management in the United States.

18 “(B) The Assistant Secretary for Infra-
19 structure Protection, based on consideration of
20 the expertise of the Assistant Secretary in, and
21 responsibilities for—

22 “(i) protection of critical infrastruc-
23 ture;

24 “(ii) risk assessment methodologies;
25 and

1 “(iii) interacting with the private sec-
2 tor on the issues described in clauses (i)
3 and (ii).

4 “(C) The Under Secretary for Science and
5 Technology, based on consideration of the ex-
6 pertise of the Under Secretary in, and respon-
7 sibilities associated with, standards.

8 “(3) COORDINATION.—In carrying out the ac-
9 creditation and certification program under this sec-
10 tion, the designated officer shall coordinate with—

11 “(A) the other officers of the Department
12 referred to in paragraph (2), using the expertise
13 and responsibilities of such officers; and

14 “(B) the Special Assistant to the Secretary
15 for the Private Sector, based on consideration
16 of the expertise of the Special Assistant in, and
17 responsibilities for, interacting with the private
18 sector.

19 “(b) VOLUNTARY PRIVATE SECTOR PREPAREDNESS
20 STANDARDS; VOLUNTARY ACCREDITATION AND CERTIFI-
21 CATION PROGRAM FOR THE PRIVATE SECTOR.—

22 “(1) ACCREDITATION AND CERTIFICATION PRO-
23 GRAM.—Not later than 210 days after the date of
24 enactment of the Implementing Recommendations of

1 the 9/11 Commission Act of 2007, the designated of-
2 ficer shall—

3 “(A) begin supporting the development and
4 updating, as necessary, of voluntary prepared-
5 ness standards through appropriate organiza-
6 tions that coordinate or facilitate the develop-
7 ment and use of voluntary consensus standards
8 and voluntary consensus standards development
9 organizations; and

10 “(B) in consultation with representatives
11 of appropriate organizations that coordinate or
12 facilitate the development and use of voluntary
13 consensus standards, appropriate voluntary con-
14 sensus standards development organizations,
15 each private sector advisory council created
16 under section 102(f)(4), appropriate representa-
17 tives of State and local governments, including
18 emergency management officials, and appro-
19 priate private sector advisory groups, such as
20 sector coordinating councils and information
21 sharing and analysis centers—

22 “(i) develop and promote a program
23 to certify the preparedness of private sec-
24 tor entities that voluntarily choose to seek
25 certification under the program; and

1 “(ii) implement the program under
2 this subsection through any entity with
3 which the designated officer enters into an
4 agreement under paragraph (3)(A), which
5 shall accredit third parties to carry out the
6 certification process under this section.

7 “(2) PROGRAM ELEMENTS.—

8 “(A) IN GENERAL.—

9 “(i) PROGRAM.—The program devel-
10 oped and implemented under this sub-
11 section shall assess whether a private sec-
12 tor entity complies with voluntary pre-
13 paredness standards.

14 “(ii) GUIDELINES.—In developing the
15 program under this subsection, the des-
16 ignated officer shall develop guidelines for
17 the accreditation and certification proc-
18 esses established under this subsection.

19 “(B) STANDARDS.—The designated officer,
20 in consultation with representatives of appro-
21 priate organizations that coordinate or facilitate
22 the development and use of voluntary consensus
23 standards, representatives of appropriate vol-
24 untary consensus standards development orga-
25 nizations, each private sector advisory council

1 created under section 102(f)(4), appropriate
2 representatives of State and local governments,
3 including emergency management officials, and
4 appropriate private sector advisory groups such
5 as sector coordinating councils and information
6 sharing and analysis centers—

7 “(i) shall adopt one or more appro-
8 priate voluntary preparedness standards
9 that promote preparedness, which may be
10 tailored to address the unique nature of
11 various sectors within the private sector, as
12 necessary and appropriate, that shall be
13 used in the accreditation and certification
14 program under this subsection; and

15 “(ii) after the adoption of one or more
16 standards under clause (i), may adopt ad-
17 ditional voluntary preparedness standards
18 or modify or discontinue the use of vol-
19 untary preparedness standards for the ac-
20 creditation and certification program, as
21 necessary and appropriate to promote pre-
22 paredness.

23 “(C) SUBMISSION OF RECOMMENDA-
24 TIONS.—In adopting one or more standards
25 under subparagraph (B), the designated officer

1 may receive recommendations from any entity
2 described in that subparagraph relating to ap-
3 propriate voluntary preparedness standards, in-
4 cluding appropriate sector specific standards,
5 for adoption in the program.

6 “(D) SMALL BUSINESS CONCERNS.—The
7 designated officer and any entity with which the
8 designated officer enters into an agreement
9 under paragraph (3)(A) shall establish separate
10 classifications and methods of certification for
11 small business concerns (under the meaning
12 given that term in section 3 of the Small Busi-
13 ness Act (15 U.S.C. 632)) for the program
14 under this subsection.

15 “(E) CONSIDERATIONS.—In developing
16 and implementing the program under this sub-
17 section, the designated officer shall—

18 “(i) consider the unique nature of var-
19 ious sectors within the private sector, in-
20 cluding preparedness standards, business
21 continuity standards, or best practices, es-
22 tablished—

23 “(I) under any other provision of
24 Federal law; or

1 “(II) by any sector-specific agen-
2 cy, as defined under Homeland Secu-
3 rity Presidential Directive-7; and

4 “(ii) coordinate the program, as ap-
5 propriate, with—

6 “(I) other Department private
7 sector related programs; and

8 “(II) preparedness and business
9 continuity programs in other Federal
10 agencies.

11 “(3) ACCREDITATION AND CERTIFICATION
12 PROCESSES.—

13 “(A) AGREEMENT.—

14 “(i) IN GENERAL.—Not later than
15 210 days after the date of enactment of
16 the Implementing Recommendations of the
17 9/11 Commission Act of 2007, the des-
18 ignated officer shall enter into one or more
19 agreements with a highly qualified non-
20 governmental entity with experience or ex-
21 pertise in coordinating and facilitating the
22 development and use of voluntary con-
23 sensus standards and in managing or im-
24 plementing accreditation and certification
25 programs for voluntary consensus stand-

1 ards, or a similarly qualified private sector
2 entity, to carry out accreditations and
3 oversee the certification process under this
4 subsection. An entity entering into an
5 agreement with the designated officer
6 under this clause (hereinafter referred to
7 in this section as a 'selected entity') shall
8 not perform certifications under this sub-
9 section.

10 “(ii) CONTENTS.—A selected entity
11 shall manage the accreditation process and
12 oversee the certification process in accord-
13 ance with the program established under
14 this subsection and accredit qualified third
15 parties to carry out the certification pro-
16 gram established under this subsection.

17 “(B) PROCEDURES AND REQUIREMENTS
18 FOR ACCREDITATION AND CERTIFICATION.—

19 “(i) IN GENERAL.—Any selected enti-
20 ty shall collaborate to develop procedures
21 and requirements for the accreditation and
22 certification processes under this sub-
23 section, in accordance with the program es-
24 tablished under this subsection and guide-
25 lines developed under paragraph (2)(A)(ii).

1 “(ii) CONTENTS AND USE.—The pro-
2 cedures and requirements developed under
3 clause (i) shall—

4 “(I) ensure reasonable uniformity
5 in any accreditation and certification
6 processes if there is more than one se-
7 lected entity; and

8 “(II) be used by any selected en-
9 tity in conducting accreditations and
10 overseeing the certification process
11 under this subsection.

12 “(iii) DISAGREEMENT.—Any disagree-
13 ment among selected entities in developing
14 procedures under clause (i) shall be re-
15 solved by the designated officer.

16 “(C) DESIGNATION.—A selected entity
17 may accredit any qualified third party to carry
18 out the certification process under this sub-
19 section.

20 “(D) DISADVANTAGED BUSINESS INVOLVE-
21 MENT.—In accrediting qualified third parties to
22 carry out the certification process under this
23 subsection, a selected entity shall ensure, to the
24 extent practicable, that the third parties include
25 qualified small, minority, women-owned, or dis-

1 advantaged business concerns when appro-
2 priate. The term ‘disadvantaged business con-
3 cern’ means a small business that is owned and
4 controlled by socially and economically dis-
5 advantaged individuals, as defined in section
6 124 of title 13, United States Code of Federal
7 Regulations.

8 “(E) TREATMENT OF OTHER CERTIFI-
9 CATIONS.—At the request of any entity seeking
10 certification, any selected entity may consider,
11 as appropriate, other relevant certifications ac-
12 quired by the entity seeking certification. If the
13 selected entity determines that such other cer-
14 tifications are sufficient to meet the certifi-
15 cation requirement or aspects of the certifi-
16 cation requirement under this section, the se-
17 lected entity may give credit to the entity seek-
18 ing certification, as appropriate, to avoid unnec-
19 essarily duplicative certification requirements.

20 “(F) THIRD PARTIES.—To be accredited
21 under subparagraph (C), a third party shall—

22 “(i) demonstrate that the third party
23 has the ability to certify private sector en-
24 tities in accordance with the procedures

1 and requirements developed under sub-
2 paragraph (B);

3 “(ii) agree to perform certifications in
4 accordance with such procedures and re-
5 quirements;

6 “(iii) agree not to have any beneficial
7 interest in or any direct or indirect control
8 over—

9 “(I) a private sector entity for
10 which that third party conducts a cer-
11 tification under this subsection; or

12 “(II) any organization that pro-
13 vides preparedness consulting services
14 to private sector entities;

15 “(iv) agree not to have any other con-
16 flict of interest with respect to any private
17 sector entity for which that third party
18 conducts a certification under this sub-
19 section;

20 “(v) maintain liability insurance cov-
21 erage at policy limits in accordance with
22 the requirements developed under subpara-
23 graph (B); and

24 “(vi) enter into an agreement with the
25 selected entity accrediting that third party

1 to protect any proprietary information of a
2 private sector entity obtained under this
3 subsection.

4 “(G) MONITORING.—

5 “(i) IN GENERAL.—The designated of-
6 ficer and any selected entity shall regularly
7 monitor and inspect the operations of any
8 third party conducting certifications under
9 this subsection to ensure that the third
10 party is complying with the procedures and
11 requirements established under subpara-
12 graph (B) and all other applicable require-
13 ments.

14 “(ii) REVOCATION.—If the designated
15 officer or any selected entity determines
16 that a third party is not meeting the proce-
17 dures or requirements established under
18 subparagraph (B), the selected entity
19 shall—

20 “(I) revoke the accreditation of
21 that third party to conduct certifi-
22 cations under this subsection; and

23 “(II) review any certification con-
24 ducted by that third party, as nec-
25 essary and appropriate.

1 “(4) ANNUAL REVIEW.—

2 “(A) IN GENERAL.—The designated offi-
3 cer, in consultation with representatives of ap-
4 propriate organizations that coordinate or facili-
5 tate the development and use of voluntary con-
6 sensus standards, appropriate voluntary con-
7 sensus standards development organizations,
8 appropriate representatives of State and local
9 governments, including emergency management
10 officials, and each private sector advisory coun-
11 cil created under section 102(f)(4), shall annu-
12 ally review the voluntary accreditation and cer-
13 tification program established under this sub-
14 section to ensure the effectiveness of such pro-
15 gram (including the operations and manage-
16 ment of such program by any selected entity
17 and the selected entity’s inclusion of qualified
18 disadvantaged business concerns under para-
19 graph (3)(D)) and make improvements and ad-
20 justments to the program as necessary and ap-
21 propriate.

22 “(B) REVIEW OF STANDARDS.—Each re-
23 view under subparagraph (A) shall include an
24 assessment of the voluntary preparedness

1 standard or standards used in the program
2 under this subsection.

3 “(5) VOLUNTARY PARTICIPATION.—Certifi-
4 cation under this subsection shall be voluntary for
5 any private sector entity.

6 “(6) PUBLIC LISTING.—The designated officer
7 shall maintain and make public a listing of any pri-
8 vate sector entity certified as being in compliance
9 with the program established under this subsection,
10 if that private sector entity consents to such listing.

11 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion may be construed as—

13 “(1) a requirement to replace any preparedness,
14 emergency response, or business continuity stand-
15 ards, requirements, or best practices established—

16 “(A) under any other provision of federal
17 law; or

18 “(B) by any sector-specific agency, as
19 those agencies are defined under Homeland Se-
20 curity Presidential Directive-7; or

21 “(2) exempting any private sector entity seek-
22 ing certification or meeting certification require-
23 ments under subsection (b) from compliance with all
24 applicable statutes, regulations, directives, policies,
25 and industry codes of practice.”

1 (b) REPORT TO CONGRESS.—Not later than 210 days
2 after the date of enactment of this Act, the Secretary shall
3 submit to the Committee on Homeland Security and Gov-
4 ernmental Affairs of the Senate and the Committee on
5 Homeland Security and the Committee on Transportation
6 and Infrastructure of the House of Representatives a re-
7 port detailing—

8 (1) any action taken to implement section
9 524(b) of the Homeland Security Act of 2002, as
10 added by subsection (a), including a discussion of—

11 (A) the separate methods of classification
12 and certification for small business concerns
13 (under the meaning given that term in section
14 3 of the Small Business Act (15 U.S.C. 632))
15 as compared to other private sector entities;
16 and

17 (B) whether the separate classifications
18 and methods of certification for small business
19 concerns are likely to help to ensure that such
20 measures are not overly burdensome and are
21 adequate to meet the voluntary preparedness
22 standard or standards adopted by the program
23 under section 524(b) of the Homeland Security
24 Act of 2002, as added by subsection (a); and

1 (2) the status, as of the date of that report, of
2 the implementation of that subsection.

3 (e) DEADLINE FOR DESIGNATION OF OFFICER.—The
4 Secretary of Homeland Security shall designate the officer
5 as described in section 524 of the Homeland Security Act
6 of 2002, as added by subsection (a), by not later than
7 30 days after the date of the enactment of this Act.

8 (d) DEFINITION.—Section 2 of the Homeland Secu-
9 rity Act of 2002 (6 U.S.C. 101) is amended by adding
10 at the end the following:

11 “(18) The term ‘voluntary preparedness stand-
12 ards’ means a common set of criteria for prepared-
13 ness, disaster management, emergency management,
14 and business continuity programs, such as the
15 American National Standards Institute’s National
16 Fire Protection Association Standard on Disaster/
17 Emergency Management and Business Continuity
18 Programs (ANSI/NFPA 1600).”.

19 (e) CLERICAL AMENDMENTS.—The table of contents
20 in section 1(b) of such Act is further amended by adding
21 at the end the following:

“Sec. 523. Guidance and recommendations.

“Sec. 524. Voluntary private sector preparedness accreditation and certification
program.”.

22 (f) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated such sums as may be

1 necessary to carry out this section and the amendments
2 made by this section.

3 **SEC. 902. RESPONSIBILITIES OF THE PRIVATE SECTOR OF-**
4 **FICE OF THE DEPARTMENT.**

5 (a) IN GENERAL.—Section 102(f) of the Homeland
6 Security Act of 2002 (6 U.S.C. 112(f)) is amended—

7 (1) by redesignating paragraphs (8) through
8 (10) as paragraphs (9) through (11), respectively;
9 and

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

12 “(8) providing information to the private sector
13 regarding voluntary preparedness standards and the
14 business justification for preparedness and pro-
15 moting to the private sector the adoption of vol-
16 untary preparedness standards;”

17 (b) PRIVATE SECTOR ADVISORY COUNCILS.—Section
18 102(f)(4) of the Homeland Security Act of 2002 (6 U.S.C.
19 112(f)(4)) is amended—

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

22 (2) in subparagraph (B), by inserting “and”
23 after the semicolon at the end; and

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

1 “(C) advise the Secretary on private sector
2 preparedness issues, including effective methods
3 for—

4 “(i) promoting voluntary preparedness
5 standards to the private sector; and

6 “(ii) assisting the private sector in
7 adopting voluntary preparedness stand-
8 ards;”.

9 **TITLE X—IMPROVING CRITICAL** 10 **INFRASTRUCTURE SECURITY**

11 **SEC. 1001. NATIONAL ASSET DATABASE.**

12 (a) IN GENERAL.—Subtitle A of title II of the Home-
13 land Security Act of 2002, as amended by title V, is fur-
14 ther amended by adding at the end the following new sec-
15 tion:

16 **“SEC. 210E. NATIONAL ASSET DATABASE.**

17 “(a) ESTABLISHMENT.—

18 “(1) NATIONAL ASSET DATABASE.—The Sec-
19 retary shall establish and maintain a national data-
20 base of each system or asset that—

21 “(A) the Secretary, in consultation with
22 appropriate homeland security officials of the
23 States, determines to be vital and the loss,
24 interruption, incapacity, or destruction of which
25 would have a negative or debilitating effect on

1 the economic security, public health, or safety
2 of the United States, any State, or any local
3 government; or

4 “(B) the Secretary determines is appro-
5 priate for inclusion in the database.

6 “(2) PRIORITIZED CRITICAL INFRASTRUCTURE
7 LIST.—In accordance with Homeland Security Presi-
8 dential Directive-7, as in effect on January 1, 2007,
9 the Secretary shall establish and maintain a single
10 classified prioritized list of systems and assets in-
11 cluded in the database under paragraph (1) that the
12 Secretary determines would, if destroyed or dis-
13 rupted, cause national or regional catastrophic ef-
14 fects.

15 “(b) USE OF DATABASE.—The Secretary shall use
16 the database established under subsection (a)(1) in the de-
17 velopment and implementation of Department plans and
18 programs as appropriate.

19 “(c) MAINTENANCE OF DATABASE.—

20 “(1) IN GENERAL.—The Secretary shall main-
21 tain and annually update the database established
22 under subsection (a)(1) and the list established
23 under subsection (a)(2), including—

1 “(A) establishing data collection guidelines
2 and providing such guidelines to the appro-
3 priate homeland security official of each State;

4 “(B) regularly reviewing the guidelines es-
5 tablished under subparagraph (A), including by
6 consulting with the appropriate homeland secu-
7 rity officials of States, to solicit feedback about
8 the guidelines, as appropriate;

9 “(C) after providing the homeland security
10 official of a State with the guidelines under
11 subparagraph (A), allowing the official a rea-
12 sonable amount of time to submit to the Sec-
13 retary any data submissions recommended by
14 the official for inclusion in the database estab-
15 lished under subsection (a)(1);

16 “(D) examining the contents and identi-
17 fying any submissions made by such an official
18 that are described incorrectly or that do not
19 meet the guidelines established under subpara-
20 graph (A); and

21 “(E) providing to the appropriate home-
22 land security official of each relevant State a
23 list of submissions identified under subpara-
24 graph (D) for review and possible correction be-
25 fore the Secretary finalizes the decision of

1 which submissions will be included in the data-
2 base established under subsection (a)(1).

3 “(2) ORGANIZATION OF INFORMATION IN DATA-
4 BASE.—The Secretary shall organize the contents of
5 the database established under subsection (a)(1) and
6 the list established under subsection (a)(2) as the
7 Secretary determines is appropriate. Any organiza-
8 tional structure of such contents shall include the
9 categorization of the contents—

10 “(A) according to the sectors listed in Na-
11 tional Infrastructure Protection Plan developed
12 pursuant to Homeland Security Presidential Di-
13 rective-7; and

14 “(B) by the State and county of their loca-
15 tion.

16 “(3) PRIVATE SECTOR INTEGRATION.—The
17 Secretary shall identify and evaluate methods, in-
18 cluding the Department’s Protected Critical Infra-
19 structure Information Program, to acquire relevant
20 private sector information for the purpose of using
21 that information to generate any database or list, in-
22 cluding the database established under subsection
23 (a)(1) and the list established under subsection
24 (a)(2).

1 “(4) RETENTION OF CLASSIFICATION.—The
2 classification of information required to be provided
3 to Congress, the Department, or any other depart-
4 ment or agency under this section by a sector-spe-
5 cific agency, including the assignment of a level of
6 classification of such information, shall be binding
7 on Congress, the Department, and that other Fed-
8 eral agency.

9 “(d) REPORTS.—

10 “(1) REPORT REQUIRED.—Not later than 180
11 days after the date of the enactment of the Imple-
12 menting Recommendations of the 9/11 Commission
13 Act of 2007, and annually thereafter, the Secretary
14 shall submit to the Committee on Homeland Secu-
15 rity and Governmental Affairs of the Senate and the
16 Committee on Homeland Security of the House of
17 Representatives a report on the database established
18 under subsection (a)(1) and the list established
19 under subsection (a)(2).

20 “(2) CONTENTS OF REPORT.—Each such report
21 shall include the following:

22 “(A) The name, location, and sector classi-
23 fication of each of the systems and assets on
24 the list established under subsection (a)(2).

1 “(B) The name, location, and sector classi-
2 fication of each of the systems and assets on
3 such list that are determined by the Secretary
4 to be most at risk to terrorism.

5 “(C) Any significant challenges in com-
6 piling the list of the systems and assets in-
7 cluded on such list or in the database estab-
8 lished under subsection (a)(1).

9 “(D) Any significant changes from the pre-
10 ceding report in the systems and assets in-
11 cluded on such list or in such database.

12 “(E) If appropriate, the extent to which
13 such database and such list have been used, in-
14 dividually or jointly, for allocating funds by the
15 Federal Government to prevent, reduce, miti-
16 gate, or respond to acts of terrorism.

17 “(F) The amount of coordination between
18 the Department and the private sector, through
19 any entity of the Department that meets with
20 representatives of private sector industries for
21 purposes of such coordination, for the purpose
22 of ensuring the accuracy of such database and
23 such list.

24 “(G) Any other information the Secretary
25 deems relevant.

1 “(3) CLASSIFIED INFORMATION.—The report
2 shall be submitted in unclassified form but may con-
3 tain a classified annex.

4 “(e) INSPECTOR GENERAL STUDY.—By not later
5 than two years after the date of enactment of the Imple-
6 menting Recommendations of the 9/11 Commission Act of
7 2007, the Inspector General of the Department shall con-
8 duct a study of the implementation of this section.

9 “(f) NATIONAL INFRASTRUCTURE PROTECTION CON-
10 SORTIUM.—The Secretary may establish a consortium to
11 be known as the ‘National Infrastructure Protection Con-
12 sortium’. The Consortium may advise the Secretary on the
13 best way to identify, generate, organize, and maintain any
14 database or list of systems and assets established by the
15 Secretary, including the database established under sub-
16 section (a)(1) and the list established under subsection
17 (a)(2). If the Secretary establishes the National Infra-
18 structure Protection Consortium, the Consortium may—

19 “(1) be composed of national laboratories, Fed-
20 eral agencies, State and local homeland security or-
21 ganizations, academic institutions, or national Cen-
22 ters of Excellence that have demonstrated experience
23 working with and identifying critical infrastructure
24 and key resources; and

1 “(2) provide input to the Secretary on any re-
2 quest pertaining to the contents of such database or
3 such list.”.

4 (b) **DEADLINES FOR IMPLEMENTATION AND NOTIFI-**
5 **CATION OF CONGRESS.**—Not later than 180 days after the
6 date of the enactment of this Act, the Secretary of Home-
7 land Security shall submit the first report required under
8 section 210E(d) of the Homeland Security Act of 2002,
9 as added by subsection (a).

10 (c) **CLERICAL AMENDMENT.**—The table of contents
11 in section 1(b) of such Act is further amended by inserting
12 after the item relating to section 210D the following:

 “Sec. 210E. National Asset Database.”.

13 **SEC. 1002. RISK ASSESSMENTS AND REPORT.**

14 (a) **RISK ASSESSMENTS.**—Section 201(d) of the
15 Homeland Security Act of 2002 (6 U.S.C. 121(d)) is fur-
16 ther amended by adding at the end the following new para-
17 graph:

18 “(25) To prepare and submit to the Committee
19 on Homeland Security and Governmental Affairs of
20 the Senate and the Committee on Homeland Secu-
21 rity in the House of Representatives, and to other
22 appropriate congressional committees having juris-
23 diction over the critical infrastructure or key re-
24 sources, for each sector identified in the National In-
25 frastructure Protection Plan, a report on the com-

1 prehensive assessments carried out by the Secretary
2 of the critical infrastructure and key resources of
3 the United States, evaluating threat, vulnerability,
4 and consequence, as required under this subsection.
5 Each such report—

6 “(A) shall contain, if applicable, actions or
7 countermeasures recommended or taken by the
8 Secretary or the head of another Federal agen-
9 cy to address issues identified in the assess-
10 ments;

11 “(B) shall be required for fiscal year 2007
12 and each subsequent fiscal year and shall be
13 submitted not later than 35 days after the last
14 day of the fiscal year covered by the report; and

15 “(C) may be classified.”

16 (b) REPORT ON INDUSTRY PREPAREDNESS.—Not
17 later than 6 months after the last day of fiscal year 2007
18 and each subsequent fiscal year, the Secretary of Home-
19 land Security, in cooperation with the Secretary of Com-
20 merce, the Secretary of Transportation, the Secretary of
21 Defense, and the Secretary of Energy, shall submit to the
22 Committee on Banking, Housing, and Urban Affairs and
23 the Committee on Homeland Security and Governmental
24 Affairs of the Senate and the Committee on Financial
25 Services and the Committee on Homeland Security of the

1 House of Representatives a report that details the actions
2 taken by the Federal Government to ensure, in accordance
3 with subsections (a) and (c) of section 101 of the Defense
4 Production Act of 1950 (50 U.S.C. App. 2071), the pre-
5 paredness of industry to reduce interruption of critical in-
6 frastructure and key resource operations during an act of
7 terrorism, natural catastrophe, or other similar national
8 emergency.

9 **SEC. 1003. SENSE OF CONGRESS REGARDING THE INCLU-**
10 **SION OF LEVEES IN THE NATIONAL INFRA-**
11 **STRUCTURE PROTECTION PLAN.**

12 It is the sense of Congress that the Secretary should
13 ensure that levees are included in one of the critical infra-
14 structure and key resources sectors identified in the Na-
15 tional Infrastructure Protection Plan.

16 **TITLE XI—ENHANCED DEFENSES**
17 **AGAINST WEAPONS OF MASS**
18 **DESTRUCTION**

19 **SEC. 1101. NATIONAL BIOSURVEILLANCE INTEGRATION**
20 **CENTER.**

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

1 **“SEC. 316. NATIONAL BIOSURVEILLANCE INTEGRATION**
2 **CENTER.**

3 “(a) **ESTABLISHMENT.**—The Secretary shall estab-
4 lish, operate, and maintain a National Biosurveillance In-
5 tegration Center (referred to in this section as the
6 ‘NBIC’), which shall be headed by a Directing Officer,
7 under an office or directorate of the Department that is
8 in existence as of the date of the enactment of this section.

9 “(b) **PRIMARY MISSION.**—The primary mission of the
10 NBIC is to—

11 “(1) enhance the capability of the Federal Gov-
12 ernment to—

13 “(A) rapidly identify, characterize, localize,
14 and track a biological event of national concern
15 by integrating and analyzing data relating to
16 human health, animal, plant, food, and environ-
17 mental monitoring systems (both national and
18 international); and

19 “(B) disseminate alerts and other informa-
20 tion to Member Agencies and, in coordination
21 with (and where possible through) Member
22 Agencies, to agencies of State, local, and tribal
23 governments, as appropriate, to enhance the
24 ability of such agencies to respond to a biologi-
25 cal event of national concern; and

1 “(2) oversee development and operation of the
2 National Biosurveillance Integration System.

3 “(c) REQUIREMENTS.—The NBIC shall detect, as
4 early as possible, a biological event of national concern
5 that presents a risk to the United States or the infrastruc-
6 ture or key assets of the United States, including by—

7 “(1) consolidating data from all relevant sur-
8 veillance systems maintained by Member Agencies to
9 detect biological events of national concern across
10 human, animal, and plant species;

11 “(2) seeking private sources of surveillance,
12 both foreign and domestic, when such sources would
13 enhance coverage of critical surveillance gaps;

14 “(3) using an information technology system
15 that uses the best available statistical and other ana-
16 lytical tools to identify and characterize biological
17 events of national concern in as close to real-time as
18 is practicable;

19 “(4) providing the infrastructure for such inte-
20 gration, including information technology systems
21 and space, and support for personnel from Member
22 Agencies with sufficient expertise to enable analysis
23 and interpretation of data;

24 “(5) working with Member Agencies to create
25 information technology systems that use the min-

1 imum amount of patient data necessary and consider
2 patient confidentiality and privacy issues at all
3 stages of development and apprise the Privacy Offi-
4 cer of such efforts; and

5 “(6) alerting Member Agencies and, in coordi-
6 nation with (and where possible through) Member
7 Agencies, public health agencies of State, local, and
8 tribal governments regarding any incident that could
9 develop into a biological event of national concern.

10 “(d) RESPONSIBILITIES OF THE DIRECTING OFFI-
11 CER OF THE NBIC.—

12 “(1) IN GENERAL.—The Directing Officer of
13 the NBIC shall—

14 “(A) on an ongoing basis, monitor the
15 availability and appropriateness of surveillance
16 systems used by the NBIC and those systems
17 that could enhance biological situational aware-
18 ness or the overall performance of the NBIC;

19 “(B) on an ongoing basis, review and seek
20 to improve the statistical and other analytical
21 methods used by the NBIC;

22 “(C) receive and consider other relevant
23 homeland security information, as appropriate;
24 and

1 “(D) provide technical assistance, as ap-
2 propriate, to all Federal, regional, State, local,
3 and tribal government entities and private sec-
4 tor entities that contribute data relevant to the
5 operation of the NBIC.

6 “(2) ASSESSMENTS.—The Directing Officer of
7 the NBIC shall—

8 “(A) on an ongoing basis, evaluate avail-
9 able data for evidence of a biological event of
10 national concern; and

11 “(B) integrate homeland security informa-
12 tion with NBIC data to provide overall situa-
13 tional awareness and determine whether a bio-
14 logical event of national concern has occurred.

15 “(3) INFORMATION SHARING.—

16 “(A) IN GENERAL.—The Directing Officer
17 of the NBIC shall—

18 “(i) establish a method of real-time
19 communication with the National Oper-
20 ations Center;

21 “(ii) in the event that a biological
22 event of national concern is detected, no-
23 tify the Secretary and disseminate results
24 of NBIC assessments relating to that bio-
25 logical event of national concern to appro-

1 appropriate Federal response entities and, in co-
2 ordination with relevant Member Agencies,
3 regional, State, local, and tribal govern-
4 mental response entities in a timely man-
5 ner;

6 “(iii) provide any report on NBIC as-
7 sements to Member Agencies and, in co-
8 ordination with relevant Member Agencies,
9 any affected regional, State, local, or tribal
10 government, and any private sector entity
11 considered appropriate that may enhance
12 the mission of such Member Agencies, gov-
13 ernments, or entities or the ability of the
14 Nation to respond to biological events of
15 national concern; and

16 “(iv) share NBIC incident or situa-
17 tional awareness reports, and other rel-
18 evant information, consistent with the in-
19 formation sharing environment established
20 under section 1016 of the Intelligence Re-
21 form and Terrorism Prevention Act of
22 2004 (6 U.S.C. 485) and any policies,
23 guidelines, procedures, instructions, or
24 standards established under that section.

1 “(B) CONSULTATION.—The Directing Offi-
2 cer of the NBIC shall implement the activities
3 described in subparagraph (A) consistent with
4 the policies, guidelines, procedures, instructions,
5 or standards established under section 1016 of
6 the Intelligence Reform and Terrorism Preven-
7 tion Act of 2004 (6 U.S.C. 485) and in con-
8 sultation with the Director of National Intel-
9 ligence, the Under Secretary for Intelligence
10 and Analysis, and other offices or agencies of
11 the Federal Government, as appropriate.

12 “(e) RESPONSIBILITIES OF THE NBIC MEMBER
13 AGENCIES.—

14 “(1) IN GENERAL.—Each Member Agency
15 shall—

16 “(A) use its best efforts to integrate bio-
17 surveillance information into the NBIC, with
18 the goal of promoting information sharing be-
19 tween Federal, State, local, and tribal govern-
20 ments to detect biological events of national
21 concern;

22 “(B) provide timely information to assist
23 the NBIC in maintaining biological situational
24 awareness for accurate detection and response
25 purposes;

1 “(C) enable the NBIC to receive and use
2 biosurveillance information from member agen-
3 cies to carry out its requirements under sub-
4 section (c);

5 “(D) connect the biosurveillance data sys-
6 tems of that Member Agency to the NBIC data
7 system under mutually agreed protocols that
8 are consistent with subsection (c)(5);

9 “(E) participate in the formation of strat-
10 egy and policy for the operation of the NBIC
11 and its information sharing;

12 “(F) provide personnel to the NBIC under
13 an interagency personnel agreement and con-
14 sider the qualifications of such personnel nec-
15 essary to provide human, animal, and environ-
16 mental data analysis and interpretation support
17 to the NBIC; and

18 “(G) retain responsibility for the surveil-
19 lance and intelligence systems of that depart-
20 ment or agency, if applicable.

21 “(f) ADMINISTRATIVE AUTHORITIES.—

22 “(1) HIRING OF EXPERTS.—The Directing Offi-
23 cer of the NBIC shall hire individuals with the nec-
24 essary expertise to develop and operate the NBIC.

1 “(2) DETAIL OF PERSONNEL.—Upon the re-
2 quest of the Directing Officer of the NBIC, the head
3 of any Federal department or agency may detail, on
4 a reimbursable basis, any of the personnel of that
5 department or agency to the Department to assist
6 the NBIC in carrying out this section.

7 “(g) NBIC INTERAGENCY WORKING GROUP.—The
8 Directing Officer of the NBIC shall—

9 “(1) establish an interagency working group to
10 facilitate interagency cooperation and to advise the
11 Directing Officer of the NBIC regarding rec-
12 ommendations to enhance the biosurveillance capa-
13 bilities of the Department; and

14 “(2) invite Member Agencies to serve on that
15 working group.

16 “(h) RELATIONSHIP TO OTHER DEPARTMENTS AND
17 AGENCIES.—The authority of the Directing Officer of the
18 NBIC under this section shall not affect any authority or
19 responsibility of any other department or agency of the
20 Federal Government with respect to biosurveillance activi-
21 ties under any program administered by that department
22 or agency.

23 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as are nec-
25 essary to carry out this section.

1 “(j) DEFINITIONS.—In this section:

2 “(1) The terms ‘biological agent’ and ‘toxin’
3 have the meanings given those terms in section 178
4 of title 18, United States Code.

5 “(2) The term ‘biological event of national con-
6 cern’ means—

7 “(A) an act of terrorism involving a bio-
8 logical agent or toxin; or

9 “(B) a naturally occurring outbreak of an
10 infectious disease that may result in a national
11 epidemic.

12 “(3) The term ‘homeland security information’
13 has the meaning given that term in section 892.

14 “(4) The term ‘Member Agency’ means any
15 Federal department or agency that, at the discretion
16 of the head of that department or agency, has en-
17 tered a memorandum of understanding regarding
18 participation in the NBIC.

19 “(5) The term ‘Privacy Officer’ means the Pri-
20 vacy Officer appointed under section 222.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 in section 1(b) of the Homeland Security Act of 2002 (6
23 U.S.C. 101 et seq.) is amended by inserting after the item
24 relating to section 315 the following:

“Sec. 316. National Biosurveillance Integration Center.”.

1 (c) DEADLINE FOR IMPLEMENTATION.—The Na-
2 tional Biosurveillance Integration Center under section
3 316 of the Homeland Security Act, as added by subsection
4 (a), shall be fully operational by not later than September
5 30, 2008;

6 (d) REPORT.—Not later than 180 days after the date
7 of enactment of this Act, the Secretary of Homeland Secu-
8 rity shall submit to the Committee on Homeland Security
9 and Governmental Affairs of the Senate and the Com-
10 mittee on Homeland Security of the House of Representa-
11 tives an interim report on the status of the operations at
12 the National Biosurveillance Integration Center that ad-
13 dresses the efforts of the Center to integrate the surveil-
14 lance efforts of Federal, State, local, and tribal govern-
15 ments. When the National Biosurveillance Integration
16 Center is fully operational, the Secretary shall submit to
17 such committees a final report on the status of such oper-
18 ations.

19 **SEC. 1102. BIOSURVEILLANCE EFFORTS.**

20 The Comptroller General of the United States shall
21 submit to Congress a report —

22 (1) describing the state of Federal, State, local,
23 and tribal government biosurveillance efforts as of
24 the date of such report;

1 (2) describing any duplication of effort at the
2 Federal, State, local, or tribal government level to
3 create biosurveillance systems; and

4 (3) providing the recommendations of the
5 Comptroller General regarding—

6 (A) the integration of biosurveillance sys-
7 tems;

8 (B) the effective use of biosurveillance re-
9 sources; and

10 (C) the effective use of the expertise of
11 Federal, State, local, and tribal governments.

12 **SEC. 1103. INTERAGENCY COORDINATION TO ENHANCE DE-**
13 **FENSES AGAINST NUCLEAR AND RADIO-**
14 **LOGICAL WEAPONS OF MASS DESTRUCTION.**

15 (a) IN GENERAL.—The Homeland Security Act of
16 2002 (6 U.S.C. 101 et seq.) is amended by inserting after
17 section 1906, as redesignated by section 104, the fol-
18 lowing:

19 **“SEC. 1907. JOINT ANNUAL INTERAGENCY REVIEW OF**
20 **GLOBAL NUCLEAR DETECTION ARCHITEC-**
21 **TURE.**

22 **“(a) ANNUAL REVIEW.—**

23 **“(1) IN GENERAL.—**The Secretary, the Attor-
24 ney General, the Secretary of State, the Secretary of
25 Defense, the Secretary of Energy, and the Director

1 of National Intelligence shall jointly ensure inter-
2 agency coordination on the development and imple-
3 mentation of the global nuclear detection architec-
4 ture by ensuring that, not less frequently than once
5 each year—

6 “(A) each relevant agency, office, or enti-
7 ty—

8 “(i) assesses its involvement, support,
9 and participation in the development, revi-
10 sion, and implementation of the global nu-
11 clear detection architecture; and

12 “(ii) examines and evaluates compo-
13 nents of the global nuclear detection archi-
14 tecture (including associated strategies and
15 acquisition plans) relating to the oper-
16 ations of that agency, office, or entity, to
17 determine whether such components incor-
18 porate and address current threat assess-
19 ments, scenarios, or intelligence analyses
20 developed by the Director of National In-
21 telligence or other agencies regarding
22 threats relating to nuclear or radiological
23 weapons of mass destruction; and

24 “(B) each agency, office, or entity deploy-
25 ing or operating any nuclear or radiological de-

1 tection technology under the global nuclear de-
2 tection architecture—

3 “(i) evaluates the deployment and op-
4 eration of nuclear or radiological detection
5 technologies under the global nuclear de-
6 tection architecture by that agency, office,
7 or entity;

8 “(ii) identifies performance defi-
9 ciencies and operational or technical defi-
10 ciencies in nuclear or radiological detection
11 technologies deployed under the global nu-
12 clear detection architecture; and

13 “(iii) assesses the capacity of that
14 agency, office, or entity to implement the
15 responsibilities of that agency, office, or
16 entity under the global nuclear detection
17 architecture.

18 “(2) TECHNOLOGY.—Not less frequently than
19 once each year, the Secretary shall examine and
20 evaluate the development, assessment, and acquisi-
21 tion of radiation detection technologies deployed or
22 implemented in support of the domestic portion of
23 the global nuclear detection architecture.

24 “(b) ANNUAL REPORT ON JOINT INTERAGENCY RE-
25 VIEW.—

1 “(1) IN GENERAL.—Not later than March 31 of
2 each year, the Secretary, the Attorney General, the
3 Secretary of State, the Secretary of Defense, the
4 Secretary of Energy, and the Director of National
5 Intelligence, shall jointly submit a report regarding
6 the implementation of this section and the results of
7 the reviews required under subsection (a) to—

8 “(A) the President;

9 “(B) the Committee on Appropriations, the
10 Committee on Armed Services, the Select Com-
11 mittee on Intelligence, and the Committee on
12 Homeland Security and Governmental Affairs
13 of the Senate; and

14 “(C) the Committee on Appropriations, the
15 Committee on Armed Services, the Permanent
16 Select Committee on Intelligence, the Com-
17 mittee on Homeland Security, and the Com-
18 mittee on Science and Technology of the House
19 of Representatives.

20 “(2) FORM.—The annual report submitted
21 under paragraph (1) shall be submitted in unclassi-
22 fied form to the maximum extent practicable, but
23 may include a classified annex.

1 **TITLE XII—TRANSPORTATION**
2 **SECURITY PLANNING AND IN-**
3 **FORMATION SHARING**

4 **SEC. 1201. DEFINITIONS.**

5 For purposes of this title, the following terms apply:

6 (1) **DEPARTMENT.**—The term “Department”
7 means the Department of Homeland Security.

8 (2) **SECRETARY.**—The term “Secretary” means
9 the Secretary of Homeland Security.

10 **SEC. 1202. TRANSPORTATION SECURITY STRATEGIC PLAN-**
11 **NING.**

12 (a) **IN GENERAL.**—Section 114(t)(1)(B) of title 49,
13 United States Code, is amended to read as follows:

14 “(B) transportation modal security plans
15 addressing security risks, including threats,
16 vulnerabilities, and consequences, for aviation,
17 railroad, ferry, highway, maritime, pipeline,
18 public transportation, over-the-road bus, and
19 other transportation infrastructure assets.”.

20 (b) **CONTENTS OF THE NATIONAL STRATEGY FOR**
21 **TRANSPORTATION SECURITY.**—Section 114(t)(3) of such
22 title is amended—

23 (1) in subparagraph (B), by inserting “, based
24 on risk assessments conducted or received by the
25 Secretary of Homeland Security (including assess-

1 ments conducted under the Implementing Rec-
2 ommendations of the 9/11 Commission Act of 2007”
3 after “risk based priorities”;

4 (2) in subparagraph (D)—

5 (A) by striking “and local” and inserting
6 “local, and tribal”; and

7 (B) by striking “private sector cooperation
8 and participation” and inserting “cooperation
9 and participation by private sector entities, in-
10 cluding nonprofit employee labor organiza-
11 tions,”;

12 (3) in subparagraph (E)—

13 (A) by striking “response” and inserting
14 “prevention, response,”; and

15 (B) by inserting “and threatened and exe-
16 cuted acts of terrorism outside the United
17 States to the extent such acts affect United
18 States transportation systems” before the pe-
19 riod at the end;

20 (4) in subparagraph (F), by adding at the end
21 the following: “Transportation security research and
22 development projects shall be based, to the extent
23 practicable, on such prioritization. Nothing in the
24 preceding sentence shall be construed to require the
25 termination of any research or development project

1 initiated by the Secretary of Homeland Security or
2 the Secretary of Transportation before the date of
3 enactment of the Implementing Recommendations of
4 the 9/11 Commission Act of 2007.”; and

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

6 “(G) A 3- and 10-year budget for Federal
7 transportation security programs that will
8 achieve the priorities of the National Strategy
9 for Transportation Security.

10 “(H) Methods for linking the individual
11 transportation modal security plans and the
12 programs contained therein, and a plan for ad-
13 dressing the security needs of intermodal trans-
14 portation.

15 “(I) Transportation modal security plans
16 described in paragraph (1)(B), including oper-
17 ational recovery plans to expedite, to the max-
18 imum extent practicable, the return to oper-
19 ation of an adversely affected transportation
20 system following a major terrorist attack on
21 that system or other incident. These plans shall
22 be coordinated with the resumption of trade
23 protocols required under section 202 of the
24 SAFE Port Act (6 U.S.C. 942) and the Na-

1 tional Maritime Transportation Security Plan
2 required under section 70103(a) of title 46.”

3 (c) PERIODIC PROGRESS REPORTS.—Section
4 114(t)(4) of such title is amended—

5 (1) in subparagraph (C)—

6 (A) in clause (i) by inserting “, including
7 the transportation modal security plans” before
8 the period at the end; and

9 (B) by striking clause (ii) and inserting the
10 following:

11 “(ii) CONTENT.—Each progress re-
12 port submitted under this subparagraph
13 shall include, at a minimum, the following:

14 “(I) Recommendations for im-
15 proving and implementing the Na-
16 tional Strategy for Transportation Se-
17 curity and the transportation modal
18 and intermodal security plans that the
19 Secretary of Homeland Security, in
20 consultation with the Secretary of
21 Transportation, considers appropriate.

22 “(II) An accounting of all grants
23 for transportation security, including
24 grants and contracts for research and
25 development, awarded by the Sec-

1 retary of Homeland Security in the
2 most recent fiscal year and a descrip-
3 tion of how such grants accomplished
4 the goals of the National Strategy for
5 Transportation Security.

6 “(III) An accounting of all—

7 “(aa) funds requested in the
8 President’s budget submitted
9 pursuant to section 1105 of title
10 31 for the most recent fiscal year
11 for transportation security, by
12 mode;

13 “(bb) personnel working on
14 transportation security by mode,
15 including the number of contrac-
16 tors; and

17 “(cc) information on the
18 turnover in the previous year
19 among senior staff of the Depart-
20 ment of Homeland Security, in-
21 cluding component agencies,
22 working on transportation secu-
23 rity issues. Such information
24 shall include the number of em-
25 ployees who have permanently

1 left the office, agency, or area in
2 which they worked, and the
3 amount of time that they worked
4 for the Department.

5 “(iii) WRITTEN EXPLANATION OF
6 TRANSPORTATION SECURITY ACTIVITIES
7 NOT DELINEATED IN THE NATIONAL
8 STRATEGY FOR TRANSPORTATION SECU-
9 RITY.—At the end of each fiscal year, the
10 Secretary of Homeland Security shall sub-
11 mit to the appropriate congressional com-
12 mittees a written explanation of any Fed-
13 eral transportation security activity that is
14 inconsistent with the National Strategy for
15 Transportation Security, including the
16 amount of funds to be expended for the ac-
17 tivity and the number of personnel in-
18 volved.”; and

19 (2) by striking subparagraph (E) and inserting
20 the following:

21 “(E) APPROPRIATE CONGRESSIONAL COM-
22 MITTEES DEFINED.—In this subsection, the
23 term ‘appropriate congressional committees’
24 means the Committee on Transportation and
25 Infrastructure and the Committee on Homeland

1 Security of the House of Representatives and
2 the Committee on Commerce, Science, and
3 Transportation, the Committee on Homeland
4 Security and Governmental Affairs, and the
5 Committee on Banking, Housing, and Urban
6 Affairs of the Senate.”.

7 (d) PRIORITY STATUS.—Section 114(t)(5)(B) of such
8 title is amended—

9 (1) in clause (iii), by striking “and” at the end;

10 (2) by redesignating clause (iv) as clause (v);

11 and

12 (3) by inserting after clause (iii) the following:

13 “(iv) the transportation sector specific
14 plan required under Homeland Security
15 Presidential Directive 7; and”.

16 (e) COORDINATION AND PLAN DISTRIBUTION.—Sec-
17 tion 114(t) of such title is amended by adding at the end
18 the following:

19 “(6) COORDINATION.—In carrying out the re-
20 sponsibilities under this section, the Secretary of
21 Homeland Security, in coordination with the Sec-
22 retary of Transportation, shall consult, as appro-
23 priate, with Federal, State, and local agencies, tribal
24 governments, private sector entities (including non-

1 profit employee labor organizations), institutions of
2 higher learning, and other entities.

3 “(7) PLAN DISTRIBUTION.—The Secretary of
4 Homeland Security shall make available and appro-
5 priately publicize an unclassified version of the Na-
6 tional Strategy for Transportation Security, includ-
7 ing its component transportation modal security
8 plans, to Federal, State, regional, local and tribal
9 authorities, transportation system owners or opera-
10 tors, private sector stakeholders, including nonprofit
11 employee labor organizations representing transpor-
12 tation employees, institutions of higher learning, and
13 other appropriate entities.”

14 **SEC. 1203. TRANSPORTATION SECURITY INFORMATION**
15 **SHARING.**

16 (a) IN GENERAL.—Section 114 of title 49, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

19 “(u) TRANSPORTATION SECURITY INFORMATION
20 SHARING PLAN.—

21 “(1) DEFINITIONS.—In this subsection:

22 “(A) APPROPRIATE CONGRESSIONAL COM-
23 MITTEES.—The term ‘appropriate congressional
24 committees’ has the meaning given that term in
25 subsection (t).

1 “(B) PLAN.—The term ‘Plan’ means the
2 Transportation Security Information Sharing
3 Plan established under paragraph (2).

4 “(C) PUBLIC AND PRIVATE STAKE-
5 HOLDERS.—The term ‘public and private stake-
6 holders’ means Federal, State, and local agen-
7 cies, tribal governments, and appropriate pri-
8 vate entities, including nonprofit employee labor
9 organizations representing transportation em-
10 ployees.

11 “(D) SECRETARY.—The term ‘Secretary’
12 means the Secretary of Homeland Security.

13 “(E) TRANSPORTATION SECURITY INFOR-
14 MATION.—The term ‘transportation security in-
15 formation’ means information relating to the
16 risks to transportation modes, including avia-
17 tion, public transportation, railroad, ferry, high-
18 way, maritime, pipeline, and over-the-road bus
19 transportation, and may include specific and
20 general intelligence products, as appropriate.

21 “(2) ESTABLISHMENT OF PLAN.—The Sec-
22 retary of Homeland Security, in consultation with
23 the program manager of the information sharing en-
24 vironment established under section 1016 of the In-
25 telligence Reform and Terrorism Prevention Act of

1 2004 (6 U.S.C. 485), the Secretary of Transpor-
2 tation, and public and private stakeholders, shall es-
3 tablish a Transportation Security Information Shar-
4 ing Plan. In establishing the Plan, the Secretary
5 shall gather input on the development of the Plan
6 from private and public stakeholders and the pro-
7 gram manager of the information sharing environ-
8 ment established under section 1016 of the Intel-
9 ligence Reform and Terrorism Prevention Act of
10 2004 (6 U.S.C. 485).

11 “(3) PURPOSE OF PLAN.—The Plan shall pro-
12 mote sharing of transportation security information
13 between the Department of Homeland Security and
14 public and private stakeholders.

15 “(4) CONTENT OF PLAN.—The Plan shall in-
16 clude—

17 “(A) a description of how intelligence ana-
18 lysts within the Department of Homeland Secu-
19 rity will coordinate their activities within the
20 Department and with other Federal, State, and
21 local agencies, and tribal governments, includ-
22 ing coordination with existing modal informa-
23 tion sharing centers and the center described in
24 section 1410 of the Implementing Rec-

1 ommendations of the 9/11 Commission Act of
2 2007;

3 “(B) the establishment of a point of con-
4 tact, which may be a single point of contact
5 within the Department of Homeland Security,
6 for each mode of transportation for the sharing
7 of transportation security information with pub-
8 lic and private stakeholders, including an expla-
9 nation and justification to the appropriate con-
10 gressional committees if the point of contact es-
11 tablished pursuant to this subparagraph differs
12 from the agency within the Department that
13 has the primary authority, or has been dele-
14 gated such authority by the Secretary, to regu-
15 late the security of that transportation mode;

16 “(C) a reasonable deadline by which the
17 Plan will be implemented; and

18 “(D) a description of resource needs for
19 fulfilling the Plan.

20 “(5) COORDINATION WITH INFORMATION SHAR-
21 ING.—The Plan shall be—

22 “(A) implemented in coordination, as ap-
23 propriate, with the program manager for the in-
24 formation sharing environment established
25 under section 1016 of the Intelligence Reform

1 and Terrorism Prevention Act of 2004 (6
2 U.S.C. 485); and

3 “(B) consistent with the establishment of
4 the information sharing environment and any
5 policies, guidelines, procedures, instructions, or
6 standards established by the President or the
7 program manager for the implementation and
8 management of the information sharing envi-
9 ronment.

10 “(6) REPORTS TO CONGRESS.—

11 “(A) IN GENERAL.—Not later than 150
12 days after the date of enactment of this sub-
13 section, and annually thereafter, the Secretary
14 shall submit to the appropriate congressional
15 committees, a report containing the Plan.

16 “(B) ANNUAL REPORT.—Not later than 1
17 year after the date of enactment of this sub-
18 section, the Secretary shall submit to the appro-
19 priate congressional committees a report on up-
20 dates to and the implementation of the Plan.

21 “(7) SURVEY AND REPORT.—

22 “(A) IN GENERAL.—The Comptroller Gen-
23 eral of the United States shall conduct a bien-
24 nial survey of the satisfaction of recipients of

1 transportation intelligence reports disseminated
2 under the Plan.

3 “(B) INFORMATION SOUGHT.—The survey
4 conducted under subparagraph (A) shall seek
5 information about the quality, speed, regularity,
6 and classification of the transportation security
7 information products disseminated by the De-
8 partment of Homeland Security to public and
9 private stakeholders.

10 “(C) REPORT.—Not later than 1 year
11 after the date of the enactment of the Imple-
12 menting Recommendations of the 9/11 Commis-
13 sion Act of 2007, and every even numbered
14 year thereafter, the Comptroller General shall
15 submit to the appropriate congressional com-
16 mittees, a report on the results of the survey
17 conducted under subparagraph (A). The Comp-
18 troller General shall also provide a copy of the
19 report to the Secretary.

20 “(8) SECURITY CLEARANCES.—The Secretary
21 shall, to the greatest extent practicable, take steps
22 to expedite the security clearances needed for des-
23 ignated public and private stakeholders to receive
24 and obtain access to classified information distrib-
25 uted under this section, as appropriate.

1 “(9) CLASSIFICATION OF MATERIAL.—The Sec-
2 retary, to the greatest extent practicable, shall pro-
3 vide designated public and private stakeholders with
4 transportation security information in an unclassi-
5 fied format.”.

6 (b) CONGRESSIONAL OVERSIGHT OF SECURITY AS-
7 SURANCE FOR PUBLIC AND PRIVATE STAKEHOLDERS.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the Secretary shall provide a semiannual
10 report to the Committee on Homeland Security and
11 Governmental Affairs, the Committee on Commerce,
12 Science, and Transportation, and the Committee on
13 Banking, Housing, and Urban Affairs of the Senate
14 and the Committee on Homeland Security and the
15 Committee on Transportation and Infrastructure of
16 the House of Representatives that includes—

17 (A) the number of public and private
18 stakeholders who were provided with each re-
19 port;

20 (B) a description of the measures the Sec-
21 retary has taken, under section 114(u)(7) of
22 title 49, United States Code, as added by this
23 section, or otherwise, to ensure proper treat-
24 ment and security for any classified information

1 to be shared with the public and private stake-
2 holders under the Plan; and

3 (C) an explanation of the reason for the
4 denial of transportation security information to
5 any stakeholder who had previously received
6 such information.

7 (2) NO REPORT REQUIRED IF NO CHANGES IN
8 STAKEHOLDERS.—The Secretary is not required to
9 provide a semiannual report under paragraph (1) if
10 no stakeholders have been added to or removed from
11 the group of persons with whom transportation secu-
12 rity information is shared under the plan since the
13 end of the period covered by the last preceding semi-
14 annual report.

15 **SEC. 1204. NATIONAL DOMESTIC PREPAREDNESS CONSOR-**
16 **TIUM.**

17 (a) IN GENERAL.—The Secretary is authorized to es-
18 tablish, operate, and maintain a National Domestic Pre-
19 paredness Consortium within the Department.

20 (b) MEMBERS.—Members of the National Domestic
21 Preparedness Consortium shall consist of—

22 (1) the Center for Domestic Preparedness;

23 (2) the National Energetic Materials Research
24 and Testing Center, New Mexico Institute of Mining
25 and Technology;

1 (3) the National Center for Biomedical Re-
2 search and Training, Louisiana State University;

3 (4) the National Emergency Response and Res-
4 cue Training Center, Texas A&M University;

5 (5) the National Exercise, Test, and Training
6 Center, Nevada Test Site;

7 (6) the Transportation Technology Center, In-
8 corporated, in Pueblo, Colorado; and

9 (7) the National Disaster Preparedness Train-
10 ing Center, University of Hawaii.

11 (c) DUTIES.—The National Domestic Preparedness
12 Consortium shall identify, develop, test, and deliver train-
13 ing to State, local, and tribal emergency response pro-
14 viders, provide on-site and mobile training at the perform-
15 ance and management and planning levels, and facilitate
16 the delivery of training by the training partners of the De-
17 partment.

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Secretary—

20 (1) for the Center for Domestic Preparedness—

21 (A) \$57,000,000 for fiscal year 2008;

22 (B) \$60,000,000 for fiscal year 2009;

23 (C) \$63,000,000 for fiscal year 2010; and

24 (D) \$66,000,000 for fiscal year 2011; and

1 (2) for the National Energetic Materials Re-
2 search and Testing Center, the National Center for
3 Biomedical Research and Training, the National
4 Emergency Response and Rescue Training Center,
5 the National Exercise, Test, and Training Center,
6 the Transportation Technology Center, Incorporated,
7 and the National Disaster Preparedness Training
8 Center each—

- 9 (A) \$22,000,000 for fiscal year 2008;
10 (B) \$23,000,000 for fiscal year 2009;
11 (C) \$24,000,000 for fiscal year 2010; and
12 (D) \$25,500,000 for fiscal year 2011.

13 (e) SAVINGS PROVISION.—From the amounts appro-
14 priated pursuant to this section, the Secretary shall ensure
15 that future amounts provided to each of the following enti-
16 ties are not less than the amounts provided to each such
17 entity for participation in the Consortium in fiscal year
18 2007:

- 19 (1) the Center for Domestic Preparedness;
20 (2) the National Energetic Materials Research
21 and Testing Center, New Mexico Institute of Mining
22 and Technology;
23 (3) the National Center for Biomedical Re-
24 search and Training, Louisiana State University;

1 (4) the National Emergency Response and Res-
2 cue Training Center, Texas A&M University; and

3 (5) the National Exercise, Test, and Training
4 Center, Nevada Test Site.

5 **SEC. 1205. NATIONAL TRANSPORTATION SECURITY CENTER**
6 **OF EXCELLENCE.**

7 (a) **ESTABLISHMENT.**—The Secretary shall establish
8 a National Transportation Security Center of Excellence
9 to conduct research and education activities, and to de-
10 velop or provide professional security training, including
11 the training of transportation employees and transpor-
12 tation professionals.

13 (b) **DESIGNATION.**—The Secretary shall select one of
14 the institutions identified in subsection (c) as the lead in-
15 stitution responsible for coordinating the National Trans-
16 portation Security Center of Excellence.

17 (c) **MEMBER INSTITUTIONS.**—

18 (1) **CONSORTIUM.**—The institution of higher
19 education selected under subsection (b) shall execute
20 agreements with the other institutions of higher edu-
21 cation identified in this subsection and other institu-
22 tions designated by the Secretary to develop a con-
23 sortium to assist in accomplishing the goals of the
24 Center.

1 (2) MEMBERS.—The National Transportation
2 Security Center of Excellence shall consist of—

3 (A) Texas Southern University in Houston,
4 Texas;

5 (B) the National Transit Institute at Rut-
6 gers, The State University of New Jersey;

7 (C) Tougaloo College;

8 (D) the Connecticut Transportation Insti-
9 tute at the University of Connecticut;

10 (E) the Homeland Security Management
11 Institute, Long Island University;

12 (F) the Mack-Blackwell National Rural
13 Transportation Study Center at the University
14 of Arkansas; and

15 (G) any additional institutions or facilities
16 designated by the Secretary.

17 (3) CERTAIN INCLUSIONS.—To the extent prac-
18 ticable, the Secretary shall ensure that an appro-
19 priate number of any additional consortium colleges
20 or universities designated by the Secretary under
21 this subsection are Historically Black Colleges and
22 Universities, Hispanic Serving Institutions, and In-
23 dian Tribally Controlled Colleges and Universities.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to carry out this sec-
3 tion—

4 (1) \$18,000,000 for fiscal year 2008;

5 (2) \$18,000,000 for fiscal year 2009;

6 (3) \$18,000,000 for fiscal year 2010; and

7 (4) \$18,000,000 for fiscal year 2011.

8 **SEC. 1206. IMMUNITY FOR REPORTS OF SUSPECTED TER-**
9 **RORIST ACTIVITY OR SUSPICIOUS BEHAVIOR**
10 **AND RESPONSE.**

11 (a) IMMUNITY FOR REPORTS OF SUSPECTED TER-
12 RORIST ACTIVITY OR SUSPICIOUS BEHAVIOR.—

13 (1) IN GENERAL.—Any person who, in good
14 faith and based on objectively reasonable suspicion,
15 makes, or causes to be made, a voluntary report of
16 covered activity to an authorized official shall be im-
17 mune from civil liability under Federal, State, and
18 local law for such report.

19 (2) FALSE REPORTS.—Paragraph (1) shall not
20 apply to any report that the person knew to be false
21 or was made with reckless disregard for the truth at
22 the time that person made that report.

23 (b) IMMUNITY FOR RESPONSE.—

24 (1) IN GENERAL.—Any authorized official who
25 observes, or receives a report of, covered activity and

1 takes reasonable action in good faith to respond to
2 such activity shall have qualified immunity from civil
3 liability for such action, consistent with applicable
4 law in the relevant jurisdiction. An authorized offi-
5 cial as defined by subsection (d)(1)(A) not entitled
6 to assert the defense of qualified immunity shall nev-
7 ertheless be immune from civil liability under Fed-
8 eral, State, and local law if such authorized official
9 takes reasonable action, in good faith, to respond to
10 the reported activity.

11 (2) SAVINGS CLAUSE.—Nothing in this sub-
12 section shall affect the ability of any authorized offi-
13 cial to assert any defense, privilege, or immunity
14 that would otherwise be available, and this sub-
15 section shall not be construed as affecting any such
16 defense, privilege, or immunity.

17 (c) ATTORNEY FEES AND COSTS.—Any person or au-
18 thorized official found to be immune from civil liability
19 under this section shall be entitled to recover from the
20 plaintiff all reasonable costs and attorney fees.

21 (d) DEFINITIONS.—In this section:

22 (1) AUTHORIZED OFFICIAL.—The term “au-
23 thorized official” means—

24 (A) any employee or agent of a passenger
25 transportation system or other person with re-

1 sponsibilities relating to the security of such
2 systems;

3 (B) any officer, employee, or agent of the
4 Department of Homeland Security, the Depart-
5 ment of Transportation, or the Department of
6 Justice with responsibilities relating to the se-
7 curity of passenger transportation systems; or

8 (C) any Federal, State, or local law en-
9 forcement officer.

10 (2) COVERED ACTIVITY.—The term “covered
11 activity” means any suspicious transaction, activity,
12 or occurrence that involves, or is directed against, a
13 passenger transportation system or vehicle or its
14 passengers indicating that an individual may be en-
15 gaging, or preparing to engage, in a violation of law
16 relating to—

17 (A) a threat to a passenger transportation
18 system or passenger safety or security; or

19 (B) an act of terrorism (as that term is de-
20 fined in section 3077 of title 18, United States
21 Code).

22 (3) PASSENGER TRANSPORTATION.—The term
23 “passenger transportation” means—

24 (A) public transportation, as defined in
25 section 5302 of title 49, United States Code;

1 (B) over-the-road bus transportation, as
2 defined in title XV of this Act, and school bus
3 transportation;

4 (C) intercity passenger rail transportation
5 as defined in section 24102 of title 49, United
6 States Code;

7 (D) the transportation of passengers on-
8 board a passenger vessel as defined in section
9 2101 of title 46, United States Code;

10 (E) other regularly scheduled waterborne
11 transportation service of passengers by vessel of
12 at least 20 gross tons; and

13 (F) air transportation, as defined in sec-
14 tion 40102 of title 49, United States Code, of
15 passengers.

16 (4) PASSENGER TRANSPORTATION SYSTEM.—

17 The term “passenger transportation system” means
18 an entity or entities organized to provide passenger
19 transportation using vehicles, including the infra-
20 structure used to provide such transportation.

21 (5) VEHICLE.—The term “vehicle” has the
22 meaning given to that term in section 1992(16) of
23 title 18, United States Code.

1 (e) EFFECTIVE DATE.—This section shall take effect
2 on October 1, 2006, and shall apply to all activities and
3 claims occurring on or after such date.

4 **TITLE XIII—TRANSPORTATION** 5 **SECURITY ENHANCEMENTS**

6 **SEC. 1301. DEFINITIONS.**

7 For purposes of this title, the following terms apply:

8 (1) APPROPRIATE CONGRESSIONAL COMMIT-
9 TEES.—The term “appropriate congressional com-
10 mittees” means the Committee on Commerce,
11 Science, and Transportation, the Committee on
12 Banking, Housing, and Urban Affairs, and the Com-
13 mittee on Homeland Security and Governmental Af-
14 fairs of the Senate and the Committee on Homeland
15 Security and the Committee on Transportation and
16 Infrastructure of the House of Representatives.

17 (2) DEPARTMENT.—The term “Department”
18 means the Department of Homeland Security.

19 (3) SECRETARY.—The term “Secretary” means
20 the Secretary of Homeland Security.

21 (4) STATE.—The term “State” means any one
22 of the 50 States, the District of Columbia, Puerto
23 Rico, the Northern Mariana Islands, the Virgin Is-
24 lands, Guam, American Samoa, and any other terri-
25 tory or possession of the United States.

1 (5) **TERRORISM.**—The term “terrorism” has
2 the meaning that term has in section 2 of the Home-
3 land Security Act of 2002 (6 U.S.C. 101).

4 (6) **UNITED STATES.**—The term “United
5 States” means the 50 States, the District of Colum-
6 bia, Puerto Rico, the Northern Mariana Islands, the
7 Virgin Islands, Guam, American Samoa, and any
8 other territory or possession of the United States.

9 **SEC. 1302. ENFORCEMENT AUTHORITY.**

10 (a) **IN GENERAL.**—Section 114 of title 49, United
11 States Code, as amended by section 1203 of this Act, is
12 further amended by adding at the end the following:

13 “(v) **ENFORCEMENT OF REGULATIONS AND ORDERS**
14 **OF THE SECRETARY OF HOMELAND SECURITY.**—

15 “(1) **APPLICATION OF SUBSECTION.**—

16 “(A) **IN GENERAL.**—This subsection ap-
17 plies to the enforcement of regulations pre-
18 scribed, and orders issued, by the Secretary of
19 Homeland Security under a provision of chapter
20 701 of title 46 and under a provision of this
21 title other than a provision of chapter 449 (in
22 this subsection referred to as an ‘applicable pro-
23 vision of this title’).

24 “(B) **VIOLATIONS OF CHAPTER 449.**—The
25 penalties for violations of regulations prescribed

1 and orders issued by the Secretary of Home-
2 land Security under chapter 449 of this title are
3 provided under chapter 463 of this title.

4 “(C) NONAPPLICATION TO CERTAIN VIOLA-
5 TIONS.—

6 “(i) Paragraphs (2) through (5) do
7 not apply to violations of regulations pre-
8 scribed, and orders issued, by the Sec-
9 retary of Homeland Security under a pro-
10 vision of this title—

11 “(I) involving the transportation
12 of personnel or shipments of materials
13 by contractors where the Department
14 of Defense has assumed control and
15 responsibility;

16 “(II) by a member of the armed
17 forces of the United States when per-
18 forming official duties; or

19 “(III) by a civilian employee of
20 the Department of Defense when per-
21 forming official duties.

22 “(ii) Violations described in subclause
23 (I), (II), or (III) of clause (i) shall be sub-
24 ject to penalties as determined by the Sec-

1 retary of Defense or the Secretary's des-
2 ignee.

3 “(2) CIVIL PENALTY.—

4 “(A) IN GENERAL.—A person is liable to
5 the United States Government for a civil pen-
6 alty of not more than \$10,000 for a violation of
7 a regulation prescribed, or order issued, by the
8 Secretary of Homeland Security under an appli-
9 cable provision of this title.

10 “(B) REPEAT VIOLATIONS.—A separate
11 violation occurs under this paragraph for each
12 day the violation continues.

13 “(3) ADMINISTRATIVE IMPOSITION OF CIVIL
14 PENALTIES.—

15 “(A) IN GENERAL.—The Secretary of
16 Homeland Security may impose a civil penalty
17 for a violation of a regulation prescribed, or
18 order issued, under an applicable provision of
19 this title. The Secretary shall give written no-
20 tice of the finding of a violation and the pen-
21 alty.

22 “(B) SCOPE OF CIVIL ACTION.—In a civil
23 action to collect a civil penalty imposed by the
24 Secretary under this subsection, a court may

1 not re-examine issues of liability or the amount
2 of the penalty.

3 “(C) JURISDICTION.—The district courts
4 of the United States shall have exclusive juris-
5 diction of civil actions to collect a civil penalty
6 imposed by the Secretary under this subsection
7 if—

8 “(i) the amount in controversy is
9 more than—

10 “(I) \$400,000, if the violation
11 was committed by a person other than
12 an individual or small business con-
13 cern; or

14 “(II) \$50,000 if the violation was
15 committed by an individual or small
16 business concern;

17 “(ii) the action is in rem or another
18 action in rem based on the same violation
19 has been brought; or

20 “(iii) another action has been brought
21 for an injunction based on the same viola-
22 tion.

23 “(D) MAXIMUM PENALTY.—The maximum
24 civil penalty the Secretary administratively may
25 impose under this paragraph is—

1 “(i) \$400,000, if the violation was
2 committed by a person other than an indi-
3 vidual or small business concern; or

4 “(ii) \$50,000, if the violation was
5 committed by an individual or small busi-
6 ness concern.

7 “(E) NOTICE AND OPPORTUNITY TO RE-
8 QUEST HEARING.—Before imposing a penalty
9 under this section the Secretary shall provide to
10 the person against whom the penalty is to be
11 imposed—

12 “(i) written notice of the proposed
13 penalty; and

14 “(ii) the opportunity to request a
15 hearing on the proposed penalty, if the
16 Secretary receives the request not later
17 than 30 days after the date on which the
18 person receives notice.

19 “(4) COMPROMISE AND SETOFF.—

20 “(A) The Secretary may compromise the
21 amount of a civil penalty imposed under this
22 subsection.

23 “(B) The Government may deduct the
24 amount of a civil penalty imposed or com-

1 promised under this subsection from amounts it
2 owes the person liable for the penalty.

3 “(5) INVESTIGATIONS AND PROCEEDINGS.—
4 Chapter 461 shall apply to investigations and pro-
5 ceedings brought under this subsection to the same
6 extent that it applies to investigations and pro-
7 ceedings brought with respect to aviation security
8 duties designated to be carried out by the Secretary.

9 “(6) DEFINITIONS.—In this subsection:

10 “(A) PERSON.—The term ‘person’ does
11 not include—

12 “(i) the United States Postal Service;
13 or

14 “(ii) the Department of Defense.

15 “(B) SMALL BUSINESS CONCERN.—The
16 term ‘small business concern’ has the meaning
17 given that term in section 3 of the Small Busi-
18 ness Act (15 U.S.C. 632).

19 “(7) ENFORCEMENT TRANSPARENCY.—

20 “(A) IN GENERAL.—Not later than De-
21 cember 31, 2008, and annually thereafter, the
22 Secretary shall—

23 “(i) provide an annual summary to
24 the public of all enforcement actions taken
25 by the Secretary under this subsection; and

1 “(ii) include in each such summary
2 the docket number of each enforcement ac-
3 tion, the type of alleged violation, the pen-
4 alty or penalties proposed, and the final
5 assessment amount of each penalty.

6 “(B) ELECTRONIC AVAILABILITY.—Each
7 summary under this paragraph shall be made
8 available to the public by electronic means.

9 “(C) RELATIONSHIP TO THE FREEDOM OF
10 INFORMATION ACT AND THE PRIVACY ACT.—
11 Nothing in this subsection shall be construed to
12 require disclosure of information or records that
13 are exempt from disclosure under sections 552
14 or 552a of title 5.

15 “(D) ENFORCEMENT GUIDANCE.—Not
16 later than 180 days after the enactment of the
17 Implementing Recommendations of the 9/11
18 Commission Act of 2007, the Secretary shall
19 provide a report to the public describing the en-
20 forcement process established under this sub-
21 section.”.

22 (b) CONFORMING AMENDMENT.—Section
23 46301(a)(4) of title 49, United States Code, is amended
24 by striking “or another requirement under this title ad-

1 ministered by the Under Secretary of Transportation for
2 Security”.

3 **SEC. 1303. AUTHORIZATION OF VISIBLE INTERMODAL PRE-**
4 **VENTION AND RESPONSE TEAMS.**

5 (a) IN GENERAL.—The Secretary, acting through the
6 Administrator of the Transportation Security Administra-
7 tion, may develop Visible Intermodal Prevention and Re-
8 sponse (referred to in this section as “VIPR”) teams to
9 augment the security of any mode of transportation at any
10 location within the United States. In forming a VIPR
11 team, the Secretary—

12 (1) may use any asset of the Department, in-
13 cluding Federal air marshals, surface transportation
14 security inspectors, canine detection teams, and ad-
15 vanced screening technology;

16 (2) may determine when a VIPR team shall be
17 deployed, as well as the duration of the deployment;

18 (3) shall, prior to and during the deployment,
19 consult with local security and law enforcement offi-
20 cials in the jurisdiction where the VIPR team is or
21 will be deployed, to develop and agree upon the ap-
22 propriate operational protocols and provide relevant
23 information about the mission of the VIPR team, as
24 appropriate; and

1 (4) shall, prior to and during the deployment,
2 consult with all transportation entities directly af-
3 fected by the deployment of a VIPR team, as appro-
4 priate, including railroad carriers, air carriers, air-
5 port owners, over-the-road bus operators and ter-
6 minal owners and operators, motor carriers, public
7 transportation agencies, owners or operators of high-
8 ways, port operators and facility owners, vessel own-
9 ers and operators and pipeline operators.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary to carry
12 out this section such sums as necessary for fiscal years
13 2007 through 2011.

14 **SEC. 1304. SURFACE TRANSPORTATION SECURITY INSPEC-**
15 **TORS.**

16 (a) IN GENERAL.—The Secretary, acting through the
17 Administrator of the Transportation Security Administra-
18 tion, is authorized to train, employ, and utilize surface
19 transportation security inspectors.

20 (b) MISSION.—The Secretary shall use surface trans-
21 portation security inspectors to assist surface transpor-
22 tation carriers, operators, owners, entities, and facilities
23 to enhance their security against terrorist attack and
24 other security threats and to assist the Secretary in en-

1 forcing applicable surface transportation security regula-
2 tions and directives.

3 (c) AUTHORITIES.—Surface transportation security
4 inspectors employed pursuant to this section shall be au-
5 thorized such powers and delegated such responsibilities
6 as the Secretary determines appropriate, subject to sub-
7 section (e).

8 (d) REQUIREMENTS.—The Secretary shall require
9 that surface transportation security inspectors have rel-
10 evant transportation experience and other security and in-
11 spection qualifications, as determined appropriate.

12 (e) LIMITATIONS.—

13 (1) INSPECTORS.—Surface transportation in-
14 spectors shall be prohibited from issuing fines to
15 public transportation agencies, as defined in title
16 XIV, for violations of the Department's regulations
17 or orders except through the process described in
18 paragraph (2).

19 (2) CIVIL PENALTIES.—The Secretary shall be
20 prohibited from assessing civil penalties against pub-
21 lic transportation agencies, as defined in title XIV,
22 for violations of the Department's regulations or or-
23 ders, except in accordance with the following:

24 (A) In the case of a public transportation
25 agency that is found to be in violation of a reg-

1 ulation or order issued by the Secretary, the
2 Secretary shall seek correction of the violation
3 through a written notice to the public transpor-
4 tation agency and shall give the public trans-
5 portation agency reasonable opportunity to cor-
6 rect the violation or propose an alternative
7 means of compliance acceptable to the Sec-
8 retary.

9 (B) If the public transportation agency
10 does not correct the violation or propose an al-
11 ternative means of compliance acceptable to the
12 Secretary within a reasonable time period that
13 is specified in the written notice, the Secretary
14 may take any action authorized in section 114
15 of title 49, United States Code, as amended by
16 this Act.

17 (3) LIMITATION ON SECRETARY.—The Sec-
18 retary shall not initiate civil enforcement actions for
19 violations of administrative and procedural require-
20 ments pertaining to the application for, and expendi-
21 ture of, funds awarded under transportation security
22 grant programs under this Act.

23 (f) NUMBER OF INSPECTORS.—The Secretary shall
24 employ up to a total of—

1 (1) 100 surface transportation security inspec-
2 tors in fiscal year 2007;

3 (2) 150 surface transportation security inspec-
4 tors in fiscal year 2008;

5 (3) 175 surface transportation security inspec-
6 tors in fiscal year 2009; and

7 (4) 200 surface transportation security inspec-
8 tors in fiscal years 2010 and 2011.

9 (g) COORDINATION.—The Secretary shall ensure that
10 the mission of the surface transportation security inspec-
11 tors is consistent with any relevant risk assessments re-
12 quired by this Act or completed by the Department, the
13 modal plans required under section 114(t) of title 49,
14 United States Code, the Memorandum of Understanding
15 between the Department and the Department of Trans-
16 portation on Roles and Responsibilities, dated September
17 28, 2004, and any and all subsequent annexes to this
18 Memorandum of Understanding, and other relevant docu-
19 ments setting forth the Department's transportation secu-
20 rity strategy, as appropriate.

21 (h) CONSULTATION.—The Secretary shall periodi-
22 cally consult with the surface transportation entities which
23 are or may be inspected by the surface transportation se-
24 curity inspectors, including, as appropriate, railroad car-
25 riers, over-the-road bus operators and terminal owners

1 and operators, motor carriers, public transportation agen-
2 cies, owners or operators of highways, and pipeline opera-
3 tors on—

4 (1) the inspectors' duties, responsibilities, au-
5 thorities, and mission; and

6 (2) strategies to improve transportation security
7 and to ensure compliance with transportation secu-
8 rity requirements.

9 (i) REPORT.—Not later than September 30, 2008,
10 the Department of Homeland Security Inspector General
11 shall transmit a report to the appropriate congressional
12 committees on the performance and effectiveness of sur-
13 face transportation security inspectors, whether there is
14 a need for additional inspectors, and other recommenda-
15 tions.

16 (j) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Secretary to carry
18 out this section—

19 (1) \$11,400,000 for fiscal year 2007;

20 (2) \$17,100,000 for fiscal year 2008;

21 (3) \$19,950,000 for fiscal year 2009;

22 (4) \$22,800,000 for fiscal year 2010; and

23 (5) \$22,800,000 for fiscal year 2011.

1 **SEC. 1305. SURFACE TRANSPORTATION SECURITY TECH-**
2 **NOLOGY INFORMATION SHARING.**

3 (a) IN GENERAL.—

4 (1) INFORMATION SHARING.—The Secretary, in
5 consultation with the Secretary of Transportation,
6 shall establish a program to provide appropriate in-
7 formation that the Department has gathered or de-
8 veloped on the performance, use, and testing of tech-
9 nologies that may be used to enhance railroad, pub-
10 lic transportation, and surface transportation secu-
11 rity to surface transportation entities, including rail-
12 road carriers, over-the-road bus operators and ter-
13 minal owners and operators, motor carriers, public
14 transportation agencies, owners or operators of high-
15 ways, pipeline operators, and State, local, and tribal
16 governments that provide security assistance to such
17 entities.

18 (2) DESIGNATION OF QUALIFIED
19 ANTITERRORISM TECHNOLOGIES.—The Secretary
20 shall include in such information provided in para-
21 graph (1) whether the technology is designated as a
22 qualified antiterrorism technology under the Support
23 Anti-terrorism by Fostering Effective Technologies
24 Act of 2002 (Public Law 107–296), as appropriate.

25 (b) PURPOSE.—The purpose of the program is to as-
26 sist eligible grant recipients under this Act and others, as

1 appropriate, to purchase and use the best technology and
2 equipment available to meet the security needs of the Na-
3 tion's surface transportation system.

4 (c) COORDINATION.—The Secretary shall ensure that
5 the program established under this section makes use of
6 and is consistent with other Department technology test-
7 ing, information sharing, evaluation, and standards-set-
8 ting programs, as appropriate.

9 **SEC. 1306. TSA PERSONNEL LIMITATIONS.**

10 Any statutory limitation on the number of employees
11 in the Transportation Security Administration does not
12 apply to employees carrying out this title and titles XII,
13 XIV, and XV.

14 **SEC. 1307. NATIONAL EXPLOSIVES DETECTION CANINE**
15 **TEAM TRAINING PROGRAM.**

16 (a) DEFINITIONS.—For purposes of this section, the
17 term “explosives detection canine team” means a canine
18 and a canine handler that are trained to detect explosives,
19 radiological materials, chemical, nuclear or biological
20 weapons, or other threats as defined by the Secretary.

21 (b) IN GENERAL.—

22 (1) INCREASED CAPACITY.—Not later than 180
23 days after the date of enactment of this Act, the
24 Secretary of Homeland Security shall—

1 (A) begin to increase the number of explo-
2 sives detection canine teams certified by the
3 Transportation Security Administration for the
4 purposes of transportation-related security by
5 up to 200 canine teams annually by the end of
6 2010; and

7 (B) encourage State, local, and tribal gov-
8 ernments and private owners of high-risk trans-
9 portation facilities to strengthen security
10 through the use of highly trained explosives de-
11 tection canine teams.

12 (2) EXPLOSIVES DETECTION CANINE TEAMS.—

13 The Secretary of Homeland Security shall increase
14 the number of explosives detection canine teams
15 by—

16 (A) using the Transportation Security Ad-
17 ministration's National Explosives Detection
18 Canine Team Training Center, including ex-
19 panding and upgrading existing facilities, pro-
20 curing and breeding additional canines, and in-
21 creasing staffing and oversight commensurate
22 with the increased training and deployment ca-
23 pabilities;

24 (B) partnering with other Federal, State,
25 or local agencies, nonprofit organizations, uni-

1 versities, or the private sector to increase the
2 training capacity for canine detection teams;

3 (C) procuring explosives detection canines
4 trained by nonprofit organizations, universities,
5 or the private sector provided they are trained
6 in a manner consistent with the standards and
7 requirements developed pursuant to subsection
8 (c) or other criteria developed by the Secretary;
9 or

10 (D) a combination of subparagraphs (A),
11 (B), and (C), as appropriate.

12 (c) STANDARDS FOR EXPLOSIVES DETECTION CA-
13 NINE TEAMS.—

14 (1) IN GENERAL.—Based on the feasibility in
15 meeting the ongoing demand for quality explosives
16 detection canine teams, the Secretary shall establish
17 criteria, including canine training curricula, perform-
18 ance standards, and other requirements approved by
19 the Transportation Security Administration nec-
20 essary to ensure that explosives detection canine
21 teams trained by nonprofit organizations, univer-
22 sities, and private sector entities are adequately
23 trained and maintained.

1 (2) EXPANSION.—In developing and imple-
2 menting such curriculum, performance standards,
3 and other requirements, the Secretary shall—

4 (A) coordinate with key stakeholders, in-
5 cluding international, Federal, State, and local
6 officials, and private sector and academic enti-
7 ties to develop best practice guidelines for such
8 a standardized program, as appropriate;

9 (B) require that explosives detection canine
10 teams trained by nonprofit organizations, uni-
11 versities, or private sector entities that are used
12 or made available by the Secretary be trained
13 consistent with specific training criteria devel-
14 oped by the Secretary; and

15 (C) review the status of the private sector
16 programs on at least an annual basis to ensure
17 compliance with training curricula, performance
18 standards, and other requirements.

19 (d) DEPLOYMENT.—The Secretary shall—

20 (1) use the additional explosives detection ca-
21 nine teams as part of the Department's efforts to
22 strengthen security across the Nation's transpor-
23 tation network, and may use the canine teams on a
24 more limited basis to support other homeland secu-

1 rity missions, as determined appropriate by the Sec-
2 retary;

3 (2) make available explosives detection canine
4 teams to all modes of transportation, for high-risk
5 areas or to address specific threats, on an as-needed
6 basis and as otherwise determined appropriate by
7 the Secretary;

8 (3) encourage, but not require, any transpor-
9 tation facility or system to deploy TSA-certified ex-
10 plosives detection canine teams developed under this
11 section; and

12 (4) consider specific needs and training require-
13 ments for explosives detection canine teams to be de-
14 ployed across the Nation's transportation network,
15 including in venues of multiple modes of transpor-
16 tation, as appropriate.

17 (e) CANINE PROCUREMENT.—The Secretary, acting
18 through the Administrator of the Transportation Security
19 Administration, shall work to ensure that explosives detec-
20 tion canine teams are procured as efficiently as possible
21 and at the best price, while maintaining the needed level
22 of quality, including, if appropriate, through increased do-
23 mestic breeding.

24 (f) STUDY.—Not later than 1 year after the date of
25 enactment of this Act, the Comptroller General shall re-

1 port to the appropriate congressional committees on the
2 utilization of explosives detection canine teams to
3 strengthen security and the capacity of the national explo-
4 sive detection canine team program.

5 (g) AUTHORIZATION.—There are authorized to be ap-
6 propriated to the Secretary such sums as may be nec-
7 essary to carry out this section for fiscal years 2007
8 through 2011.

9 **SEC. 1308. MARITIME AND SURFACE TRANSPORTATION SE-**
10 **CURITY USER FEE STUDY.**

11 (a) IN GENERAL.—The Secretary of Homeland Secu-
12 rity shall conduct a study of the need for, and feasibility
13 of, establishing a system of maritime and surface trans-
14 portation-related user fees that may be imposed and col-
15 lected as a dedicated revenue source, on a temporary or
16 continuing basis, to provide necessary funding for legiti-
17 mate improvements to, and maintenance of, maritime and
18 surface transportation security, including vessel and facil-
19 ity plans required under section 70103(c) of title 46,
20 United States Code. In developing the study, the Secretary
21 shall consult with maritime and surface transportation
22 carriers, shippers, passengers, facility owners and opera-
23 tors, and other persons as determined by the Secretary.
24 Not later than 1 year after the date of the enactment of

1 this Act, the Secretary shall submit a report to the appro-
2 priate congressional committees that contains—

3 (1) the results of the study;

4 (2) an assessment of the annual sources of
5 funding collected through maritime and surface
6 transportation at ports of entry and a detailed de-
7 scription of the distribution and use of such funds,
8 including the amount and percentage of such sources
9 that are dedicated to improve and maintain security;

10 (3) an assessment of—

11 (A) the fees, charges, and standards im-
12 posed on United States ports, port terminal op-
13 erators, shippers, carriers, and other persons
14 who use United States ports of entry compared
15 with the fees and charges imposed on Canadian
16 and Mexican ports, Canadian and Mexican port
17 terminal operators, shippers, carriers, and other
18 persons who use Canadian or Mexican ports of
19 entry; and

20 (B) the impact of such fees, charges, and
21 standards on the competitiveness of United
22 States ports, port terminal operators, railroad
23 carriers, motor carriers, pipelines, other trans-
24 portation modes, and shippers;

1 (4) the private efforts and investments to se-
2 cure maritime and surface transportation modes, in-
3 cluding those that are operational and those that are
4 planned; and

5 (5) the Secretary's recommendations based
6 upon the study, and an assessment of the consist-
7 ency of such recommendations with the international
8 obligations and commitments of the United States.

9 (b) DEFINITIONS.—In this section:

10 (1) PORT OF ENTRY.—The term “port of
11 entry” means any port or other facility through
12 which foreign goods are permitted to enter the cus-
13 toms territory of a country under official super-
14 vision.

15 (2) MARITIME AND SURFACE TRANSPOR-
16 TATION.—The term “maritime and surface transpor-
17 tation” includes ocean borne and vehicular transpor-
18 tation.

19 **SEC. 1309. PROHIBITION OF ISSUANCE OF TRANSPOR-**
20 **TATION SECURITY CARDS TO CONVICTED**
21 **FELONS.**

22 (a) IN GENERAL.—Section 70105 of title 46, United
23 States Code, is amended—

24 (1) in subsection (b)(1), by striking “decides
25 that the individual poses a security risk under sub-

1 section (c)” and inserting “determines under sub-
2 section (c) that the individual poses a security risk”;
3 and

4 (2) in subsection (c), by amending paragraph
5 (1) to read as follows:

6 “(1) DISQUALIFICATIONS.—

7 “(A) PERMANENT DISQUALIFYING CRIMI-
8 NAL OFFENSES.—Except as provided under
9 paragraph (2), an individual is permanently dis-
10 qualified from being issued a biometric trans-
11 portation security card under subsection (b) if
12 the individual has been convicted, or found not
13 guilty by reason of insanity, in a civilian or
14 military jurisdiction of any of the following felo-
15 nies:

16 “(i) Espionage or conspiracy to com-
17 mit espionage.

18 “(ii) Sedition or conspiracy to commit
19 sedition.

20 “(iii) Treason or conspiracy to commit
21 treason.

22 “(iv) A Federal crime of terrorism (as
23 defined in section 2332b(g) of title 18), a
24 crime under a comparable State law, or
25 conspiracy to commit such crime.

1 “(v) A crime involving a transpor-
2 tation security incident.

3 “(vi) Improper transportation of a
4 hazardous material in violation of section
5 5104(b) of title 49, or a comparable State
6 law.

7 “(vii) Unlawful possession, use, sale,
8 distribution, manufacture, purchase, re-
9 ceipt, transfer, shipment, transportation,
10 delivery, import, export, or storage of, or
11 dealing in, an explosive or explosive device.
12 In this clause, an explosive or explosive de-
13 vice includes—

14 “(I) an explosive (as defined in
15 sections 232(5) and 844(j) of title
16 18);

17 “(II) explosive materials (as de-
18 fined in subsections (c) through (f) of
19 section 841 of title 18); and

20 “(III) a destructive device (as de-
21 fined in 921(a)(4) of title 18 or sec-
22 tion 5845(f) of the Internal Revenue
23 Code of 1986).

24 “(viii) Murder.

1 “(ix) Making any threat, or mali-
2 ciously conveying false information know-
3 ing the same to be false, concerning the
4 deliverance, placement, or detonation of an
5 explosive or other lethal device in or
6 against a place of public use, a State or
7 other government facility, a public trans-
8 portation system, or an infrastructure fa-
9 cility.

10 “(x) A violation of chapter 96 of title
11 18, popularly known as the Racketeer In-
12 fluenced and Corrupt Organizations Act,
13 or a comparable State law, if one of the
14 predicate acts found by a jury or admitted
15 by the defendant consists of one of the
16 crimes listed in this subparagraph.

17 “(xi) Attempt to commit any of the
18 crimes listed in clauses (i) through (iv).

19 “(xii) Conspiracy or attempt to com-
20 mit any of the crimes described in clauses
21 (v) through (x).

22 “(B) INTERIM DISQUALIFYING CRIMINAL
23 OFFENSES.—Except as provided under para-
24 graph (2), an individual is disqualified from
25 being issued a biometric transportation security

1 card under subsection (b) if the individual has
2 been convicted, or found not guilty by reason of
3 insanity, during the 7-year period ending on the
4 date on which the individual applies for such
5 card, or was released from incarceration during
6 the 5-year period ending on the date on which
7 the individual applies for such card, of any of
8 the following felonies:

9 “(i) Unlawful possession, use, sale,
10 manufacture, purchase, distribution, re-
11 ceipt, transfer, shipment, transportation,
12 delivery, import, export, or storage of, or
13 dealing in, a firearm or other weapon. In
14 this clause, a firearm or other weapon in-
15 cludes—

16 “(I) firearms (as defined in sec-
17 tion 921(a)(3) of title 18 or section
18 5845(a) of the Internal Revenue Code
19 of 1986); and

20 “(II) items contained on the U.S.
21 Munitions Import List under section
22 447.21 of title 27, Code of Federal
23 Regulations.

24 “(ii) Extortion.

1 “(iii) Dishonesty, fraud, or misrepre-
2 sentation, including identity fraud and
3 money laundering if the money laundering
4 is related to a crime described in this sub-
5 paragraph or subparagraph (A). In this
6 clause, welfare fraud and passing bad
7 checks do not constitute dishonesty, fraud,
8 or misrepresentation.

9 “(iv) Bribery.

10 “(v) Smuggling.

11 “(vi) Immigration violations.

12 “(vii) Distribution of, possession with
13 intent to distribute, or importation of a
14 controlled substance.

15 “(viii) Arson.

16 “(ix) Kidnaping or hostage taking.

17 “(x) Rape or aggravated sexual abuse.

18 “(xi) Assault with intent to kill.

19 “(xii) Robbery.

20 “(xiii) Conspiracy or attempt to com-
21 mit any of the crimes listed in this sub-
22 paragraph.

23 “(xiv) Fraudulent entry into a seaport
24 in violation of section 1036 of title 18, or
25 a comparable State law.

1 “(xv) A violation of the chapter 96 of
2 title 18, popularly known as the Racketeer
3 Influenced and Corrupt Organizations Act
4 or a comparable State law, other than any
5 of the violations listed in subparagraph
6 (A)(x).

7 “(C) UNDER WANT, WARRANT, OR INDICT-
8 MENT.—An applicant who is wanted, or under
9 indictment, in any civilian or military jurisdic-
10 tion for a felony listed in paragraph (1)(A), is
11 disqualified from being issued a biometric
12 transportation security card under subsection
13 (b) until the want or warrant is released or the
14 indictment is dismissed.

15 “(D) OTHER POTENTIAL DISQUALIFICA-
16 TIONS.—Except as provided under subpara-
17 graphs (A) through (C), an individual may not
18 be denied a transportation security card under
19 subsection (b) unless the Secretary determines
20 that individual—

21 “(i) has been convicted within the pre-
22 ceding 7-year period of a felony or found
23 not guilty by reason of insanity of a fel-
24 ony—

1 “(I) that the Secretary believes
2 could cause the individual to be a ter-
3 rorism security risk to the United
4 States; or

5 “(II) for causing a severe trans-
6 portation security incident;

7 “(ii) has been released from incarcer-
8 ation within the preceding 5-year period
9 for committing a felony described in clause
10 (i);

11 “(iii) may be denied admission to the
12 United States or removed from the United
13 States under the Immigration and Nation-
14 ality Act (8 U.S.C. 1101 et seq.); or

15 “(iv) otherwise poses a terrorism secu-
16 rity risk to the United States.

17 “(E) MODIFICATION OF LISTED OF-
18 FENSES.—The Secretary may, by rulemaking,
19 add to or modify the list of disqualifying crimes
20 described in paragraph (1)(B).”.

21 **SEC. 1310. ROLES OF THE DEPARTMENT OF HOMELAND SE-**
22 **CURITY AND THE DEPARTMENT OF TRANS-**
23 **PORTATION.**

24 The Secretary of Homeland Security is the principal
25 Federal official responsible for transportation security.

1 The roles and responsibilities of the Department of Home-
2 land Security and the Department of Transportation in
3 carrying out this title and titles XII, XIV, and XV are
4 the roles and responsibilities of such Departments pursu-
5 ant to the Aviation and Transportation Security Act (Pub-
6 lic Law 107–71); the Intelligence Reform and Terrorism
7 Prevention Act of 2004 (Public Law 108–458); the Na-
8 tional Infrastructure Protection Plan required by Home-
9 land Security Presidential Directive 7; The Homeland Se-
10 curity Act of 2002; The National Response Plan; Execu-
11 tive Order 13416: Strengthening Surface Transportation
12 Security, dated December 5, 2006; the Memorandum of
13 Understanding between the Department and the Depart-
14 ment of Transportation on Roles and Responsibilities,
15 dated September 28, 2004 and any and all subsequent an-
16 nexes to this Memorandum of Understanding; and any
17 other relevant agreements between the two Departments.

18 **TITLE XIV—PUBLIC**
19 **TRANSPORTATION SECURITY**

20 **SEC. 1401. SHORT TITLE.**

21 This title may be cited as the “National Transit Sys-
22 tems Security Act of 2007”.

23 **SEC. 1402. DEFINITIONS.**

24 For purposes of this title, the following terms apply:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means the Committee on Banking, Hous-
4 ing, and Urban Affairs, and the Committee on
5 Homeland Security and Governmental Affairs of the
6 Senate and the Committee on Homeland Security
7 and the Committee on Transportation and Infra-
8 structure of the House of Representatives.

9 (2) DEPARTMENT.—The term “Department”
10 means the Department of Homeland Security.

11 (3) DISADVANTAGED BUSINESSES CONCERNS.—
12 The term “disadvantaged business concerns” means
13 small businesses that are owned and controlled by
14 socially and economically disadvantaged individuals
15 as defined in section 124, title 13, Code of Federal
16 Regulations.

17 (4) FRONTLINE EMPLOYEE.—The term “front-
18 line employee” means an employee of a public trans-
19 portation agency who is a transit vehicle driver or
20 operator, dispatcher, maintenance and maintenance
21 support employee, station attendant, customer serv-
22 ice employee, security employee, or transit police, or
23 any other employee who has direct contact with rid-
24 ers on a regular basis, and any other employee of a
25 public transportation agency that the Secretary de-

1 termines should receive security training under sec-
2 tion 1408.

3 (5) PUBLIC TRANSPORTATION AGENCY.—The
4 term “public transportation agency” means a pub-
5 licly owned operator of public transportation eligible
6 to receive Federal assistance under chapter 53 of
7 title 49, United States Code.

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

10 **SEC. 1403. FINDINGS.**

11 Congress finds that—

12 (1) 182 public transportation systems through-
13 out the world have been primary targets of terrorist
14 attacks;

15 (2) more than 6,000 public transportation
16 agencies operate in the United States;

17 (3) people use public transportation vehicles
18 33,000,000 times each day;

19 (4) the Federal Transit Administration has in-
20 vested \$93,800,000,000 since 1992 for construction
21 and improvements;

22 (5) the Federal investment in transit security
23 has been insufficient; and

24 (6) greater Federal investment in transit secu-
25 rity improvements per passenger boarding is nec-

1 essary to better protect the American people, given
2 transit's vital importance in creating mobility and
3 promoting our Nation's economy.

4 **SEC. 1404. NATIONAL STRATEGY FOR PUBLIC TRANSPOR-**
5 **TATION SECURITY.**

6 (a) NATIONAL STRATEGY.—Not later than 9 months
7 after the date of enactment of this Act and based upon
8 the previous and ongoing security assessments conducted
9 by the Department and the Department of Transpor-
10 tation, the Secretary, consistent with and as required by
11 section 114(t) of title 49, United States Code, shall de-
12 velop and implement the modal plan for public transpor-
13 tation, entitled the “National Strategy for Public Trans-
14 portation Security”.

15 (b) PURPOSE.—

16 (1) GUIDELINES.—In developing the National
17 Strategy for Public Transportation Security, the
18 Secretary shall establish guidelines for public trans-
19 portation security that—

20 (A) minimize security threats to public
21 transportation systems; and

22 (B) maximize the abilities of public trans-
23 portation systems to mitigate damage resulting
24 from terrorist attack or other major incident.

1 (2) ASSESSMENTS AND CONSULTATIONS.—In
2 developing the National Strategy for Public Trans-
3 portation Security, the Secretary shall—

4 (A) use established and ongoing public
5 transportation security assessments as the basis
6 of the National Strategy for Public Transpor-
7 tation Security; and

8 (B) consult with all relevant stakeholders,
9 including public transportation agencies, non-
10 profit labor organizations representing public
11 transportation employees, emergency respond-
12 ers, public safety officials, and other relevant
13 parties.

14 (c) CONTENTS.—In the National Strategy for Public
15 Transportation Security, the Secretary shall describe
16 prioritized goals, objectives, policies, actions, and sched-
17 ules to improve the security of public transportation.

18 (d) RESPONSIBILITIES.—The Secretary shall include
19 in the National Strategy for Public Transportation Secu-
20 rity a description of the roles, responsibilities, and authori-
21 ties of Federal, State, and local agencies, tribal govern-
22 ments, and appropriate stakeholders. The plan shall also
23 include—

1 (1) the identification of, and a plan to address,
2 gaps and unnecessary overlaps in the roles, respon-
3 sibilities, and authorities of Federal agencies; and

4 (2) a process for coordinating existing or future
5 security strategies and plans for public transpor-
6 tation, including the National Infrastructure Protec-
7 tion Plan required by Homeland Security Presi-
8 dential Directive 7; Executive Order 13416:
9 Strengthening Surface Transportation Security
10 dated December 5, 2006; the Memorandum of Un-
11 derstanding between the Department and the De-
12 partment of Transportation on Roles and Respon-
13 sibilities dated September 28, 2004; and subsequent
14 annexes and agreements.

15 (e) ADEQUACY OF EXISTING PLANS AND STRATE-
16 GIES.—In developing the National Strategy for Public
17 Transportation Security, the Secretary shall use relevant
18 existing risk assessments and strategies developed by the
19 Department or other Federal agencies, including those de-
20 veloped or implemented pursuant to section 114(t) of title
21 49, United States Code, or Homeland Security Presi-
22 dential Directive 7.

23 (f) FUNDING.—There is authorized to be appro-
24 priated to the Secretary to carry out this section
25 \$2,000,000 for fiscal year 2008.

1 **SEC. 1405. SECURITY ASSESSMENTS AND PLANS.**

2 (a) PUBLIC TRANSPORTATION SECURITY ASSESS-
3 MENTS.—

4 (1) SUBMISSION.—Not later than 30 days after
5 the date of enactment of this Act, the Administrator
6 of the Federal Transit Administration of the De-
7 partment of Transportation shall submit all public
8 transportation security assessments and all other
9 relevant information to the Secretary.

10 (2) SECRETARIAL REVIEW.—Not later than 60
11 days after receiving the submission under paragraph
12 (1), the Secretary shall review and augment the se-
13 curity assessments received, and conduct additional
14 security assessments as necessary to ensure that at
15 a minimum, all high risk public transportation agen-
16 cies, as determined by the Secretary, will have a
17 completed security assessment.

18 (3) CONTENT.—The Secretary shall ensure that
19 each completed security assessment includes—

20 (A) identification of critical assets, infra-
21 structure, and systems and their vulnerabilities;
22 and

23 (B) identification of any other security
24 weaknesses, including weaknesses in emergency
25 response planning and employee training.

1 (b) BUS AND RURAL PUBLIC TRANSPORTATION SYS-
2 TEMS.—Not later than 180 days after the date of enact-
3 ment of this Act, the Secretary shall—

4 (1) conduct security assessments, based on a
5 representative sample, to determine the specific
6 needs of—

7 (A) local bus-only public transportation
8 systems; and

9 (B) public transportation systems that re-
10 ceive funds under section 5311 of title 49,
11 United States Code; and

12 (2) make the representative assessments avail-
13 able for use by similarly situated systems.

14 (c) SECURITY PLANS.—

15 (1) REQUIREMENT FOR PLAN.—

16 (A) HIGH RISK AGENCIES.—The Secretary
17 shall require public transportation agencies de-
18 termined by the Secretary to be at high risk for
19 terrorism to develop a comprehensive security
20 plan. The Secretary shall provide technical as-
21 sistance and guidance to public transportation
22 agencies in preparing and implementing secu-
23 rity plans under this section.

24 (B) OTHER AGENCIES.—Provided that no
25 public transportation agency that has not been

1 designated high risk shall be required to de-
2 velop a security plan, the Secretary may also
3 establish a security program for public trans-
4 portation agencies not designated high risk by
5 the Secretary, to assist those public transpor-
6 tation agencies which request assistance, includ-
7 ing—

8 (i) guidance to assist such agencies in
9 conducting security assessments and pre-
10 paring and implementing security plans;
11 and

12 (ii) a process for the Secretary to re-
13 view and approve such assessments and
14 plans, as appropriate.

15 (2) CONTENTS OF PLAN.—The Secretary shall
16 ensure that security plans include, as appropriate—

17 (A) a prioritized list of all items included
18 in the public transportation agency's security
19 assessment that have not yet been addressed;

20 (B) a detailed list of any additional capital
21 and operational improvements identified by the
22 Department or the public transportation agency
23 and a certification of the public transportation
24 agency's technical capacity for operating and

1 maintaining any security equipment that may
2 be identified in such list;

3 (C) specific procedures to be implemented
4 or used by the public transportation agency in
5 response to a terrorist attack, including evacu-
6 ation and passenger communication plans and
7 appropriate evacuation and communication
8 measures for the elderly and individuals with
9 disabilities;

10 (D) a coordinated response plan that es-
11 tablishes procedures for appropriate interaction
12 with State and local law enforcement agencies,
13 emergency responders, and Federal officials in
14 order to coordinate security measures and plans
15 for response in the event of a terrorist attack
16 or other major incident;

17 (E) a strategy and timeline for conducting
18 training under section 1408;

19 (F) plans for providing redundant and
20 other appropriate backup systems necessary to
21 ensure the continued operation of critical ele-
22 ments of the public transportation system in
23 the event of a terrorist attack or other major
24 incident;

1 (G) plans for providing service capabilities
2 throughout the system in the event of a ter-
3 rorist attack or other major incident in the city
4 or region which the public transportation sys-
5 tem serves;

6 (H) methods to mitigate damage within a
7 public transportation system in case of an at-
8 tack on the system, including a plan for com-
9 munication and coordination with emergency re-
10 sponders; and

11 (I) other actions or procedures as the Sec-
12 retary determines are appropriate to address
13 the security of the public transportation system.

14 (3) REVIEW.—Not later than 6 months after
15 receiving the plans required under this section, the
16 Secretary shall—

17 (A) review each security plan submitted;

18 (B) require the public transportation agen-
19 cy to make any amendments needed to ensure
20 that the plan meets the requirements of this
21 section; and

22 (C) approve any security plan that meets
23 the requirements of this section.

24 (4) EXEMPTION.—The Secretary shall not re-
25 quire a public transportation agency to develop a se-

1 security plan under paragraph (1) if the agency does
2 not receive a grant under section 1406.

3 (5) WAIVER.—The Secretary may waive the ex-
4 emption provided in paragraph (4) to require a pub-
5 lic transportation agency to develop a security plan
6 under paragraph (1) in the absence of grant funds
7 under section 1406 if not less than 3 days after
8 making the determination the Secretary provides the
9 appropriate congressional committees and the public
10 transportation agency written notification detailing
11 the need for the security plan, the reasons grant
12 funding has not been made available, and the reason
13 the agency has been designated high risk.

14 (d) CONSISTENCY WITH OTHER PLANS.—The Sec-
15 retary shall ensure that the security plans developed by
16 public transportation agencies under this section are con-
17 sistent with the security assessments developed by the De-
18 partment and the National Strategy for Public Transpor-
19 tation Security developed under section 1404.

20 (e) UPDATES.—Not later than September 30, 2008,
21 and annually thereafter, the Secretary shall—

22 (1) update the security assessments referred to
23 in subsection (a);

24 (2) update the security improvement priorities
25 required under subsection (f); and

1 (3) require public transportation agencies to
2 update the security plans required under subsection
3 (c) as appropriate.

4 (f) SECURITY IMPROVEMENT PRIORITIES.—

5 (1) IN GENERAL.—Beginning in fiscal year
6 2008 and each fiscal year thereafter, the Secretary,
7 after consultation with management and nonprofit
8 employee labor organizations representing public
9 transportation employees as appropriate, and with
10 appropriate State and local officials, shall utilize the
11 information developed or received in this section to
12 establish security improvement priorities unique to
13 each individual public transportation agency that
14 has been assessed.

15 (2) ALLOCATIONS.—The Secretary shall use the
16 security improvement priorities established in para-
17 graph (1) as the basis for allocating risk-based grant
18 funds under section 1406, unless the Secretary noti-
19 fies the appropriate congressional committees that
20 the Secretary has determined an adjustment is nec-
21 essary to respond to an urgent threat or other sig-
22 nificant national security factors.

23 (g) SHARED FACILITIES.—The Secretary shall en-
24 courage the development and implementation of coordi-
25 nated assessments and security plans to the extent a pub-

1 lic transportation agency shares facilities (such as tunnels,
2 bridges, stations, or platforms) with another public trans-
3 portation agency, a freight or passenger railroad carrier,
4 or over-the-road bus operator that are geographically close
5 or otherwise co-located.

6 (h) NONDISCLOSURE OF INFORMATION.—

7 (1) SUBMISSION OF INFORMATION TO CON-
8 GRESS.—Nothing in this section shall be construed
9 as authorizing the withholding of any information
10 from Congress.

11 (2) DISCLOSURE OF INDEPENDENTLY FUR-
12 NISHED INFORMATION.—Nothing in this section
13 shall be construed as affecting any authority or obli-
14 gation of a Federal agency to disclose any record or
15 information that the Federal agency obtains from a
16 public transportation agency under any other Fed-
17 eral law.

18 (i) DETERMINATION.—In response to a petition by
19 a public transportation agency or at the discretion of the
20 Secretary, the Secretary may recognize existing proce-
21 dures, protocols, and standards of a public transportation
22 agency that the Secretary determines meet all or part of
23 the requirements of this section regarding security assess-
24 ments or security plans.

1 **SEC. 1406. PUBLIC TRANSPORTATION SECURITY ASSIST-**
2 **ANCE.**

3 (a) **SECURITY ASSISTANCE PROGRAM.—**

4 (1) **IN GENERAL.—**The Secretary shall establish
5 a program for making grants to eligible public trans-
6 portation agencies for security improvements de-
7 scribed in subsection (b).

8 (2) **ELIGIBILITY.—**A public transportation
9 agency is eligible for a grant under this section if
10 the Secretary has performed a security assessment
11 or the agency has developed a security plan under
12 section 1405. Grant funds shall only be awarded for
13 permissible uses under subsection (b) to—

14 (A) address items included in a security
15 assessment; or

16 (B) further a security plan.

17 (b) **USES OF FUNDS.—**A recipient of a grant under
18 subsection (a) shall use the grant funds for one or more
19 of the following:

20 (1) **Capital uses of funds, including—**

21 (A) tunnel protection systems;

22 (B) perimeter protection systems, including
23 access control, installation of improved lighting,
24 fencing, and barricades;

25 (C) redundant critical operations control
26 systems;

1 (D) chemical, biological, radiological, or ex-
2 plosive detection systems, including the acquisi-
3 tion of canines used for such detection;

4 (E) surveillance equipment;

5 (F) communications equipment, including
6 mobile service equipment to provide access to
7 wireless Enhanced 911 (E911) emergency serv-
8 ices in an underground fixed guideway system;

9 (G) emergency response equipment, includ-
10 ing personal protective equipment;

11 (H) fire suppression and decontamination
12 equipment;

13 (I) global positioning or tracking and re-
14 covery equipment, and other automated-vehicle-
15 locator-type system equipment;

16 (J) evacuation improvements;

17 (K) purchase and placement of bomb-re-
18 sistant trash cans throughout public transpor-
19 tation facilities, including subway exits, en-
20 trances, and tunnels;

21 (L) capital costs associated with security
22 awareness, security preparedness, and security
23 response training, including training under sec-
24 tion 1408 and exercises under section 1407;

1 (M) security improvements for public
2 transportation systems, including extensions
3 thereto, in final design or under construction;

4 (N) security improvements for stations and
5 other public transportation infrastructure, in-
6 cluding stations and other public transportation
7 infrastructure owned by State or local govern-
8 ments; and

9 (O) other capital security improvements
10 determined appropriate by the Secretary.

11 (2) Operating uses of funds, including—

12 (A) security training, including training
13 under section 1408 and training developed by
14 institutions of higher education and by non-
15 profit employee labor organizations, for public
16 transportation employees, including frontline
17 employees;

18 (B) live or simulated exercises under sec-
19 tion 1407;

20 (C) public awareness campaigns for en-
21 hanced public transportation security;

22 (D) canine patrols for chemical, radio-
23 logical, biological, or explosives detection;

24 (E) development of security plans under
25 section 1405;

1 (F) overtime reimbursement including re-
2 imbursement of State, local, and tribal govern-
3 ments, for costs for enhanced security personnel
4 during significant national and international
5 public events;

6 (G) operational costs, including reimburse-
7 ment of State, local, and tribal governments for
8 costs for personnel assigned to full-time or part-
9 time security or counterterrorism duties related
10 to public transportation, provided that this ex-
11 pense totals no more than 10 percent of the
12 total grant funds received by a public transpor-
13 tation agency in any 1 year; and

14 (H) other operational security costs deter-
15 mined appropriate by the Secretary, excluding
16 routine, ongoing personnel costs, other than
17 those set forth in this section.

18 (c) DEPARTMENT OF HOMELAND SECURITY RE-
19 SPONSIBILITIES.—In carrying out the responsibilities
20 under subsection (a), the Secretary shall—

21 (1) determine the requirements for recipients of
22 grants under this section, including application re-
23 quirements;

24 (2) pursuant to subsection (a)(2), select the re-
25 cipients of grants based solely on risk; and

1 (3) pursuant to subsection (b), establish the
2 priorities for which grant funds may be used under
3 this section.

4 (d) DISTRIBUTION OF GRANTS.—Not later than 90
5 days after the date of enactment of this Act, the Secretary
6 and the Secretary of Transportation shall determine the
7 most effective and efficient way to distribute grant funds
8 to the recipients of grants determined by the Secretary
9 under subsection (a). Subject to the determination made
10 by the Secretaries, the Secretary may transfer funds to
11 the Secretary of Transportation for the purposes of dis-
12 bursing funds to the grant recipient.

13 (e) SUBJECT TO CERTAIN TERMS AND CONDI-
14 TIONS.—Except as otherwise specifically provided in this
15 section, a grant provided under this section shall be sub-
16 ject to the terms and conditions applicable to a grant
17 made under section 5307 of title 49, United States Code,
18 as in effect on January 1, 2007, and such other terms
19 and conditions as are determined necessary by the Sec-
20 retary.

21 (f) LIMITATION ON USES OF FUNDS.—Grants made
22 under this section may not be used to make any State
23 or local government cost-sharing contribution under any
24 other Federal law.

1 (g) ANNUAL REPORTS.—Each recipient of a grant
2 under this section shall report annually to the Secretary
3 on the use of the grant funds.

4 (h) GUIDELINES.—Before distribution of funds to re-
5 cipients of grants, the Secretary shall issue guidelines to
6 ensure that, to the extent that recipients of grants under
7 this section use contractors or subcontractors, such recipi-
8 ents shall use small, minority, women-owned, or disadvan-
9 taged business concerns as contractors or subcontractors
10 to the extent practicable.

11 (i) COORDINATION WITH STATE HOMELAND SECUR-
12 ITY PLANS.—In establishing security improvement prior-
13 ities under section 1405 and in awarding grants for cap-
14 ital security improvements and operational security im-
15 provements under subsection (b), the Secretary shall act
16 consistently with relevant State homeland security plans.

17 (j) MULTISTATE TRANSPORTATION SYSTEMS.—In
18 cases in which a public transportation system operates in
19 more than one State, the Secretary shall give appropriate
20 consideration to the risks of the entire system, including
21 those portions of the States into which the system crosses,
22 in establishing security improvement priorities under sec-
23 tion 1405 and in awarding grants for capital security im-
24 provements and operational security improvements under
25 subsection (b).

1 (k) CONGRESSIONAL NOTIFICATION.—Not later than
2 3 days before the award of any grant under this section,
3 the Secretary shall notify simultaneously, the appropriate
4 congressional committees of the intent to award such
5 grant.

6 (l) RETURN OF MISSPENT GRANT FUNDS.—The Sec-
7 retary shall establish a process to require the return of
8 any misspent grant funds received under this section de-
9 termined to have been spent for a purpose other than
10 those specified in the grant award.

11 (m) AUTHORIZATION OF APPROPRIATIONS.—

12 (1) There are authorized to be appropriated to
13 the Secretary to make grants under this section—

14 (A) such sums as are necessary for fiscal
15 year 2007;

16 (B) \$650,000,000 for fiscal year 2008, ex-
17 cept that not more than 50 percent of such
18 funds may be used for operational costs under
19 subsection (b)(2);

20 (C) \$750,000,000 for fiscal year 2009, ex-
21 cept that not more than 30 percent of such
22 funds may be used for operational costs under
23 subsection (b)(2);

24 (D) \$900,000,000 for fiscal year 2010, ex-
25 cept that not more than 20 percent of such

1 funds may be used for operational costs under
2 subsection (b)(2); and

3 (E) \$1,100,000,000 for fiscal year 2011,
4 except that not more than 10 percent of such
5 funds may be used for operational costs under
6 subsection (b)(2).

7 (2) PERIOD OF AVAILABILITY.—Sums appro-
8 priated to carry out this section shall remain avail-
9 able until expended.

10 (3) WAIVER.—The Secretary may waive the
11 limitation on operational costs specified in subpara-
12 graphs (B) through (E) of paragraph (1) if the Sec-
13 retary determines that such a waiver is required in
14 the interest of national security, and if the Secretary
15 provides a written justification to the appropriate
16 congressional committees prior to any such action.

17 (4) EFFECTIVE DATE.—Funds provided for fis-
18 cal year 2007 transit security grants under Public
19 Law 110–28 shall be allocated based on security as-
20 sessments that are in existence as of the date of en-
21 actment of this Act.

22 **SEC. 1407. SECURITY EXERCISES.**

23 (a) IN GENERAL.—The Secretary shall establish a
24 program for conducting security exercises for public trans-
25 portation agencies for the purpose of assessing and im-

1 proving the capabilities of entities described in subsection
2 (b) to prevent, prepare for, mitigate against, respond to,
3 and recover from acts of terrorism.

4 (b) COVERED ENTITIES.—Entities to be assessed
5 under the program shall include—

6 (1) Federal, State, and local agencies and tribal
7 governments;

8 (2) public transportation agencies;

9 (3) governmental and nongovernmental emer-
10 gency response providers and law enforcement per-
11 sonnel, including transit police; and

12 (4) any other organization or entity that the
13 Secretary determines appropriate.

14 (c) REQUIREMENTS.—The Secretary shall ensure
15 that the program—

16 (1) requires, for public transportation agencies
17 which the Secretary deems appropriate, exercises to
18 be conducted that are—

19 (A) scaled and tailored to the needs of spe-
20 cific public transportation systems, and include
21 taking into account the needs of the elderly and
22 individuals with disabilities;

23 (B) live;

24 (C) coordinated with appropriate officials;

1 (D) as realistic as practicable and based on
2 current risk assessments, including credible
3 threats, vulnerabilities, and consequences;

4 (E) inclusive, as appropriate, of frontline
5 employees and managers; and

6 (F) consistent with the National Incident
7 Management System, the National Response
8 Plan, the National Infrastructure Protection
9 Plan, the National Preparedness Guidance, the
10 National Preparedness Goal, and other such na-
11 tional initiatives;

12 (2) provides that exercises described in para-
13 graph (1) will be—

14 (A) evaluated by the Secretary against
15 clear and consistent performance measures;

16 (B) assessed by the Secretary to learn best
17 practices, which shall be shared with appro-
18 priate Federal, State, local, and tribal officials,
19 governmental and nongovernmental emergency
20 response providers, law enforcement personnel,
21 including railroad and transit police, and appro-
22 priate stakeholders; and

23 (C) followed by remedial action by covered
24 entities in response to lessons learned;

1 (3) involves individuals in neighborhoods
2 around the infrastructure of a public transportation
3 system; and

4 (4) assists State, local, and tribal governments
5 and public transportation agencies in designing, im-
6 plementing, and evaluating exercises that conform to
7 the requirements of paragraph (2).

8 (d) NATIONAL EXERCISE PROGRAM.—The Secretary
9 shall ensure that the exercise program developed under
10 subsection (a) is a component of the National Exercise
11 Program established under section 648 of the Post
12 Katrina Emergency Management Reform Act (Public Law
13 109–295; 6 U.S.C. 748).

14 (e) FERRY SYSTEM EXEMPTION.—This section does
15 not apply to any ferry system for which drills are required
16 to be conducted pursuant to section 70103 of title 46,
17 United States Code.

18 **SEC. 1408. PUBLIC TRANSPORTATION SECURITY TRAINING**
19 **PROGRAM.**

20 (a) IN GENERAL.—Not later than 90 days after the
21 date of enactment of this Act, the Secretary shall develop
22 and issue detailed interim final regulations, and not later
23 than 1 year after the date of enactment of this Act, the
24 Secretary shall develop and issue detailed final regula-
25 tions, for a public transportation security training pro-

1 gram to prepare public transportation employees, includ-
2 ing frontline employees, for potential security threats and
3 conditions.

4 (b) CONSULTATION.—The Secretary shall develop the
5 interim final and final regulations under subsection (a) in
6 consultation with—

7 (1) appropriate law enforcement, fire service,
8 security, and terrorism experts;

9 (2) representatives of public transportation
10 agencies; and

11 (3) nonprofit employee labor organizations rep-
12 resenting public transportation employees or emer-
13 gency response personnel.

14 (c) PROGRAM ELEMENTS.—The interim final and
15 final regulations developed under subsection (a) shall re-
16 quire security training programs to include, at a min-
17 imum, elements to address the following:

18 (1) Determination of the seriousness of any oc-
19 currence or threat.

20 (2) Crew and passenger communication and co-
21 ordination.

22 (3) Appropriate responses to defend oneself, in-
23 cluding using nonlethal defense devices.

24 (4) Use of personal protective devices and other
25 protective equipment.

1 (5) Evacuation procedures for passengers and
2 employees, including individuals with disabilities and
3 the elderly.

4 (6) Training related to behavioral and psycho-
5 logical understanding of, and responses to, terrorist
6 incidents, including the ability to cope with hijacker
7 behavior, and passenger responses.

8 (7) Live situational training exercises regarding
9 various threat conditions, including tunnel evacu-
10 ation procedures.

11 (8) Recognition and reporting of dangerous
12 substances and suspicious packages, persons, and
13 situations.

14 (9) Understanding security incident procedures,
15 including procedures for communicating with gov-
16 ernmental and nongovernmental emergency response
17 providers and for on scene interaction with such
18 emergency response providers.

19 (10) Operation and maintenance of security
20 equipment and systems.

21 (11) Other security training activities that the
22 Secretary deems appropriate.

23 (d) REQUIRED PROGRAMS.—

24 (1) DEVELOPMENT AND SUBMISSION TO SEC-
25 RETARY.—Not later than 90 days after a public

1 transportation agency meets the requirements under
2 subsection (e), each such public transportation agen-
3 cy shall develop a security training program in ac-
4 cordance with the regulations developed under sub-
5 section (a) and submit the program to the Secretary
6 for approval.

7 (2) APPROVAL.—Not later than 60 days after
8 receiving a security training program proposal under
9 this subsection, the Secretary shall approve the pro-
10 gram or require the public transportation agency
11 that developed the program to make any revisions to
12 the program that the Secretary determines necessary
13 for the program to meet the requirements of the reg-
14 ulations. A public transportation agency shall re-
15 spond to the Secretary's comments within 30 days
16 after receiving them.

17 (3) TRAINING.—Not later than 1 year after the
18 Secretary approves a security training program pro-
19 posal in accordance with this subsection, the public
20 transportation agency that developed the program
21 shall complete the training of all employees covered
22 under the program.

23 (4) UPDATES OF REGULATIONS AND PROGRAM
24 REVISIONS.—The Secretary shall periodically review
25 and update, as appropriate, the training regulations

1 issued under subsection (a) to reflect new or chang-
2 ing security threats. Each public transportation
3 agency shall revise its training program accordingly
4 and provide additional training as necessary to its
5 workers within a reasonable time after the regula-
6 tions are updated.

7 (e) **APPLICABILITY.**—A public transportation agency
8 that receives a grant award under this title shall be re-
9 quired to develop and implement a security training pro-
10 gram pursuant to this section.

11 (f) **LONG-TERM TRAINING REQUIREMENT.**—Any
12 public transportation agency required to develop a security
13 training program pursuant to this section shall provide
14 routine and ongoing training for employees covered under
15 the program, regardless of whether the public transpor-
16 tation agency receives subsequent grant awards.

17 (g) **NATIONAL TRAINING PROGRAM.**—The Secretary
18 shall ensure that the training program developed under
19 subsection (a) is a component of the National Training
20 Program established under section 648 of the Post
21 Katrina Emergency Management Reform Act (Public Law
22 109–295; 6 U.S.C. 748).

23 (h) **FERRY EXEMPTION.**—This section shall not
24 apply to any ferry system for which training is required.

1 to be conducted pursuant to section 70103 of title 46,
2 United States Code.

3 (i) REPORT.—Not later than 2 years after the date
4 of issuance of the final regulation, the Comptroller Gen-
5 eral shall review implementation of the training program,
6 including interviewing a representative sample of public
7 transportation agencies and employees, and report to the
8 appropriate congressional committees, on the number of
9 reviews conducted and the results. The Comptroller Gen-
10 eral may submit the report in both classified and redacted
11 formats as necessary.

12 **SEC. 1409. PUBLIC TRANSPORTATION RESEARCH AND DE-**
13 **VELOPMENT.**

14 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
15 MENT PROGRAM.—The Secretary shall carry out a re-
16 search and development program through the Homeland
17 Security Advanced Research Projects Agency in the
18 Science and Technology Directorate and in consultation
19 with the Transportation Security Administration and with
20 the Federal Transit Administration, for the purpose of im-
21 proving the security of public transportation systems.

22 (b) GRANTS AND CONTRACTS AUTHORIZED.—The
23 Secretary shall award grants or contracts to public or pri-
24 vate entities to conduct research and demonstrate tech-
25 nologies and methods to reduce and deter terrorist threats

1 or mitigate damages resulting from terrorist attacks
2 against public transportation systems.

3 (c) USE OF FUNDS.—Grants or contracts awarded
4 under subsection (a)—

5 (1) shall be coordinated with activities of the
6 Homeland Security Advanced Research Projects
7 Agency; and

8 (2) may be used to—

9 (A) research chemical, biological, radio-
10 logical, or explosive detection systems that do
11 not significantly impede passenger access;

12 (B) research imaging technologies;

13 (C) conduct product evaluations and test-
14 ing;

15 (D) improve security and redundancy for
16 critical communications, electrical power, and
17 computer and train control systems;

18 (E) develop technologies for securing tun-
19 nels, transit bridges and aerial structures;

20 (F) research technologies that mitigate
21 damages in the event of a cyber attack; and

22 (G) research other technologies or methods
23 for reducing or deterring terrorist attacks
24 against public transportation systems, or miti-
25 gating damage from such attacks.

1 (d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIB-
2 RTIES ISSUES.—

3 (1) CONSULTATION.—In carrying out research
4 and development projects under this section, the
5 Secretary shall consult with the Chief Privacy Offi-
6 cer of the Department and the Officer for Civil
7 Rights and Civil Liberties of the Department, as ap-
8 propriate, and in accordance with section 222 of the
9 Homeland Security Act of 2002 (6 U.S.C. 142).

10 (2) PRIVACY IMPACT ASSESSMENTS.—In ac-
11 cordance with sections 222 and 705 of the Home-
12 land Security Act of 2002 (6 U.S.C. 142; 345), the
13 Chief Privacy Officer shall conduct privacy impact
14 assessments and the Officer for Civil Rights and
15 Civil Liberties shall conduct reviews, as appropriate,
16 for research and development initiatives developed
17 under this section.

18 (e) REPORTING REQUIREMENT.—Each entity that is
19 awarded a grant or contract under this section shall report
20 annually to the Department on the use of grant or con-
21 tract funds received under this section to ensure that the
22 awards made are expended in accordance with the pur-
23 poses of this title and the priorities developed by the Sec-
24 retary.

1 (f) COORDINATION.—The Secretary shall ensure that
2 the research is consistent with the priorities established
3 in the National Strategy for Public Transportation Secu-
4 rity and is coordinated, to the extent practicable, with
5 other Federal, State, local, tribal, and private sector public
6 transportation, railroad, commuter railroad, and over-the-
7 road bus research initiatives to leverage resources and
8 avoid unnecessary duplicative efforts.

9 (g) RETURN OF MISSPENT GRANT OR CONTRACT
10 FUNDS.—If the Secretary determines that a grantee or
11 contractor used any portion of the grant or contract funds
12 received under this section for a purpose other than the
13 allowable uses specified under subsection (c), the grantee
14 or contractor shall return any amount so used to the
15 Treasury of the United States.

16 (h) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Secretary to make
18 grants under this section—

- 19 (1) such sums as necessary for fiscal year 2007;
- 20 (2) \$25,000,000 for fiscal year 2008;
- 21 (3) \$25,000,000 for fiscal year 2009;
- 22 (4) \$25,000,000 for fiscal year 2010; and
- 23 (5) \$25,000,000 for fiscal year 2011.

1 **SEC. 1410. INFORMATION SHARING.**

2 (a) **INTELLIGENCE SHARING.**—The Secretary shall
3 ensure that the Department of Transportation receives ap-
4 propriate and timely notification of all credible terrorist
5 threats against public transportation assets in the United
6 States.

7 (b) **INFORMATION SHARING ANALYSIS CENTER.**—

8 (1) **AUTHORIZATION.**—The Secretary shall pro-
9 vide for the reasonable costs of the Information
10 Sharing and Analysis Center for Public Transpor-
11 tation (referred to in this subsection as the
12 “ISAC”).

13 (2) **PARTICIPATION.**—The Secretary—

14 (A) shall require public transportation
15 agencies that the Secretary determines to be at
16 high risk of terrorist attack to participate in the
17 ISAC;

18 (B) shall encourage all other public trans-
19 portation agencies to participate in the ISAC;

20 (C) shall encourage the participation of
21 nonprofit employee labor organizations rep-
22 resenting public transportation employees, as
23 appropriate; and

24 (D) shall not charge a fee for participating
25 in the ISAC.

1 (c) REPORT.—The Comptroller General shall report,
2 not less than 3 years after the date of enactment of this
3 Act, to the appropriate congressional committees, as to the
4 value and efficacy of the ISAC along with any other public
5 transportation information-sharing programs ongoing at
6 the Department. The report shall include an analysis of
7 the user satisfaction of public transportation agencies on
8 the state of information-sharing and the value that each
9 system provides the user, the costs and benefits of all cen-
10 ters and programs, the coordination among centers and
11 programs, how each center or program contributes to im-
12 plementing the information sharing plan under section
13 1203, and analysis of the extent to which the ISAC is du-
14 plicative with the Department's information-sharing pro-
15 gram.

16 (d) AUTHORIZATION.—

17 (1) IN GENERAL.—There are authorized to be
18 appropriated to the Secretary to carry out this sec-
19 tion—

20 (A) \$600,000 for fiscal year 2008;

21 (B) \$600,000 for fiscal year 2009;

22 (C) \$600,000 for fiscal year 2010; and

23 (D) such sums as may be necessary for
24 2011, provided the report required in sub-

1 section (c) of this section has been submitted to
2 Congress.

3 (2) AVAILABILITY OF FUNDS.—Such sums shall
4 remain available until expended.

5 **SEC. 1411. THREAT ASSESSMENTS.**

6 Not later than 1 year after the date of enactment
7 of this Act, the Secretary shall complete a name-based se-
8 curity background check against the consolidated terrorist
9 watchlist and an immigration status check for all public
10 transportation frontline employees, similar to the threat
11 assessment screening program required for facility em-
12 ployees and longshoremen by the Commandant of the
13 Coast Guard under Coast Guard Notice USCG-2006-
14 24189 (71 Fed. Reg. 25066 (April 8, 2006)).

15 **SEC. 1412. REPORTING REQUIREMENTS.**

16 (a) ANNUAL REPORT TO CONGRESS.—

17 (1) IN GENERAL.—Not later than March 31st
18 of each year, the Secretary shall submit a report,
19 containing the information described in paragraph
20 (2), to the appropriate congressional committees.

21 (2) CONTENTS.—The report submitted under
22 paragraph (1) shall include—

23 (A) a description of the implementation of
24 the provisions of this title;

1 (B) the amount of funds appropriated to
2 carry out the provisions of this title that have
3 not been expended or obligated;

4 (C) the National Strategy for Public
5 Transportation Security required under section
6 1404;

7 (D) an estimate of the cost to implement
8 the National Strategy for Public Transportation
9 Security which shall break out the aggregated
10 total cost of needed capital and operational se-
11 curity improvements for fiscal years 2008-
12 2018; and

13 (E) the state of public transportation secu-
14 rity in the United States, which shall include
15 detailing the status of security assessments, the
16 progress being made around the country in de-
17 veloping prioritized lists of security improve-
18 ments necessary to make public transportation
19 facilities and passengers more secure, the
20 progress being made by agencies in developing
21 security plans and how those plans differ from
22 the security assessments and a prioritized list of
23 security improvements being compiled by other
24 agencies, as well as a random sample of an

1 equal number of large- and small-scale projects
2 currently underway.

3 (3) **FORMAT.**—The Secretary may submit the
4 report in both classified and redacted formats if the
5 Secretary determines that such action is appropriate
6 or necessary.

7 (b) **ANNUAL REPORT TO GOVERNORS.**—

8 (1) **IN GENERAL.**—Not later than March 31 of
9 each year, the Secretary shall submit a report to the
10 Governor of each State with a public transportation
11 agency that has received a grant under this Act.

12 (2) **CONTENTS.**—The report submitted under
13 paragraph (1) shall specify—

14 (A) the amount of grant funds distributed
15 to each such public transportation agency; and

16 (B) the use of such grant funds.

17 **SEC. 1413. PUBLIC TRANSPORTATION EMPLOYEE PROTEC-**
18 **TIONS.**

19 (a) **IN GENERAL.**—A public transportation agency, a
20 contractor or a subcontractor of such agency, or an officer
21 or employee of such agency, shall not discharge, demote,
22 suspend, reprimand, or in any other way discriminate
23 against an employee if such discrimination is due, in whole
24 or in part, to the employee's lawful, good faith act done,

1 or perceived by the employer to have been done or about
2 to be done—

3 (1) to provide information, directly cause infor-
4 mation to be provided, or otherwise directly assist in
5 any investigation regarding any conduct which the
6 employee reasonably believes constitutes a violation
7 of any Federal law, rule, or regulation relating to
8 public transportation safety or security, or fraud,
9 waste, or abuse of Federal grants or other public
10 funds intended to be used for public transportation
11 safety or security, if the information or assistance is
12 provided to or an investigation stemming from the
13 provided information is conducted by—

14 (A) a Federal, State, or local regulatory or
15 law enforcement agency (including an office of
16 the Inspector General under the Inspector Gen-
17 eral Act of 1978 (5 U.S.C. App.; Public Law
18 95-452);

19 (B) any Member of Congress, any Com-
20 mittee of Congress, or the Government Ac-
21 countability Office; or

22 (C) a person with supervisory authority
23 over the employee or such other person who has
24 the authority to investigate, discover, or termi-
25 nate the misconduct;

1 (2) to refuse to violate or assist in the violation
2 of any Federal law, rule, or regulation relating to
3 public transportation safety or security;

4 (3) to file a complaint or directly cause to be
5 brought a proceeding related to the enforcement of
6 this section or to testify in that proceeding;

7 (4) to cooperate with a safety or security inves-
8 tigation by the Secretary of Transportation, the Sec-
9 retary of Homeland Security, or the National Trans-
10 portation Safety Board; or

11 (5) to furnish information to the Secretary of
12 Transportation, the Secretary of Homeland Security,
13 the National Transportation Safety Board, or any
14 Federal, State, or local regulatory or law enforce-
15 ment agency as to the facts relating to any accident
16 or incident resulting in injury or death to an indi-
17 vidual or damage to property occurring in connec-
18 tion with public transportation.

19 (b) HAZARDOUS SAFETY OR SECURITY CONDI-
20 TIONS.—(1) A public transportation agency, or a con-
21 tractor or a subcontractor of such agency, or an officer
22 or employee of such agency, shall not discharge, demote,
23 suspend, reprimand, or in any other way discriminate
24 against an employee for—

1 (A) reporting a hazardous safety or security
2 condition;

3 (B) refusing to work when confronted by a haz-
4 arduous safety or security condition related to the
5 performance of the employee's duties, if the condi-
6 tions described in paragraph (2) exist; or

7 (C) refusing to authorize the use of any safety-
8 or security-related equipment, track, or structures, if
9 the employee is responsible for the inspection or re-
10 pair of the equipment, track, or structures, when the
11 employee believes that the equipment, track, or
12 structures are in a hazardous safety or security con-
13 dition, if the conditions described in paragraph (2)
14 of this subsection exist.

15 (2) A refusal is protected under paragraph (1)(B)
16 and (C) if—

17 (A) the refusal is made in good faith and no
18 reasonable alternative to the refusal is available to
19 the employee;

20 (B) a reasonable individual in the cir-
21 cumstances then confronting the employee would
22 conclude that—

23 (i) the hazardous condition presents an im-
24 minent danger of death or serious injury; and

1 (ii) the urgency of the situation does not
2 allow sufficient time to eliminate the danger
3 without such refusal; and

4 (C) the employee, where possible, has notified the
5 public transportation agency of the existence of the haz-
6 arduous condition and the intention not to perform further
7 work, or not to authorize the use of the hazardous equip-
8 ment, track, or structures, unless the condition is cor-
9 rected immediately or the equipment, track, or structures
10 are repaired properly or replaced.

11 (3) In this subsection, only subsection (b)(1)(A) shall
12 apply to security personnel, including transit police, em-
13 ployed or utilized by a public transportation agency to pro-
14 tect riders, equipment, assets, or facilities.

15 (c) ENFORCEMENT ACTION.—

16 (1) FILING AND NOTIFICATION.—A person who
17 believes that he or she has been discharged or other-
18 wise discriminated against by any person in violation
19 of subsection (a) or (b) may, not later than 180 days
20 after the date on which such violation occurs, file (or
21 have any person file on his or her behalf) a com-
22 plaint with the Secretary of Labor alleging such dis-
23 charge or discrimination. Upon receipt of a com-
24 plaint filed under this paragraph, the Secretary of
25 Labor shall notify, in writing, the person named in

1 the complaint and the person's employer of the filing
2 of the complaint, of the allegations contained in the
3 complaint, of the substance of evidence supporting
4 the complaint, and of the opportunities that will be
5 afforded to such person under paragraph (2).

6 (2) INVESTIGATION; PRELIMINARY ORDER.—

7 (A) IN GENERAL.—Not later than 60 days
8 after the date of receipt of a complaint filed
9 under paragraph (1) and after affording the
10 person named in the complaint an opportunity
11 to submit to the Secretary of Labor a written
12 response to the complaint and an opportunity to
13 meet with a representative of the Secretary of
14 Labor to present statements from witnesses, the
15 Secretary of Labor shall conduct an investiga-
16 tion and determine whether there is reasonable
17 cause to believe that the complaint has merit
18 and notify, in writing, the complainant and the
19 person alleged to have committed a violation of
20 subsection (a) or (b) of the Secretary of Labor's
21 findings. If the Secretary of Labor concludes
22 that there is a reasonable cause to believe that
23 a violation of subsection (a) or (b) has oc-
24 curred, the Secretary of Labor shall accompany
25 the Secretary of Labor's findings with a pre-

1 liminary order providing the relief prescribed by
2 paragraph (3)(B). Not later than 30 days after
3 the date of notification of findings under this
4 paragraph, either the person alleged to have
5 committed the violation or the complainant may
6 file objections to the findings or preliminary
7 order, or both, and request a hearing on the
8 record. The filing of such objections shall not
9 operate to stay any reinstatement remedy con-
10 tained in the preliminary order. Such hearings
11 shall be conducted expeditiously. If a hearing is
12 not requested in such 30-day period, the pre-
13 liminary order shall be deemed a final order
14 that is not subject to judicial review.

15 (B) REQUIREMENTS.—

16 (i) REQUIRED SHOWING BY COM-
17 PLAINANT.—The Secretary of Labor shall
18 dismiss a complaint filed under this sub-
19 section and shall not conduct an investiga-
20 tion otherwise required under subpara-
21 graph (A) unless the complainant makes a
22 prima facie showing that any behavior de-
23 scribed in subsection (a) or (b) was a con-
24 tributing factor in the unfavorable per-
25 sonnel action alleged in the complaint.

1 (ii) SHOWING BY EMPLOYER.—Not-
2 withstanding a finding by the Secretary of
3 Labor that the complainant has made the
4 showing required under clause (i), no in-
5 vestigation otherwise required under para-
6 graph (A) shall be conducted if the em-
7 ployer demonstrates, by clear and con-
8 vincing evidence, that the employer would
9 have taken the same unfavorable personnel
10 action in the absence of that behavior.

11 (iii) CRITERIA FOR DETERMINATION
12 BY SECRETARY OF LABOR.—The Secretary
13 of Labor may determine that a violation of
14 subsection (a) or (b) has occurred only if
15 the complainant demonstrates that any be-
16 havior described in subsection (a) or (b)
17 was a contributing factor in the unfavor-
18 able personnel action alleged in the com-
19 plaint.

20 (iv) PROHIBITION.—Relief may not be
21 ordered under paragraph (A) if the em-
22 ployer demonstrates by clear and con-
23 vincing evidence that the employer would
24 have taken the same unfavorable personnel
25 action in the absence of that behavior.

1 (3) FINAL ORDER.—

2 (A) DEADLINE FOR ISSUANCE; SETTLE-
3 MENT AGREEMENTS.—Not later than 120 days
4 after the date of conclusion of a hearing under
5 paragraph (2), the Secretary of Labor shall
6 issue a final order providing the relief pre-
7 scribed by this paragraph or denying the com-
8 plaint. At any time before issuance of a final
9 order, a proceeding under this subsection may
10 be terminated on the basis of a settlement
11 agreement entered into by the Secretary of
12 Labor, the complainant, and the person alleged
13 to have committed the violation.

14 (B) REMEDY.—If, in response to a com-
15 plaint filed under paragraph (1), the Secretary
16 of Labor determines that a violation of sub-
17 section (a) or (b) has occurred, the Secretary of
18 Labor shall order the person who committed
19 such violation to—

20 (i) take affirmative action to abate the
21 violation; and

22 (ii) provide the remedies described in
23 subsection (d).

24 (C) ORDER.—If an order is issued under
25 subparagraph (B), the Secretary of Labor, at

1 the request of the complainant, shall assess
2 against the person against whom the order is
3 issued a sum equal to the aggregate amount of
4 all costs and expenses (including attorney and
5 expert witness fees) reasonably incurred, as de-
6 termined by the Secretary of Labor, by the
7 complainant for, or in connection with, bringing
8 the complaint upon which the order was issued.

9 (D) FRIVOLOUS COMPLAINTS.—If the Sec-
10 retary of Labor finds that a complaint under
11 paragraph (1) is frivolous or has been brought
12 in bad faith, the Secretary of Labor may award
13 to the prevailing employer reasonable attorney
14 fees not exceeding \$1,000.

15 (4) REVIEW.—

16 (A) APPEAL TO COURT OF APPEALS.—Any
17 person adversely affected or aggrieved by an
18 order issued under paragraph (3) may obtain
19 review of the order in the United States Court
20 of Appeals for the circuit in which the violation,
21 with respect to which the order was issued, al-
22 legedly occurred or the circuit in which the
23 complainant resided on the date of such viola-
24 tion. The petition for review must be filed not
25 later than 60 days after the date of the

1 issuance of the final order of the Secretary of
2 Labor. Review shall conform to chapter 7 of
3 title 5, United States Code. The commencement
4 of proceedings under this subparagraph shall
5 not, unless ordered by the court, operate as a
6 stay of the order.

7 (B) LIMITATION ON COLLATERAL AT-
8 TACK.—An order of the Secretary of Labor
9 with respect to which review could have been
10 obtained under subparagraph (A) shall not be
11 subject to judicial review in any criminal or
12 other civil proceeding.

13 (5) ENFORCEMENT OF ORDER BY SECRETARY
14 OF LABOR.—Whenever any person has failed to com-
15 ply with an order issued under paragraph (3), the
16 Secretary of Labor may file a civil action in the
17 United States district court for the district in which
18 the violation was found to occur to enforce such
19 order. In actions brought under this paragraph, the
20 district courts shall have jurisdiction to grant all ap-
21 propriate relief including, but not limited to, injunc-
22 tive relief and compensatory damages.

23 (6) ENFORCEMENT OF ORDER BY PARTIES.—

24 (A) COMMENCEMENT OF ACTION.—A per-
25 son on whose behalf an order was issued under

1 paragraph (3) may commence a civil action
2 against the person to whom such order was
3 issued to require compliance with such order.
4 The appropriate United States district court
5 shall have jurisdiction, without regard to the
6 amount in controversy or the citizenship of the
7 parties, to enforce such order.

8 (B) ATTORNEY FEES.—The court, in
9 issuing any final order under this paragraph,
10 may award costs of litigation (including reason-
11 able attorney and expert witness fees) to any
12 party whenever the court determines such
13 award is appropriate.

14 (7) DE NOVO REVIEW.—With respect to a com-
15 plaint under paragraph (1), if the Secretary of
16 Labor has not issued a final decision within 210
17 days after the filing of the complaint and if the
18 delay is not due to the bad faith of the employee,
19 the employee may bring an original action at law or
20 equity for de novo review in the appropriate district
21 court of the United States, which shall have jurisdic-
22 tion over such an action without regard to the
23 amount in controversy, and which action shall, at
24 the request of either party to such action, be tried
25 by the court with a jury. The action shall be gov-

1 erned by the same legal burdens of proof specified
2 in paragraph (2)(B) for review by the Secretary of
3 Labor.

4 (d) REMEDIES.—

5 (1) IN GENERAL.—An employee prevailing in
6 any action under subsection (c) shall be entitled to
7 all relief necessary to make the employee whole.

8 (2) DAMAGES.—Relief in an action under sub-
9 section (c) (including an action described in (c)(7))
10 shall include—

11 (A) reinstatement with the same seniority
12 status that the employee would have had, but
13 for the discrimination;

14 (B) any backpay, with interest; and

15 (C) compensatory damages, including com-
16 pensation for any special damages sustained as
17 a result of the discrimination, including litiga-
18 tion costs, expert witness fees, and reasonable
19 attorney fees.

20 (3) POSSIBLE RELIEF.—Relief in any action
21 under subsection (c) may include punitive damages
22 in an amount not to exceed \$250,000.

23 (e) ELECTION OF REMEDIES.—An employee may not
24 seek protection under both this section and another provi-

1 sion of law for the same allegedly unlawful act of the pub-
2 lic transportation agency.

3 (f) NO PREEMPTION.—Nothing in this section pre-
4 empts or diminishes any other safeguards against dis-
5 crimination, demotion, discharge, suspension, threats, har-
6 assment, reprimand, retaliation, or any other manner of
7 discrimination provided by Federal or State law.

8 (g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in
9 this section shall be construed to diminish the rights, privi-
10 leges, or remedies of any employee under any Federal or
11 State law or under any collective bargaining agreement.
12 The rights and remedies in this section may not be waived
13 by any agreement, policy, form, or condition of employ-
14 ment.

15 (h) DISCLOSURE OF IDENTITY.—

16 (1) Except as provided in paragraph (2) of this
17 subsection, or with the written consent of the em-
18 ployee, the Secretary of Transportation or the Sec-
19 retary of Homeland Security may not disclose the
20 name of an employee who has provided information
21 described in subsection (a)(1).

22 (2) The Secretary of Transportation or the Sec-
23 retary of Homeland Security shall disclose to the At-
24 torney General the name of an employee described
25 in paragraph (1) of this subsection if the matter is

1 referred to the Attorney General for enforcement.
2 The Secretary making such disclosure shall provide
3 reasonable advance notice to the affected employee if
4 disclosure of that person's identity or identifying in-
5 formation is to occur.

6 (i) PROCESS FOR REPORTING SECURITY PROBLEMS
7 TO THE DEPARTMENT OF HOMELAND SECURITY.—

8 (1) ESTABLISHMENT OF PROCESS.—The Sec-
9 retary shall establish through regulations after an
10 opportunity for notice and comment, and provide in-
11 formation to the public regarding, a process by
12 which any person may submit a report to the Sec-
13 retary regarding public transportation security prob-
14 lems, deficiencies, or vulnerabilities.

15 (2) ACKNOWLEDGMENT OF RECEIPT.—If a re-
16 port submitted under paragraph (1) identifies the
17 person making the report, the Secretary shall re-
18 spond promptly to such person and acknowledge re-
19 ceipt of the report.

20 (3) STEPS TO ADDRESS PROBLEM.—The Sec-
21 retary shall review and consider the information pro-
22 vided in any report submitted under paragraph (1)
23 and shall take appropriate steps to address any
24 problems or deficiencies identified.

1 **SEC. 1414. SECURITY BACKGROUND CHECKS OF COVERED**
2 **INDIVIDUALS FOR PUBLIC TRANSPOR-**
3 **TATION.**

4 (a) **DEFINITIONS.**—In this section, the following defi-
5 nitions apply:

6 (1) **SECURITY BACKGROUND CHECK.**—The term
7 “security background check” means reviewing the
8 following for the purpose of identifying individuals
9 who may pose a threat to transportation security,
10 national security, or of terrorism:

11 (A) Relevant criminal history databases.

12 (B) In the case of an alien (as defined in
13 section 101 of the Immigration and Nationality
14 Act (8 U.S.C. 1101(a)(3))), the relevant data-
15 bases to determine the status of the alien under
16 the immigration laws of the United States.

17 (C) Other relevant information or data-
18 bases, as determined by the Secretary.

19 (2) **COVERED INDIVIDUAL.**—The term “covered
20 individual” means an employee of a public transpor-
21 tation agency or a contractor or subcontractor of a
22 public transportation agency.

23 (b) **GUIDANCE.**—

24 (1) Any guidance, recommendations, suggested
25 action items, or any other widely disseminated vol-
26 untary action item issued by the Secretary to a pub-

1 lic transportation agency or a contractor or subcon-
2 tractor of a public transportation agency relating to
3 performing a security background check of a covered
4 individual shall contain recommendations on the ap-
5 propriate scope and application of such a security
6 background check, including the time period covered,
7 the types of disqualifying offenses, and a redress
8 process for adversely impacted covered individuals
9 consistent with subsections (c) and (d) of this sec-
10 tion.

11 (2) Not later than 60 days after the date of en-
12 actment of this Act, any guidance, recommendations,
13 suggested action items, or any other widely dissemi-
14 nated voluntary action item issued by the Secretary
15 prior to the date of enactment of this Act to a public
16 transportation agency or a contractor or subcon-
17 tractor of a public transportation agency relating to
18 performing a security background check of a covered
19 individual shall be updated in compliance with para-
20 graph (b)(1).

21 (3) If a public transportation agency or a con-
22 tractor or subcontractor of a public transportation
23 agency performs a security background check on a
24 covered individual to fulfill guidance issued by the
25 Secretary under paragraph (1) or (2), the Secretary

1 shall not consider such guidance fulfilled unless an
2 adequate redress process as described in subsection
3 (d) is provided to covered individuals.

4 (e) REQUIREMENTS.—If the Secretary issues a rule,
5 regulation or directive requiring a public transportation
6 agency or contractor or subcontractor of a public transpor-
7 tation agency to perform a security background check of
8 a covered individual, then the Secretary shall prohibit a
9 public transportation agency or contractor or subcon-
10 tractor of a public transportation agency from making an
11 adverse employment decision, including removal or sus-
12 pension of the employee, due to such rule, regulation, or
13 directive with respect to a covered individual unless the
14 public transportation agency or contractor or subcon-
15 tractor of a public transportation agency determines that
16 the covered individual—

17 (1) has been convicted of, has been found not
18 guilty of by reason of insanity, or is under want,
19 warrant, or indictment for a permanent disqualifying
20 criminal offense listed in part 1572 of title 49, Code
21 of Federal Regulations;

22 (2) was convicted of or found not guilty by rea-
23 son of insanity of an interim disqualifying criminal
24 offense listed in part 1572 of title 49, Code of Fed-
25 eral Regulations, within 7 years of the date that the

1 public transportation agency or contractor or sub-
2 contractor of the public transportation agency per-
3 forms the security background check; or

4 (3) was incarcerated for an interim disquali-
5 fying criminal offense listed in part 1572 of title 49,
6 Code of Federal Regulations, and released from in-
7 carceration within 5 years of the date that the public
8 transportation agency or contractor or subcontractor
9 of a public transportation agency performs the secu-
10 rity background check.

11 (d) REDRESS PROCESS.—If the Secretary issues a
12 rule, regulation, or directive requiring a public transpor-
13 tation agency or contractor or subcontractor of a public
14 transportation agency to perform a security background
15 check of a covered individual, the Secretary shall—

16 (1) provide an adequate redress process for a
17 covered individual subjected to an adverse employ-
18 ment decision, including removal or suspension of
19 the employee, due to such rule, regulation, or direc-
20 tive that is consistent with the appeals and waiver
21 process established for applicants for commercial
22 motor vehicle hazardous materials endorsements and
23 transportation workers at ports, as required by sec-
24 tion 70105(c) of title 49, United States Code; and

1 (2) have the authority to order an appropriate
2 remedy, including reinstatement of the covered indi-
3 vidual, should the Secretary determine that a public
4 transportation agency or contractor or subcontractor
5 of a public transportation agency wrongfully made
6 an adverse employment decision regarding a covered
7 individual pursuant to such rule, regulation, or di-
8 rective.

9 (e) FALSE STATEMENTS.—A public transportation
10 agency or a contractor or subcontractor of a public trans-
11 portation agency may not knowingly misrepresent to an
12 employee or other relevant person, including an arbiter in-
13 volved in a labor arbitration, the scope, application, or
14 meaning of any rules, regulations, directives, or guidance
15 issued by the Secretary related to security background
16 check requirements for covered individuals when con-
17 ducting a security background check. Not later than 1
18 year after the date of enactment of this Act, the Secretary
19 shall issue a regulation that prohibits a public transpor-
20 tation agency or a contractor or subcontractor of a public
21 transportation agency from knowingly misrepresenting to
22 an employee or other relevant person, including an arbiter
23 involved in a labor arbitration, the scope, application, or
24 meaning of any rules, regulations, directives, or guidance
25 issued by the Secretary related to security background

1 check requirements for covered individuals when con-
2 ducting a security background check.

3 (f) RIGHTS AND RESPONSIBILITIES.—Nothing in this
4 section shall be construed to abridge a public transpor-
5 tation agency's or a contractor or subcontractor of a pub-
6 lic transportation agency's rights or responsibilities to
7 make adverse employment decisions permitted by other
8 Federal, State, or local laws. Nothing in the section shall
9 be construed to abridge rights and responsibilities of cov-
10 ered individuals, a public transportation agency, or a con-
11 tractor or subcontractor of a public transportation agency
12 under any other Federal, State, or local laws or collective
13 bargaining agreement.

14 (g) NO PREEMPTION OF FEDERAL OR STATE LAW.—
15 Nothing in this section shall be construed to preempt a
16 Federal, State, or local law that requires criminal history
17 background checks, immigration status checks, or other
18 background checks of covered individuals.

19 (h) STATUTORY CONSTRUCTION.—Nothing in this
20 section shall be construed to affect the process for review
21 established under section 70105(c) of title 46, United
22 States Code, including regulations issued pursuant to such
23 section.

1 **SEC. 1415. LIMITATION ON FINES AND CIVIL PENALTIES.**

2 (a) INSPECTORS.—Surface transportation inspectors
3 shall be prohibited from issuing fines to public transpor-
4 tation agencies for violations of the Department's regula-
5 tions or orders except through the process described in
6 subsection (b).

7 (b) CIVIL PENALTIES.—The Secretary shall be pro-
8 hibited from assessing civil penalties against public trans-
9 portation agencies for violations of the Department's regu-
10 lations or orders, except in accordance with the following:

11 (1) In the case of a public transportation agen-
12 cy that is found to be in violation of a regulation or
13 order issued by the Secretary, the Secretary shall
14 seek correction of the violation through a written no-
15 tice to the public transportation agency and shall
16 give the public transportation agency reasonable op-
17 portunity to correct the violation or propose an al-
18 ternative means of compliance acceptable to the Sec-
19 retary.

20 (2) If the public transportation agency does not
21 correct the violation or propose an alternative means
22 of compliance acceptable to the Secretary within a
23 reasonable time period that is specified in the writ-
24 ten notice, the Secretary may take any action au-
25 thorized in section 114 of title 49, United States
26 Code, as amended by this Act.

1 (c) LIMITATION ON SECRETARY.—The Secretary
2 shall not initiate civil enforcement actions for violations
3 of administrative and procedural requirements pertaining
4 to the application for and expenditure of funds awarded
5 under transportation security grant programs under this
6 title.

7 **TITLE XV—SURFACE**
8 **TRANSPORTATION SECURITY**
9 **Subtitle A—General Provisions**

10 **SEC. 1501. DEFINITIONS.**

11 In this title, the following definitions apply:

12 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
13 **TEES.**—The term “appropriate congressional com-
14 mittees” means the Committee on Commerce,
15 Science, and Transportation and the Committee on
16 Homeland Security and Governmental Affairs of the
17 Senate and the Committee on Homeland Security
18 and the Committee on Transportation and Infra-
19 structure of the House of Representatives.

20 (2) **SECRETARY.**—The term “Secretary” means
21 the Secretary of Homeland Security.

22 (3) **DEPARTMENT.**—The term “Department”
23 means the Department of Homeland Security.

1 (4) OVER-THE-ROAD BUS.—The term “over-the-
2 road bus” means a bus characterized by an elevated
3 passenger deck located over a baggage compartment.

4 (5) OVER-THE-ROAD BUS FRONTLINE EMPLOY-
5 EES.—In this section, the term “over-the-road bus
6 frontline employees” means over-the-road bus driv-
7 ers, security personnel, dispatchers, maintenance
8 and maintenance support personnel, ticket agents,
9 other terminal employees, and other employees of an
10 over-the-road bus operator or terminal owner or op-
11 erator that the Secretary determines should receive
12 security training under this title.

13 (6) RAILROAD FRONTLINE EMPLOYEES.—In
14 this section, the term “railroad frontline employees”
15 means security personnel, dispatchers, locomotive
16 engineers, conductors, trainmen, other onboard em-
17 ployees, maintenance and maintenance support per-
18 sonnel, bridge tenders, and any other employees of
19 railroad carriers that the Secretary determines
20 should receive security training under this title.

21 (7) RAILROAD.—The term “railroad” has the
22 meaning that term has in section 20102 of title 49,
23 United States Code.

1 (8) RAILROAD CARRIER.—The term “railroad
2 carrier” has the meaning that term has in section
3 20102 of title 49, United States Code.

4 (9) STATE.—The term “State” means any one
5 of the 50 States, the District of Columbia, Puerto
6 Rico, the Northern Mariana Islands, the Virgin Is-
7 lands, Guam, American Samoa, and any other terri-
8 tory or possession of the United States.

9 (10) TERRORISM.—The term “terrorism” has
10 the meaning that term has in section 2 of the Home-
11 land Security Act of 2002 (6 U.S.C. 101).

12 (11) TRANSPORTATION.—The term “transporta-
13 tion”, as used with respect to an over-the-road
14 bus, means the movement of passengers or property
15 by an over-the-road bus—

16 (A) in the jurisdiction of the United States
17 between a place in a State and a place outside
18 the State (including a place outside the United
19 States); or

20 (B) in a State that affects trade, traffic,
21 and transportation described in subparagraph
22 (A).

23 (12) UNITED STATES.—The term “United
24 States” means the 50 States, the District of Colum-
25 bia, Puerto Rico, the Northern Mariana Islands, the

1 Virgin Islands, Guam, American Samoa, and any
2 other territory or possession of the United States.

3 (13) SECURITY-SENSITIVE MATERIAL.—The
4 term “security-sensitive material” means a material,
5 or a group or class of material, in a particular
6 amount and form that the Secretary, in consultation
7 with the Secretary of Transportation, determines,
8 through a rulemaking with opportunity for public
9 comment, poses a significant risk to national secu-
10 rity while being transported in commerce due to the
11 potential use of the material in an act of terrorism.
12 In making such a designation, the Secretary shall, at
13 a minimum, consider the following:

14 (A) Class 7 radioactive materials.

15 (B) Division 1.1, 1.2, or 1.3 explosives.

16 (C) Materials poisonous or toxic by inhala-
17 tion, including Division 2.3 gases and Division
18 6.1 materials.

19 (D) A select agent or toxin regulated by
20 the Centers for Disease Control and Prevention
21 under part 73 of title 42, Code of Federal Reg-
22 ulations.

23 (14) DISADVANTAGED BUSINESS CONCERNS.—
24 The term “disadvantaged business concerns” means
25 small businesses that are owned and controlled by

1 socially and economically disadvantaged individuals
2 as defined in section 124, of title 13, Code of Fed-
3 eral Regulations.

4 (15) AMTRAK.—The term “Amtrak” means the
5 National Railroad Passenger Corporation.

6 **SEC. 1502. OVERSIGHT AND GRANT PROCEDURES.**

7 (a) SECRETARIAL OVERSIGHT.—The Secretary, in
8 coordination with Secretary of Transportation for grants
9 awarded to Amtrak, shall establish necessary procedures,
10 including monitoring and audits, to ensure that grants
11 made under this title are expended in accordance with the
12 purposes of this title and the priorities and other criteria
13 developed by the Secretary.

14 (b) ADDITIONAL AUDITS AND REVIEWS.—The Sec-
15 retary, and the Secretary of Transportation for grants
16 awarded to Amtrak, may award contracts to undertake ad-
17 ditional audits and reviews of the safety, security, procure-
18 ment, management, and financial compliance of a recipi-
19 ent of amounts under this title.

20 (c) PROCEDURES FOR GRANT AWARD.—Not later
21 than 180 days after the date of enactment of this Act,
22 the Secretary shall prescribe procedures and schedules for
23 the awarding of grants under this title, including applica-
24 tion and qualification procedures, and a record of decision
25 on applicant eligibility. The procedures shall include the

1 execution of a grant agreement between the grant recipi-
2 ent and the Secretary and shall be consistent, to the extent
3 practicable, with the grant procedures established under
4 section 70107(i) and (j) of title 46, United States Code.

5 (d) ADDITIONAL AUTHORITY.—

6 (1) ISSUANCE.—The Secretary may issue non-
7 binding letters of intent to recipients of a grant
8 under this title, to commit funding from future
9 budget authority of an amount, not more than the
10 Federal Government's share of the project's cost, for
11 a capital improvement project.

12 (2) SCHEDULE.—The letter of intent under this
13 subsection shall establish a schedule under which the
14 Secretary will reimburse the recipient for the Gov-
15 ernment's share of the project's costs, as amounts
16 become available, if the recipient, after the Secretary
17 issues that letter, carries out the project without re-
18 ceiving amounts under a grant issued under this
19 title.

20 (3) NOTICE TO SECRETARY.—A recipient that
21 has been issued a letter of intent under this section
22 shall notify the Secretary of the recipient's intent to
23 carry out a project before the project begins.

24 (4) NOTICE TO CONGRESS.—The Secretary
25 shall transmit to the appropriate congressional com-

1 mittees a written notification at least 5 days before
2 the issuance of a letter of intent under this sub-
3 section.

4 (5) LIMITATIONS.—A letter of intent issued
5 under this subsection is not an obligation of the
6 Federal Government under section 1501 of title 31,
7 United States Code, and the letter is not deemed to
8 be an administrative commitment for financing. An
9 obligation or administrative commitment may be
10 made only as amounts are provided in authorization
11 and appropriations laws.

12 (e) RETURN OF MISSPENT GRANT FUNDS.—As part
13 of the grant agreement under subsection (c), the Secretary
14 shall require grant applicants to return any misspent
15 grant funds received under this title that the Secretary
16 considers to have been spent for a purpose other than
17 those specified in the grant award. The Secretary shall
18 take all necessary actions to recover such funds.

19 (f) CONGRESSIONAL NOTIFICATION.—Not later than
20 5 days before the award of any grant is made under this
21 title, the Secretary shall notify the appropriate congres-
22 sional committees of the intent to award such grant.

23 (g) GUIDELINES.—The Secretary shall ensure, to the
24 extent practicable, that grant recipients under this title
25 who use contractors or subcontractors use small, minority,

1 women-owned, or disadvantaged business concerns as con-
2 tractors or subcontractors when appropriate.

3 **SEC. 1503. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) TRANSPORTATION SECURITY ADMINISTRATION
5 AUTHORIZATION.—Section 114 of title 49, United States
6 Code, as amended by section 1302 of this Act, is further
7 amended by adding at the end the following:

8 “(w) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to the Secretary of
10 Homeland Security for—

11 “(1) railroad security—

12 “(A) \$488,000,000 for fiscal year 2008;

13 “(B) \$483,000,000 for fiscal year 2009;

14 “(C) \$508,000,000 for fiscal year 2010;

15 and

16 “(D) \$508,000,000 for fiscal year 2011;

17 “(2) over-the-road bus and trucking security—

18 “(A) \$14,000,000 for fiscal year 2008;

19 “(B) \$27,000,000 for fiscal year 2009;

20 “(C) \$27,000,000 for fiscal year 2010; and

21 “(D) \$27,000,000 for fiscal year 2011;

22 and

23 “(3) hazardous material and pipeline security—

24 “(A) \$12,000,000 for fiscal year 2008;

25 “(B) \$12,000,000 for fiscal year 2009; and

1 “(C) \$12,000,000 for fiscal year 2010.”.

2 (b) DEPARTMENT OF TRANSPORTATION.—There are
3 authorized to be appropriated to the Secretary of Trans-
4 portation to carry out section 1515—

5 (1) \$38,000,000 for fiscal year 2008;

6 (2) \$40,000,000 for fiscal year 2009;

7 (3) \$55,000,000 for fiscal year 2010; and

8 (4) \$70,000,000 for fiscal year 2011.

9 **SEC. 1504. PUBLIC AWARENESS.**

10 Not later than 180 days after the date of enactment
11 of this Act, the Secretary shall develop a national plan
12 for railroad and over-the-road bus security public outreach
13 and awareness. Such a plan shall be designed to increase
14 awareness of measures that the general public, passengers,
15 and employees of railroad carriers and over-the-road bus
16 operators can take to increase the security of the national
17 railroad and over-the-road bus transportation systems.
18 Such a plan shall also provide outreach to railroad carriers
19 and over-the-road bus operators and their employees to
20 improve their awareness of available technologies, ongoing
21 research and development efforts, and available Federal
22 funding sources to improve security. Not later than 9
23 months after the date of enactment of this Act, the Sec-
24 retary shall implement the plan developed under this sec-
25 tion.

1 **Subtitle B—Railroad Security**

2 **SEC. 1511. RAILROAD TRANSPORTATION SECURITY RISK**
3 **ASSESSMENT AND NATIONAL STRATEGY.**

4 (a) **RISK ASSESSMENT.**—The Secretary shall estab-
5 lish a Federal task force, including the Transportation Se-
6 curity Administration and other agencies within the De-
7 partment, the Department of Transportation, and other
8 appropriate Federal agencies, to complete, within 6
9 months of the date of enactment of this Act, a nationwide
10 risk assessment of a terrorist attack on railroad carriers.

11 The assessment shall include—

12 (1) a methodology for conducting the risk as-
13 sessment, including timelines, that addresses how
14 the Department will work with the entities described
15 in subsection (c) and make use of existing Federal
16 expertise within the Department, the Department of
17 Transportation, and other appropriate agencies;

18 (2) identification and evaluation of critical as-
19 sets and infrastructure, including tunnels used by
20 railroad carriers in high-threat urban areas;

21 (3) identification of risks to those assets and in-
22 frastructure;

23 (4) identification of risks that are specific to
24 the transportation of hazardous materials via rail-
25 road;

1 (5) identification of risks to passenger and
2 cargo security, transportation infrastructure protec-
3 tion systems, operations, communications systems,
4 and any other area identified by the assessment;

5 (6) an assessment of employee training and
6 emergency response planning;

7 (7) an assessment of public and private oper-
8 ational recovery plans, taking into account the plans
9 for the maritime sector required under section
10 70103 of title 46, United States Code, to expedite,
11 to the maximum extent practicable, the return of an
12 adversely affected railroad transportation system or
13 facility to its normal performance level after a major
14 terrorist attack or other security event on that sys-
15 tem or facility; and

16 (8) an account of actions taken or planned by
17 both public and private entities to address identified
18 railroad security issues and an assessment of the ef-
19 fective integration of such actions.

20 (b) NATIONAL STRATEGY.—

21 (1) REQUIREMENT.—Not later than 9 months
22 after the date of enactment of this Act and based
23 upon the assessment conducted under subsection (a),
24 the Secretary, consistent with and as required by
25 section 114(t) of title 49, United States Code, shall

1 develop and implement the modal plan for railroad
2 transportation, entitled the “National Strategy for
3 Railroad Transportation Security”.

4 (2) CONTENTS.—The modal plan shall include
5 prioritized goals, actions, objectives, policies, mecha-
6 nisms, and schedules for, at a minimum—

7 (A) improving the security of railroad tun-
8 nels, railroad bridges, railroad switching and
9 car storage areas, other railroad infrastructure
10 and facilities, information systems, and other
11 areas identified by the Secretary as posing sig-
12 nificant railroad-related risks to public safety
13 and the movement of interstate commerce, tak-
14 ing into account the impact that any proposed
15 security measure might have on the provision of
16 railroad service or on operations served or oth-
17 erwise affected by railroad service;

18 (B) deploying equipment and personnel to
19 detect security threats, including those posed by
20 explosives and hazardous chemical, biological,
21 and radioactive substances, and any appropriate
22 countermeasures;

23 (C) consistent with section 1517, training
24 railroad employees in terrorism prevention, pre-

1 paredness, passenger evacuation, and response
2 activities;

3 (D) conducting public outreach campaigns
4 for railroads regarding security, including edu-
5 cational initiatives designed to inform the public
6 on how to prevent, prepare for, respond to, and
7 recover from a terrorist attack on railroad
8 transportation;

9 (E) providing additional railroad security
10 support for railroads at high or severe threat
11 levels of alert;

12 (F) ensuring, in coordination with freight
13 and intercity and commuter passenger rail-
14 roads, the continued movement of freight and
15 passengers in the event of an attack affecting
16 the railroad system, including the possibility of
17 rerouting traffic due to the loss of critical infra-
18 structure, such as a bridge, tunnel, yard, or sta-
19 tion;

20 (G) coordinating existing and planned rail-
21 road security initiatives undertaken by the pub-
22 lic and private sectors;

23 (H) assessing—

24 (i) the usefulness of covert testing of
25 railroad security systems;

1 (ii) the ability to integrate security
2 into infrastructure design; and

3 (iii) the implementation of random
4 searches of passengers and baggage; and

5 (I) identifying the immediate and long-
6 term costs of measures that may be required to
7 address those risks and public and private sec-
8 tor sources to fund such measures.

9 (3) RESPONSIBILITIES.—The Secretary shall
10 include in the modal plan a description of the roles,
11 responsibilities, and authorities of Federal, State,
12 and local agencies, government-sponsored entities,
13 tribal governments, and appropriate stakeholders de-
14 scribed in subsection (c). The plan shall also in-
15 clude—

16 (A) the identification of, and a plan to ad-
17 dress, gaps and unnecessary overlaps in the
18 roles, responsibilities, and authorities described
19 in this paragraph;

20 (B) a methodology for how the Depart-
21 ment will work with the entities described in
22 subsection (c), and make use of existing Fed-
23 eral expertise within the Department, the De-
24 partment of Transportation, and other appro-
25 priate agencies;

1 (C) a process for facilitating security clear-
2 ances for the purpose of intelligence and infor-
3 mation sharing with the entities described in
4 subsection (c), as appropriate;

5 (D) a strategy and timeline, coordinated
6 with the research and development program es-
7 tablished under section 1518, for the Depart-
8 ment, the Department of Transportation, other
9 appropriate Federal agencies and private enti-
10 ties to research and develop new technologies
11 for securing railroad systems; and

12 (E) a process for coordinating existing or
13 future security strategies and plans for railroad
14 transportation, including the National Infra-
15 structure Protection Plan required by Home-
16 land Security Presidential Directive 7; Execu-
17 tive Order Number 13416: "Strengthening Sur-
18 face Transportation Security" dated December
19 5, 2006; the Memorandum of Understanding
20 between the Department and the Department of
21 Transportation on Roles and Responsibilities
22 dated September 28, 2004, and any and all
23 subsequent annexes to this Memorandum of
24 Understanding, and any other relevant agree-
25 ments between the two Departments.

1 (c) CONSULTATION WITH STAKEHOLDERS.—In de-
2 veloping the National Strategy required under this section,
3 the Secretary shall consult with railroad management,
4 nonprofit employee organizations representing railroad
5 employees, owners or lessors of railroad cars used to trans-
6 port hazardous materials, emergency responders, offerors
7 of security-sensitive materials, public safety officials, and
8 other relevant parties.

9 (d) ADEQUACY OF EXISTING PLANS AND STRATE-
10 GIES.—In developing the risk assessment and National
11 Strategy required under this section, the Secretary shall
12 utilize relevant existing plans, strategies, and risk assess-
13 ments developed by the Department or other Federal
14 agencies, including those developed or implemented pursu-
15 ant to section 114(t) of title 49, United States Code, or
16 Homeland Security Presidential Directive 7, and, as ap-
17 propriate, assessments developed by other public and pri-
18 vate stakeholders.

19 (e) REPORT.—

20 (1) CONTENTS.—Not later than 1 year after
21 the date of enactment of this Act, the Secretary
22 shall transmit to the appropriate congressional com-
23 mittees a report containing—

24 (A) the assessment and the National Strat-
25 egy required by this section; and

1 (B) an estimate of the cost to implement
2 the National Strategy.

3 (2) **FORMAT.**—The Secretary may submit the
4 report in both classified and redacted formats if the
5 Secretary determines that such action is appropriate
6 or necessary.

7 (f) **ANNUAL UPDATES.**—Consistent with the require-
8 ments of section 114(t) of title 49, United States Code,
9 the Secretary shall update the assessment and National
10 Strategy each year and transmit a report, which may be
11 submitted in both classified and redacted formats, to the
12 appropriate congressional committees containing the up-
13 dated assessment and recommendations.

14 (g) **FUNDING.**—Out of funds appropriated pursuant
15 to section 114(w) of title 49, United States Code, as
16 amended by section 1503 of this title, there shall be made
17 available to the Secretary to carry out this section
18 \$5,000,000 for fiscal year 2008.

19 **SEC. 1512. RAILROAD CARRIER ASSESSMENTS AND PLANS.**

20 (a) **IN GENERAL.**—Not later than 12 months after
21 the date of enactment of this Act, the Secretary shall issue
22 regulations that—

23 (1) require each railroad carrier assigned to a
24 high-risk tier under this section to—

1 (A) conduct a vulnerability assessment in
2 accordance with subsections (c) and (d); and

3 (B) to prepare, submit to the Secretary for
4 approval, and implement a security plan in ac-
5 cordance with this section that addresses secu-
6 rity performance requirements; and

7 (2) establish standards and guidelines, based on
8 and consistent with the risk assessment and Na-
9 tional Strategy for Railroad Transportation Security
10 developed under section 1511, for developing and
11 implementing the vulnerability assessments and se-
12 curity plans for railroad carriers assigned to high-
13 risk tiers.

14 (b) NON HIGH-RISK PROGRAMS.—The Secretary
15 may establish a security program for railroad carriers not
16 assigned to a high-risk tier, including—

17 (1) guidance for such carriers in conducting
18 vulnerability assessments and preparing and imple-
19 menting security plans, as determined appropriate
20 by the Secretary; and

21 (2) a process to review and approve such as-
22 sessments and plans, as appropriate.

23 (c) DEADLINE FOR SUBMISSION.—Not later than 9
24 months after the date of issuance of the regulations under
25 subsection (a), the vulnerability assessments and security

1 plans required by such regulations for railroad carriers as-
2 signed to a high-risk tier shall be completed and submitted
3 to the Secretary for review and approval.

4 (d) VULNERABILITY ASSESSMENTS.—

5 (1) REQUIREMENTS.—The Secretary shall pro-
6 vide technical assistance and guidance to railroad
7 carriers in conducting vulnerability assessments
8 under this section and shall require that each vul-
9 nerability assessment of a railroad carrier assigned
10 to a high-risk tier under this section, include, as ap-
11 plicable—

12 (A) identification and evaluation of critical
13 railroad carrier assets and infrastructure, in-
14 cluding platforms, stations, intermodal termi-
15 nals, tunnels, bridges, switching and storage
16 areas, and information systems as appropriate;

17 (B) identification of the vulnerabilities to
18 those assets and infrastructure;

19 (C) identification of strengths and weak-
20 nesses in—

21 (i) physical security;

22 (ii) passenger and cargo security, in-
23 cluding the security of security-sensitive
24 materials being transported by railroad or
25 stored on railroad property;

1 (iii) programmable electronic devices,
2 computers, or other automated systems
3 which are used in providing the transpor-
4 tation;

5 (iv) alarms, cameras, and other pro-
6 tection systems;

7 (v) communications systems and utili-
8 ties needed for railroad security purposes,
9 including dispatching and notification sys-
10 tems;

11 (vi) emergency response planning;

12 (vii) employee training; and

13 (viii) such other matters as the Sec-
14 retary determines appropriate; and

15 (D) identification of redundant and backup
16 systems required to ensure the continued oper-
17 ation of critical elements of a railroad carrier's
18 system in the event of an attack or other inci-
19 dent, including disruption of commercial electric
20 power or communications network.

21 (2) THREAT INFORMATION.—The Secretary
22 shall provide in a timely manner to the appropriate
23 employees of a railroad carrier, as designated by the
24 railroad carrier, threat information that is relevant
25 to the carrier when preparing and submitting a vul-

1 nerability assessment and security plan, including an
2 assessment of the most likely methods that could be
3 used by terrorists to exploit weaknesses in railroad
4 security.

5 (e) SECURITY PLANS.—

6 (1) REQUIREMENTS.—The Secretary shall pro-
7 vide technical assistance and guidance to railroad
8 carriers in preparing and implementing security
9 plans under this section, and shall require that each
10 security plan of a railroad carrier assigned to a
11 high-risk tier under this section include, as applica-
12 ble—

13 (A) identification of a security coordinator
14 having authority—

15 (i) to implement security actions
16 under the plan;

17 (ii) to coordinate security improve-
18 ments; and

19 (iii) to receive immediate communica-
20 tions from appropriate Federal officials re-
21 garding railroad security;

22 (B) a list of needed capital and operational
23 improvements;

24 (C) procedures to be implemented or used
25 by the railroad carrier in response to a terrorist

1 attack, including evacuation and passenger
2 communication plans that include individuals
3 with disabilities as appropriate;

4 (D) identification of steps taken with State
5 and local law enforcement agencies, emergency
6 responders, and Federal officials to coordinate
7 security measures and plans for response to a
8 terrorist attack;

9 (E) a strategy and timeline for conducting
10 training under section 1517;

11 (F) enhanced security measures to be
12 taken by the railroad carrier when the Sec-
13 retary declares a period of heightened security
14 risk;

15 (G) plans for providing redundant and
16 backup systems required to ensure the contin-
17 ued operation of critical elements of the rail-
18 road carrier's system in the event of a terrorist
19 attack or other incident;

20 (H) a strategy for implementing enhanced
21 security for shipments of security-sensitive ma-
22 terials, including plans for quickly locating and
23 securing such shipments in the event of a ter-
24 rorist attack or security incident; and

1 (I) such other actions or procedures as the
2 Secretary determines are appropriate to address
3 the security of railroad carriers.

4 (2) SECURITY COORDINATOR REQUIREMENTS.—
5 The Secretary shall require that the individual serv-
6 ing as the security coordinator identified in para-
7 graph (1)(A) is a citizen of the United States. The
8 Secretary may waive this requirement with respect
9 to an individual if the Secretary determines that it
10 is appropriate to do so based on a background check
11 of the individual and a review of the consolidated
12 terrorist watchlist.

13 (3) CONSISTENCY WITH OTHER PLANS.—The
14 Secretary shall ensure that the security plans devel-
15 oped by railroad carriers under this section are con-
16 sistent with the risk assessment and National Strat-
17 egy for Railroad Transportation Security developed
18 under section 1511.

19 (f) DEADLINE FOR REVIEW PROCESS.—Not later
20 than 6 months after receiving the assessments and plans
21 required under this section, the Secretary shall—

22 (1) review each vulnerability assessment and se-
23 curity plan submitted to the Secretary in accordance
24 with subsection (c);

1 (2) require amendments to any security plan
2 that does not meet the requirements of this section;
3 and

4 (3) approve any vulnerability assessment or se-
5 curity plan that meets the requirements of this sec-
6 tion.

7 (g) INTERIM SECURITY MEASURES.—The Secretary
8 may require railroad carriers, during the period before the
9 deadline established under subsection (c), to submit a se-
10 curity plan under subsection (e) to implement any nec-
11 essary interim security measures essential to providing
12 adequate security of the railroad carrier's system. An in-
13 terim plan required under this subsection will be super-
14 seded by a plan required under subsection (e).

15 (h) TIER ASSIGNMENT.—Utilizing the risk assess-
16 ment and National Strategy for Railroad Transportation
17 Security required under section 1511, the Secretary shall
18 assign each railroad carrier to a risk-based tier established
19 by the Secretary.

20 (1) PROVISION OF INFORMATION.—The Sec-
21 retary may request, and a railroad carrier shall pro-
22 vide, information necessary for the Secretary to as-
23 sign a railroad carrier to the appropriate tier under
24 this subsection.

1 (2) NOTIFICATION.—Not later than 60 days
2 after the date a railroad carrier is assigned to a tier
3 under this subsection, the Secretary shall notify the
4 railroad carrier of the tier to which it is assigned
5 and the reasons for such assignment.

6 (3) HIGH-RISK TIERS.—At least one of the tiers
7 established by the Secretary under this subsection
8 shall be designated a tier for high-risk railroad car-
9 riers.

10 (4) REASSIGNMENT.—The Secretary may reas-
11 sign a railroad carrier to another tier, as appro-
12 priate, in response to changes in risk. The Secretary
13 shall notify the railroad carrier not later than 60
14 days after such reassignment and provide the rail-
15 road carrier with the reasons for such reassignment.

16 (i) NONDISCLOSURE OF INFORMATION.—

17 (1) SUBMISSION OF INFORMATION TO CON-
18 GRESS.—Nothing in this section shall be construed
19 as authorizing the withholding of any information
20 from Congress.

21 (2) DISCLOSURE OF INDEPENDENTLY FUR-
22 NISHED INFORMATION.—Nothing in this section
23 shall be construed as affecting any authority or obli-
24 gation of a Federal agency to disclose any record or

1 information that the Federal agency obtains from a
2 railroad carrier under any other Federal law.

3 (j) EXISTING PROCEDURES, PROTOCOLS AND
4 STANDARDS.—

5 (1) DETERMINATION.—In response to a peti-
6 tion by a railroad carrier or at the discretion of the
7 Secretary, the Secretary may determine that existing
8 procedures, protocols, and standards meet all or part
9 of the requirements of this section, including regula-
10 tions issued under subsection (a), regarding vulner-
11 ability assessments and security plans.

12 (2) ELECTION.—Upon review and written de-
13 termination by the Secretary that existing proce-
14 dures, protocols, or standards of a railroad carrier
15 satisfy the requirements of this section, the railroad
16 carrier may elect to comply with those procedures,
17 protocols, or standards instead of the requirements
18 of this section.

19 (3) PARTIAL APPROVAL.—If the Secretary de-
20 termines that the existing procedures, protocols, or
21 standards of a railroad carrier satisfy only part of
22 the requirements of this section, the Secretary may
23 accept such submission, but shall require submission
24 by the railroad carrier of any additional information
25 relevant to the vulnerability assessment and security

1 plan of the railroad carrier to ensure that the re-
2 maining requirements of this section are fulfilled.

3 (4) NOTIFICATION.—If the Secretary deter-
4 mines that particular existing procedures, protocols,
5 or standards of a railroad carrier under this sub-
6 section do not satisfy the requirements of this sec-
7 tion, the Secretary shall provide to the railroad car-
8 rier a written notification that includes an expla-
9 nation of the determination.

10 (5) REVIEW.—Nothing in this subsection shall
11 relieve the Secretary of the obligation—

12 (A) to review the vulnerability assessment
13 and security plan submitted by a railroad car-
14 rier under this section; and

15 (B) to approve or disapprove each submis-
16 sion on an individual basis.

17 (k) PERIODIC EVALUATION BY RAILROAD CARRIERS
18 REQUIRED.—

19 (1) SUBMISSION OF EVALUATION.—Not later
20 than 3 years after the date on which a vulnerability
21 assessment or security plan required to be submitted
22 to the Secretary under subsection (c) is approved,
23 and at least once every 5 years thereafter (or on
24 such a schedule as the Secretary may establish by
25 regulation), a railroad carrier who submitted a vul-

1 nerability assessment and security plan and who is
2 still assigned to the high-risk tier must also submit
3 to the Secretary an evaluation of the adequacy of
4 the vulnerability assessment and security plan that
5 includes a description of any material changes made
6 to the vulnerability assessment or security plan.

7 (2) REVIEW OF EVALUATION.—Not later than
8 180 days after the date on which an evaluation is
9 submitted, the Secretary shall review the evaluation
10 and notify the railroad carrier submitting the eval-
11 uation of the Secretary's approval or disapproval of
12 the evaluation.

13 (1) SHARED FACILITIES.—The Secretary may permit
14 under this section the development and implementation of
15 coordinated vulnerability assessments and security plans
16 to the extent that a railroad carrier shares facilities with,
17 or is colocated with, other transportation entities or pro-
18 viders that are required to develop vulnerability assess-
19 ments and security plans under Federal law.

20 (m) CONSULTATION.—In carrying out this section,
21 the Secretary shall consult with railroad carriers, non-
22 profit employee labor organizations representation rail-
23 road employees, and public safety and law enforcement of-
24 ficials.

1 **SEC. 1513. RAILROAD SECURITY ASSISTANCE.**

2 (a) SECURITY IMPROVEMENT GRANTS.—(1) The Sec-
3 retary, in consultation with the Administrator of the
4 Transportation Security Administration and other appro-
5 priate agencies or officials, is authorized to make grants
6 to railroad carriers, the Alaska Railroad, security-sensitive
7 materials offerors who ship by railroad, owners of railroad
8 cars used in the transportation of security-sensitive mate-
9 rials, State and local governments (for railroad passenger
10 facilities and infrastructure not owned by Amtrak), and
11 Amtrak for intercity passenger railroad and freight rail-
12 road security improvements described in subsection (b) as
13 approved by the Secretary.

14 (2) A railroad carrier is eligible for a grant under
15 this section if the carrier has completed a vulnerability as-
16 sessment and developed a security plan that the Secretary
17 has approved in accordance with section 1512.

18 (3) A recipient of a grant under this section may use
19 grant funds only for permissible uses under subsection (b)
20 to further a railroad security plan that meets the require-
21 ments of paragraph (2).

22 (4) Notwithstanding the requirement for eligibility
23 and uses of funds in paragraphs (2) and (3), a railroad
24 carrier is eligible for a grant under this section if the ap-
25 plicant uses the funds solely for the development of assess-
26 ments or security plans under section 1512.

1 (5) Notwithstanding the requirements for eligibility
2 and uses of funds in paragraphs (2) and (3), prior to the
3 earlier of one year after the date of issuance of final regu-
4 lations requiring vulnerability assessments and security
5 plans under section 1512 or 3 years after the date of en-
6 actment of this Act, the Secretary may award grants
7 under this section for rail security improvements listed
8 under subsection (b) based upon railroad carrier vulner-
9 ability assessments and security plans that the Secretary
10 determines are sufficient for the purposes of this section
11 but have not been approved by the Secretary in accordance
12 with section 1512.

13 (b) USES OF FUNDS.—A recipient of a grant under
14 this section shall use the grant funds for one or more of
15 the following:

16 (1) Security and redundancy for critical com-
17 munications, computer, and train control systems es-
18 sential for secure railroad operations.

19 (2) Accommodation of railroad cargo or pas-
20 senger security inspection facilities, related infra-
21 structure, and operations at or near United States
22 international borders or other ports of entry.

23 (3) The security of security-sensitive materials
24 transportation by railroad.

1 (4) Chemical, biological, radiological, or explo-
2 sive detection, including canine patrols for such de-
3 tection.

4 (5) The security of intercity passenger railroad
5 stations, trains, and infrastructure, including secu-
6 rity capital improvement projects that the Secretary
7 determines enhance railroad station security.

8 (6) Technologies to reduce the vulnerabilities of
9 railroad cars, including structural modification of
10 railroad cars transporting security-sensitive mate-
11 rials to improve their resistance to acts of terrorism.

12 (7) The sharing of intelligence and information
13 about security threats.

14 (8) To obtain train tracking and communica-
15 tions equipment, including equipment that is inter-
16 operable with Federal, State, and local agencies and
17 tribal governments.

18 (9) To hire, train, and employ police and secu-
19 rity officers, including canine units, assigned to full-
20 time security or counterterrorism duties related to
21 railroad transportation.

22 (10) Overtime reimbursement, including reim-
23 bursement of State, local, and tribal governments for
24 costs, for enhanced security personnel assigned to
25 duties related to railroad security during periods of

1 high or severe threat levels and National Special Se-
2 curity Events or other periods of heightened security
3 as determined by the Secretary.

4 (11) Perimeter protection systems, including ac-
5 cess control, installation of improved lighting, fenc-
6 ing, and barricades at railroad facilities.

7 (12) Tunnel protection systems.

8 (13) Passenger evacuation and evacuation-re-
9 lated capital improvements.

10 (14) Railroad security inspection technologies,
11 including verified visual inspection technologies
12 using hand-held readers.

13 (15) Surveillance equipment.

14 (16) Cargo or passenger screening equipment.

15 (17) Emergency response equipment, including
16 fire suppression and decontamination equipment,
17 personal protective equipment, and defibrillators.

18 (18) Operating and capital costs associated
19 with security awareness, preparedness, and response
20 training, including training under section 1517, and
21 training developed by universities, institutions of
22 higher education, and nonprofit employee labor orga-
23 nizations, for railroad employees, including frontline
24 employees.

1 (19) Live or simulated exercises, including exer-
2 cises described in section 1516.

3 (20) Public awareness campaigns for enhanced
4 railroad security.

5 (21) Development of assessments or security
6 plans under section 1512.

7 (22) Other security improvements—

8 (A) identified, required, or recommended
9 under sections 1511 and 1512, including infra-
10 structure, facilities, and equipment upgrades; or

11 (B) that the Secretary considers appro-
12 priate.

13 (c) DEPARTMENT OF HOMELAND SECURITY RE-
14 SPONSIBILITIES.—In carrying out the responsibilities
15 under subsection (a), the Secretary shall—

16 (1) determine the requirements for recipients of
17 grants;

18 (2) establish priorities for uses of funds for
19 grant recipients;

20 (3) award the funds authorized by this section
21 based on risk, as identified by the plans required
22 under sections 1511 and 1512, or assessment or
23 plan described in subsection (a)(5);

24 (4) take into account whether stations or facili-
25 ties are used by commuter railroad passengers as

1 well as intercity railroad passengers in reviewing
2 grant applications;

3 (5) encourage non-Federal financial participa-
4 tion in projects funded by grants; and

5 (6) not later than 5 business days after award-
6 ing a grant to Amtrak under this section, transfer
7 grant funds to the Secretary of Transportation to be
8 disbursed to Amtrak.

9 (d) MULTIYEAR AWARDS.—Grant funds awarded
10 under this section may be awarded for projects that span
11 multiple years.

12 (e) LIMITATION ON USES OF FUNDS.—A grant made
13 under this section may not be used to make any State
14 or local government cost-sharing contribution under any
15 other Federal law.

16 (f) ANNUAL REPORTS.—Each recipient of a grant
17 under this section shall report annually to the Secretary
18 on the use of grant funds.

19 (g) NON-FEDERAL MATCH STUDY.—Not later than
20 240 days after the date of enactment of this Act, the Sec-
21 retary shall provide a report to the appropriate congres-
22 sional committees on the feasibility and appropriateness
23 of requiring a non-Federal match for grants awarded to
24 freight railroad carriers and other private entities under
25 this section.

1 (h) SUBJECT TO CERTAIN STANDARDS.—A recipient
2 of a grant under this section and sections 1514 and 1515
3 shall be required to comply with the standards of section
4 24312 of title 49, United States Code, as in effect on Jan-
5 uary 1, 2007, with respect to the project in the same man-
6 ner as Amtrak is required to comply with such standards
7 for construction work financed under an agreement made
8 under section 24308(a) of that title.

9 (i) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) IN GENERAL.—Out of funds appropriated
11 pursuant to section 114(w) of title 49, United States
12 Code, as amended by section 1503 of this title, there
13 shall be made available to the Secretary to carry out
14 this section—

15 (A) \$300,000,000 for fiscal year 2008;

16 (B) \$300,000,000 for fiscal year 2009;

17 (C) \$300,000,000 for fiscal year 2010; and

18 (D) \$300,000,000 for fiscal year 2011.

19 (2) PERIOD OF AVAILABILITY.—Sums appro-
20 priated to carry out this section shall remain avail-
21 able until expended.

22 **SEC. 1514. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

23 (a) IN GENERAL.—

24 (1) GRANTS.—Subject to subsection (b), the
25 Secretary, in consultation with the Administrator of

1 the Transportation Security Administration, is au-
2 thorized to make grants to Amtrak in accordance
3 with the provisions of this section.

4 (2) GENERAL PURPOSES.—The Secretary may
5 make such grants for the purposes of—

6 (A) protecting underwater and under-
7 ground assets and systems;

8 (B) protecting high-risk and high-con-
9 sequence assets identified through systemwide
10 risk assessments;

11 (C) providing counterterrorism or security
12 training;

13 (D) providing both visible and unpredict-
14 able deterrence; and

15 (E) conducting emergency preparedness
16 drills and exercises.

17 (3) SPECIFIC PROJECTS.—The Secretary shall
18 make such grants—

19 (A) to secure major tunnel access points
20 and ensure tunnel integrity in New York, New
21 Jersey, Maryland, and Washington, DC;

22 (B) to secure Amtrak trains;

23 (C) to secure Amtrak stations;

24 (D) to obtain a watchlist identification sys-
25 tem approved by the Secretary;

1 (E) to obtain train tracking and interoper-
2 able communications systems that are coordi-
3 nated with Federal, State, and local agencies
4 and tribal governments to the maximum extent
5 possible;

6 (F) to hire, train, and employ police and
7 security officers, including canine units, as-
8 signed to full-time security or counterterrorism
9 duties related to railroad transportation;

10 (G) for operating and capital costs associ-
11 ated with security awareness, preparedness, and
12 response training, including training under sec-
13 tion 1517, and training developed by univer-
14 sities, institutions of higher education, and non-
15 profit employee labor organizations, for railroad
16 employees, including frontline employees; and

17 (H) for live or simulated exercises, includ-
18 ing exercises described in section 1516.

19 (b) CONDITIONS.—The Secretary shall award grants
20 to Amtrak under this section for projects contained in a
21 systemwide security plan approved by the Secretary devel-
22 oped pursuant to section 1512. Not later than 5 business
23 days after awarding a grant to Amtrak under this section,
24 the Secretary shall transfer the grant funds to the Sec-
25 retary of Transportation to be disbursed to Amtrak.

1 (c) **EQUITABLE GEOGRAPHIC ALLOCATION.**—The
2 Secretary shall ensure that, subject to meeting the highest
3 security needs on Amtrak's entire system and consistent
4 with the risk assessment required under section 1511 and
5 Amtrak's vulnerability assessment and security plan devel-
6 oped under section 1512, stations and facilities located
7 outside of the Northeast Corridor receive an equitable
8 share of the security funds authorized by this section.

9 (d) **AVAILABILITY OF FUNDS.**—

10 (1) **IN GENERAL.**—Out of funds appropriated
11 pursuant to section 114(w) of title 49, United States
12 Code, as amended by section 1503 of this title, there
13 shall be made available to the Secretary and the Ad-
14 ministrator of the Transportation Security Adminis-
15 tration to carry out this section—

16 (A) \$150,000,000 for fiscal year 2008;

17 (B) \$150,000,000 for fiscal year 2009;

18 (C) \$175,000,000 for fiscal year 2010; and

19 (D) \$175,000,000 for fiscal year 2011.

20 (2) **AVAILABILITY OF APPROPRIATED FUNDS.**—

21 Amounts appropriated pursuant to paragraph (1)
22 shall remain available until expended.

23 **SEC. 1515. FIRE AND LIFE SAFETY IMPROVEMENTS.**

24 (a) **LIFE-SAFETY NEEDS.**—There are authorized to
25 be appropriated to the Secretary of Transportation for

1 making grants to Amtrak for the purpose of carrying out
2 projects to make fire and life safety improvements to Am-
3 trak tunnels on the Northeast Corridor the following
4 amounts:

5 (1) For the 6 New York and New Jersey tun-
6 nels to provide ventilation, electrical, and fire safety
7 technology improvements, emergency communication
8 and lighting systems, and emergency access and
9 egress for passengers—

10 (A) \$25,000,000 for fiscal year 2008;

11 (B) \$30,000,000 for fiscal year 2009;

12 (C) \$45,000,000 for fiscal year 2010; and

13 (D) \$60,000,000 for fiscal year 2011.

14 (2) For the Baltimore Potomac Tunnel and the
15 Union Tunnel, together, to provide adequate drain-
16 age and ventilation, communication, lighting, stand-
17 pipe, and passenger egress improvements—

18 (A) \$5,000,000 for fiscal year 2008;

19 (B) \$5,000,000 for fiscal year 2009;

20 (C) \$5,000,000 for fiscal year 2010; and

21 (D) \$5,000,000 for fiscal year 2011.

22 (3) For the Union Station tunnels in the Dis-
23 trict of Columbia to improve ventilation, communica-
24 tion, lighting, and passenger egress improvements—

25 (A) \$5,000,000 for fiscal year 2008;

1 (B) \$5,000,000 for fiscal year 2009;

2 (C) \$5,000,000 for fiscal year 2010; and

3 (D) \$5,000,000 for fiscal year 2011.

4 (b) INFRASTRUCTURE UPGRADES.—Out of funds ap-
5 propriated pursuant to section 1503(b), there shall be
6 made available to the Secretary of Transportation for fis-
7 cal year 2008, \$3,000,000 for the preliminary design of
8 options for a new tunnel on a different alignment to aug-
9 ment the capacity of the existing Baltimore tunnels.

10 (c) AVAILABILITY OF AMOUNTS.—Amounts appro-
11 priated pursuant to this section shall remain available
12 until expended.

13 (d) PLANS REQUIRED.—The Secretary of Transpor-
14 tation may not make amounts available to Amtrak for ob-
15 ligation or expenditure under subsection (a)—

16 (1) until Amtrak has submitted to the Sec-
17 retary of Transportation, and the Secretary of
18 Transportation has approved, an engineering and fi-
19 nancial plan for such projects; and

20 (2) unless, for each project funded pursuant to
21 this section, the Secretary of Transportation has ap-
22 proved a project management plan prepared by Am-
23 trak.

24 (e) REVIEW OF PLANS.—

1 (1) IN GENERAL.—The Secretary of Transpor-
2 tation shall complete the review of a plan required
3 under subsection (d) and approve or disapprove the
4 plan within 45 days after the date on which each
5 such plan is submitted by Amtrak.

6 (2) INCOMPLETE OR DEFICIENT PLAN.—If the
7 Secretary of Transportation determines that a plan
8 is incomplete or deficient, the Secretary of Transpor-
9 tation shall notify Amtrak of the incomplete items or
10 deficiencies and Amtrak shall, within 30 days after
11 receiving the Secretary of Transportation's notifica-
12 tion, submit a modified plan for the Secretary of
13 Transportation's review.

14 (3) APPROVAL OF PLAN.—Within 15 days after
15 receiving additional information on items previously
16 included in the plan, and within 45 days after re-
17 ceiving items newly included in a modified plan, the
18 Secretary of Transportation shall either approve the
19 modified plan, or if the Secretary of Transportation
20 finds the plan is still incomplete or deficient, the
21 Secretary of Transportation shall—

22 (A) identify in writing to the appropriate
23 congressional committees the portions of the
24 plan the Secretary finds incomplete or deficient;

25 (B) approve all other portions of the plan;

1 (C) obligate the funds associated with
2 those portions; and

3 (D) execute an agreement with Amtrak
4 within 15 days thereafter on a process for re-
5 solving the remaining portions of the plan.

6 (f) FINANCIAL CONTRIBUTION FROM OTHER TUN-
7 NEL USERS.—The Secretary of Transportation, taking
8 into account the need for the timely completion of all por-
9 tions of the tunnel projects described in subsection (a),
10 shall—

11 (1) consider the extent to which railroad car-
12 riers other than Amtrak use or plan to use the tun-
13 nels;

14 (2) consider the feasibility of seeking a financial
15 contribution from those other railroad carriers to-
16 ward the costs of the projects; and

17 (3) obtain financial contributions or commit-
18 ments from such other railroad carriers at levels re-
19 flecting the extent of their use or planned use of the
20 tunnels, if feasible.

21 **SEC. 1516. RAILROAD CARRIER EXERCISES.**

22 (a) IN GENERAL.—The Secretary shall establish a
23 program for conducting security exercises for railroad car-
24 riers for the purpose of assessing and improving the capa-
25 bilities of entities described in subsection (b) to prevent,

1 prepare for, mitigate, respond to, and recover from acts
2 of terrorism.

3 (b) COVERED ENTITIES.—Entities to be assessed
4 under the program shall include—

5 (1) Federal, State, and local agencies and tribal
6 governments;

7 (2) railroad carriers;

8 (3) governmental and nongovernmental emer-
9 gency response providers, law enforcement agencies,
10 and railroad and transit police, as appropriate; and

11 (4) any other organization or entity that the
12 Secretary determines appropriate.

13 (c) REQUIREMENTS.—The Secretary shall ensure
14 that the program—

15 (1) consolidates existing security exercises for
16 railroad carriers administered by the Department
17 and the Department of Transportation, as jointly
18 determined by the Secretary and the Secretary of
19 Transportation, unless the Secretary waives this
20 consolidation requirement as appropriate;

21 (2) consists of exercises that are—

22 (A) scaled and tailored to the needs of the
23 carrier, including addressing the needs of the
24 elderly and individuals with disabilities;

1 (B) live, in the case of the most at-risk fa-
2 cilities to a terrorist attack;

3 (C) coordinated with appropriate officials;

4 (D) as realistic as practicable and based on
5 current risk assessments, including credible
6 threats, vulnerabilities, and consequences;

7 (E) inclusive, as appropriate, of railroad
8 frontline employees; and

9 (F) consistent with the National Incident
10 Management System, the National Response
11 Plan, the National Infrastructure Protection
12 Plan, the National Preparedness Guidance, the
13 National Preparedness Goal, and other such na-
14 tional initiatives;

15 (3) provides that exercises described in para-
16 graph (2) will be—

17 (A) evaluated by the Secretary against
18 clear and consistent performance measures;

19 (B) assessed by the Secretary to identify
20 best practices, which shall be shared, as appro-
21 priate, with railroad carriers, nonprofit em-
22 ployee organizations that represent railroad car-
23 rier employees, Federal, State, local, and tribal
24 officials, governmental and nongovernmental
25 emergency response providers, law enforcement

1 personnel, including railroad carrier and transit
2 police, and other stakeholders; and

3 (C) used to develop recommendations, as
4 appropriate, from the Secretary to railroad car-
5 riers on remedial action to be taken in response
6 to lessons learned;

7 (4) allows for proper advanced notification of
8 communities and local governments in which exer-
9 cises are held, as appropriate; and

10 (5) assists State, local, and tribal governments
11 and railroad carriers in designing, implementing,
12 and evaluating additional exercises that conform to
13 the requirements of paragraph (1).

14 (d) NATIONAL EXERCISE PROGRAM.—The Secretary
15 shall ensure that the exercise program developed under
16 subsection (c) is a component of the National Exercise
17 Program established under section 648 of the Post
18 Katrina Emergency Management Reform Act (Public Law
19 109–295; 6 U.S.C. 748).

20 **SEC. 1517. RAILROAD SECURITY TRAINING PROGRAM.**

21 (a) IN GENERAL.—Not later than 6 months after the
22 date of enactment of this Act, the Secretary shall develop
23 and issue regulations for a training program to prepare
24 railroad frontline employees for potential security threats
25 and conditions. The regulations shall take into consider-

1 ation any current security training requirements or best
2 practices.

3 (b) CONSULTATION.—The Secretary shall develop the
4 regulations under subsection (a) in consultation with—

5 (1) appropriate law enforcement, fire service,
6 emergency response, security, and terrorism experts;

7 (2) railroad carriers;

8 (3) railroad shippers; and

9 (4) nonprofit employee labor organizations rep-
10 resenting railroad employees or emergency response
11 personnel.

12 (c) PROGRAM ELEMENTS.—The regulations devel-
13 oped under subsection (a) shall require security training
14 programs described in subsection (a) to include, at a min-
15 imum, elements to address the following, as applicable:

16 (1) Determination of the seriousness of any oc-
17 currence or threat.

18 (2) Crew and passenger communication and co-
19 ordination.

20 (3) Appropriate responses to defend or protect
21 oneself.

22 (4) Use of personal and other protective equip-
23 ment.

1 (5) Evacuation procedures for passengers and
2 railroad employees, including individuals with dis-
3 abilities and the elderly.

4 (6) Psychology, behavior, and methods of ter-
5 rorists, including observation and analysis.

6 (7) Training related to psychological responses
7 to terrorist incidents, including the ability to cope
8 with hijacker behavior and passenger responses.

9 (8) Live situational training exercises regarding
10 various threat conditions, including tunnel evacu-
11 ation procedures.

12 (9) Recognition and reporting of dangerous
13 substances, suspicious packages, and situations.

14 (10) Understanding security incident proce-
15 dures, including procedures for communicating with
16 governmental and nongovernmental emergency re-
17 sponse providers and for on-scene interaction with
18 such emergency response providers.

19 (11) Operation and maintenance of security
20 equipment and systems.

21 (12) Other security training activities that the
22 Secretary considers appropriate.

23 (d) REQUIRED PROGRAMS.—

24 (1) DEVELOPMENT AND SUBMISSION TO SEC-
25 RETARY.—Not later than 90 days after the Sec-

1 retary issues regulations under subsection (a), each
2 railroad carrier shall develop a security training pro-
3 gram in accordance with this section and submit the
4 program to the Secretary for approval.

5 (2) APPROVAL OR DISAPPROVAL.—Not later
6 than 60 days after receiving a security training pro-
7 gram proposal under this subsection, the Secretary
8 shall approve the program or require the railroad
9 carrier that developed the program to make any re-
10 visions to the program that the Secretary considers
11 necessary for the program to meet the requirements
12 of this section. A railroad carrier shall respond to
13 the Secretary's comments within 30 days after re-
14 ceiving them.

15 (3) TRAINING.—Not later than 1 year after the
16 Secretary approves a security training program in
17 accordance with this subsection, the railroad carrier
18 that developed the program shall complete the train-
19 ing of all railroad frontline employees who were
20 hired by a carrier more than 30 days preceding such
21 date. For such employees employed less than 30
22 days by a carrier preceding such date, training shall
23 be completed within the first 60 days of employ-
24 ment.

1 (4) UPDATES OF REGULATIONS AND PROGRAM
2 REVISIONS.—The Secretary shall periodically review
3 and update as appropriate the training regulations
4 issued under subsection (a) to reflect new or chang-
5 ing security threats. Each railroad carrier shall re-
6 vise its training program accordingly and provide
7 additional training as necessary to its frontline em-
8 ployees within a reasonable time after the regula-
9 tions are updated.

10 (e) NATIONAL TRAINING PROGRAM.—The Secretary
11 shall ensure that the training program developed under
12 subsection (a) is a component of the National Training
13 Program established under section 648 of the Post
14 Katrina Emergency Management Reform Act (Public Law
15 109–295; 6 U.S.C. 748).

16 (f) REPORTING REQUIREMENTS.—Not later than 2
17 years after the date of regulation issuance, the Secretary
18 shall review implementation of the training program of a
19 representative sample of railroad carriers and railroad
20 frontline employees, and report to the appropriate con-
21 gressional committees on the number of reviews conducted
22 and the results of such reviews. The Secretary may submit
23 the report in both classified and redacted formats as nec-
24 essary.

1 (g) OTHER EMPLOYEES.—The Secretary shall issue
2 guidance and best practices for a railroad shipper em-
3 ployee security program containing the elements listed
4 under subsection (c).

5 **SEC. 1518. RAILROAD SECURITY RESEARCH AND DEVELOP-**
6 **MENT.**

7 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
8 MENT PROGRAM.—The Secretary, acting through the
9 Under Secretary for Science and Technology and the Ad-
10 ministrator of the Transportation Security Administra-
11 tion, shall carry out a research and development program
12 for the purpose of improving the security of railroad trans-
13 portation systems.

14 (b) ELIGIBLE PROJECTS.—The research and develop-
15 ment program may include projects—

16 (1) to reduce the vulnerability of passenger
17 trains, stations, and equipment to explosives and
18 hazardous chemical, biological, and radioactive sub-
19 stances, including the development of technology to
20 screen passengers in large numbers at peak com-
21 muting times with minimal interference and interrup-
22 tion;

23 (2) to test new emergency response and recov-
24 ery techniques and technologies, including those
25 used at international borders;

- 1 (3) to develop improved railroad security tech-
2 nologies, including—
- 3 (A) technologies for sealing or modifying
4 railroad tank cars;
- 5 (B) automatic inspection of railroad cars;
- 6 (C) communication-based train control sys-
7 tems;
- 8 (D) emergency response training, including
9 training in a tunnel environment;
- 10 (E) security and redundancy for critical
11 communications, electrical power, computer,
12 and train control systems; and
- 13 (F) technologies for securing bridges and
14 tunnels;
- 15 (4) to test wayside detectors that can detect
16 tampering;
- 17 (5) to support enhanced security for the trans-
18 portation of security-sensitive materials by railroad;
- 19 (6) to mitigate damages in the event of a cyber
20 attack; and
- 21 (7) to address other vulnerabilities and risks
22 identified by the Secretary.
- 23 (c) COORDINATION WITH OTHER RESEARCH INITIA-
24 TIVES.—The Secretary—

1 (1) shall ensure that the research and develop-
2 ment program is consistent with the National Strat-
3 egy for Railroad Transportation Security developed
4 under section 1511 and any other transportation se-
5 curity research and development programs required
6 by this Act;

7 (2) shall, to the extent practicable, coordinate
8 the research and development activities of the De-
9 partment with other ongoing research and develop-
10 ment security-related initiatives, including research
11 being conducted by—

12 (A) the Department of Transportation, in-
13 cluding University Transportation Centers and
14 other institutes, centers, and simulators funded
15 by the Department of Transportation;

16 (B) the National Academy of Sciences;

17 (C) the Technical Support Working Group;

18 (D) other Federal departments and agen-
19 cies; and

20 (E) other Federal and private research lab-
21 oratories, research entities, and universities and
22 institutions of higher education, including His-
23 torically Black Colleges and Universities, His-
24 panic Serving Institutions, or Indian Tribally
25 Controlled Colleges and Universities;

1 (3) shall carry out any research and develop-
2 ment project authorized by this section through a re-
3 imburseable agreement with an appropriate Federal
4 agency, if the agency—

5 (A) is currently sponsoring a research and
6 development project in a similar area; or

7 (B) has a unique facility or capability that
8 would be useful in carrying out the project;

9 (4) may award grants, or enter into cooperative
10 agreements, contracts, other transactions, or reim-
11 burseable agreements to the entities described in
12 paragraph (2) and the eligible grant recipients under
13 section 1513; and

14 (5) shall make reasonable efforts to enter into
15 memoranda of understanding, contracts, grants, co-
16 operative agreements, or other transactions with
17 railroad carriers willing to contribute both physical
18 space and other resources.

19 (d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIB-
20 ERITIES ISSUES.—

21 (1) CONSULTATION.—In carrying out research
22 and development projects under this section, the
23 Secretary shall consult with the Chief Privacy Offi-
24 cer of the Department and the Officer for Civil
25 Rights and Civil Liberties of the Department as ap-

1 appropriate and in accordance with section 222 of the
2 Homeland Security Act of 2002 (6 U.S.C. 142).

3 (2) PRIVACY IMPACT ASSESSMENTS.—In ac-
4 cordance with sections 222 and 705 of the Home-
5 land Security Act of 2002 (6 U.S.C. 142; 345), the
6 Chief Privacy Officer shall conduct privacy impact
7 assessments and the Officer for Civil Rights and
8 Civil Liberties shall conduct reviews, as appropriate,
9 for research and development initiatives developed
10 under this section that the Secretary determines
11 could have an impact on privacy, civil rights, or civil
12 liberties.

13 (e) AUTHORIZATION OF APPROPRIATIONS.—

14 (1) IN GENERAL.—Out of funds appropriated
15 pursuant to section 114(w) of title 49, United States
16 Code, as amended by section 1503, there shall be
17 made available to the Secretary to carry out this sec-
18 tion—

19 (A) \$33,000,000 for fiscal year 2008;

20 (B) \$33,000,000 for fiscal year 2009;

21 (C) \$33,000,000 for fiscal year 2010; and

22 (D) \$33,000,000 for fiscal year 2011.

23 (2) PERIOD OF AVAILABILITY.—Such sums
24 shall remain available until expended.

1 **SEC. 1519. RAILROAD TANK CAR SECURITY TESTING.**

2 (a) **RAILROAD TANK CAR VULNERABILITY ASSESS-**
3 **MENT.—**

4 (1) **ASSESSMENT.—**The Secretary shall assess
5 the likely methods of a deliberate terrorist attack
6 against a railroad tank car used to transport toxic-
7 inhalation-hazard materials, and for each method as-
8 sessed, the degree to which it may be successful in
9 causing death, injury, or serious adverse effects to
10 human health, the environment, critical infrastruc-
11 ture, national security, the national economy, or
12 public welfare.

13 (2) **THREATS.—**In carrying out paragraph (1),
14 the Secretary shall consider the most current threat
15 information as to likely methods of a successful ter-
16 rorist attack on a railroad tank car transporting
17 toxic-inhalation-hazard materials, and may consider
18 the following:

19 (A) Explosive devices placed along the
20 tracks or attached to a railroad tank car.

21 (B) The use of missiles, grenades, rockets,
22 mortars, or other high-caliber weapons against
23 a railroad tank car.

24 (3) **PHYSICAL TESTING.—**In developing the as-
25 sessment required under paragraph (1), the Sec-
26 retary shall conduct physical testing of the vulner-

1 ability of railroad tank cars used to transport toxic-
2 inhalation-hazard materials to different methods of a
3 deliberate attack, using technical information and
4 criteria to evaluate the structural integrity of rail-
5 road tank cars.

6 (4) REPORT.—Not later than 30 days after the
7 completion of the assessment under paragraph (1),
8 the Secretary shall provide to the appropriate con-
9 gressional committees a report, in the appropriate
10 format, on such assessment.

11 (b) RAILROAD TANK CAR DISPERSION MODELING.—

12 (1) IN GENERAL.—The Secretary, acting
13 through the National Infrastructure Simulation and
14 Analysis Center, shall conduct an air dispersion
15 modeling analysis of release scenarios of toxic-inha-
16 lation-hazard materials resulting from a terrorist at-
17 tack on a loaded railroad tank car carrying such ma-
18 terials in urban and rural environments.

19 (2) CONSIDERATIONS.—The analysis under this
20 subsection shall take into account the following con-
21 siderations:

22 (A) The most likely means of attack and
23 the resulting dispersal rate.

24 (B) Different times of day, to account for
25 differences in cloud coverage and other atmos-

1 pheric conditions in the environment being
2 modeled.

3 (C) Differences in population size and den-
4 sity.

5 (D) Historically accurate wind speeds,
6 temperatures, and wind directions.

7 (E) Differences in dispersal rates or other
8 relevant factors related to whether a railroad
9 tank car is in motion or stationary.

10 (F) Emergency response procedures by
11 local officials.

12 (G) Any other considerations the Secretary
13 believes would develop an accurate, plausible
14 dispersion model for toxic-inhalation-hazard
15 materials released from a railroad tank car as
16 a result of a terrorist act.

17 (3) CONSULTATION.—In conducting the disper-
18 sion modeling under paragraph (1), the Secretary
19 shall consult with the Secretary of Transportation,
20 hazardous materials experts, railroad carriers, non-
21 profit employee labor organizations representing rail-
22 road employees, appropriate State, local, and tribal
23 officials, and other Federal agencies, as appropriate.

24 (4) INFORMATION SHARING.—Upon completion
25 of the analysis required under paragraph (1), the

1 Secretary shall share the information developed with
2 the appropriate stakeholders, given appropriate in-
3 formation protection provisions as may be required
4 by the Secretary.

5 (5) REPORT.—Not later than 30 days after
6 completion of all dispersion analyses under para-
7 graph (1), the Secretary shall submit to the appro-
8 priate congressional committees a report detailing
9 the Secretary's conclusions and findings in an appro-
10 priate format.

11 **SEC. 1520. RAILROAD THREAT ASSESSMENTS.**

12 Not later than 1 year after the date of enactment
13 of this Act, the Secretary shall complete a name-based se-
14 curity background check against the consolidated terrorist
15 watchlist and an immigration status check for all railroad
16 frontline employees, similar to the threat assessment
17 screening program required for facility employees and
18 longshoremens by the Commandant of the Coast Guard
19 under Coast Guard Notice USCG-2006-24189 (71 Fed.
20 Reg. 25066 (April 8, 2006)).

21 **SEC. 1521. RAILROAD EMPLOYEE PROTECTIONS.**

22 Section 20109 of title 49, United States Code, is
23 amended to read:

1 **“SEC. 20109. EMPLOYEE PROTECTIONS.**

2 “(a) IN GENERAL.—A railroad carrier engaged in
3 interstate or foreign commerce, a contractor or a subcon-
4 tractor of such a railroad carrier, or an officer or employee
5 of such a railroad carrier, may not discharge, demote, sus-
6 pend, reprimand, or in any other way discriminate against
7 an employee if such discrimination is due, in whole or in
8 part, to the employee’s lawful, good faith act done, or per-
9 ceived by the employer to have been done or about to be
10 done—

11 “(1) to provide information, directly cause in-
12 formation to be provided, or otherwise directly assist
13 in any investigation regarding any conduct which the
14 employee reasonably believes constitutes a violation
15 of any Federal law, rule, or regulation relating to
16 railroad safety or security, or gross fraud, waste, or
17 abuse of Federal grants or other public funds in-
18 tended to be used for railroad safety or security, if
19 the information or assistance is provided to or an in-
20 vestigation stemming from the provided information
21 is conducted by—

22 “(A) a Federal, State, or local regulatory
23 or law enforcement agency (including an office
24 of the Inspector General under the Inspector
25 General Act of 1978 (5 U.S.C. App.; Public
26 Law 95–452);

1 “(B) any Member of Congress, any com-
2 mittee of Congress, or the Government Ac-
3 countability Office; or

4 “(C) a person with supervisory authority
5 over the employee or such other person who has
6 the authority to investigate, discover, or termi-
7 nate the misconduct;

8 “(2) to refuse to violate or assist in the viola-
9 tion of any Federal law, rule, or regulation relating
10 to railroad safety or security;

11 “(3) to file a complaint, or directly cause to be
12 brought a proceeding related to the enforcement of
13 this part or, as applicable to railroad safety or secu-
14 rity, chapter 51 or 57 of this title, or to testify in
15 that proceeding;

16 “(4) to notify, or attempt to notify, the railroad
17 carrier or the Secretary of Transportation of a work-
18 related personal injury or work-related illness of an
19 employee;

20 “(5) to cooperate with a safety or security in-
21 vestigation by the Secretary of Transportation, the
22 Secretary of Homeland Security, or the National
23 Transportation Safety Board;

24 “(6) to furnish information to the Secretary of
25 Transportation, the Secretary of Homeland Security,

1 the National Transportation Safety Board, or any
2 Federal, State, or local regulatory or law enforce-
3 ment agency as to the facts relating to any accident
4 or incident resulting in injury or death to an indi-
5 vidual or damage to property occurring in connec-
6 tion with railroad transportation; or

7 “(7) to accurately report hours on duty pursu-
8 ant to chapter 211.

9 “(b) HAZARDOUS SAFETY OR SECURITY CONDI-
10 TIONS.—(1) A railroad carrier engaged in interstate or
11 foreign commerce, or an officer or employee of such a rail-
12 road carrier, shall not discharge, demote, suspend, rep-
13 rimand, or in any other way discriminate against an em-
14 ployee for—

15 “(A) reporting, in good faith, a hazardous safe-
16 ty or security condition;

17 “(B) refusing to work when confronted by a
18 hazardous safety or security condition related to the
19 performance of the employee’s duties, if the condi-
20 tions described in paragraph (2) exist; or

21 “(C) refusing to authorize the use of any safe-
22 ty-related equipment, track, or structures, if the em-
23 ployee is responsible for the inspection or repair of
24 the equipment, track, or structures, when the em-
25 ployee believes that the equipment, track, or struc-

1 tures are in a hazardous safety or security condition,
2 if the conditions described in paragraph (2) exist.

3 “(2) A refusal is protected under paragraph (1)(B)
4 and (C) if—

5 “(A) the refusal is made in good faith and no
6 reasonable alternative to the refusal is available to
7 the employee;

8 “(B) a reasonable individual in the cir-
9 cumstances then confronting the employee would
10 conclude that—

11 “(i) the hazardous condition presents an
12 imminent danger of death or serious injury; and

13 “(ii) the urgency of the situation does not
14 allow sufficient time to eliminate the danger
15 without such refusal; and

16 “(C) the employee, where possible, has notified
17 the railroad carrier of the existence of the hazardous
18 condition and the intention not to perform further
19 work, or not to authorize the use of the hazardous
20 equipment, track, or structures, unless the condition
21 is corrected immediately or the equipment, track, or
22 structures are repaired properly or replaced.

23 “(3) In this subsection, only paragraph (1)(A) shall
24 apply to security personnel employed by a railroad carrier.

1 to protect individuals and property transported by rail-
2 road.

3 “(e) ENFORCEMENT ACTION.—

4 “(1) IN GENERAL.—An employee who alleges
5 discharge, discipline, or other discrimination in viola-
6 tion of subsection (a) or (b) of this section, may seek
7 relief in accordance with the provisions of this sec-
8 tion, with any petition or other request for relief
9 under this section to be initiated by filing a com-
10 plaint with the Secretary of Labor.

11 “(2) PROCEDURE.—

12 “(A) IN GENERAL.—Any action under
13 paragraph (1) shall be governed under the rules
14 and procedures set forth in section 42121(b),
15 including:

16 “(i) BURDENS OF PROOF.—Any ac-
17 tion brought under (c)(1) shall be governed
18 by the legal burdens of proof set forth in
19 section 42121(b).

20 “(ii) STATUTE OF LIMITATIONS.—An
21 action under paragraph (1) shall be com-
22 menced not later than 180 days after the
23 date on which the alleged violation of sub-
24 section (a) or (b) of this section occurs.

1 “(iii) CIVIL ACTIONS TO ENFORCE.—

2 If a person fails to comply with an order
3 issued by the Secretary of Labor pursuant
4 to the procedures in section 42121(b), the
5 Secretary of Labor may bring a civil action
6 to enforce the order in the district court of
7 the United States for the judicial district
8 in which the violation occurred, as set
9 forth in 42121.

10 “(B) EXCEPTION.—Notification made
11 under section 42121(b)(1) shall be made to the
12 person named in the complaint and the person’s
13 employer.

14 “(3) DE NOVO REVIEW.—With respect to a
15 complaint under paragraph (1), if the Secretary of
16 Labor has not issued a final decision within 210
17 days after the filing of the complaint and if the
18 delay is not due to the bad faith of the employee,
19 the employee may bring an original action at law or
20 equity for de novo review in the appropriate district
21 court of the United States, which shall have jurisdic-
22 tion over such an action without regard to the
23 amount in controversy, and which action shall, at
24 the request of either party to such action, be tried
25 by the court with a jury.

1 “(4) APPEALS.—Any person adversely affected
2 or aggrieved by an order issued pursuant to the pro-
3 cedures in section 42121(b), may obtain review of
4 the order in the United States court of appeals for
5 the circuit in which the violation, with respect to
6 which the order was issued, allegedly occurred or the
7 circuit in which the complainant resided on the date
8 of such violation. The petition for review must be
9 filed not later than 60 days after the date of the
10 issuance of the final order of the Secretary of Labor.
11 The review shall conform to chapter 7 of title 5. The
12 commencement of proceedings under this paragraph
13 shall not, unless ordered by the court, operate as a
14 stay of the order.

15 “(d) REMEDIES.—

16 “(1) IN GENERAL.—An employee prevailing in
17 any action under subsection (c) shall be entitled to
18 all relief necessary to make the employee whole.

19 “(2) DAMAGES.—Relief in an action under sub-
20 section (c) (including an action described in sub-
21 section (c)(3)) shall include—

22 “(A) reinstatement with the same seniority
23 status that the employee would have had, but
24 for the discrimination;

25 “(B) any backpay, with interest; and

1 “(C) compensatory damages, including
2 compensation for any special damages sustained
3 as a result of the discrimination, including liti-
4 gation costs, expert witness fees, and reasonable
5 attorney fees.

6 “(3) POSSIBLE RELIEF.—Relief in any action
7 under subsection (c) may include punitive damages
8 in an amount not to exceed \$250,000.

9 “(e) ELECTION OF REMEDIES.—An employee may
10 not seek protection under both this section and another
11 provision of law for the same allegedly unlawful act of the
12 railroad carrier.

13 “(f) NO PREEMPTION.—Nothing in this section pre-
14 empts or diminishes any other safeguards against dis-
15 crimination, demotion, discharge, suspension, threats, har-
16 assment, reprimand, retaliation, or any other manner of
17 discrimination provided by Federal or State law.

18 “(g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in
19 this section shall be deemed to diminish the rights, privi-
20 leges, or remedies of any employee under any Federal or
21 State law or under any collective bargaining agreement.
22 The rights and remedies in this section may not be waived
23 by any agreement, policy, form, or condition of employ-
24 ment.

25 “(h) DISCLOSURE OF IDENTITY.—

1 “(1) Except as provided in paragraph (2) of
2 this subsection, or with the written consent of the
3 employee, the Secretary of Transportation or the
4 Secretary of Homeland Security may not disclose
5 the name of an employee of a railroad carrier who
6 has provided information about an alleged violation
7 of this part or, as applicable to railroad safety or se-
8 curity, chapter 51 or 57 of this title, or a regulation
9 prescribed or order issued under any of those provi-
10 sions.

11 “(2) The Secretary of Transportation or the
12 Secretary of Homeland Security shall disclose to the
13 Attorney General the name of an employee described
14 in paragraph (1) if the matter is referred to the At-
15 torney General for enforcement. The Secretary mak-
16 ing such disclosures shall provide reasonable advance
17 notice to the affected employee if disclosure of that
18 person’s identity or identifying information is to
19 occur.

20 “(i) PROCESS FOR REPORTING SECURITY PROBLEMS
21 TO THE DEPARTMENT OF HOMELAND SECURITY.—

22 “(1) ESTABLISHMENT OF PROCESS.—The Sec-
23 retary of Homeland Security shall establish through
24 regulations, after an opportunity for notice and com-
25 ment, a process by which any person may report to

1 the Secretary of Homeland Security regarding rail-
2 road security problems, deficiencies, or
3 vulnerabilities.

4 “(2) ACKNOWLEDGMENT OF RECEIPT.—If a re-
5 port submitted under paragraph (1) identifies the
6 person making the report, the Secretary of Home-
7 land Security shall respond promptly to such person
8 and acknowledge receipt of the report.

9 “(3) STEPS TO ADDRESS PROBLEM.—The Sec-
10 retary of Homeland Security shall review and con-
11 sider the information provided in any report sub-
12 mitted under paragraph (1) and shall take appro-
13 priate steps to address any problems or deficiencies
14 identified.”

15 **SEC. 1522. SECURITY BACKGROUND CHECKS OF COVERED**
16 **INDIVIDUALS.**

17 (a) DEFINITIONS.—In this section, the following defi-
18 nitions apply:

19 (1) SECURITY BACKGROUND CHECK.—The term
20 “security background check” means reviewing, for
21 the purpose of identifying individuals who may pose
22 a threat to transportation security or national secu-
23 rity, or of terrorism—

24 (A) relevant criminal history databases;

1 (B) in the case of an alien (as defined in
2 the Immigration and Nationality Act (8 U.S.C.
3 1101(a)(3)), the relevant databases to deter-
4 mine the status of the alien under the immigra-
5 tion laws of the United States; and

6 (C) other relevant information or data-
7 bases, as determined by the Secretary.

8 (2) COVERED INDIVIDUAL.—The term “covered
9 individual” means an employee of a railroad carrier
10 or a contractor or subcontractor of a railroad car-
11 rier. ✓

12 (b) GUIDANCE.—

13 (1) Any guidance, recommendations, suggested
14 action items, or any other widely disseminated vol-
15 untary action items issued by the Secretary to a rail-
16 road carrier or a contractor or subcontractor of a
17 railroad carrier relating to performing a security
18 background check of a covered individual shall con-
19 tain recommendations on the appropriate scope and
20 application of such a security background check, in-
21 cluding the time period covered, the types of dis-
22 qualifying offenses, and a redress process for ad-
23 versely impacted covered individuals consistent with
24 subsections (c) and (d) of this section.

1 (2) Within 60 days after the date of enactment
2 of this Act, any guidance, recommendations, sug-
3 gested action items, or any other widely dissemi-
4 nated voluntary action item issued by the Secretary
5 prior to the date of enactment of this Act to a rail-
6 road carrier or a contractor or subcontractor of a
7 railroad carrier relating to performing a security
8 background check of a covered individual shall be
9 updated in compliance with paragraph (1).

10 (3) If a railroad carrier or a contractor or sub-
11 contractor of a railroad carrier performs a security
12 background check on a covered individual to fulfill
13 guidance issued by the Secretary under paragraph
14 (1) or (2), the Secretary shall not consider such
15 guidance fulfilled unless an adequate redress process
16 as described in subsection (d) is provided to covered
17 individuals.

18 (c) REQUIREMENTS.—If the Secretary issues a rule,
19 regulation, or directive requiring a railroad carrier or con-
20 tractor or subcontractor of a railroad carrier to perform
21 a security background check of a covered individual, then
22 the Secretary shall prohibit the railroad carrier or con-
23 tractor or subcontractor of a railroad carrier from making
24 an adverse employment decision, including removal or sus-
25 pension of the covered individual, due to such rule, regula-

1 tion, or directive with respect to a covered individual un-
2 less the railroad carrier or contractor or subcontractor of
3 a railroad carrier determines that the covered individual—

4 (1) has been convicted of, has been found not
5 guilty by reason of insanity, or is under want, war-
6 rant, or indictment for a permanent disqualifying
7 criminal offense listed in part 1572 of title 49, Code
8 of Federal Regulations;

9 (2) was convicted of or found not guilty by rea-
10 son of insanity of an interim disqualifying criminal
11 offense listed in part 1572 of title 49, Code of Fed-
12 eral Regulations, within 7 years of the date that the
13 railroad carrier or contractor or subcontractor of a
14 railroad carrier performs the security background
15 check; or

16 (3) was incarcerated for an interim disquali-
17 fying criminal offense listed in part 1572 of title 49,
18 Code of Federal Regulations, and released from in-
19 carceration within 5 years of the date that the rail-
20 road carrier or contractor or subcontractor of a rail-
21 road carrier performs the security background check.

22 (d) REDRESS PROCESS.—If the Secretary issues a
23 rule, regulation, or directive requiring a railroad carrier
24 or contractor or subcontractor of a railroad carrier to per-

1 form a security background check of a covered individual,
2 the Secretary shall—

3 (1) provide an adequate redress process for a
4 covered individual subjected to an adverse employ-
5 ment decision, including removal or suspension of
6 the employee, due to such rule, regulation, or direc-
7 tive that is consistent with the appeals and waiver
8 process established for applicants for commercial
9 motor vehicle hazardous materials endorsements and
10 transportation employees at ports, as required by
11 section 70105(c) of title 46, United States Code;
12 and

13 (2) have the authority to order an appropriate
14 remedy, including reinstatement of the covered indi-
15 vidual, should the Secretary determine that a rail-
16 road carrier or contractor or subcontractor of a rail-
17 road carrier wrongfully made an adverse employ-
18 ment decision regarding a covered individual pursu-
19 ant to such rule, regulation, or directive.

20 (e) FALSE STATEMENTS.—A railroad carrier or a
21 contractor or subcontractor of a railroad carrier may not
22 knowingly misrepresent to an employee or other relevant
23 person, including an arbiter involved in a labor arbitration,
24 the scope, application, or meaning of any rules, regula-
25 tions, directives, or guidance issued by the Secretary re-

1 lated to security background check requirements for cov-
2 ered individuals when conducting a security background
3 check. Not later than 1 year after the date of enactment
4 of this Act, the Secretary shall issue a regulation that pro-
5 hibits a railroad carrier or a contractor or subcontractor
6 of a railroad carrier from knowingly misrepresenting to
7 an employee or other relevant person, including an arbiter
8 involved in a labor arbitration, the scope, application, or
9 meaning of any rules, regulations, directives, or guidance
10 issued by the Secretary related to security background
11 check requirements for covered individuals when con-
12 ducting a security background check.

13 (f) RIGHTS AND RESPONSIBILITIES.—Nothing in this
14 section shall be construed to abridge a railroad carrier's
15 or a contractor or subcontractor of a railroad carrier's
16 rights or responsibilities to make adverse employment de-
17 cisions permitted by other Federal, State, or local laws.
18 Nothing in the section shall be construed to abridge rights
19 and responsibilities of covered individuals, a railroad car-
20 rier, or a contractor or subcontractor of a railroad carrier,
21 under any other Federal, State, or local laws or under any
22 collective bargaining agreement.

23 (g) NO PREEMPTION OF FEDERAL OR STATE LAW.—
24 Nothing in this section shall be construed to preempt a
25 Federal, State, or local law that requires criminal history

1 background checks, immigration status checks, or other
2 background checks, of covered individuals.

3 (h) STATUTORY CONSTRUCTION.—Nothing in this
4 section shall be construed to affect the process for review
5 established under section 70105(c) of title 46, United
6 States Code, including regulations issued pursuant to such
7 section.

8 **SEC. 1523. NORTHERN BORDER RAILROAD PASSENGER RE-**
9 **PORT.**

10 (a) IN GENERAL.—Not later than 1 year after the
11 date of enactment of this Act, the Secretary, in consulta-
12 tion with the Administrator of the Transportation Secu-
13 rity Administration, the Secretary of Transportation,
14 heads of other appropriate Federal departments and agen-
15 cies and Amtrak shall transmit a report to the appropriate
16 congressional committees that contains—

17 (1) a description of the current system for
18 screening passengers and baggage on passenger rail-
19 road service between the United States and Canada;

20 (2) an assessment of the current program to
21 provide preclearance of airline passengers between
22 the United States and Canada as outlined in “The
23 Agreement on Air Transport Preclearance between
24 the Government of Canada and the Government of

1 the United States of America”, dated January 18,
2 2001;

3 (3) an assessment of the current program to
4 provide preclearance of freight railroad traffic be-
5 tween the United States and Canada as outlined in
6 the “Declaration of Principle for the Improved Secu-
7 rity of Rail Shipments by Canadian National Rail-
8 way and Canadian Pacific Railway from Canada to
9 the United States”, dated April 2, 2003;

10 (4) information on progress by the Department
11 of Homeland Security and other Federal agencies to-
12 wards finalizing a bilateral protocol with Canada
13 that would provide for preclearance of passengers on
14 trains operating between the United States and Can-
15 ada;

16 (5) a description of legislative, regulatory,
17 budgetary, or policy barriers within the United
18 States Government to providing prescreened pas-
19 senger lists for railroad passengers traveling between
20 the United States and Canada to the Department;

21 (6) a description of the position of the Govern-
22 ment of Canada and relevant Canadian agencies
23 with respect to preclearance of such passengers;

24 (7) a draft of any changes in existing Federal
25 law necessary to provide for prescreening of such

1 passengers and providing prescreened passenger lists
2 to the Department; and

3 (8) an analysis of the feasibility of reinstating
4 in-transit inspections onboard international Amtrak
5 trains.

6 (b) PRIVACY AND CIVIL RIGHTS AND CIVIL LIB-
7 RTIES ISSUES.—

8 (1) CONSULTATION.—In preparing the report
9 under this section, the Secretary shall consult with
10 the Chief Privacy Officer of the Department and the
11 Officer for Civil Rights and Civil Liberties of the
12 Department as appropriate and in accordance with
13 section 222 of the Homeland Security Act of 2002.

14 (2) PRIVACY IMPACT ASSESSMENTS.—In ac-
15 cordance with sections 222 and 705 of the Home-
16 land Security Act of 2002, the report must contain
17 a privacy impact assessment conducted by the Chief
18 Privacy Officer and a review conducted by the Offi-
19 cer for Civil Rights and Civil Liberties.

20 **SEC. 1524. INTERNATIONAL RAILROAD SECURITY PRO-**
21 **GRAM.**

22 (a) IN GENERAL.—

23 (1) The Secretary shall develop a system to de-
24 tect both undeclared passengers and contraband,
25 with a primary focus on the detection of nuclear and

1 radiological materials entering the United States by
2 railroad.

3 (2) SYSTEM REQUIREMENTS.—In developing
4 the system under paragraph (1), the Secretary may,
5 in consultation with the Domestic Nuclear Detection
6 Office, Customs and Border Protection, and the
7 Transportation Security Administration—

8 (A) deploy radiation detection equipment
9 and nonintrusive imaging equipment at loca-
10 tions where railroad shipments cross an inter-
11 national border to enter the United States;

12 (B) consider the integration of radiation
13 detection technologies with other nonintrusive
14 inspection technologies where feasible;

15 (C) ensure appropriate training, oper-
16 ations, and response protocols are established
17 for Federal, State, and local personnel;

18 (D) implement alternative procedures to
19 check railroad shipments at locations where the
20 deployment of nonintrusive inspection imaging
21 equipment is determined to not be practicable;

22 (E) ensure, to the extent practicable, that
23 such technologies deployed can detect terrorists
24 or weapons, including weapons of mass destruc-
25 tion; and

1 (F) take other actions, as appropriate, to
2 develop the system.

3 (b) ADDITIONAL INFORMATION.—The Secretary
4 shall—

5 (1) identify and seek the submission of addi-
6 tional data elements for improved high-risk targeting
7 related to the movement of cargo through the inter-
8 national supply chain utilizing a railroad prior to im-
9 portation into the United States;

10 (2) utilize data collected and maintained by the
11 Secretary of Transportation in the targeting of high-
12 risk cargo identified under paragraph (1); and

13 (3) analyze the data provided in this subsection
14 to identify high-risk cargo for inspection.

15 (c) REPORT TO CONGRESS.—Not later than Sep-
16 tember 30, 2008, the Secretary shall transmit to the ap-
17 propriate congressional committees a report that describes
18 the progress of the system being developed under sub-
19 section (a).

20 (d) DEFINITIONS.—In this section:

21 (1) INTERNATIONAL SUPPLY CHAIN.—The term
22 “international supply chain” means the end-to-end
23 process for shipping goods to or from the United
24 States, beginning at the point of origin (including

1 manufacturer, supplier, or vendor) through a point
2 of distribution to the destination.

3 (2) RADIATION DETECTION EQUIPMENT.—The
4 term “radiation detection equipment” means any
5 technology that is capable of detecting or identifying
6 nuclear and radiological material or nuclear and ra-
7 diological explosive devices.

8 (3) INSPECTION.—The term “inspection”
9 means the comprehensive process used by Customs
10 and Border Protection to assess goods entering the
11 United States to appraise them for duty purposes, to
12 detect the presence of restricted or prohibited items,
13 and to ensure compliance with all applicable laws.

14 **SEC. 1525. TRANSMISSION LINE REPORT.**

15 (a) STUDY.—The Comptroller General shall under-
16 take an assessment of the placement of high-voltage, di-
17 rect-current, electric transmission lines along active rail-
18 road and other transportation rights-of-way. In con-
19 ducting the assessment, the Comptroller General shall
20 evaluate any economic, safety, and security risks and ben-
21 efits to inhabitants living adjacent to such rights-of-way
22 and to consumers of electric power transmitted by such
23 transmission lines.

24 (b) REPORT.—Not later than 6 months after the date
25 of enactment of this Act, the Comptroller General shall

1 transmit the results of the assessment in subsection (a)
2 to the appropriate congressional committees.

3 **SEC. 1526. RAILROAD SECURITY ENHANCEMENTS.**

4 (a) RAILROAD POLICE OFFICERS.—Section 28101 of
5 title 49, United States Code, is amended—

6 (1) by inserting “(a) IN GENERAL.—” before
7 “Under”; and

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

9 “(b) ASSIGNMENT.—A railroad police officer em-
10 ployed by a railroad carrier and certified or commissioned
11 as a police officer under the laws of a State may be tempo-
12 rarily assigned to assist a second railroad carrier in car-
13 rying out law enforcement duties upon the request of the
14 second railroad carrier, at which time the police officer
15 shall be considered to be an employee of the second rail-
16 road carrier and shall have authority to enforce the laws
17 of any jurisdiction in which the second railroad carrier
18 owns property to the same extent as provided in subsection
19 (a).”.

20 (b) MODEL STATE LEGISLATION.—Not later than
21 November 2, 2007, the Secretary of Transportation shall
22 develop and make available to States model legislation to
23 address the problem of entities that claim to be railroad
24 carriers in order to establish and run a police force when
25 the entities do not in fact provide railroad transportation.

1 In developing the model State legislation the Secretary
2 shall solicit the input of the States, railroads carriers, and
3 railroad carrier employees. The Secretary shall review and,
4 if necessary, revise such model State legislation periodi-
5 cally.

6 **SEC. 1527. APPLICABILITY OF DISTRICT OF COLUMBIA LAW**
7 **TO CERTAIN AMTRAK CONTRACTS.**

8 Section 24301 of title 49, United States Code, is
9 amended by adding at the end the following:

10 “(o) **APPLICABILITY OF DISTRICT OF COLUMBIA**
11 **LAW.**—Any lease or contract entered into between Amtrak
12 and the State of Maryland, or any department or agency
13 of the State of Maryland, after the date of the enactment
14 of this subsection shall be governed by the laws of the Dis-
15 trict of Columbia.”

16 **SEC. 1528. RAILROAD PREEMPTION CLARIFICATION.**

17 Section 20106 of title 49, United States Code, is
18 amended to read as follows:

19 “**§ 20106. Preemption**

20 “(a) **NATIONAL UNIFORMITY OF REGULATION.**—(1)
21 Laws, regulations, and orders related to railroad safety
22 and laws, regulations, and orders related to railroad secu-
23 rity shall be nationally uniform to the extent practicable.

24 “(2) A State may adopt or continue in force a law,
25 regulation, or order related to railroad safety or security

1 until the Secretary of Transportation (with respect to rail-
2 road safety matters), or the Secretary of Homeland Secu-
3 rity (with respect to railroad security matters), prescribes
4 a regulation or issues an order covering the subject matter
5 of the State requirement. A State may adopt or continue
6 in force an additional or more stringent law, regulation,
7 or order related to railroad safety or security when the
8 law, regulation, or order—

9 “(A) is necessary to eliminate or reduce an es-
10 sentially local safety or security hazard;

11 “(B) is not incompatible with a law, regulation,
12 or order of the United States Government; and

13 “(C) does not unreasonably burden interstate
14 commerce.

15 “(b) CLARIFICATION REGARDING STATE LAW
16 CAUSES OF ACTION.—(1) Nothing in this section shall be
17 construed to preempt an action under State law seeking
18 damages for personal injury, death, or property damage
19 alleging that a party—

20 “(A) has failed to comply with the Federal
21 standard of care established by a regulation or order
22 issued by the Secretary of Transportation (with re-
23 spect to railroad safety matters), or the Secretary of
24 Homeland Security (with respect to railroad security

1 matters), covering the subject matter as provided in
2 subsection (a) of this section;

3 “(B) has failed to comply with its own plan,
4 rule, or standard that it created pursuant to a regu-
5 lation or order issued by either of the Secretaries; or

6 “(C) has failed to comply with a State law, reg-
7 ulation, or order that is not incompatible with sub-
8 section (a)(2).

9 “(2) This subsection shall apply to all pending State
10 law causes of action arising from events or activities occur-
11 ring on or after January 18, 2002.

12 “(c) JURISDICTION.—Nothing in this section creates
13 a Federal cause of action on behalf of an injured party
14 or confers Federal question jurisdiction for such State law
15 causes of action.”

16 **Subtitle C—Over-the-Road Bus and** 17 **Trucking Security**

18 **SEC. 1531. OVER-THE-ROAD BUS SECURITY ASSESSMENTS** 19 **AND PLANS.**

20 (a) IN GENERAL.—Not later than 18 months after
21 the date of enactment of this Act, the Secretary shall issue
22 regulations that—

23 (1) require each over-the-road bus operator as-
24 signed to a high-risk tier under this section—

1 (A) to conduct a vulnerability assessment
2 in accordance with subsections (c) and (d); and

3 (B) to prepare, submit to the Secretary for
4 approval, and implement a security plan in ac-
5 cordance with subsection (e); and

6 (2) establish standards and guidelines for devel-
7 oping and implementing the vulnerability assess-
8 ments and security plans for carriers assigned to
9 high-risk tiers consistent with this section.

10 (b) NON HIGH-RISK PROGRAMS.—The Secretary
11 may establish a security program for over-the-road bus op-
12 erators not assigned to a high-risk tier, including—

13 (1) guidance for such operators in conducting
14 vulnerability assessments and preparing and imple-
15 menting security plans, as determined appropriate
16 by the Secretary; and

17 (2) a process to review and approve such as-
18 sessments and plans, as appropriate.

19 (c) DEADLINE FOR SUBMISSION.—Not later than 9
20 months after the date of issuance of the regulations under
21 subsection (a), the vulnerability assessments and security
22 plans required by such regulations for over-the-road bus
23 operators assigned to a high-risk tier shall be completed
24 and submitted to the Secretary for review and approval.

25 (d) VULNERABILITY ASSESSMENTS.—

1 (1) REQUIREMENTS.—The Secretary shall pro-
2 vide technical assistance and guidance to over-the-
3 road bus operators in conducting vulnerability as-
4 sessments under this section and shall require that
5 each vulnerability assessment of an operator as-
6 signed to a high-risk tier under this section includes,
7 as appropriate—

8 (A) identification and evaluation of critical
9 assets and infrastructure, including platforms,
10 stations, terminals, and information systems;

11 (B) identification of the vulnerabilities to
12 those assets and infrastructure; and

13 (C) identification of weaknesses in—

14 (i) physical security;

15 (ii) passenger and cargo security;

16 (iii) the security of programmable
17 electronic devices, computers, or other
18 automated systems which are used in pro-
19 viding over-the-road bus transportation;

20 (iv) alarms, cameras, and other pro-
21 tection systems;

22 (v) communications systems and utili-
23 ties needed for over-the-road bus security
24 purposes, including dispatching systems;

25 (vi) emergency response planning;

- 1 (vii) employee training; and
2 (viii) such other matters as the Sec-
3 retary determines appropriate.

4 (2) THREAT INFORMATION.—The Secretary
5 shall provide in a timely manner to the appropriate
6 employees of an over-the-road bus operator, as des-
7 ignated by the over-the-road bus operator, threat in-
8 formation that is relevant to the operator when pre-
9 paring and submitting a vulnerability assessment
10 and security plan, including an assessment of the
11 most likely methods that could be used by terrorists
12 to exploit weaknesses in over-the-road bus security.

13 (e) SECURITY PLANS.—

14 (1) REQUIREMENTS.—The Secretary shall pro-
15 vide technical assistance and guidance to over-the-
16 road bus operators in preparing and implementing
17 security plans under this section and shall require
18 that each security plan of an over-the-road bus oper-
19 ator assigned to a high-risk tier under this section
20 includes, as appropriate—

21 (A) the identification of a security coordi-
22 nator having authority—

23 (i) to implement security actions
24 under the plan;

1 (ii) to coordinate security improve-
2 ments; and

3 (iii) to receive communications from
4 appropriate Federal officials regarding
5 over-the-road bus security;

6 (B) a list of needed capital and operational
7 improvements;

8 (C) procedures to be implemented or used
9 by the over-the-road bus operator in response to
10 a terrorist attack, including evacuation and pas-
11 senger communication plans that include indi-
12 viduals with disabilities, as appropriate;

13 (D) the identification of steps taken with
14 State and local law enforcement agencies, emer-
15 gency responders, and Federal officials to co-
16 ordinate security measures and plans for re-
17 sponse to a terrorist attack;

18 (E) a strategy and timeline for conducting
19 training under section 1534;

20 (F) enhanced security measures to be
21 taken by the over-the-road bus operator when
22 the Secretary declares a period of heightened
23 security risk;

24 (G) plans for providing redundant and
25 backup systems required to ensure the contin-

1 ued operation of critical elements of the over-
2 the-road bus operator's system in the event of
3 a terrorist attack or other incident; and

4 (H) such other actions or procedures as
5 the Secretary determines are appropriate to ad-
6 dress the security of over-the-road bus opera-
7 tors.

8 (2) SECURITY COORDINATOR REQUIREMENTS.—

9 The Secretary shall require that the individual serv-
10 ing as the security coordinator identified in para-
11 graph (1)(A) is a citizen of the United States. The
12 Secretary may waive this requirement with respect
13 to an individual if the Secretary determines that it
14 is appropriate to do so based on a background check
15 of the individual and a review of the consolidated
16 terrorist watchlist.

17 (f) DEADLINE FOR REVIEW PROCESS.—Not later
18 than 6 months after receiving the assessments and plans
19 required under this section, the Secretary shall—

20 (1) review each vulnerability assessment and se-
21 curity plan submitted to the Secretary in accordance
22 with subsection (c);

23 (2) require amendments to any security plan
24 that does not meet the requirements of this section;
25 and

1 (3) approve any vulnerability assessment or se-
2 curity plan that meets the requirements of this sec-
3 tion.

4 (g) INTERIM SECURITY MEASURES.—The Secretary
5 may require over-the-road bus operators, during the period
6 before the deadline established under subsection (c), to
7 submit a security plan to implement any necessary interim
8 security measures essential to providing adequate security
9 of the over-the-road bus operator's system. An interim
10 plan required under this subsection shall be superseded
11 by a plan required under subsection (c).

12 (h) TIER ASSIGNMENT.—The Secretary shall assign
13 each over-the-road bus operator to a risk-based tier estab-
14 lished by the Secretary.

15 (1) PROVISION OF INFORMATION.—The Sec-
16 retary may request, and an over-the-road bus oper-
17 ator shall provide, information necessary for the Sec-
18 retary to assign an over-the-road bus operator to the
19 appropriate tier under this subsection.

20 (2) NOTIFICATION.—Not later than 60 days
21 after the date an over-the-road bus operator is as-
22 signed to a tier under this section, the Secretary
23 shall notify the operator of the tier to which it is as-
24 signed and the reasons for such assignment.

1 (3) HIGH-RISK TIERS.—At least one of the tiers
2 established by the Secretary under this section shall
3 be a tier designated for high-risk over-the-road bus
4 operators.

5 (4) REASSIGNMENT.—The Secretary may reas-
6 sign an over-the-road bus operator to another tier,
7 as appropriate, in response to changes in risk and
8 the Secretary shall notify the over-the-road bus oper-
9 ator within 60 days after such reassignment and
10 provide the operator with the reasons for such reas-
11 signment.

12 (i) EXISTING PROCEDURES, PROTOCOLS, AND
13 STANDARDS.—

14 (1) DETERMINATION.—In response to a peti-
15 tion by an over-the-road bus operator or at the dis-
16 cretion of the Secretary, the Secretary may deter-
17 mine that existing procedures, protocols, and stand-
18 ards meet all or part of the requirements of this sec-
19 tion regarding vulnerability assessments and security
20 plans.

21 (2) ELECTION.—Upon review and written de-
22 termination by the Secretary that existing proce-
23 dures, protocols, or standards of an over-the-road
24 bus operator satisfy the requirements of this section,
25 the over-the-road bus operator may elect to comply

1 with those procedures, protocols, or standards in-
2 stead of the requirements of this section.

3 (3) PARTIAL APPROVAL.—If the Secretary de-
4 termines that the existing procedures, protocols, or
5 standards of an over-the-road bus operator satisfy
6 only part of the requirements of this section, the
7 Secretary may accept such submission, but shall re-
8 quire submission by the operator of any additional
9 information relevant to the vulnerability assessment
10 and security plan of the operator to ensure that the
11 remaining requirements of this section are fulfilled.

12 (4) NOTIFICATION.—If the Secretary deter-
13 mines that particular existing procedures, protocols,
14 or standards of an over-the-road bus operator under
15 this subsection do not satisfy the requirements of
16 this section, the Secretary shall provide to the oper-
17 ator a written notification that includes an expla-
18 nation of the reasons for nonacceptance.

19 (5) REVIEW.—Nothing in this subsection shall
20 relieve the Secretary of the obligation—

21 (A) to review the vulnerability assessment
22 and security plan submitted by an over-the-road
23 bus operator under this section; and

24 (B) to approve or disapprove each submis-
25 sion on an individual basis.

1 (j) PERIODIC EVALUATION BY OVER-THE-ROAD BUS
2 PROVIDER REQUIRED.—

3 (1) SUBMISSION OF EVALUATION.—Not later
4 than 3 years after the date on which a vulnerability
5 assessment or security plan required to be submitted
6 to the Secretary under subsection (c) is approved,
7 and at least once every 5 years thereafter (or on
8 such a schedule as the Secretary may establish by
9 regulation), an over-the-road bus operator who sub-
10 mitted a vulnerability assessment and security plan
11 and who is still assigned to the high-risk tier shall
12 also submit to the Secretary an evaluation of the
13 adequacy of the vulnerability assessment and secu-
14 rity plan that includes a description of any material
15 changes made to the vulnerability assessment or se-
16 curity plan.

17 (2) REVIEW OF EVALUATION.—Not later than
18 180 days after the date on which an evaluation is
19 submitted, the Secretary shall review the evaluation
20 and notify the over-the-road bus operator submitting
21 the evaluation of the Secretary's approval or dis-
22 approval of the evaluation.

23 (k) SHARED FACILITIES.—The Secretary may permit
24 under this section the development and implementation of
25 coordinated vulnerability assessments and security plans

1 to the extent that an over-the-road bus operator shares
2 facilities with, or is colocated with, other transportation
3 entities or providers that are required to develop vulner-
4 ability assessments and security plans under Federal law.

5 (1) NONDISCLOSURE OF INFORMATION.—

6 (1) SUBMISSION OF INFORMATION TO CON-
7 GRESS.—Nothing in this section shall be construed
8 as authorizing the withholding of any information
9 from Congress.

10 (2) DISCLOSURE OF INDEPENDENTLY FUR-
11 NISHED INFORMATION.—Nothing in this section
12 shall be construed as affecting any authority or obli-
13 gation of a Federal agency to disclose any record or
14 information that the Federal agency obtains from an
15 over-the-road bus operator under any other Federal
16 law.

17 **SEC. 1532. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

18 (a) IN GENERAL.—The Secretary shall establish a
19 program for making grants to eligible private operators
20 providing transportation by an over-the-road bus for secu-
21 rity improvements described in subsection (b).

22 (b) USES OF FUNDS.—A recipient of a grant received
23 under subsection (a) shall use the grant funds for one or
24 more of the following:

1 (1) Constructing and modifying terminals, ga-
2 rages, and facilities, including terminals and other
3 over-the-road bus facilities owned by State or local
4 governments, to increase their security.

5 (2) Modifying over-the-road buses to increase
6 their security.

7 (3) Protecting or isolating the driver of an over-
8 the-road bus.

9 (4) Acquiring, upgrading, installing, or oper-
10 ating equipment, software, or accessorial services for
11 collection, storage, or exchange of passenger and
12 driver information through ticketing systems or
13 other means and for information links with govern-
14 ment agencies, for security purposes.

15 (5) Installing cameras and video surveillance
16 equipment on over-the-road buses and at terminals,
17 garages, and over-the-road bus facilities.

18 (6) Establishing and improving an emergency
19 communications system linking drivers and over-the-
20 road buses to the recipient's operations center or
21 linking the operations center to law enforcement and
22 emergency personnel.

23 (7) Implementing and operating passenger
24 screening programs for weapons and explosives.

1 (8) Public awareness campaigns for enhanced
2 over-the-road bus security.

3 (9) Operating and capital costs associated with
4 over-the-road bus security awareness, preparedness,
5 and response training, including training under sec-
6 tion 1534 and training developed by institutions of
7 higher education and by nonprofit employee labor
8 organizations, for over-the-road bus employees, in-
9 cluding frontline employees.

10 (10) Chemical, biological, radiological, or explo-
11 sive detection, including canine patrols for such de-
12 tection.

13 (11) Overtime reimbursement, including reim-
14 bursement of State, local, and tribal governments for
15 costs, for enhanced security personnel assigned to
16 duties related to over-the-road bus security during
17 periods of high or severe threat levels, National Spe-
18 cial Security Events, or other periods of heightened
19 security as determined by the Secretary.

20 (12) Live or simulated exercises, including
21 those described in section 1533.

22 (13) Operational costs to hire, train, and em-
23 ploy police and security officers, including canine
24 units, assigned to full-time security or
25 counterterrorism duties related to over-the-road bus

1 transportation, including reimbursement of State,
2 local, and tribal government costs for such per-
3 sonnel.

4 (14) Development of assessments or security
5 plans under section 1531.

6 (15) Such other improvements as the Secretary
7 considers appropriate.

8 (c) DUE CONSIDERATION.—In making grants under
9 this section, the Secretary shall prioritize grant funding
10 based on security risks to bus passengers and the ability
11 of a project to reduce, or enhance response to, that risk,
12 and shall not penalize private operators of over-the-road
13 buses that have taken measures to enhance over-the-road
14 bus transportation security prior to September 11, 2001.

15 (d) DEPARTMENT OF HOMELAND SECURITY RE-
16 SPONSIBILITIES.—In carrying out the responsibilities
17 under subsection (a), the Secretary shall—

18 (1) determine the requirements for recipients of
19 grants under this section, including application re-
20 quirements;

21 (2) select grant recipients;

22 (3) award the funds authorized by this section
23 based on risk, as identified by the plans required
24 under section 1531 or assessment or plan described
25 in subsection (f)(2); and

1 (4) pursuant to subsection (c), establish prior-
2 ities for the use of funds for grant recipients.

3 (e) DISTRIBUTION OF GRANTS.—Not later than 90
4 days after the date of enactment of this Act, the Secretary
5 and the Secretary of Transportation shall determine the
6 most effective and efficient way to distribute grant funds
7 to the recipients of grants determined by the Secretary
8 under subsection (a). Subject to the determination made
9 by the Secretaries, the Secretary may transfer funds to
10 the Secretary of Transportation for the purposes of dis-
11 bursing funds to the grant recipient.

12 (f) ELIGIBILITY.—

13 (1) A private operator providing transportation
14 by an over-the-road bus is eligible for a grant under
15 this section if the operator has completed a vulner-
16 ability assessment and developed a security plan that
17 the Secretary has approved under section 1531.
18 Grant funds may only be used for permissible uses
19 under subsection (b) to further an over-the-road bus
20 security plan.

21 (2) Notwithstanding the requirements for eligi-
22 bility and uses in paragraph (1), prior to the earlier
23 of one year after the date of issuance of final regula-
24 tions requiring vulnerability assessments and secu-
25 rity plans under section 1531 or 3 years after the

1 date of enactment of this Act, the Secretary may
2 award grants under this section for over-the-road
3 bus security improvements listed under subsection
4 (b) based upon over-the-road bus vulnerability as-
5 sessments and security plans that the Secretary
6 deems are sufficient for the purposes of this section
7 but have not been approved by the Secretary in ac-
8 cordance with section 1531.

9 (g) SUBJECT TO CERTAIN TERMS AND CONDI-
10 TIONS.—Except as otherwise specifically provided in this
11 section, a grant made under this section shall be subject
12 to the terms and conditions applicable to subrecipients
13 who provide over-the-road bus transportation under sec-
14 tion 5311(f) of title 49, United States Code, and such
15 other terms and conditions as are determined necessary
16 by the Secretary.

17 (h) LIMITATION ON USES OF FUNDS.—A grant made
18 under this section may not be used to make any State
19 or local government cost-sharing contribution under any
20 other Federal law.

21 (i) ANNUAL REPORTS.—Each recipient of a grant
22 under this section shall report annually to the Secretary
23 and on the use of such grant funds.

24 (j) CONSULTATION.—In carrying out this section, the
25 Secretary shall consult with over-the-road bus operators

1 and nonprofit employee labor organizations representing
2 over-the-road bus employees, public safety and law en-
3 forcement officials.

4 (k) AUTHORIZATION.—

5 (1) IN GENERAL.—From the amounts appro-
6 priated pursuant to section 114(w) of title 49,
7 United States Code, as amended by section 1503 of
8 this Act, there shall be made available to the Sec-
9 retary to make grants under this section—

10 (A) \$12,000,000 for fiscal year 2008;

11 (B) \$25,000,000 for fiscal year 2009;

12 (C) \$25,000,000 for fiscal year 2010; and

13 (D) \$25,000,000 for fiscal year 2011.

14 (2) PERIOD OF AVAILABILITY.—Sums appro-
15 priated to carry out this section shall remain avail-
16 able until expended.

17 **SEC. 1533. OVER-THE-ROAD BUS EXERCISES.**

18 (a) IN GENERAL.—The Secretary shall establish a
19 program for conducting security exercises for over-the-
20 road bus transportation for the purpose of assessing and
21 improving the capabilities of entities described in sub-
22 section (b) to prevent, prepare for, mitigate, respond to,
23 and recover from acts of terrorism.

24 (b) COVERED ENTITIES.—Entities to be assessed
25 under the program shall include—

1 (1) Federal, State, and local agencies and tribal
2 governments;

3 (2) over-the-road bus operators and over-the-
4 road bus terminal owners and operators;

5 (3) governmental and nongovernmental emer-
6 gency response providers and law enforcement agen-
7 cies; and

8 (4) any other organization or entity that the
9 Secretary determines appropriate.

10 (c) REQUIREMENTS.—The Secretary shall ensure
11 that the program—

12 (1) consolidates existing security exercises for
13 over-the-road bus operators and terminals adminis-
14 tered by the Department and the Department of
15 Transportation, as jointly determined by the Sec-
16 retary and the Secretary of Transportation, unless
17 the Secretary waives this consolidation requirement,
18 as appropriate;

19 (2) consists of exercises that are—

20 (A) scaled and tailored to the needs of the
21 over-the-road bus operators and terminals, in-
22 cluding addressing the needs of the elderly and
23 individuals with disabilities;

24 (B) live, in the case of the most at-risk fa-
25 cilities to a terrorist attack;

1 (C) coordinated with appropriate officials;

2 (D) as realistic as practicable and based on
3 current risk assessments, including credible
4 threats, vulnerabilities, and consequences;

5 (E) inclusive, as appropriate, of over-the-
6 road bus frontline employees; and

7 (F) consistent with the National Incident
8 Management System, the National Response
9 Plan, the National Infrastructure Protection
10 Plan, the National Preparedness Guidance, the
11 National Preparedness Goal, and other such na-
12 tional initiatives;

13 (3) provides that exercises described in para-
14 graph (2) will be—

15 (A) evaluated by the Secretary against
16 clear and consistent performance measures;

17 (B) assessed by the Secretary to identify
18 best practices, which shall be shared, as appro-
19 priate, with operators providing over-the-road
20 bus transportation, nonprofit employee organi-
21 zations that represent over-the-road bus em-
22 ployees, Federal, State, local, and tribal offi-
23 cials, governmental and nongovernmental emer-
24 gency response providers, and law enforcement
25 personnel; and

1 (C) used to develop recommendations, as
2 appropriate, provided to over-the-road bus oper-
3 ators and terminal owners and operators on re-
4 medial action to be taken in response to lessons
5 learned;

6 (4) allows for proper advanced notification of
7 communities and local governments in which exer-
8 cises are held, as appropriate; and

9 (5) assists State, local, and tribal governments
10 and over-the-road bus operators and terminal owners
11 and operators in designing, implementing, and evalu-
12 ating additional exercises that conform to the re-
13 quirements of paragraph (2).

14 (d) NATIONAL EXERCISE PROGRAM.—The Secretary
15 shall ensure that the exercise program developed under
16 subsection (c) is consistent with the National Exercise
17 Program established under section 648 of the Post
18 Katrina Emergency Management Reform Act (Public Law
19 109–295; 6 U.S.C. 748).

20 **SEC. 1534. OVER-THE-ROAD BUS SECURITY TRAINING PRO-**
21 **GRAM.**

22 (a) IN GENERAL.—Not later than 6 months after the
23 date of enactment of this Act, the Secretary shall develop
24 and issue regulations for an over-the-road bus training
25 program to prepare over-the-road bus frontline employees

1 for potential security threats and conditions. The regula-
2 tions shall take into consideration any current security
3 training requirements or best practices.

4 (b) CONSULTATION.—The Secretary shall develop
5 regulations under subsection (a) in consultation with—

6 (1) appropriate law enforcement, fire service,
7 emergency response, security, and terrorism experts;

8 (2) operators providing over-the-road bus trans-
9 portation; and

10 (3) nonprofit employee labor organizations rep-
11 resenting over-the-road bus employees and emer-
12 gency response personnel.

13 (c) PROGRAM ELEMENTS.—The regulations devel-
14 oped under subsection (a) shall require security training
15 programs, to include, at a minimum, elements to address
16 the following, as applicable:

17 (1) Determination of the seriousness of any oc-
18 currence or threat.

19 (2) Driver and passenger communication and
20 coordination.

21 (3) Appropriate responses to defend or protect
22 oneself.

23 (4) Use of personal and other protective equip-
24 ment.

1 (5) Evacuation procedures for passengers and
2 over-the-road bus employees, including individuals
3 with disabilities and the elderly.

4 (6) Psychology, behavior, and methods of ter-
5 rorists, including observation and analysis.

6 (7) Training related to psychological responses
7 to terrorist incidents, including the ability to cope
8 with hijacker behavior and passenger responses.

9 (8) Live situational training exercises regarding
10 various threat conditions, including tunnel evacu-
11 ation procedures.

12 (9) Recognition and reporting of dangerous
13 substances, suspicious packages, and situations.

14 (10) Understanding security incident proce-
15 dures, including procedures for communicating with
16 emergency response providers and for on-scene inter-
17 action with such emergency response providers.

18 (11) Operation and maintenance of security
19 equipment and systems.

20 (12) Other security training activities that the
21 Secretary considers appropriate.

22 (d) REQUIRED PROGRAMS.—

23 (1) DEVELOPMENT AND SUBMISSION TO SEC-
24 RETARY.—Not later than 90 days after the Sec-
25 retary issues the regulations under subsection (a),

1 each over-the-road bus operator shall develop a secu-
2 rity training program in accordance with such regu-
3 lations and submit the program to the Secretary for
4 approval.

5 (2) APPROVAL.—Not later than 60 days after
6 receiving a security training program under this sub-
7 section, the Secretary shall approve the program or
8 require the over-the-road bus operator that devel-
9 oped the program to make any revisions to the pro-
10 gram that the Secretary considers necessary for the
11 program to meet the requirements of the regula-
12 tions. An over-the-road bus operator shall respond to
13 the Secretary's comments not later than 30 days
14 after receiving them.

15 (3) TRAINING.—Not later than 1 year after the
16 Secretary approves a security training program in
17 accordance with this subsection, the over-the-road
18 bus operator that developed the program shall com-
19 plete the training of all over-the-road bus frontline
20 employees who were hired by the operator more than
21 30 days preceding such date. For such employees
22 employed less than 30 days by an operator preceding
23 such date, training shall be completed within the
24 first 60 days of employment.

1 (4) UPDATES OF REGULATIONS AND PROGRAM
2 REVISIONS.—The Secretary shall periodically review
3 and update, as appropriate, the training regulations
4 issued under subsection (a) to reflect new or chang-
5 ing security threats. Each over-the-road bus oper-
6 ator shall revise its training program accordingly
7 and provide additional training as necessary to its
8 employees within a reasonable time after the regula-
9 tions are updated.

10 (e) NATIONAL TRAINING PROGRAM.—The Secretary
11 shall ensure that the training program developed under
12 subsection (a) is a component of the National Training
13 Program established under section 648 of the Post
14 Katrina Emergency Management Reform Act (Public Law
15 109–295; 6 U.S.C. 748).

16 (f) REPORTING REQUIREMENTS.—Not later than 2
17 years after the date of regulation issuance, the Secretary
18 shall review implementation of the training program of a
19 representative sample of over-the-road bus operators and
20 over-the-road bus frontline employees, and report to the
21 appropriate congressional committees of such reviews. The
22 Secretary may submit the report in both classified and re-
23 dacted formats as necessary.

1 **SEC. 1535. OVER-THE-ROAD BUS SECURITY RESEARCH AND**
2 **DEVELOPMENT.**

3 (a) **ESTABLISHMENT OF RESEARCH AND DEVELOP-**
4 **MENT PROGRAM.**—The Secretary, acting through the
5 Under Secretary for Science and Technology and the Ad-
6 ministrator of the Transportation Security Administra-
7 tion, shall carry out a research and development program
8 for the purpose of improving the security of over-the-road
9 buses.

10 (b) **ELIGIBLE PROJECTS.**—The research and develop-
11 ment program may include projects—

12 (1) to reduce the vulnerability of over-the-road
13 buses, stations, terminals, and equipment to explo-
14 sives and hazardous chemical, biological, and radio-
15 active substances, including the development of tech-
16 nology to screen passengers in large numbers with
17 minimal interference and disruption;

18 (2) to test new emergency response and recov-
19 ery techniques and technologies, including those
20 used at international borders;

21 (3) to develop improved technologies, including
22 those for—

23 (A) emergency response training, including
24 training in a tunnel environment, if appro-
25 priate; and

1 (B) security and redundancy for critical
2 communications, electrical power, computer,
3 and over-the-road bus control systems; and

4 (4) to address other vulnerabilities and risks
5 identified by the Secretary.

6 (c) COORDINATION WITH OTHER RESEARCH INITIA-
7 TIVES.—The Secretary—

8 (1) shall ensure that the research and develop-
9 ment program is consistent with the other transpor-
10 tation security research and development programs
11 required by this Act;

12 (2) shall, to the extent practicable, coordinate
13 the research and development activities of the De-
14 partment with other ongoing research and develop-
15 ment security-related initiatives, including research
16 being conducted by—

17 (A) the Department of Transportation, in-
18 cluding University Transportation Centers and
19 other institutes, centers, and simulators funded
20 by the Department of Transportation;

21 (B) the National Academy of Sciences;

22 (C) the Technical Support Working Group;

23 (D) other Federal departments and agen-
24 cies; and

1 (E) other Federal and private research lab-
2 oratories, research entities, and institutions of
3 higher education, including Historically Black
4 Colleges and Universities, Hispanic Serving In-
5 stitutions, and Indian Tribally Controlled Col-
6 leges and Universities;

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

11 (A) is currently sponsoring a research and
12 development project in a similar area; or

13 (B) has a unique facility or capability that
14 would be useful in carrying out the project;

15 (4) may award grants and enter into coopera-
16 tive agreements, contracts, other transactions, or re-
17 imburseable agreements to the entities described in
18 paragraph (2) and eligible recipients under section
19 1532; and

20 (5) shall make reasonable efforts to enter into
21 memoranda of understanding, contracts, grants, co-
22 operative agreements, or other transactions with pri-
23 vate operators providing over-the-road bus transpor-
24 tation willing to contribute assets, physical space,
25 and other resources.

1 (d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIB-
2 ERTIES ISSUES.—

3 (1) CONSULTATION.—In carrying out research
4 and development projects under this section, the
5 Secretary shall consult with the Chief Privacy Offi-
6 cer of the Department and the Officer for Civil
7 Rights and Civil Liberties of the Department as ap-
8 propriate and in accordance with section 222 of the
9 Homeland Security Act of 2002.

10 (2) PRIVACY IMPACT ASSESSMENTS.—In ac-
11 cordance with sections 222 and 705 of the Home-
12 land Security Act of 2002, the Chief Privacy Officer
13 shall conduct privacy impact assessments and the
14 Officer for Civil Rights and Civil Liberties shall con-
15 duct reviews, as appropriate, for research and devel-
16 opment initiatives developed under this section that
17 the Secretary determines could have an impact on
18 privacy, civil rights, or civil liberties.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—

20 (1) IN GENERAL.—From the amounts appro-
21 priated pursuant to section 114(w) of title 49,
22 United States Code, as amended by section 1503 of
23 this Act, there shall be made available to the Sec-
24 retary to carry out this section—

25 (A) \$2,000,000 for fiscal year 2008;

1 (B) \$2,000,000 for fiscal year 2009;

2 (C) \$2,000,000 for fiscal year 2010; and

3 (D) \$2,000,000 for fiscal year 2011.

4 (2) PERIOD OF AVAILABILITY.—Such sums
5 shall remain available until expended.

6 **SEC. 1536. MOTOR CARRIER EMPLOYEE PROTECTIONS.**

7 Section 31105 of title 49, United States Code, is
8 amended to read:

9 “(a) PROHIBITIONS.—(1) A person may not dis-
10 charge an employee, or discipline or discriminate against
11 an employee regarding pay, terms, or privileges of employ-
12 ment, because—

13 “(A)(i) the employee, or another person at the
14 employee’s request, has filed a complaint or begun
15 a proceeding related to a violation of a commercial
16 motor vehicle safety or security regulation, standard,
17 or order, or has testified or will testify in such a
18 proceeding; or

19 “(ii) the person perceives that the employee has
20 filed or is about to file a complaint or has begun or
21 is about to begin a proceeding related to a violation
22 of a commercial motor vehicle safety or security reg-
23 ulation, standard, or order;

24 “(B) the employee refuses to operate a vehicle
25 because—

1 “(i) the operation violates a regulation,
2 standard, or order of the United States related
3 to commercial motor vehicle safety, health, or
4 security; or

5 “(ii) the employee has a reasonable appre-
6 hension of serious injury to the employee or the
7 public because of the vehicle’s hazardous safety
8 or security condition;

9 “(C) the employee accurately reports hours on
10 duty pursuant to chapter 315;

11 “(D) the employee cooperates, or the person
12 perceives that the employee is about to cooperate,
13 with a safety or security investigation by the Sec-
14 retary of Transportation, the Secretary of Homeland
15 Security, or the National Transportation Safety
16 Board; or

17 “(E) the employee furnishes, or the person per-
18 ceives that the employee is or is about to furnish, in-
19 formation to the Secretary of Transportation, the
20 Secretary of Homeland Security, the National
21 Transportation Safety Board, or any Federal, State,
22 or local regulatory or law enforcement agency as to
23 the facts relating to any accident or incident result-
24 ing in injury or death to an individual or damage to

1 property occurring in connection with commercial
2 motor vehicle transportation.

3 “(2) Under paragraph (1)(B)(ii) of this subsection,
4 an employee’s apprehension of serious injury is reasonable
5 only if a reasonable individual in the circumstances then
6 confronting the employee would conclude that the haz-
7 ardous safety or security condition establishes a real dan-
8 ger of accident, injury, or serious impairment to health.
9 To qualify for protection, the employee must have sought
10 from the employer, and been unable to obtain, correction
11 of the hazardous safety or security condition.

12 “(b) FILING COMPLAINTS AND PROCEDURES.—(1)
13 An employee alleging discharge, discipline, or discrimina-
14 tion in violation of subsection (a) of this section, or an-
15 other person at the employee’s request, may file a com-
16 plaint with the Secretary of Labor not later than 180 days
17 after the alleged violation occurred. All complaints initi-
18 ated under this section shall be governed by the legal bur-
19 dens of proof set forth in section 42121(b). On receiving
20 the complaint, the Secretary of Labor shall notify, in writ-
21 ing, the person alleged to have committed the violation of
22 the filing of the complaint.

23 “(2)(A) Not later than 60 days after receiving a com-
24 plaint, the Secretary of Labor shall conduct an investiga-
25 tion, decide whether it is reasonable to believe the com-

1 plaint has merit, and notify, in writing, the complainant
2 and the person alleged to have committed the violation of
3 the findings. If the Secretary of Labor decides it is reason-
4 able to believe a violation occurred, the Secretary of Labor
5 shall include with the decision findings and a preliminary
6 order for the relief provided under paragraph (3) of this
7 subsection.

8 “(B) Not later than 30 days after the notice under
9 subparagraph (A) of this paragraph, the complainant and
10 the person alleged to have committed the violation may
11 file objections to the findings or preliminary order, or
12 both, and request a hearing on the record. The filing of
13 objections does not stay a reinstatement ordered in the
14 preliminary order. If a hearing is not requested within the
15 30 days, the preliminary order is final and not subject to
16 judicial review.

17 “(C) A hearing shall be conducted expeditiously. Not
18 later than 120 days after the end of the hearing, the Sec-
19 retary of Labor shall issue a final order. Before the final
20 order is issued, the proceeding may be ended by a settle-
21 ment agreement made by the Secretary of Labor, the com-
22 plainant, and the person alleged to have committed the
23 violation.

24 “(3)(A) If the Secretary of Labor decides, on the
25 basis of a complaint, a person violated subsection (a) of

1 this section, the Secretary of Labor shall order the person
2 to—

3 “(i) take affirmative action to abate the
4 violation;

5 “(ii) reinstate the complainant to the
6 former position with the same pay and terms
7 and privileges of employment; and

8 “(iii) pay compensatory damages, including
9 backpay with interest and compensation for any
10 special damages sustained as a result of the dis-
11 crimination, including litigation costs, expert
12 witness fees, and reasonable attorney fees.

13 “(B) If the Secretary of Labor issues an order under
14 subparagraph (A) of this paragraph and the complainant
15 requests, the Secretary of Labor may assess against the
16 person against whom the order is issued the costs (includ-
17 ing attorney fees) reasonably incurred by the complainant
18 in bringing the complaint. The Secretary of Labor shall
19 determine the costs that reasonably were incurred.

20 “(C) Relief in any action under subsection (b) may
21 include punitive damages in an amount not to exceed
22 \$250,000.

23 “(c) DE NOVO REVIEW.—With respect to a com-
24 plaint under paragraph (1), if the Secretary of Labor has
25 not issued a final decision within 210 days after the filing

1 of the complaint and if the delay is not due to the bad
2 faith of the employee, the employee may bring an original
3 action at law or equity for de novo review in the appro-
4 priate district court of the United States, which shall have
5 jurisdiction over such an action without regard to the
6 amount in controversy, and which action shall, at the re-
7 quest of either party to such action, be tried by the court
8 with a jury.

9 “(d) JUDICIAL REVIEW AND VENUE.—A person ad-
10 versely affected by an order issued after a hearing under
11 subsection (b) of this section may file a petition for review,
12 not later than 60 days after the order is issued, in the
13 court of appeals of the United States for the circuit in
14 which the violation occurred or the person resided on the
15 date of the violation. Review shall conform to chapter 7
16 of title 5. The review shall be heard and decided expedi-
17 tiously. An order of the Secretary of Labor subject to re-
18 view under this subsection is not subject to judicial review
19 in a criminal or other civil proceeding.

20 “(e) CIVIL ACTIONS TO ENFORCE.—If a person fails
21 to comply with an order issued under subsection (b) of
22 this section, the Secretary of Labor shall bring a civil ac-
23 tion to enforce the order in the district court of the United
24 States for the judicial district in which the violation oc-
25 curred.

1 “(f) NO PREEMPTION.—Nothing in this section pre-
2 empts or diminishes any other safeguards against dis-
3 crimination, demotion, discharge, suspension, threats, har-
4 assment, reprimand, retaliation, or any other manner of
5 discrimination provided by Federal or State law.

6 “(g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in
7 this section shall be deemed to diminish the rights, privi-
8 leges, or remedies of any employee under any Federal or
9 State law or under any collective bargaining agreement.
10 The rights and remedies in this section may not be waived
11 by any agreement, policy, form, or condition of employ-
12 ment.

13 “(h) DISCLOSURE OF IDENTITY.—

14 “(1) Except as provided in paragraph (2) of
15 this subsection, or with the written consent of the
16 employee, the Secretary of Transportation or the
17 Secretary of Homeland Security may not disclose
18 the name of an employee who has provided informa-
19 tion about an alleged violation of this part, or a reg-
20 ulation prescribed or order issued under any of those
21 provisions.

22 “(2) The Secretary of Transportation or the
23 Secretary of Homeland Security shall disclose to the
24 Attorney General the name of an employee described
25 in paragraph (1) of this subsection if the matter is

1 referred to the Attorney General for enforcement.
2 The Secretary making such disclosure shall provide
3 reasonable advance notice to the affected employee if
4 disclosure of that person's identity or identifying in-
5 formation is to occur.

6 “(i) PROCESS FOR REPORTING SECURITY PROBLEMS
7 TO THE DEPARTMENT OF HOMELAND SECURITY.—

8 “(1) ESTABLISHMENT OF PROCESS.—The Sec-
9 retary of Homeland Security shall establish through
10 regulations, after an opportunity for notice and com-
11 ment, a process by which any person may report to
12 the Secretary of Homeland Security regarding motor
13 carrier vehicle security problems, deficiencies, or
14 vulnerabilities.

15 “(2) ACKNOWLEDGMENT OF RECEIPT.—If a re-
16 port submitted under paragraph (1) identifies the
17 person making the report, the Secretary of Home-
18 land Security shall respond promptly to such person
19 and acknowledge receipt of the report.

20 “(3) STEPS TO ADDRESS PROBLEM.—The Sec-
21 retary of Homeland Security shall review and con-
22 sider the information provided in any report sub-
23 mitted under paragraph (1) and shall take appro-
24 priate steps to address any problems or deficiencies
25 identified.

1 “(j) DEFINITION.—In this section, ‘employee’ means
2 a driver of a commercial motor vehicle (including an inde-
3 pendent contractor when personally operating a commer-
4 cial motor vehicle), a mechanic, a freight handler, or an
5 individual not an employer, who—

6 “(1) directly affects commercial motor vehicle
7 safety or security in the course of employment by a
8 commercial motor carrier; and

9 “(2) is not an employee of the United States
10 Government, a State, or a political subdivision of a
11 State acting in the course of employment.”.

12 **SEC. 1537. UNIFIED CARRIER REGISTRATION SYSTEM**
13 **AGREEMENT.**

14 (a) REENACTMENT OF SSRS.—Section 14504 of title
15 49, United States Code, as that section was in effect on
16 December 31, 2006, shall be in effect as a law of the
17 United States for the period beginning on January 1,
18 2007, ending on the earlier of January 1, 2008, or the
19 effective date of the final regulations issued pursuant to
20 subsection (b).

21 (b) DEADLINE FOR FINAL REGULATIONS.—Not later
22 than October 1, 2007, the Federal Motor Carrier Safety
23 Administration shall issue final regulations to establish
24 the Unified Carrier Registration System, as required by
25 section 13908 of title 49, United States Code, and set fees

1 for the unified carrier registration agreement for calendar
2 year 2007 or subsequent calendar years to be charged to
3 motor carriers, motor private carriers, and freight for-
4 warders under such agreement, as required by 14504a of
5 title 49, United States Code.

6 (c) REPEAL OF SSRS.—Section 4305(a) of the Safe,
7 Accountable, Flexible Efficient Transportation Equity
8 Act: A Legacy for Users (119 Stat. 1764) is amended by
9 striking “the first January” and all that follows through
10 “this Act” and inserting “January 1, 2008”.

11 **SEC. 1538. SCHOOL BUS TRANSPORTATION SECURITY.**

12 (a) SCHOOL BUS SECURITY RISK ASSESSMENT.—
13 Not later than 1 year after the date of enactment of this
14 Act, the Secretary shall transmit to the appropriate con-
15 gressional committees a report, including a classified re-
16 port, as appropriate, containing a comprehensive assess-
17 ment of the risk of a terrorist attack on the Nation’s
18 school bus transportation system in accordance with the
19 requirements of this section.

20 (b) CONTENTS OF RISK ASSESSMENT.—The assess-
21 ment shall include—

22 (1) an assessment of security risks to the Na-
23 tion’s school bus transportation system, including
24 publicly and privately operated systems;

1 (2) an assessment of actions already taken by
2 operators or others to address identified security
3 risks; and

4 (3) an assessment of whether additional actions
5 and investments are necessary to improve the secu-
6 rity of passengers traveling on school buses and a
7 list of such actions or investments, if appropriate.

8 (c) CONSULTATION.—In conducting the risk assess-
9 ment, the Secretary shall consult with administrators and
10 officials of school systems, representatives of the school
11 bus industry, including both publicly and privately oper-
12 ated systems, public safety and law enforcement officials,
13 and nonprofit employee labor organizations representing
14 school bus drivers.

15 **SEC. 1539. TECHNICAL AMENDMENT.**

16 Section 1992(d)(7) of title 18, United States Code,
17 is amended by inserting “intercity bus transportation”
18 after “includes”.

19 **SEC. 1540. TRUCK SECURITY ASSESSMENT.**

20 (a) DEFINITION.—For the purposes of this section,
21 the term “truck” means any self-propelled or towed motor
22 vehicle used on a highway in interstate commerce to trans-
23 port property when the vehicle—

24 (1) has a gross vehicle weight rating or gross
25 combination weight rating, or gross vehicle weight or

1 gross combination weight, of 4,536 kg (10,001
2 pounds) or more, whichever is greater; or

3 (2) is used in transporting material found by
4 the Secretary of Transportation to be hazardous
5 under section 5103 of title 49, United States Code,
6 and transported in a quantity requiring placarding
7 under regulations prescribed by the Secretary under
8 subtitle B, chapter I, subchapter C of title 49, Code
9 of Federal Regulations.

10 (b) IN GENERAL.—Not later than 1 year after the
11 date of enactment of this Act, the Secretary, in coordina-
12 tion with the Secretary of Transportation, shall transmit
13 a report to the appropriate congressional committees on
14 truck security issues that includes—

15 (1) a security risk assessment of the trucking
16 industry;

17 (2) an assessment of actions already taken by
18 both public and private entities to address identified
19 security risks;

20 (3) an assessment of the economic impact that
21 security upgrades of trucks, truck equipment, or
22 truck facilities may have on the trucking industry
23 and its employees, including independent owner-op-
24 erators;

1 (4) an assessment of ongoing research by public
2 and private entities and the need for additional re-
3 search on truck security;

4 (5) an assessment of industry best practices to
5 enhance security; and

6 (6) an assessment of the current status of se-
7 cure truck parking.

8 (c) **FORMAT.**—The Secretary may submit the report
9 in both classified and redacted formats if the Secretary
10 determines that such action is appropriate or necessary.

11 **SEC. 1541. MEMORANDUM OF UNDERSTANDING ANNEX.**

12 Not later than 1 year after the date of enactment
13 of this Act, the Secretary of Transportation and the Sec-
14 retary shall execute and develop an annex to the Memo-
15 randum of Understanding between the two departments
16 signed on September 28, 2004, governing the specific
17 roles, delineations of responsibilities, resources, and com-
18 mitments of the Department of Transportation and the
19 Department of Homeland Security, respectively, in ad-
20 dressing motor carrier transportation security matters, in-
21 cluding over-the-road bus security matters, and shall cover
22 the processes the Departments will follow to promote com-
23 munications, efficiency, and nonduplication of effort.

1 **SEC. 1542. DHS INSPECTOR GENERAL REPORT ON TRUCK-**
2 **ING SECURITY GRANT PROGRAM.**

3 (a) INITIAL REPORT.—Not later than 90 days after
4 the date of enactment of this Act, the Inspector General
5 of the Department of Homeland Security shall submit a
6 report to the appropriate congressional committees on the
7 Federal trucking industry security grant program, for fis-
8 cal years 2004 and 2005 that—

9 (1) addresses the grant announcement, applica-
10 tion, receipt, review, award, monitoring, and closeout
11 processes; and

12 (2) states the amount obligated or expended
13 under the program for fiscal years 2004 and 2005
14 for—

15 (A) infrastructure protection;

16 (B) training;

17 (C) equipment;

18 (D) educational materials;

19 (E) program administration;

20 (F) marketing; and

21 (G) other functions.

22 (b) SUBSEQUENT REPORT.—Not later than 1 year
23 after the date of enactment of this Act, the Inspector Gen-
24 eral of the Department of Homeland Security shall submit
25 a report to the appropriate congressional committees
26 that—

1 (1) analyzes the performance, efficiency, and ef-
2 fectiveness of the Federal trucking industry security
3 grant program, and the need for the program using
4 all years of available data; and

5 (2) makes recommendations regarding the fu-
6 ture of the program, including options to improve
7 the effectiveness and utility of the program and
8 motor carrier security.

9 **Subtitle D—Hazardous Material** 10 **and Pipeline Security**

11 **SEC. 1551. RAILROAD ROUTING OF SECURITY-SENSITIVE** 12 **MATERIALS.**

13 (a) IN GENERAL.—Not later than 9 months after the
14 date of enactment of this Act, the Secretary of Transpor-
15 tation, in consultation with the Secretary, shall publish a
16 final rule based on the Pipeline and Hazardous Materials
17 Safety Administration’s Notice of Proposed Rulemaking
18 published on December 21, 2006, entitled “Hazardous
19 Materials: Enhancing Railroad Transportation Safety and
20 Security for Hazardous Materials Shipments”. The final
21 rule shall incorporate the requirements of this section and,
22 as appropriate, public comments received during the com-
23 ment period of the rulemaking.

24 (b) SECURITY-SENSITIVE MATERIALS COMMODITY
25 DATA.—The Secretary of Transportation shall ensure that

1 the final rule requires each railroad carrier transporting
2 security-sensitive materials in commerce to, no later than
3 90 days after the end of each calendar year, compile secu-
4 rity-sensitive materials commodity data. Such data must
5 be collected by route, line segment, or series of line seg-
6 ments, as aggregated by the railroad carrier. Within the
7 railroad carrier selected route, the commodity data must
8 identify the geographic location of the route and the total
9 number of shipments by the United Nations identification
10 number for the security-sensitive materials.

11 (c) RAILROAD TRANSPORTATION ROUTE ANALYSIS
12 FOR SECURITY-SENSITIVE MATERIALS.—The Secretary of
13 Transportation shall ensure that the final rule requires
14 each railroad carrier transporting security-sensitive mate-
15 rials in commerce to, for each calendar year, provide a
16 written analysis of the safety and security risks for the
17 transportation routes identified in the security-sensitive
18 materials commodity data collected as required by sub-
19 section (b). The safety and security risks present shall be
20 analyzed for the route, railroad facilities, railroad storage
21 facilities, and high-consequence targets along or in prox-
22 imity to the route.

23 (d) ALTERNATIVE ROUTE ANALYSIS FOR SECURITY-
24 SENSITIVE MATERIALS.—The Secretary of Transpor-
25 tation shall ensure that the final rule requires each rail-

1 road carrier transporting security-sensitive materials in
2 commerce to—

3 (1) for each calendar year—

4 (A) identify practicable alternative routes
5 over which the railroad carrier has authority to
6 operate as compared to the current route for
7 such a shipment analyzed under subsection (c);
8 and

9 (B) perform a safety and security risk as-
10 sessment of the alternative route for compari-
11 son to the route analysis specified in subsection
12 (c);

13 (2) ensure that the analysis under paragraph
14 (1) includes—

15 (A) identification of safety and security
16 risks for an alternative route;

17 (B) comparison of those risks identified
18 under subparagraph (A) to the primary railroad
19 transportation route, including the risk of a
20 catastrophic release from a shipment traveling
21 along the alternate route compared to the pri-
22 mary route;

23 (C) any remediation or mitigation meas-
24 ures implemented on the primary or alternative
25 route; and

1 (D) potential economic effects of using an
2 alternative route; and

3 (3) consider when determining the practicable
4 alternative routes under paragraph (1)(A) the use of
5 interchange agreements with other railroad carriers.

6 (e) ALTERNATIVE ROUTE SELECTION FOR SECU-
7 RITY-SENSITIVE MATERIALS.—The Secretary of Trans-
8 portation shall ensure that the final rule requires each
9 railroad carrier transporting security-sensitive materials
10 in commerce to use the analysis required by subsections
11 (c) and (d) to select the safest and most secure route to
12 be used in transporting security-sensitive materials.

13 (f) REVIEW.—The Secretary of Transportation shall
14 ensure that the final rule requires each railroad carrier
15 transporting security-sensitive materials in commerce to
16 annually review and select the practicable route posing the
17 least overall safety and security risk in accordance with
18 this section. The railroad carrier must retain in writing
19 all route review and selection decision documentation and
20 restrict the distribution, disclosure, and availability of in-
21 formation contained in the route analysis to appropriate
22 persons. This documentation should include, but is not
23 limited to, comparative analyses, charts, graphics, or rail-
24 road system maps.

1 (g) RETROSPECTIVE ANALYSIS.—The Secretary of
2 Transportation shall ensure that the final rule requires
3 each railroad carrier transporting security-sensitive mate-
4 rials in commerce to, not less than once every 3 years,
5 analyze the route selection determinations required under
6 this section. Such an analysis shall include a comprehen-
7 sive, systemwide review of all operational changes, infra-
8 structure modifications, traffic adjustments, changes in
9 the nature of high-consequence targets located along or
10 in proximity to the route, or other changes affecting the
11 safety and security of the movements of security-sensitive
12 materials that were implemented since the previous anal-
13 ysis was completed.

14 (h) CONSULTATION.—In carrying out subsection (c),
15 railroad carriers transporting security-sensitive materials
16 in commerce shall seek relevant information from State,
17 local, and tribal officials, as appropriate, regarding secu-
18 rity risks to high-consequence targets along or in prox-
19 imity to a route used by a railroad carrier to transport
20 security-sensitive materials.

21 (i) DEFINITIONS.—In this section:

22 (1) The term “route” includes storage facilities
23 and trackage used by railroad cars in transportation
24 in commerce.

1 (2) The term “high-consequence target” means
2 a property, natural resource, location, area, or other
3 target designated by the Secretary that is a viable
4 terrorist target of national significance, which may
5 include a facility or specific critical infrastructure,
6 the attack of which by railroad could result in—

7 (A) catastrophic loss of life;

8 (B) significant damage to national security
9 or defense capabilities; or

10 (C) national economic harm.

11 **SEC. 1552. RAILROAD SECURITY-SENSITIVE MATERIAL**
12 **TRACKING.**

13 (a) COMMUNICATIONS.—

14 (1) IN GENERAL.—In conjunction with the re-
15 search and development program established under
16 section 1518 and consistent with the results of re-
17 search relating to wireless and other tracking tech-
18 nologies, the Secretary, in consultation with the Ad-
19 ministrator of the Transportation Security Adminis-
20 tration, shall develop a program that will encourage
21 the equipping of railroad cars transporting security-
22 sensitive materials, as defined in section 1501, with
23 technology that provides—

24 (A) car position location and tracking ca-
25 pabilities; and

1 (B) notification of railroad car depressuri-
2 zation, breach, unsafe temperature, or release
3 of hazardous materials, as appropriate.

4 (2) COORDINATION.—In developing the pro-
5 gram required by paragraph (1), the Secretary
6 shall—

7 (A) consult with the Secretary of Trans-
8 portation to coordinate the program with any
9 ongoing or planned efforts for railroad car
10 tracking at the Department of Transportation;
11 and

12 (B) ensure that the program is consistent
13 with recommendations and findings of the De-
14 partment of Homeland Security's hazardous
15 material railroad tank car tracking pilot pro-
16 grams.

17 (b) FUNDING.—From the amounts appropriated pur-
18 suant to 114(w) of title 49, United States Code, as amend-
19 ed by section 1503 of this title, there shall be made avail-
20 able to the Secretary to carry out this section—

21 (1) \$3,000,000 for fiscal year 2008;

22 (2) \$3,000,000 for fiscal year 2009; and

23 (3) \$3,000,000 for fiscal year 2010.

1 **SEC. 1553. HAZARDOUS MATERIALS HIGHWAY ROUTING.**

2 (a) ROUTE PLAN GUIDANCE.—Not later than 1 year
3 after the date of enactment of this Act, the Secretary of
4 Transportation, in consultation with the Secretary, shall—

5 (1) document existing and proposed routes for
6 the transportation of radioactive and nonradioactive
7 hazardous materials by motor carrier, and develop a
8 framework for using a geographic information sys-
9 tem-based approach to characterize routes in the na-
10 tional hazardous materials route registry;

11 (2) assess and characterize existing and pro-
12 posed routes for the transportation of radioactive
13 and nonradioactive hazardous materials by motor
14 carrier for the purpose of identifying measurable cri-
15 teria for selecting routes based on safety and secu-
16 rity concerns;

17 (3) analyze current route-related hazardous ma-
18 terials regulations in the United States, Canada, and
19 Mexico to identify cross-border differences and con-
20 flicting regulations;

21 (4) document the safety and security concerns
22 of the public, motor carriers, and State, local, terri-
23 torial, and tribal governments about the highway
24 routing of hazardous materials;

25 (5) prepare guidance materials for State offi-
26 cials to assist them in identifying and reducing both

1 safety concerns and security risks when designating
2 highway routes for hazardous materials consistent
3 with the 13 safety-based nonradioactive materials
4 routing criteria and radioactive materials routing
5 criteria in subpart C part 397 of title 49, Code of
6 Federal Regulations;

7 (6) develop a tool that will enable State officials
8 to examine potential routes for the highway trans-
9 portation of hazardous materials, assess specific se-
10 curity risks associated with each route, and explore
11 alternative mitigation measures; and

12 (7) transmit to the appropriate congressional
13 committees a report on the actions taken to fulfill
14 paragraphs (1) through (6) and any recommended
15 changes to the routing requirements for the highway
16 transportation of hazardous materials in part 397 of
17 title 49, Code of Federal Regulations.

18 (b) ROUTE PLANS.—

19 (1) ASSESSMENT.—Not later than 1 year after
20 the date of enactment of this Act, the Secretary of
21 Transportation shall complete an assessment of the
22 safety and national security benefits achieved under
23 existing requirements for route plans, in written or
24 electronic format, for explosives and radioactive ma-
25 terials. The assessment shall, at a minimum—

1 (A) compare the percentage of Department
2 of Transportation recordable incidents and the
3 severity of such incidents for shipments of ex-
4 plosives and radioactive materials for which
5 such route plans are required with the percent-
6 age of recordable incidents and the severity of
7 such incidents for shipments of explosives and
8 radioactive materials not subject to such route
9 plans; and

10 (B) quantify the security and safety bene-
11 fits, feasibility, and costs of requiring each
12 motor carrier that is required to have a haz-
13 ardous material safety permit under part 385
14 of title 49, Code of Federal Regulations, to
15 maintain, follow, and carry such a route plan
16 that meets the requirements of section 397.101
17 of that title when transporting the type and
18 quantity of hazardous materials described in
19 section 385.403, taking into account the various
20 segments of the motor carrier industry, includ-
21 ing tank truck, truckload and less than truck-
22 load carriers.

23 (2) REPORT.—Not later than 1 year after the
24 date of enactment of this Act, the Secretary of
25 Transportation shall submit a report to the appro-

1 appropriate congressional committees containing the find-
2 ings and conclusions of the assessment.

3 (c) REQUIREMENT.—The Secretary shall require
4 motor carriers that have a hazardous material safety per-
5 mit under part 385 of title 49, Code of Federal Regula-
6 tions, to maintain, follow, and carry a route plan, in writ-
7 ten or electronic format, that meets the requirements of
8 section 397.101 of that title when transporting the type
9 and quantity of hazardous materials described in section
10 385.403 if the Secretary determines, under the assessment
11 required in subsection (b), that such a requirement would
12 enhance security and safety without imposing unreason-
13 able costs or burdens upon motor carriers.

14 **SEC. 1554. MOTOR CARRIER SECURITY-SENSITIVE MATE-**
15 **RIAL TRACKING.**

16 (a) COMMUNICATIONS.—

17 (1) IN GENERAL.—Not later than 6 months
18 after the date of enactment of this Act, consistent
19 with the findings of the Transportation Security Ad-
20 ministration's hazardous materials truck security
21 pilot program, the Secretary, through the Adminis-
22 trator of the Transportation Security Administration
23 and in consultation with the Secretary of Transpor-
24 tation, shall develop a program to facilitate the
25 tracking of motor carrier shipments of security-sen-

1 sitive materials and to equip vehicles used in such
2 shipments with technology that provides—

3 (A) frequent or continuous communica-
4 tions;

5 (B) vehicle position location and tracking
6 capabilities; and

7 (C) a feature that allows a driver of such
8 vehicles to broadcast an emergency distress sig-
9 nal.

10 (2) CONSIDERATIONS.—In developing the pro-
11 gram required by paragraph (1), the Secretary
12 shall—

13 (A) consult with the Secretary of Trans-
14 portation to coordinate the program with any
15 ongoing or planned efforts for motor carrier or
16 security-sensitive materials tracking at the De-
17 partment of Transportation;

18 (B) take into consideration the rec-
19 ommendations and findings of the report on the
20 hazardous material safety and security oper-
21 ational field test released by the Federal Motor
22 Carrier Safety Administration on November 11,
23 2004; and

24 (C) evaluate—

1 (i) any new information related to the
2 costs and benefits of deploying, equipping,
3 and utilizing tracking technology, including
4 portable tracking technology, for motor
5 carriers transporting security-sensitive ma-
6 terials not included in the hazardous mate-
7 rial safety and security operational field
8 test report released by the Federal Motor
9 Carrier Safety Administration on Novem-
10 ber 11, 2004;

11 (ii) the ability of tracking technology
12 to resist tampering and disabling;

13 (iii) the capability of tracking tech-
14 nology to collect, display, and store infor-
15 mation regarding the movement of ship-
16 ments of security-sensitive materials by
17 commercial motor vehicles;

18 (iv) the appropriate range of contact
19 intervals between the tracking technology
20 and a commercial motor vehicle trans-
21 porting security-sensitive materials;

22 (v) technology that allows the installa-
23 tion by a motor carrier of concealed elec-
24 tronic devices on commercial motor vehi-
25 cles that can be activated by law enforce-

1 ment authorities to disable the vehicle or
2 alert emergency response resources to lo-
3 cate and recover security-sensitive mate-
4 rials in the event of loss or theft of such
5 materials;

6 (vi) whether installation of the tech-
7 nology described in clause (v) should be in-
8 corporated into the program under para-
9 graph (1);

10 (vii) the costs, benefits, and practi-
11 cality of such technology described in
12 clause (v) in the context of the overall ben-
13 efit to national security, including com-
14 merce in transportation; and

15 (viii) other systems and information
16 the Secretary determines appropriate.

17 (b) FUNDING.—From the amounts appropriated pur-
18 suant to section 114(w) of title 49, United States Code,
19 as amended by section 1503 of this Act, there shall be
20 made available to the Secretary to carry out this section—

21 (1) \$7,000,000 for fiscal year 2008 of which
22 \$3,000,000 may be used for equipment;

23 (2) \$7,000,000 for fiscal year 2009 of which
24 \$3,000,000 may be used for equipment; and

1 (3) \$7,000,000 for fiscal year 2010 of which
2 \$3,000,000 may be used for equipment.

3 (c) REPORT.—Not later than 1 year after the
4 issuance of regulations under subsection (a), the Secretary
5 shall issue a report to the appropriate congressional com-
6 mittees on the program developed and evaluation carried
7 out under this section.

8 (d) LIMITATION.—The Secretary may not mandate
9 the installation or utilization of a technology described
10 under this section without additional congressional author-
11 ity provided after the date of enactment of this Act.

12 **SEC. 1555. HAZARDOUS MATERIALS SECURITY INSPEC-**
13 **TIONS AND STUDY.**

14 (a) IN GENERAL.—The Secretary of Transportation
15 shall consult with the Secretary to limit, to the extent
16 practicable, duplicative reviews of the hazardous materials
17 security plans required under part 172, title 49, Code of
18 Federal Regulations.

19 (b) TRANSPORTATION COSTS STUDY.—Within 1 year
20 after the date of enactment of this Act, the Secretary of
21 Transportation, in conjunction with the Secretary, shall
22 study to what extent the insurance, security, and safety
23 costs borne by railroad carriers, motor carriers, pipeline
24 carriers, air carriers, and maritime carriers associated
25 with the transportation of hazardous materials are re-

1 flected in the rates paid by offerors of such commodities
2 as compared to the costs and rates, respectively, for the
3 transportation of nonhazardous materials.

4 **SEC. 1556. TECHNICAL CORRECTIONS.**

5 (a) CORRECTION.—Section 5103a of title 49, United
6 States Code, is amended—

7 (1) in subsection (a)(1) by striking “Secretary”
8 and inserting “Secretary of Homeland Security”;

9 (2) in subsection (b) by striking “Secretary”
10 each place it appears and inserting “Secretary of
11 Transportation”;

12 (3) in subsection (d)(1)(B) by striking “Sec-
13 retary” and inserting “Secretary of Homeland Secu-
14 rity”; and

15 (4) in subsection (e) by striking “Secretary”
16 and inserting “Secretary of Homeland Security”
17 each place it appears.

18 (b) RELATIONSHIP TO TRANSPORTATION SECURITY
19 CARDS.—

20 (1) BACKGROUND CHECK.—An individual who
21 has a valid transportation employee identification
22 card issued by the Secretary under section 70105 of
23 title 46, United States Code, shall be deemed to
24 have met the background records check required
25 under section 5103a of title 49, United States Code.

1 (2) STATE REVIEW.—Nothing in this subsection
2 prevents or preempts a State from conducting a
3 criminal records check of an individual that has ap-
4 plied for a license to operate a motor vehicle trans-
5 porting in commerce a hazardous material.

6 **SEC. 1557. PIPELINE SECURITY INSPECTIONS AND EN-**
7 **FORCEMENT.**

8 (a) IN GENERAL.—Not later than 9 months after the
9 date of enactment of this Act, consistent with the Annex
10 to the Memorandum of Understanding executed on August
11 9, 2006, between the Department of Transportation and
12 the Department, the Secretary, in consultation with the
13 Secretary of Transportation, shall establish a program for
14 reviewing pipeline operator adoption of recommendations
15 of the September 5, 2002, Department of Transportation
16 Research and Special Programs Administration's Pipeline
17 Security Information Circular, including the review of
18 pipeline security plans and critical facility inspections.

19 (b) REVIEW AND INSPECTION.—Not later than 12
20 months after the date of enactment of this Act, the Sec-
21 retary and the Secretary of Transportation shall develop
22 and implement a plan for reviewing the pipeline security
23 plans and an inspection of the critical facilities of the 100
24 most critical pipeline operators covered by the September
25 5, 2002, circular, where such facilities have not been in-

1 spected for security purposes since September 5, 2002, by
2 either the Department or the Department of Transpor-
3 tation.

4 (c) COMPLIANCE REVIEW METHODOLOGY.—In re-
5 viewing pipeline operator compliance under subsections (a)
6 and (b), risk assessment methodologies shall be used to
7 prioritize risks and to target inspection and enforcement
8 actions to the highest risk pipeline assets.

9 (d) REGULATIONS.—Not later than 18 months after
10 the date of enactment of this Act, the Secretary and the
11 Secretary of Transportation shall develop and transmit to
12 pipeline operators security recommendations for natural
13 gas and hazardous liquid pipelines and pipeline facilities.
14 If the Secretary determines that regulations are appro-
15 priate, the Secretary shall consult with the Secretary of
16 Transportation on the extent of risk and appropriate miti-
17 gation measures, and the Secretary or the Secretary of
18 Transportation, consistent with the Annex to the Memo-
19 randum of Understanding executed on August 9, 2006,
20 shall promulgate such regulations and carry out necessary
21 inspection and enforcement actions. Any regulations shall
22 incorporate the guidance provided to pipeline operators by
23 the September 5, 2002, Department of Transportation
24 Research and Special Programs Administration's Pipeline
25 Security Information Circular and contain additional re-

1 requirements as necessary based upon the results of the in-
2 spections performed under subsection (b). The regulations
3 shall include the imposition of civil penalties for non-
4 compliance.

5 (e) FUNDING.—From the amounts appropriated pur-
6 suant to section 114(w) of title 49, United States Code,
7 as amended by section 1503 of this Act, there shall be
8 made available to the Secretary to carry out this section—

9 (1) \$2,000,000 for fiscal year 2008;

10 (2) \$2,000,000 for fiscal year 2009; and

11 (3) \$2,000,000 for fiscal year 2010.

12 **SEC. 1558. PIPELINE SECURITY AND INCIDENT RECOVERY**
13 **PLAN.**

14 (a) IN GENERAL.—The Secretary, in consultation
15 with the Secretary of Transportation and the Adminis-
16 trator of the Pipeline and Hazardous Materials Safety Ad-
17 ministration, and in accordance with the Annex to the
18 Memorandum of Understanding executed on August 9,
19 2006, the National Strategy for Transportation Security,
20 and Homeland Security Presidential Directive 7, shall de-
21 velop a pipeline security and incident recovery protocols
22 plan. The plan shall include—

23 (1) for the Government to provide increased se-
24 curity support to the most critical interstate and
25 intrastate natural gas and hazardous liquid trans-

1 mission pipeline infrastructure and operations as de-
2 termined under section 1557 when—

3 (A) under severe security threat levels of
4 alert; or

5 (B) under specific security threat informa-
6 tion relating to such pipeline infrastructure or
7 operations exists; and

8 (2) an incident recovery protocol plan, devel-
9 oped in conjunction with interstate and intrastate
10 transmission and distribution pipeline operators and
11 terminals and facilities operators connected to pipe-
12 lines, to develop protocols to ensure the continued
13 transportation of natural gas and hazardous liquids
14 to essential markets and for essential public health
15 or national defense uses in the event of an incident
16 affecting the interstate and intrastate natural gas
17 and hazardous liquid transmission and distribution
18 pipeline system, which shall include protocols for re-
19 storing essential services supporting pipelines and
20 granting access to pipeline operators for pipeline in-
21 frastructure repair, replacement, or bypass following
22 an incident.

23 (b) EXISTING PRIVATE AND PUBLIC SECTOR EF-
24 FORTS.—The plan shall take into account actions taken
25 or planned by both private and public entities to address

1 identified pipeline security issues and assess the effective
2 integration of such actions.

3 (c) CONSULTATION.—In developing the plan under
4 subsection (a), the Secretary shall consult with the Sec-
5 retary of Transportation, interstate and intrastate trans-
6 mission and distribution pipeline operators, nonprofit em-
7 ployee organizations representing pipeline employees,
8 emergency responders, offerors, State pipeline safety
9 agencies, public safety officials, and other relevant parties.

10 (d) REPORT.—

11 (1) CONTENTS.—Not later than 2 years after
12 the date of enactment of this Act, the Secretary
13 shall transmit to the appropriate congressional com-
14 mittees a report containing the plan required by sub-
15 section (a), including an estimate of the private and
16 public sector costs to implement any recommenda-
17 tions.

18 (2) FORMAT.—The Secretary may submit the
19 report in both classified and redacted formats if the
20 Secretary determines that such action is appropriate
21 or necessary.

22 **TITLE XVI—AVIATION**

23 **SEC. 1601. AIRPORT CHECKPOINT SCREENING FUND.**

24 Section 44940 of title 49, United States Code, is
25 amended—

1 (1) in subsection (d)(4) by inserting “, other
2 than subsection (i),” before “except to”; and

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

4 “(i) CHECKPOINT SCREENING SECURITY FUND.—

5 “(1) ESTABLISHMENT.—There is established in
6 the Department of Homeland Security a fund to be
7 known as the ‘Checkpoint Screening Security Fund’.

8 “(2) DEPOSITS.—In fiscal year 2008, after
9 amounts are made available under section 44923(h),
10 the next \$250,000,000 derived from fees received
11 under subsection (a)(1) shall be available to be de-
12 posited in the Fund.

13 “(3) FEES.—The Secretary of Homeland Secu-
14 rity shall impose the fee authorized by subsection
15 (a)(1) so as to collect at least \$250,000,000 in fiscal
16 year 2008 for deposit into the Fund.

17 “(4) AVAILABILITY OF AMOUNTS.—Amounts in
18 the Fund shall be available until expended by the
19 Administrator of the Transportation Security Ad-
20 ministration for the purchase, deployment, installa-
21 tion, research, and development of equipment to im-
22 prove the ability of security screening personnel at
23 screening checkpoints to detect explosives.”.

1 **SEC. 1602. SCREENING OF CARGO CARRIED ABOARD PAS-**
2 **SENGER AIRCRAFT.**

3 (a) **IN GENERAL.**—Section 44901 of title 49, United
4 States Code, is amended—

5 (1) by redesignating subsections (g) and (h) as
6 subsections (h) and (i), respectively; and

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

9 “(g) **AIR CARGO ON PASSENGER AIRCRAFT.**—

10 “(1) **IN GENERAL.**—Not later than 3 years
11 after the date of enactment of the Implementing
12 Recommendations of the 9/11 Commission Act of
13 2007, the Secretary of Homeland Security shall es-
14 tablish a system to screen 100 percent of cargo
15 transported on passenger aircraft operated by an air
16 carrier or foreign air carrier in air transportation or
17 intrastate air transportation to ensure the security
18 of all such passenger aircraft carrying cargo.

19 “(2) **MINIMUM STANDARDS.**—The system re-
20 ferred to in paragraph (1) shall require, at a min-
21 imum, that equipment, technology, procedures, per-
22 sonnel, or other methods approved by the Adminis-
23 trator of the Transportation Security Administra-
24 tion, are used to screen cargo carried on passenger
25 aircraft described in paragraph (1) to provide a level
26 of security commensurate with the level of security

1 for the screening of passenger checked baggage as
2 follows:

3 “(A) 50 percent of such cargo is so
4 screened not later than 18 months after the
5 date of enactment of the Implementing Rec-
6 ommendations of the 9/11 Commission Act of
7 2007.

8 “(B) 100 percent of such cargo is so
9 screened not later than 3 years after such date
10 of enactment.

11 “(3) REGULATIONS.—

12 “(A) INTERIM FINAL RULE.—The Sec-
13 retary of Homeland Security may issue an in-
14 terim final rule as a temporary regulation to
15 implement this subsection without regard to the
16 provisions of chapter 5 of title 5.

17 “(B) FINAL RULE.—

18 “(i) IN GENERAL.—If the Secretary
19 issues an interim final rule under subpara-
20 graph (A), the Secretary shall issue, not
21 later than one year after the effective date
22 of the interim final rule, a final rule as a
23 permanent regulation to implement this
24 subsection in accordance with the provi-
25 sions of chapter 5 of title 5.

1 “(ii) FAILURE TO ACT.—If the Sec-
2 retary does not issue a final rule in accord-
3 ance with clause (i) on or before the last
4 day of the one-year period referred to in
5 clause (i), the Secretary shall submit to the
6 Committee on Homeland Security of the
7 House of Representatives, Committee on
8 Commerce, Science, and Transportation of
9 the Senate, and the Committee on Home-
10 land Security and Governmental Affairs of
11 the Senate a report explaining why the
12 final rule was not timely issued and pro-
13 viding an estimate of the earliest date on
14 which the final rule will be issued. The
15 Secretary shall submit the first such report
16 within 10 days after such last day and
17 submit a report to the Committees con-
18 taining updated information every 30 days
19 thereafter until the final rule is issued.

20 “(iii) SUPERCEDING OF INTERIM
21 FINAL RULE.—The final rule issued in ac-
22 cordance with this subparagraph shall su-
23 persede the interim final rule issued under
24 subparagraph (A).

1 “(4) REPORT.—Not later than 1 year after the
2 date of establishment of the system under paragraph
3 (1), the Secretary shall submit to the Committees
4 referred to in paragraph (3)(B)(ii) a report that de-
5 scribes the system.

6 “(5) SCREENING DEFINED.—In this subsection
7 the term ‘screening’ means a physical examination
8 or non-intrusive methods of assessing whether cargo
9 poses a threat to transportation security. Methods of
10 screening include x-ray systems, explosives detection
11 systems, explosives trace detection, explosives detec-
12 tion canine teams certified by the Transportation
13 Security Administration, or a physical search to-
14 gether with manifest verification. The Administrator
15 may approve additional methods to ensure that the
16 cargo does not pose a threat to transportation secu-
17 rity and to assist in meeting the requirements of this
18 subsection. Such additional cargo screening methods
19 shall not include solely performing a review of infor-
20 mation about the contents of cargo or verifying the
21 identity of a shipper of the cargo that is not per-
22 formed in conjunction with other security methods
23 authorized under this subsection, including whether
24 a known shipper is registered in the known shipper
25 database. Such additional cargo screening methods

1 may include a program to certify the security meth-
2 ods used by shippers pursuant to paragraphs (1)
3 and (2) and alternative screening methods pursuant
4 to exemptions referred to in subsection (b) of section
5 1602 of the Implementing Recommendations of the
6 9/11 Commission Act of 2007.”.

7 (b) ASSESSMENT OF EXEMPTIONS.—

8 (1) TSA ASSESSMENT.—

9 (A) IN GENERAL.—Not later than 120
10 days after the date of enactment of this Act,
11 the Secretary of Homeland Security shall sub-
12 mit to the appropriate committees of Congress
13 and to the Comptroller General a report con-
14 taining an assessment of each exemption grant-
15 ed under section 44901(i)(1) of title 49, United
16 States Code, for the screening required by such
17 section for cargo transported on passenger air-
18 craft and an analysis to assess the risk of main-
19 taining such exemption.

20 (B) CONTENTS.—The report under sub-
21 paragraph (A) shall include—

22 (i) the rationale for each exemption;

23 (ii) what percentage of cargo is not
24 screened in accordance with section
25 44901(g) of title 49, United States Code;

1 (iii) the impact of each exemption on
2 aviation security;

3 (iv) the projected impact on the flow
4 of commerce of eliminating each exemp-
5 tion, respectively, should the Secretary
6 choose to take such action; and

7 (v) plans and rationale for maintain-
8 ing, changing, or eliminating each exemp-
9 tion.

10 (C) FORMAT.—The Secretary may submit
11 the report under subparagraph (A) in both clas-
12 sified and redacted formats if the Secretary de-
13 termines that such action is appropriate or nec-
14 essary.

15 (2) GAO ASSESSMENT.—Not later than 120
16 days after the date on which the report under para-
17 graph (1) is submitted, the Comptroller General
18 shall review the report and submit to the Committee
19 on Homeland Security of the House of Representa-
20 tives, the Committee on Commerce, Science, and
21 Transportation of the Senate, and the Committee on
22 Homeland Security and Governmental Affairs of the
23 Senate an assessment of the methodology of deter-
24 minations made by the Secretary for maintaining,

1 changing, or eliminating an exemption under section
2 44901(i)(1) of title 49, United States Code.

3 **SEC. 1603. IN-LINE BAGGAGE SCREENING.**

4 (a) EXTENSION OF AUTHORIZATION.—Section
5 44923(i)(1) of title 49, United States Code, is amended
6 by striking “2007.” and inserting “2007, and
7 \$450,000,000 for each of fiscal years 2008 through
8 2011”.

9 (b) SUBMISSION OF COST-SHARING STUDY AND
10 PLAN.—Not later than 60 days after the date of enact-
11 ment of this Act, the Secretary for Homeland Security
12 shall submit to the appropriate congressional committees
13 the cost sharing study described in section 4019(d) of the
14 Intelligence Reform and Terrorism Prevention Act of
15 2004 (118 Stat. 3722), together with the Secretary’s anal-
16 ysis of the study, a list of provisions of the study the Sec-
17 retary intends to implement, and a plan and schedule for
18 implementation of such listed provisions.

19 **SEC. 1604. IN-LINE BAGGAGE SYSTEM DEPLOYMENT.**

20 (a) IN GENERAL.—Section 44923 of title 49, United
21 States Code, is amended—

22 (1) in subsection (a) by striking “may make”
23 and inserting “shall make”;

24 (2) in subsection (d)(1) by striking “may” and
25 inserting “shall”;

1 (3) in subsection (h)(1) by striking “2007” and
2 inserting “2028”;

3 (4) in subsection (h) by striking paragraphs (2)
4 and (3) and inserting the following:

5 “(2) ALLOCATION.—Of the amount made avail-
6 able under paragraph (1) for a fiscal year, not less
7 than \$200,000,000 shall be allocated to fulfill letters
8 of intent issued under subsection (d).

9 “(3) DISCRETIONARY GRANTS.—Of the amount
10 made available under paragraph (1) for a fiscal year,
11 up to \$50,000,000 shall be used to make discre-
12 tionary grants, including other transaction agree-
13 ments for airport security improvement projects,
14 with priority given to small hub airports and nonhub
15 airports.”;

16 (5) by redesignating subsection (i) as subsection
17 (j); and

18 (6) by inserting after subsection (h) the fol-
19 lowing:

20 “(i) LEVERAGED FUNDING.—For purposes of this
21 section, a grant under subsection (a) to an airport sponsor
22 to service an obligation issued by or on behalf of that spon-
23 sor to fund a project described in subsection (a) shall be
24 considered to be a grant for that project.”.

25 (b) PRIORITIZATION OF PROJECTS.—

1 (1) IN GENERAL.—The Administrator of the
2 Transportation Security Administration shall estab-
3 lish a prioritization schedule for airport security im-
4 provement projects described in section 44923 of
5 title 49, United States Code, based on risk and
6 other relevant factors, to be funded under that sec-
7 tion. The schedule shall include both hub airports
8 referred to in paragraphs (29), (31), and (42) of
9 section 40102 of such title and nonhub airports (as
10 defined in section 47102(13) of such title).

11 (2) AIRPORTS THAT HAVE INCURRED ELIGIBLE
12 COSTS.—The schedule shall include airports that
13 have incurred eligible costs associated with develop-
14 ment of partial or completed in-line baggage systems
15 before the date of enactment of this Act in reason-
16 able anticipation of receiving a grant under section
17 44923 of title 49, United States Code, in reimburse-
18 ment of those costs but that have not received such
19 a grant.

20 (3) REPORT.—Not later than 180 days after
21 the date of enactment of this Act, the Administrator
22 shall provide a copy of the prioritization schedule, a
23 corresponding timeline, and a description of the
24 funding allocation under section 44923 of title 49,
25 United States Code, to the Committee on Commerce,

1 Science, and Transportation of the Senate and the
2 Committee on Homeland Security of the House of
3 Representatives.

4 **SEC. 1605. STRATEGIC PLAN TO TEST AND IMPLEMENT AD-**
5 **VANCED PASSENGER PRESCREENING SYS-**
6 **TEM.**

7 (a) IN GENERAL.—Not later than 120 days after the
8 date of enactment of this Act, the Secretary of Homeland
9 Security, in consultation with the Administrator of the
10 Transportation Security Administration, shall submit to
11 the Committee on Homeland Security of the House of
12 Representatives, the Committee on Commerce, Science,
13 and Transportation of the Senate, and the Committee on
14 Homeland Security and Governmental Affairs of the Sen-
15 ate a plan that—

16 (1) describes the system to be utilized by the
17 Department of Homeland Security to assume the
18 performance of comparing passenger information, as
19 defined by the Administrator, to the automatic se-
20 lectee and no-fly lists, utilizing appropriate records
21 in the consolidated and integrated terrorist watchlist
22 maintained by the Federal Government;

23 (2) provides a projected timeline for each phase
24 of testing and implementation of the system;

1 (3) explains how the system will be integrated
2 with the prescreening system for passengers on
3 international flights; and

4 (4) describes how the system complies with sec-
5 tion 552a of title 5, United States Code.

6 (b) GAO ASSESSMENT.—Not later than 180 days
7 after the date of enactment of this Act, the Comptroller
8 General shall submit a report to the Committee on Com-
9 merce, Science, and Transportation of the Senate and the
10 Committee on Homeland Security of the House of Rep-
11 resentatives that—

12 (1) describes the progress made by the Trans-
13 portation Security Administration in implementing
14 the secure flight passenger pre-screening program;

15 (2) describes the effectiveness of the current ap-
16 peals process for passengers wrongly assigned to the
17 no-fly and terrorist watch lists;

18 (3) describes the Transportation Security Ad-
19 ministration's plan to protect private passenger in-
20 formation and progress made in integrating the sys-
21 tem with the pre-screening program for international
22 flights operated by United States Customs and Bor-
23 der Protection;

24 (4) provides a realistic determination of when
25 the system will be completed; and

1 (5) includes any other relevant observations or
2 recommendations the Comptroller General deems ap-
3 propriate.

4 **SEC. 1606. APPEAL AND REDRESS PROCESS FOR PAS-**
5 **SENGERS WRONGLY DELAYED OR PROHIB-**
6 **ITED FROM BOARDING A FLIGHT.**

7 (a) IN GENERAL.—Subchapter I of chapter 449 of
8 title 49, United States Code is amended by adding at the
9 end the following:

10 **“§ 44926. Appeal and redress process for passengers**
11 **wrongly delayed or prohibited from**
12 **boarding a flight**

13 “(a) IN GENERAL.—The Secretary of Homeland Se-
14 curity shall establish a timely and fair process for individ-
15 uals who believe they have been delayed or prohibited from
16 boarding a commercial aircraft because they were wrongly
17 identified as a threat under the regimes utilized by the
18 Transportation Security Administration, United States
19 Customs and Border Protection, or any other office or
20 component of the Department of Homeland Security.

21 “(b) OFFICE OF APPEALS AND REDRESS.—

22 “(1) ESTABLISHMENT.—The Secretary shall es-
23 tablish in the Department an Office of Appeals and
24 Redress to implement, coordinate, and execute the
25 process established by the Secretary pursuant to

1 subsection (a). The Office shall include representa-
2 tives from the Transportation Security Administra-
3 tion, United States Customs and Border Protection,
4 and such other offices and components of the De-
5 partment as the Secretary determines appropriate.

6 “(2) RECORDS.—The process established by the
7 Secretary pursuant to subsection (a) shall include
8 the establishment of a method by which the Office,
9 under the direction of the Secretary, will be able to
10 maintain a record of air carrier passengers and
11 other individuals who have been misidentified and
12 have corrected erroneous information.

13 “(3) INFORMATION.—To prevent repeated
14 delays of an misidentified passenger or other indi-
15 vidual, the Office shall—

16 “(A) ensure that the records maintained
17 under this subsection contain information deter-
18 mined by the Secretary to authenticate the
19 identity of such a passenger or individual;

20 “(B) furnish to the Transportation Secu-
21 rity Administration, United States Customs and
22 Border Protection, or any other appropriate of-
23 fice or component of the Department, upon re-
24 quest, such information as may be necessary to
25 allow such office or component to assist air car-

1 riers in improving their administration of the
2 advanced passenger prescreening system and
3 reduce the number of false positives; and

4 “(C) require air carriers and foreign air
5 carriers take action to identify passengers de-
6 termined, under the process established under
7 subsection (a), to have been wrongly identified.

8 “(4) HANDLING OF PERSONALLY IDENTIFIABLE
9 INFORMATION.—The Secretary, in conjunction with
10 the Chief Privacy Officer of the Department shall—

11 “(A) require that Federal employees of the
12 Department handling personally identifiable in-
13 formation of passengers (in this paragraph re-
14 ferred to as ‘PII’) complete mandatory privacy
15 and security training prior to being authorized
16 to handle PII;

17 “(B) ensure that the records maintained
18 under this subsection are secured by encryption,
19 one-way hashing, other data anonymization
20 techniques, or such other equivalent security
21 technical protections as the Secretary deter-
22 mines necessary;

23 “(C) limit the information collected from
24 misidentified passengers or other individuals to

1 the minimum amount necessary to resolve a re-
2 dress request;

3 “(D) require that the data generated under
4 this subsection shall be shared or transferred
5 via a secure data network, that has been au-
6 dited to ensure that the anti-hacking and other
7 security related software functions properly and
8 is updated as necessary;

9 “(E) ensure that any employee of the De-
10 partment receiving the data contained within
11 the records handles the information in accord-
12 ance with the section 552a of title 5, United
13 States Code, and the Federal Information Secu-
14 rity Management Act of 2002 (Public Law
15 107–296);

16 “(F) only retain the data for as long as
17 needed to assist the individual traveler in the
18 redress process; and

19 “(G) conduct and publish a privacy impact
20 assessment of the process described within this
21 subsection and transmit the assessment to the
22 Committee on Homeland Security of the House
23 of Representatives, the Committee on Com-
24 merce, Science, and Transportation of the Sen-

1 ate, and Committee on Homeland Security and
2 Governmental Affairs of the Senate.

3 “(5) INITIATION OF REDRESS PROCESS AT AIR-
4 PORTS.—The Office shall establish at each airport at
5 which the Department has a significant presence a
6 process to provide information to air carrier pas-
7 sengers to begin the redress process established pur-
8 suant to subsection (a).”.

9 (b) CLERICAL AMENDMENT.—The analysis for such
10 chapter is amended by inserting after the item relating
11 to section 44925 the following:

 “44926. Appeal and redress process for passengers wrongly delayed or prohib-
 ited from boarding a flight.”.

12 **SEC. 1607. STRENGTHENING EXPLOSIVES DETECTION AT**
13 **PASSENGER SCREENING CHECKPOINTS.**

14 (a) IN GENERAL.—Not later than 30 days after the
15 date of enactment of this Act, the Secretary of Homeland
16 Security, in consultation with the Administrator of the
17 Transportation Security Administration, shall issue the
18 strategic plan the Secretary was required by section
19 44925(b) of title 49, United States Code, to have issued
20 within 90 days after the date of enactment of the Intel-
21 ligence Reform and Terrorism Prevention Act of 2004
22 (Public Law 108-458).

1 (b) DEPLOYMENT.—Section 44925(b) of title 49,
2 United States Code, is amended by adding at the end the
3 following:

4 “(3) IMPLEMENTATION.—The Secretary shall
5 begin implementation of the strategic plan within
6 one year after the date of enactment of this para-
7 graph.”.

8 **SEC. 1608. RESEARCH AND DEVELOPMENT OF AVIATION**
9 **TRANSPORTATION SECURITY TECHNOLOGY.**

10 Section 137(a) of the Aviation and Transportation
11 Security Act (49 U.S.C. 44912 note; 115 Stat. 637) is
12 amended—

13 (1) by striking “2002 through 2006” and in-
14 serting “2006 through 2011”;

15 (2) by striking “aviation” and inserting “trans-
16 portation”; and

17 (3) by striking “2002 and 2003” and inserting
18 “2006 through 2011”.

19 **SEC. 1609. BLAST-RESISTANT CARGO CONTAINERS.**

20 Section 44901 of title 49, United States Code, as
21 amended by section 1602, is further amended by adding
22 at the end the following:

23 “(j) BLAST-RESISTANT CARGO CONTAINERS.—

1 “(1) IN GENERAL.—Before January 1, 2008,
2 the Administrator of the Transportation Security
3 Administration shall—

4 “(A) evaluate the results of the blast-re-
5 sistant cargo container pilot program that was
6 initiated before the date of enactment of this
7 subsection; and

8 “(B) prepare and distribute through the
9 Aviation Security Advisory Committee to the
10 appropriate Committees of Congress and air
11 carriers a report on that evaluation which may
12 contain nonclassified and classified sections.

13 “(2) ACQUISITION, MAINTENANCE, AND RE-
14 PLACEMENT.—Upon completion and consistent with
15 the results of the evaluation that paragraph (1)(A)
16 requires, the Administrator shall—

17 “(A) develop and implement a program, as
18 the Administrator determines appropriate, to
19 acquire, maintain, and replace blast-resistant
20 cargo containers;

21 “(B) pay for the program; and

22 “(C) make available blast-resistant cargo
23 containers to air carriers pursuant to paragraph
24 (3).

1 “(3) DISTRIBUTION TO AIR CARRIERS.—The
2 Administrator shall make available, beginning not
3 later than July 1, 2008, blast-resistant cargo con-
4 tainers to air carriers for use on a risk managed
5 basis as determined by the Administrator.”.

6 **SEC. 1610. PROTECTION OF PASSENGER PLANES FROM EX-**
7 **PLOSIVES.**

8 (a) TECHNOLOGY RESEARCH AND PILOT
9 PROJECTS.—

10 (1) RESEARCH AND DEVELOPMENT.—The Sec-
11 retary of Homeland Security, in consultation with
12 the Administrator of the Transportation Security
13 Administration, shall expedite research and develop-
14 ment programs for technologies that can disrupt or
15 prevent an explosive device from being introduced
16 onto a passenger plane or from damaging a pas-
17 senger plane while in flight or on the ground. The
18 research shall be used in support of implementation
19 of section 44901 of title 49, United States Code.

20 (2) PILOT PROJECTS.—The Secretary, in con-
21 junction with the Secretary of Transportation, shall
22 establish a grant program to fund pilot projects—

23 (A) to deploy technologies described in
24 paragraph (1); and

1 (B) to test technologies to expedite the re-
2 covery, development, and analysis of informa-
3 tion from aircraft accidents to determine the
4 cause of the accident, including deployable
5 flight deck and voice recorders and remote loca-
6 tion recording devices.

7 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There
8 are authorized to be appropriated to the Secretary of
9 Homeland Security for fiscal year 2008 such sums as may
10 be necessary to carry out this section. Such sums shall
11 remain available until expended.

12 **SEC. 1611. SPECIALIZED TRAINING.**

13 The Administrator of the Transportation Security
14 Administration shall provide advanced training to trans-
15 portation security officers for the development of special-
16 ized security skills, including behavior observation and
17 analysis, explosives detection, and document examination,
18 in order to enhance the effectiveness of layered transpor-
19 tation security measures.

20 **SEC. 1612. CERTAIN TSA PERSONNEL LIMITATIONS NOT TO**
21 **APPLY.**

22 (a) **IN GENERAL.**—Notwithstanding any provision of
23 law, any statutory limitation on the number of employees
24 in the Transportation Security Administration, before or
25 after its transfer to the Department of Homeland Security

1 from the Department of Transportation, does not apply
2 after fiscal year 2007.

3 (b) AVIATION SECURITY.—Notwithstanding any pro-
4 vision of law imposing a limitation on the recruiting or
5 hiring of personnel into the Transportation Security Ad-
6 ministration to a maximum number of permanent posi-
7 tions, the Secretary of Homeland Security shall recruit
8 and hire such personnel into the Administration as may
9 be necessary—

10 (1) to provide appropriate levels of aviation se-
11 curity; and

12 (2) to accomplish that goal in such a manner
13 that the average aviation security-related delay expe-
14 rienced by airline passengers is reduced to a level of
15 less than 10 minutes.

16 **SEC. 1613. PILOT PROJECT TO TEST DIFFERENT TECH-**
17 **NOLOGIES AT AIRPORT EXIT LANES.**

18 (a) IN GENERAL.—The Administrator of the Trans-
19 portation Security Administration shall conduct a pilot
20 program at not more than 2 airports to identify tech-
21 nologies to improve security at airport exit lanes.

22 (b) PROGRAM COMPONENTS.—In conducting the
23 pilot program under this section, the Administrator
24 shall—

1 (1) utilize different technologies that protect
2 the integrity of the airport exit lanes from unauthor-
3 ized entry;

4 (2) work with airport officials to deploy such
5 technologies in multiple configurations at a selected
6 airport or airports at which some of the exits are not
7 collocated with a screening checkpoint; and

8 (3) ensure the level of security is at or above
9 the level of existing security at the airport or air-
10 ports where the pilot program is conducted.

11 (c) REPORTS.—

12 (1) INITIAL BRIEFING.—Not later than 180
13 days after the date of enactment of this Act, the Ad-
14 ministrator shall conduct a briefing to the congres-
15 sional committees set forth in paragraph (3) that de-
16 scribes—

17 (A) the airport or airports selected to par-
18 ticipate in the pilot program;

19 (B) the technologies to be tested;

20 (C) the potential savings from imple-
21 menting the technologies at selected airport
22 exits;

23 (D) the types of configurations expected to
24 be deployed at such airports; and

1 (E) the expected financial contribution
2 from each airport.

3 (2) FINAL REPORT.—Not later than 18 months
4 after the technologies are deployed at the airports
5 participating in the pilot program, the Administrator
6 shall submit a final report to the congressional com-
7 mittees set forth in paragraph (3) that describes—

8 (A) the changes in security procedures and
9 technologies deployed;

10 (B) the estimated cost savings at the air-
11 port or airports that participated in the pilot
12 program; and

13 (C) the efficacy and staffing benefits of the
14 pilot program and its applicability to other air-
15 ports in the United States.

16 (3) CONGRESSIONAL COMMITTEES.—The re-
17 ports required under this subsection shall be sub-
18 mitted to—

19 (A) the Committee on Commerce, Science,
20 and Transportation of the Senate;

21 (B) the Committee on Appropriations of
22 the Senate;

23 (C) the Committee on Homeland Security
24 and Governmental Affairs of the Senate;

1 (D) the Committee on Homeland Security
2 of the House of Representatives; and

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

5 (d) USE OF EXISTING FUNDS.—This section shall be
6 executed using existing funds.

7 **SEC. 1614. SECURITY CREDENTIALS FOR AIRLINE CREWS.**

8 (a) REPORT.—Not later than 180 days after the date
9 of enactment of this Act, the Administrator of the Trans-
10 portation Security Administration, after consultation with
11 airline, airport, and flight crew representatives, shall sub-
12 mit to the Committee on Commerce, Science, and Trans-
13 portation of the Senate, the Committee on Homeland Se-
14 curity and Governmental Affairs of the Senate, the Com-
15 mittee on Homeland Security of the House of Representa-
16 tives, and the Committee on Transportation and Infra-
17 structure of the House of Representatives a report on the
18 status of the Administration's efforts to institute a sterile
19 area access system or method that will enhance security
20 by properly identifying authorized airline flight deck and
21 cabin crew members at screening checkpoints and grant-
22 ing them expedited access through screening checkpoints.
23 The Administrator shall include in the report rec-
24 ommendations on the feasibility of implementing the sys-

1 tem for the domestic aviation industry beginning one year
2 after the date on which the report is submitted.

3 (b) BEGINNING IMPLEMENTATION.—The Adminis-
4 trator shall begin implementation of the system or method
5 referred to in subsection (a) not later than one year after
6 the date on which the Administrator submits the report
7 under subsection (a).

8 **SEC. 1615. LAW ENFORCEMENT OFFICER BIOMETRIC CRE-**
9 **DENTIAL.**

10 (a) IN GENERAL.—Section 44903(h)(6) of title 49,
11 United States Code, is amended to read as follows:

12 “(6) USE OF BIOMETRIC TECHNOLOGY FOR
13 ARMED LAW ENFORCEMENT TRAVEL.—

14 “(A) IN GENERAL.—Not later than 18
15 months after the date of enactment of the Im-
16 plementing Recommendations of the 9/11 Com-
17 mission Act of 2007, the Secretary of Home-
18 land Security, in consultation with the Attorney
19 General, shall—

20 “(i) implement this section by publica-
21 tion in the Federal Register; and

22 “(ii) establish a national registered
23 armed law enforcement program, that shall
24 be federally managed, for law enforcement

1 officers needing to be armed when trav-
2 eling by commercial aircraft.

3 “(B) PROGRAM REQUIREMENTS.—The pro-
4 gram shall—

5 “(i) establish a credential or a system
6 that incorporates biometric technology and
7 other applicable technologies;

8 “(ii) establish a system for law en-
9 forcement officers who need to be armed
10 when traveling by commercial aircraft on a
11 regular basis and for those who need to be
12 armed during temporary travel assign-
13 ments;

14 “(iii) comply with other uniform
15 credentialing initiatives, including the
16 Homeland Security Presidential Directive
17 12;

18 “(iv) apply to all Federal, State, local,
19 tribal, and territorial government law en-
20 forcement agencies; and

21 “(v) establish a process by which the
22 travel credential or system may be used to
23 verify the identity, using biometric tech-
24 nology, of a Federal, State, local, tribal, or
25 territorial law enforcement officer seeking

1 to carry a weapon on board a commercial
2 aircraft, without unnecessarily disclosing to
3 the public that the individual is a law en-
4 forcement officer.

5 “(C) PROCEDURES.—In establishing the
6 program, the Secretary shall develop proce-
7 dures—

8 “(i) to ensure that a law enforcement
9 officer of a Federal, State, local, tribal, or
10 territorial government flying armed has a
11 specific reason for flying armed and the
12 reason is within the scope of the duties of
13 such officer;

14 “(ii) to preserve the anonymity of the
15 armed law enforcement officer;

16 “(iii) to resolve failures to enroll, false
17 matches, and false nonmatches relating to
18 the use of the law enforcement travel cre-
19 dential or system;

20 “(iv) to determine the method of
21 issuance of the biometric credential to law
22 enforcement officers needing to be armed
23 when traveling by commercial aircraft;

1 “(v) to invalidate any law enforcement
2 travel credential or system that is lost, sto-
3 len, or no longer authorized for use;

4 “(vi) to coordinate the program with
5 the Federal Air Marshal Service, including
6 the force multiplier program of the Service;
7 and

8 “(vii) to implement a phased approach
9 to launching the program, addressing the
10 immediate needs of the relevant Federal
11 agent population before expanding to other
12 law enforcement populations.”.

13 (b) REPORT.—

14 (1) IN GENERAL.—Not later than 180 days
15 after implementing the national registered armed
16 law enforcement program required by section
17 44903(h)(6) of title 49, United States Code, the
18 Secretary of Homeland Security shall submit to the
19 Committee on Commerce, Science, and Transpor-
20 tation of the Senate and the Committee on Home-
21 land Security of the House of Representatives a re-
22 port. If the Secretary has not implemented the pro-
23 gram within 180 days after the date of enactment
24 of this Act, the Secretary shall submit a report to
25 the Committees within 180 days explaining the rea-

1 sons for the failure to implement the program within
2 the time required by that section and a further re-
3 port within each successive 90-day period until the
4 program is implemented explaining the reasons for
5 such further delays in implementation until the pro-
6 gram is functioning.

7 (2) CLASSIFIED FORMAT.—The Secretary may
8 submit each report required by this subsection in
9 classified format.

10 **SEC. 1616. REPAIR STATION SECURITY.**

11 (a) CERTIFICATION OF FOREIGN REPAIR STATIONS
12 SUSPENSION.—If the regulations required by section
13 44924(f) of title 49, United States Code, are not issued
14 within one year after the date of enactment of this Act,
15 the Administrator of the Federal Aviation Administration
16 may not certify any foreign repair station under part 145
17 of title 14, Code of Federal Regulations, after such date
18 unless the station was previously certified, or is in the
19 process of certification by the Administration under that
20 part.

21 (b) 6-MONTH DEADLINE FOR SECURITY REVIEW
22 AND AUDIT.—Subsections (a) and (d) of section 44924
23 of title 49, United States Code, is amended—

24 (1) in each of subsections (a) and (b) by strik-
25 ing “18 months” and inserting “6 months”; and

1 (2) in subsection (d) by inserting “(other than
2 a station that was previously certified, or is in the
3 process of certification, by the Administration under
4 this part)” before “until”.

5 **SEC. 1617. GENERAL AVIATION SECURITY.**

6 Section 44901 of title 49, United States Code, as
7 amended by sections 1602 and 1609, is further amended
8 by adding at the end the following:

9 “(k) GENERAL AVIATION AIRPORT SECURITY PRO-
10 GRAM.—

11 “(1) IN GENERAL.—Not later than one year
12 after the date of enactment of this subsection, the
13 Administrator of the Transportation Security Ad-
14 ministration shall—

15 “(A) develop a standardized threat and
16 vulnerability assessment program for general
17 aviation airports (as defined in section
18 47134(m)); and

19 “(B) implement a program to perform
20 such assessments on a risk-managed basis at
21 general aviation airports.

22 “(2) GRANT PROGRAM.—Not later than 6
23 months after the date of enactment of this sub-
24 section, the Administrator shall initiate and com-
25 plete a study of the feasibility of a program, based

1 on a risk-managed approach, to provide grants to
2 operators of general aviation airports (as defined in
3 section 47134(m)) for projects to upgrade security
4 at such airports. If the Administrator determines
5 that such a program is feasible, the Administrator
6 shall establish such a program.

7 “(3) APPLICATION TO GENERAL AVIATION AIR-
8 CRAFT.—Not later than 180 days after the date of
9 enactment of this subsection, the Administrator shall
10 develop a risk-based system under which—

11 “(A) general aviation aircraft, as identified
12 by the Administrator, in coordination with the
13 Administrator of the Federal Aviation Adminis-
14 tration, are required to submit passenger infor-
15 mation and advance notification requirements
16 for United States Customs and Border Protec-
17 tion before entering United States airspace; and

18 “(B) such information is checked against
19 appropriate databases.

20 “(4) AUTHORIZATION OF APPROPRIATIONS.—
21 There are authorized to be appropriated to the Ad-
22 ministrator of the Transportation Security Adminis-
23 tration such sums as may be necessary to carry out
24 paragraphs (2) and (3).”

1 **SEC. 1618. EXTENSION OF AUTHORIZATION OF AVIATION**
2 **SECURITY FUNDING.**

3 Section 48301(a) of title 49, United States Code, is
4 amended by striking “and 2006” and inserting “2007,
5 2008, 2009, 2010, and 2011”.

6 **TITLE XVII—MARITIME CARGO**

7 **SEC. 1701. CONTAINER SCANNING AND SEALS.**

8 (a) CONTAINER SCANNING.—Section 232(b) of the
9 SAFE Ports Act (6 U.S.C. 982(b)) is amended to read
10 as follows:

11 “(b) FULL-SCALE IMPLEMENTATION.—

12 “(1) IN GENERAL.—A container that was load-
13 ed on a vessel in a foreign port shall not enter the
14 United States (either directly or via a foreign port)
15 unless the container was scanned by nonintrusive
16 imaging equipment and radiation detection equip-
17 ment at a foreign port before it was loaded on a ves-
18 sel.

19 “(2) APPLICATION.—Paragraph (1) shall apply
20 with respect to containers loaded on a vessel in a
21 foreign country on or after the earlier of—

22 “(A) July 1, 2012; or

23 “(B) such other date as may be established
24 by the Secretary under paragraph (3).

25 “(3) ESTABLISHMENT OF EARLIER DEAD-
26 LINE.—The Secretary shall establish a date under

1 (2)(B) pursuant to the lessons learned through the
2 pilot integrated scanning systems established under
3 section 231.

4 “(4) EXTENSIONS.—The Secretary may extend
5 the date specified in paragraph (2)(A) or (2)(B) for
6 2 years, and may renew the extension in additional
7 2-year increments, for containers loaded in a port or
8 ports, if the Secretary certifies to Congress that at
9 least two of the following conditions exist:

10 “(A) Systems to scan containers in accord-
11 ance with paragraph (1) are not available for
12 purchase and installation.

13 “(B) Systems to scan containers in accord-
14 ance with paragraph (1) do not have a suffi-
15 ciently low false alarm rate for use in the sup-
16 ply chain.

17 “(C) Systems to scan containers in accord-
18 ance with paragraph (1) cannot be purchased,
19 deployed, or operated at ports overseas, includ-
20 ing, if applicable, because a port does not have
21 the physical characteristics to install such a sys-
22 tem.

23 “(D) Systems to scan containers in accord-
24 ance with paragraph (1) cannot be integrated,
25 as necessary, with existing systems.

1 “(E) Use of systems that are available to
2 scan containers in accordance with paragraph
3 (1) will significantly impact trade capacity and
4 the flow of cargo.

5 “(F) Systems to scan containers in accord-
6 ance with paragraph (1) do not adequately pro-
7 vide an automated notification of questionable
8 or high-risk cargo as a trigger for further in-
9 spection by appropriately trained personnel.

10 “(5) EXEMPTION FOR MILITARY CARGO.—Not-
11 withstanding any other provision in the section, sup-
12 plies bought by the Secretary of Defense and trans-
13 ported in compliance section 2631 of title 10, United
14 States Code, and military cargo of foreign countries
15 are exempt from the requirements of this section.

16 “(6) REPORT ON EXTENSIONS.—An extension
17 under paragraph (4) for a port or ports shall take
18 effect upon the expiration of the 60-day period be-
19 ginning on the date the Secretary provides a report
20 to Congress that—

21 “(A) states what container traffic will be
22 affected by the extension;

23 “(B) provides supporting evidence to sup-
24 port the Secretary’s certification of the basis for
25 the extension; and

1 “(C) explains what measures the Secretary
2 is taking to ensure that scanning can be imple-
3 mented as early as possible at the port or ports
4 that are the subject of the report.

5 “(7) REPORT ON RENEWAL OF EXTENSION.—If
6 an extension under paragraph (4) takes effect, the
7 Secretary shall, after one year, submit a report to
8 Congress on whether the Secretary expects to seek
9 to renew the extension.

10 “(8) SCANNING TECHNOLOGY STANDARDS.—In
11 implementing paragraph (1), the Secretary shall—

12 “(A) establish technological and oper-
13 ational standards for systems to scan con-
14 tainers;

15 “(B) ensure that the standards are con-
16 sistent with the global nuclear detection archi-
17 tecture developed under the Homeland Security
18 Act of 2002; and

19 “(C) coordinate with other Federal agen-
20 cies that administer scanning or detection pro-
21 grams at foreign ports.

22 “(9) INTERNATIONAL TRADE AND OTHER OBLI-
23 GATIONS.—In carrying out this subsection, the Sec-
24 retary shall consult with appropriate Federal depart-
25 ments and agencies and private sector stakeholders,

1 and ensure that actions under this section do not
2 violate international trade obligations, and are con-
3 sistent with the World Customs Organization frame-
4 work, or other international obligations of the
5 United States.”.

6 (b) DEADLINE FOR CONTAINER SECURITY STAND-
7 ARDS AND PROCEDURES.—Section 204(a)(4) of the
8 SAFE Port Act (6 U.S.C. 944(a)(4)) is amended by—

9 (1) striking “(1) DEADLINE FOR ENFORCE-
10 MENT.—” and inserting the following:

11 “(1) DEADLINE FOR ENFORCEMENT.—

12 “(A) ENFORCEMENT OF RULE.—”; and

13 (2) adding at the end the following:

14 “(B) INTERIM REQUIREMENT.—If the in-
15 terim final rule described in paragraph (2) is
16 not issued by April 1, 2008, then—

17 “(i) effective not later than October
18 15, 2008, all containers in transit to the
19 United States shall be required to meet the
20 requirements of International Organization
21 for Standardization Publicly Available
22 Specification 17712 standard for sealing
23 containers; and

24 “(ii) the requirements of this subpara-
25 graph shall cease to be effective upon the

1 effective date of the interim final rule
2 issued pursuant to this subsection.”

3 **TITLE XVIII—PREVENTING**
4 **WEAPONS OF MASS DESTRUC-**
5 **TION PROLIFERATION AND**
6 **TERRORISM**

7 **SEC. 1801. FINDINGS.**

8 The 9/11 Commission has made the following rec-
9 ommendations:

10 (1) **STRENGTHEN “COUNTER-PROLIFERATION”**
11 **EFFORTS.**—The United States should work with the
12 international community to develop laws and an
13 international legal regime with universal jurisdiction
14 to enable any state in the world to capture, interdict,
15 and prosecute smugglers of nuclear material.

16 (2) **EXPAND THE PROLIFERATION SECURITY**
17 **INITIATIVE.**—In carrying out the Proliferation Secu-
18 rity Initiative, the United States should—

19 (A) use intelligence and planning resources
20 of the North Atlantic Treaty Organization
21 (NATO) alliance;

22 (B) make participation open to non-NATO
23 countries; and

24 (C) encourage Russia and the People’s Re-
25 public of China to participate.

1 (3) SUPPORT THE COOPERATIVE THREAT RE-
2 DUCTION PROGRAM.—The United States should ex-
3 pand, improve, increase resources for, and otherwise
4 fully support the Cooperative Threat Reduction pro-
5 gram.

6 **SEC. 1802. DEFINITIONS.**

7 In this title:

8 (1) The terms “prevention of weapons of mass
9 destruction proliferation and terrorism” and “pre-
10 vention of WMD proliferation and terrorism” in-
11 clude activities under—

12 (A) the programs specified in section
13 1501(b) of the National Defense Authorization
14 Act for Fiscal Year 1997 (Public Law 104–201;
15 110 Stat. 2731; 50 U.S.C. 2362 note);

16 (B) the programs for which appropriations
17 are authorized by section 3101(a)(2) of the Bob
18 Stump National Defense Authorization Act for
19 Fiscal Year 2003 (Public Law 107–314; 116
20 Stat. 2729);

21 (C) programs authorized by section 504 of
22 the Freedom for Russia and Emerging Eur-
23 asian Democracies and Open Markets Support
24 Act of 1992 (the FREEDOM Support Act) (22
25 U.S.C. 5854) and programs authorized by sec-

1 tion 1412 of the Former Soviet Union Demili-
2 tarization Act of 1992 (22 U.S.C. 5902); and

3 (D) a program of any agency of the Fed-
4 eral Government having a purpose similar to
5 that of any of the programs identified in sub-
6 paragraphs (A) through (C), as designated by
7 the United States Coordinator for the Preven-
8 tion of Weapons of Mass Destruction Prolifera-
9 tion and Terrorism and the head of the agency.

10 (2) The terms “weapons of mass destruction”
11 and “WMD” mean chemical, biological, and nuclear
12 weapons, and chemical, biological, and nuclear mate-
13 rials used in the manufacture of such weapons.

14 (3) The term “items of proliferation concern”
15 means—

16 (A) equipment, materials, or technology
17 listed in—

18 (i) the Trigger List of the Guidelines
19 for Nuclear Transfers of the Nuclear Sup-
20 pliers Group;

21 (ii) the Annex of the Guidelines for
22 Transfers of Nuclear-Related Dual-Use
23 Equipment, Materials, Software, and Re-
24 lated Technology of the Nuclear Suppliers
25 Group; or

- 1 (iii) any of the Common Control Lists
2 of the Australia Group; and
3 (B) any other sensitive items.

4 **Subtitle A—Repeal and Modifica-**
5 **tion of Limitations on Assist-**
6 **ance for Prevention of WMD**
7 **Proliferation and Terrorism**

8 **SEC. 1811. REPEAL AND MODIFICATION OF LIMITATIONS**
9 **ON ASSISTANCE FOR PREVENTION OF WEAP-**
10 **ONS OF MASS DESTRUCTION PROLIFERATION**
11 **AND TERRORISM.**

12 Consistent with the recommendations of the 9/11
13 Commission, Congress repeals or modifies the limitations
14 on assistance for prevention of weapons of mass destruc-
15 tion proliferation and terrorism as follows:

16 (1) SOVIET NUCLEAR THREAT REDUCTION ACT
17 OF 1991.—Subsections (b) and (c) of section 211 of
18 the Soviet Nuclear Threat Reduction Act of 1991
19 (title II of Public Law 102–228; 22 U.S.C. 2551
20 note) are repealed.

21 (2) COOPERATIVE THREAT REDUCTION ACT OF
22 1993.—Section 1203(d) of the Cooperative Threat
23 Reduction Act of 1993 (title XII of Public Law
24 103–160; 22 U.S.C. 5952(d)) is repealed.

1 (3) RUSSIAN CHEMICAL WEAPONS DESTRUC-
2 TION FACILITIES.—Section 1305 of the National De-
3 fense Authorization Act for Fiscal Year 2000 (Pub-
4 lic Law 106–65; 22 U.S.C. 5952 note) is repealed.

5 (4) AUTHORITY TO USE COOPERATIVE THREAT
6 REDUCTION FUNDS OUTSIDE THE FORMER SOVIET
7 UNION—MODIFICATION OF CERTIFICATION RE-
8 QUIREMENT; CONGRESSIONAL NOTICE REQUIRE-
9 MENT.—Section 1308 of the National Defense Au-
10 thorization Act for Fiscal Year 2004 (Public Law
11 108–136; 22 U.S.C. 5963) is amended—

12 (A) in subsection (a)—

13 (i) by striking “the President may”
14 and inserting “the Secretary of Defense
15 may”; and

16 (ii) by striking “if the President” and
17 inserting “if the Secretary of Defense, with
18 the concurrence of the Secretary of
19 State,”;

20 (B) in subsection (d)(1)—

21 (i) by striking “The President may
22 not” and inserting “The Secretary of De-
23 fense may not”; and

24 (ii) by striking “until the President”
25 and inserting “until the Secretary of De-

1 fense, with the concurrence of the Sec-
2 retary of State,”;

3 (C) in subsection (d)(2)—

4 (i) by striking “Not later than 10
5 days after” and inserting “Not later than
6 15 days prior to”;

7 (ii) by striking “the President shall”
8 and inserting “the Secretary of Defense
9 shall”; and

10 (iii) by striking “Congress” and in-
11 sserting “the Committee on Armed Services
12 and the Committee on Foreign Affairs of
13 the House of Representatives and the
14 Committee on Armed Services and the
15 Committee on Foreign Relations of the
16 Senate”; and

17 (D) in subsection (d) by adding at the end
18 the following:

19 “(3) In the case of a situation that threatens human
20 life or safety or where a delay would severely undermine
21 the national security of the United States, notification
22 under paragraph (2) shall be made not later than 10 days
23 after obligating funds under the authority in subsection
24 (a) for a project or activity.”

1 **Subtitle B—Proliferation Security**
2 **Initiative**

3 **SEC. 1821. PROLIFERATION SECURITY INITIATIVE IM-**
4 **PROVEMENTS AND AUTHORITIES.**

5 (a) SENSE OF CONGRESS.—It is the sense of Con-
6 gress, consistent with the 9/11 Commission’s rec-
7 ommendations, that the President should strive to expand
8 and strengthen the Proliferation Security Initiative (in
9 this subtitle referred to as “PSI”) announced by the Presi-
10 dent on May 31, 2003, with a particular emphasis on the
11 following:

12 (1) Issuing a presidential directive to the rel-
13 evant United States Government agencies and de-
14 partments that directs such agencies and depart-
15 ments to—

16 (A) establish clear PSI authorities, respon-
17 sibilities, and structures;

18 (B) include in the budget request for each
19 such agency or department for each fiscal year,
20 a request for funds necessary for United States
21 PSI-related activities; and

22 (C) provide other necessary resources to
23 achieve more efficient and effective performance
24 of United States PSI-related activities.

1 (2) Increasing PSI cooperation with all coun-
2 tries.

3 (3) Implementing the recommendations of the
4 Government Accountability Office (GAO) in the Sep-
5 tember 2006 report titled “Better Controls Needed
6 to Plan and Manage Proliferation Security Initiative
7 Activities” (GAO-06-937C) regarding the following:

8 (A) The Department of Defense and the
9 Department of State should establish clear PSI
10 roles and responsibilities, policies and proce-
11 dures, interagency communication mechanisms,
12 documentation requirements, and indicators to
13 measure program results.

14 (B) The Department of Defense and the
15 Department of State should develop a strategy
16 to work with PSI-participating countries to re-
17 solve issues that are impediments to conducting
18 successful PSI interdictions.

19 (4) Establishing a multilateral mechanism to
20 increase coordination, cooperation, and compliance
21 among PSI-participating countries.

22 (b) BUDGET SUBMISSION.—

23 (1) IN GENERAL.—Each fiscal year in which ac-
24 tivities are planned to be carried out under the PSI,
25 the President shall include in the budget request for

1 each participating United States Government agency
2 or department for that fiscal year, a description of
3 the funding and the activities for which the funding
4 is requested for each such agency or department.

5 (2) REPORT.—Not later than the first Monday
6 in February of each year in which the President sub-
7 mits a budget request described in paragraph (1),
8 the Secretary of Defense and the Secretary of State
9 shall submit to Congress a comprehensive joint re-
10 port setting forth the following:

11 (A) A three-year plan, beginning with the
12 fiscal year for the budget request, that specifies
13 the amount of funding and other resources to
14 be provided by the United States for PSI-re-
15 lated activities over the term of the plan, in-
16 cluding the purposes for which such funding
17 and resources will be used.

18 (B) For the report submitted in 2008, a
19 description of the PSI-related activities carried
20 out during the three fiscal years preceding the
21 year of the report, and for the report submitted
22 in 2009 and each year thereafter, a description
23 of the PSI-related activities carried out during
24 the fiscal year preceding the year of the report.

1 The description shall include, for each fiscal
2 year covered by the report—

3 (i) the amounts obligated and ex-
4 pended for such activities and the purposes
5 for which such amounts were obligated and
6 expended;

7 (ii) a description of the participation
8 of each department or agency of the
9 United States Government in such activi-
10 ties;

11 (iii) a description of the participation
12 of each foreign country or entity in such
13 activities;

14 (iv) a description of any assistance
15 provided to a foreign country or entity par-
16 ticipating in such activities in order to se-
17 cure such participation, in response to
18 such participation, or in order to improve
19 the quality of such participation; and

20 (v) such other information as the Sec-
21 retary of Defense and the Secretary of
22 State determine should be included to keep
23 Congress fully informed of the operation
24 and activities of the PSI.

1 (3) CLASSIFICATION.—The report required by
2 paragraph (2) shall be in an unclassified form but
3 may include a classified annex as necessary.

4 (c) IMPLEMENTATION REPORT.—Not later than 180
5 days after the date of the enactment of this Act, the Presi-
6 dent shall transmit to the Committee on Armed Services
7 and the Committee on Foreign Affairs of the House of
8 Representatives and the Committee on Armed Services
9 and the Committee on Foreign Relations of the Senate
10 a report on the implementation of this section. The report
11 shall include—

12 (1) the steps taken to implement the rec-
13 ommendations described in paragraph (3) of sub-
14 section (a); and

15 (2) the progress made toward implementing the
16 matters described in paragraphs (1), (2), and (4) of
17 subsection (a).

18 (d) GAO REPORTS.—The Government Accountability
19 Office shall submit to Congress, for each of fiscal years
20 2007, 2009, and 2011, a report with its assessment of
21 the progress and effectiveness of the PSI, which shall in-
22 clude an assessment of the measures referred to in sub-
23 section (a).

1 **SEC. 1822. AUTHORITY TO PROVIDE ASSISTANCE TO COOP-**
2 **ERATIVE COUNTRIES.**

3 (a) **IN GENERAL.**—The President is authorized to
4 provide assistance under subsection (b) to any country
5 that cooperates with the United States and with other
6 countries allied with the United States to prevent the
7 transport and transshipment of items of proliferation con-
8 cern in its national territory or airspace or in vessels under
9 its control or registry.

10 (b) **TYPES OF ASSISTANCE.**—The assistance author-
11 ized under subsection (a) consists of the following:

12 (1) Assistance under section 23 of the Arms
13 Export Control Act (22 U.S.C. 2763).

14 (2) Assistance under chapters 4 (22 U.S.C.
15 2346 et seq.) and 5 (22 U.S.C. 2347 et seq.) of part
16 II of the Foreign Assistance Act of 1961.

17 (3) Drawdown of defense excess defense articles
18 and services under section 516 of the Foreign As-
19 sistance Act of 1961 (22 U.S.C. 2321j).

20 (c) **CONGRESSIONAL NOTIFICATION.**—Assistance au-
21 thorized under this section may not be provided until at
22 least 30 days after the date on which the President has
23 provided notice thereof to the Committee on Armed Serv-
24 ices, the Committee on Foreign Affairs, and the Com-
25 mittee on Appropriations of the House of Representatives
26 and the Committee on Armed Services, the Committee on

1 Foreign Relations, and the Committee on Appropriations
2 of the Senate, in accordance with the procedures applica-
3 ble to reprogramming notifications under section 634A(a)
4 of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-
5 1(a)), and has certified to such committees that such as-
6 sistance will be used in accordance with the requirement
7 of subsection (e) of this section.

8 (d) LIMITATION.—Assistance may be provided to a
9 country under section (a) in no more than three fiscal
10 years.

11 (e) USE OF ASSISTANCE.—Assistance provided under
12 this section shall be used to enhance the capability of the
13 recipient country to prevent the transport and trans-
14 shipment of items of proliferation concern in its national
15 territory or airspace, or in vessels under its control or reg-
16 istry, including through the development of a legal frame-
17 work in that country to enhance such capability by crim-
18 inalizing proliferation, enacting strict export controls, and
19 securing sensitive materials within its borders, and to en-
20 hance the ability of the recipient country to cooperate in
21 PSI operations.

22 (f) LIMITATION ON SHIP OR AIRCRAFT TRANS-
23 FERS.—

24 (1) LIMITATION.—Except as provided in para-
25 graph (2), the President may not transfer any excess

1 defense article that is a vessel or an aircraft to a
2 country that has not agreed, in connection with such
3 transfer, that it will support and assist efforts by
4 the United States, consistent with international law,
5 to interdict items of proliferation concern until thirty
6 days after the date on which the President has pro-
7 vided notice of the proposed transfer to the commit-
8 tees described in subsection (c) in accordance with
9 the procedures applicable to reprogramming notifica-
10 tions under section 634A(a) of the Foreign Assist-
11 ance Act of 1961 (22 U.S.C. 2394-1(a)), in addition
12 to any other requirement of law.

13 (2) EXCEPTION.—The limitation in paragraph
14 (1) shall not apply to any transfer, not involving sig-
15 nificant military equipment, in which the primary
16 use of the aircraft or vessel will be for counter-
17 narcotics, counterterrorism, or counterproliferation
18 purposes.

19 **Subtitle C—Assistance to Accel-**
20 **erate Programs to Prevent**
21 **Weapons of Mass Destruction**
22 **Proliferation and Terrorism**

23 **SEC. 1831. STATEMENT OF POLICY.**

24 It shall be the policy of the United States, consistent
25 with the 9/11 Commission's recommendations, to elimi-

1 nate any obstacles to timely obligating and executing the
2 full amount of any appropriated funds for threat reduction
3 and nonproliferation programs in order to accelerate and
4 strengthen progress on preventing weapons of mass de-
5 struction (WMD) proliferation and terrorism. Such policy
6 shall be implemented with concrete measures, such as
7 those described in this title, including the removal and
8 modification of statutory limits to executing funds, the ex-
9 pansion and strengthening of the Proliferation Security
10 Initiative, the establishment of the Office of the United
11 States Coordinator for the Prevention of Weapons of Mass
12 Destruction Proliferation and Terrorism under subtitle D,
13 and the establishment of the Commission on the Preven-
14 tion of Weapons of Mass Destruction Proliferation and
15 Terrorism under subtitle E. As a result, Congress intends
16 that any funds authorized to be appropriated to programs
17 for preventing WMD proliferation and terrorism under
18 this subtitle will be executed in a timely manner.

19 **SEC. 1832. AUTHORIZATION OF APPROPRIATIONS FOR THE**
20 **DEPARTMENT OF DEFENSE COOPERATIVE**
21 **THREAT REDUCTION PROGRAM.**

22 (a) FISCAL YEAR 2008.—

23 (1) IN GENERAL.—Subject to paragraph (2),
24 there are authorized to be appropriated to the De-
25 partment of Defense Cooperative Threat Reduction

1 Program such sums as may be necessary for fiscal
2 year 2008 for the following purposes:

3 (A) Chemical weapons destruction at
4 Shchuch'ye, Russia.

5 (B) Biological weapons proliferation pre-
6 vention.

7 (C) Acceleration, expansion, and strength-
8 ening of Cooperative Threat Reduction Pro-
9 gram activities.

10 (2) LIMITATION.—The sums appropriated pur-
11 suant to paragraph (1) may not exceed the amounts
12 authorized to be appropriated by any national de-
13 fense authorization Act for fiscal year 2008 (whether
14 enacted before or after the date of the enactment of
15 this Act) to the Department of Defense Cooperative
16 Threat Reduction Program for such purposes.

17 (b) FUTURE YEARS.—It is the sense of Congress that
18 in fiscal year 2008 and future fiscal years, the President
19 should accelerate and expand funding for Cooperative
20 Threat Reduction programs administered by the Depart-
21 ment of Defense and such efforts should include, begin-
22 ning upon enactment of this Act, encouraging additional
23 commitments by the Russian Federation and other part-
24 ner nations, as recommended by the 9/11 Commission.

1 **SEC. 1833. AUTHORIZATION OF APPROPRIATIONS FOR THE**
2 **DEPARTMENT OF ENERGY PROGRAMS TO**
3 **PREVENT WEAPONS OF MASS DESTRUCTION**
4 **PROLIFERATION AND TERRORISM.**

5 (a) IN GENERAL.—Subject to subsection (b), there
6 are authorized to be appropriated to Department of En-
7 ergy National Nuclear Security Administration Defense
8 Nuclear Nonproliferation such sums as may be necessary
9 for fiscal year 2008 to accelerate, expand, and strengthen
10 the following programs to prevent weapons of mass de-
11 struction (WMD) proliferation and terrorism:

12 (1) The Global Threat Reduction Initiative.

13 (2) The Nonproliferation and International Se-
14 curity program.

15 (3) The International Materials Protection,
16 Control and Accounting program.

17 (4) The Nonproliferation and Verification Re-
18 search and Development program.

19 (b) LIMITATION.—The sums appropriated pursuant
20 to subsection (a) may not exceed the amounts authorized
21 to be appropriated by any national defense authorization
22 Act for fiscal year 2008 (whether enacted before or after
23 the date of the enactment of this Act) to Department of
24 Energy National Nuclear Security Administration Defense
25 Nuclear Nonproliferation for such purposes.

1 **Subtitle D—Office of the United**
2 **States Coordinator for the Pre-**
3 **vention of Weapons of Mass De-**
4 **struction Proliferation and Ter-**
5 **rorism**

6 **SEC. 1841. OFFICE OF THE UNITED STATES COORDINATOR**
7 **FOR THE PREVENTION OF WEAPONS OF MASS**
8 **DESTRUCTION PROLIFERATION AND TER-**
9 **RORISM.**

10 (a) **ESTABLISHMENT.**—There is established within
11 the Executive Office of the President an office to be known
12 as the “Office of the United States Coordinator for the
13 Prevention of Weapons of Mass Destruction Proliferation
14 and Terrorism” (in this section referred to as the “Of-
15 fice”).

16 (b) **OFFICERS.**—

17 (1) **UNITED STATES COORDINATOR.**—The head
18 of the Office shall be the United States Coordinator
19 for the Prevention of Weapons of Mass Destruction
20 Proliferation and Terrorism (in this section referred
21 to as the “Coordinator”).

22 (2) **DEPUTY UNITED STATES COORDINATOR.**—
23 There shall be a Deputy United States Coordinator
24 for the Prevention of Weapons of Mass Destruction

1 Proliferation and Terrorism (in this section referred
2 to as the “Deputy Coordinator”), who shall—

3 (A) assist the Coordinator in carrying out
4 the responsibilities of the Coordinator under
5 this subtitle; and

6 (B) serve as Acting Coordinator in the ab-
7 sence of the Coordinator and during any va-
8 cancy in the office of Coordinator.

9 (3) APPOINTMENT.—The Coordinator and Dep-
10 uty Coordinator shall be appointed by the President,
11 by and with the advice and consent of the Senate,
12 and shall be responsible on a full-time basis for the
13 duties and responsibilities described in this section.

14 (4) LIMITATION.—No person shall serve as Co-
15 ordinator or Deputy Coordinator while serving in
16 any other position in the Federal Government.

17 (5) ACCESS BY CONGRESS.—The establishment
18 of the Office of the Coordinator within the Executive
19 Office of the President shall not be construed as af-
20 fecting access by the Congress or committees of ei-
21 ther House to—

22 (A) information, documents, and studies in
23 the possession of, or conducted by or at the di-
24 rection of, the Coordinator; or

1 (B) personnel of the Office of the Coordi-
2 nator.

3 (c) DUTIES.—The responsibilities of the Coordinator
4 shall include the following:

5 (1) Serving as the principal advisor to the
6 President on all matters relating to the prevention
7 of weapons of mass destruction (WMD) proliferation
8 and terrorism.

9 (2) Formulating a comprehensive and well-co-
10 ordinated United States strategy and policies for
11 preventing WMD proliferation and terrorism, includ-
12 ing—

13 (A) measurable milestones and targets to
14 which departments and agencies can be held ac-
15 countable;

16 (B) identification of gaps, duplication, and
17 other inefficiencies in existing activities, initia-
18 tives, and programs and the steps necessary to
19 overcome these obstacles;

20 (C) plans for preserving the nuclear secu-
21 rity investment the United States has made in
22 Russia, the former Soviet Union, and other
23 countries;

24 (D) prioritized plans to accelerate,
25 strengthen, and expand the scope of existing

1 initiatives and programs, which include identi-
2 fication of vulnerable sites and material and the
3 corresponding actions necessary to eliminate
4 such vulnerabilities;

5 (E) new and innovative initiatives and pro-
6 grams to address emerging challenges and
7 strengthen United States capabilities, including
8 programs to attract and retain top scientists
9 and engineers and strengthen the capabilities of
10 United States national laboratories;

11 (F) plans to coordinate United States ac-
12 tivities, initiatives, and programs relating to the
13 prevention of WMD proliferation and terrorism,
14 including those of the Department of Energy,
15 the Department of Defense, the Department of
16 State, and the Department of Homeland Secu-
17 rity, and including the Proliferation Security
18 Initiative, the G-8 Global Partnership Against
19 the Spread of Weapons and Materials of Mass
20 Destruction, United Nations Security Council
21 Resolution 1540, and the Global Initiative to
22 Combat Nuclear Terrorism;

23 (G) plans to strengthen United States
24 commitments to international regimes and sig-
25 nificantly improve cooperation with other coun-

1 tries relating to the prevention of WMD pro-
2 liferation and terrorism, with particular empha-
3 sis on work with the international community to
4 develop laws and an international legal regime
5 with universal jurisdiction to enable any state
6 in the world to interdict and prosecute smug-
7 glers of WMD material, as recommended by the
8 9/11 Commission; and

9 (H) identification of actions necessary to
10 implement the recommendations of the Com-
11 mission on the Prevention of Weapons of Mass
12 Destruction Proliferation and Terrorism estab-
13 lished under subtitle E of this title.

14 (3) Leading inter-agency coordination of United
15 States efforts to implement the strategy and policies
16 described in this section.

17 (4) Conducting oversight and evaluation of ac-
18 celerated and strengthened implementation of initia-
19 tives and programs to prevent WMD proliferation
20 and terrorism by relevant government departments
21 and agencies.

22 (5) Overseeing the development of a comprehen-
23 sive and coordinated budget for programs and initia-
24 tives to prevent WMD proliferation and terrorism,
25 ensuring that such budget adequately reflects the

1 priority of the challenges and is effectively executed,
2 and carrying out other appropriate budgetary au-
3 thorities.

4 (d) STAFF.—The Coordinator may—

5 (1) appoint, employ, fix compensation, and ter-
6 minate such personnel as may be necessary to enable
7 the Coordinator to perform his or her duties under
8 this title;

9 (2) direct, with the concurrence of the Sec-
10 retary of a department or head of an agency, the
11 temporary reassignment within the Federal Govern-
12 ment of personnel employed by such department or
13 agency, in order to implement United States policy
14 with regard to the prevention of WMD proliferation
15 and terrorism;

16 (3) use for administrative purposes, on a reim-
17 bursable basis, the available services, equipment,
18 personnel, and facilities of Federal, State, and local
19 agencies;

20 (4) procure the services of experts and consult-
21 ants in accordance with section 3109 of title 5,
22 United States Code, relating to appointments in the
23 Federal Service, at rates of compensation for indi-
24 viduals not to exceed the daily equivalent of the rate
25 of pay payable for a position at level IV of the Exec-

1 utive Schedule under section 5315 of title 5, United
2 States Code; and

3 (5) use the mails in the same manner as any
4 other department or agency of the executive branch.

5 (e) CONSULTATION WITH COMMISSION.—The Office
6 and the Coordinator shall regularly consult with and strive
7 to implement the recommendations of the Commission on
8 the Prevention of Weapons of Mass Destruction Prolifera-
9 tion and Terrorism, established under subtitle E of this
10 title.

11 (f) ANNUAL REPORT ON STRATEGIC PLAN.—For fis-
12 cal year 2009 and each fiscal year thereafter, the Coordi-
13 nator shall submit to Congress, at the same time as the
14 submission of the budget for that fiscal year under title
15 31, United States Code, a report on the strategy and poli-
16 cies developed pursuant to subsection (c)(2), together with
17 any recommendations of the Coordinator for legislative
18 changes that the Coordinator considers appropriate with
19 respect to such strategy and policies and their implemen-
20 tation or the Office of the Coordinator.

21 (g) PARTICIPATION IN NATIONAL SECURITY COUN-
22 CIL AND HOMELAND SECURITY COUNCIL.—Section 101
23 of the National Security Act of 1947 (50 U.S.C. 402) is
24 amended—

1 (1) by redesignating the last subsection (added
2 as “(i)” by section 301 of Public Law 105–292) as
3 subsection (k); and

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

5 “(1) PARTICIPATION OF COORDINATOR FOR THE
6 PREVENTION OF WEAPONS OF MASS DESTRUCTION PRO-
7 LIFERATION AND TERRORISM.—The United States Coor-
8 dinator for the Prevention of Weapons of Mass Destruc-
9 tion Proliferation and Terrorism (or, in the Coordinator’s
10 absence, the Deputy United States Coordinator) may, in
11 the performance of the Coordinator’s duty as principal ad-
12 visor to the President on all matters relating to the pre-
13 vention of weapons of mass destruction proliferation and
14 terrorism, and, subject to the direction of the President,
15 attend and participate in meetings of the National Secu-
16 rity Council and the Homeland Security Council.”.

17 **SEC. 1842. SENSE OF CONGRESS ON UNITED STATES-RUS-**
18 **SIA COOPERATION AND COORDINATION ON**
19 **THE PREVENTION OF WEAPONS OF MASS DE-**
20 **STRUCTION PROLIFERATION AND TER-**
21 **RORISM.**

22 It is the sense of the Congress that, as soon as prac-
23 tical, the President should engage the President of the
24 Russian Federation in a discussion of the purposes and
25 goals for the establishment of the Office of the United

1 States Coordinator for the Prevention of Weapons of Mass
2 Destruction Proliferation and Terrorism (in this section
3 referred to as the “Office”), the authorities and respon-
4 sibilities of the United States Coordinator for the Preven-
5 tion of Weapons of Mass Destruction Proliferation and
6 Terrorism (in this section referred to as the “United
7 States Coordinator”), and the importance of strong co-
8 operation between the United States Coordinator and a
9 senior official of the Russian Federation having authori-
10 ties and responsibilities for preventing weapons of mass
11 destruction proliferation and terrorism commensurate
12 with those of the United States Coordinator, and with
13 whom the United States Coordinator should coordinate
14 planning and implementation of activities within and out-
15 side of the Russian Federation having the purpose of pre-
16 venting weapons of mass destruction proliferation and ter-
17 rorism.

1 **Subtitle E—Commission on the**
2 **Prevention of Weapons of Mass**
3 **Destruction Proliferation and**
4 **Terrorism**

5 **SEC. 1851. ESTABLISHMENT OF COMMISSION ON THE PRE-**
6 **VENTION OF WEAPONS OF MASS DESTRUC-**
7 **TION PROLIFERATION AND TERRORISM.**

8 There is established the Commission on the Preven-
9 tion of Weapons of Mass Destruction Proliferation and
10 Terrorism (in this subtitle referred to as the “Commis-
11 sion”).

12 **SEC. 1852. PURPOSES OF COMMISSION.**

13 (a) **IN GENERAL.**—The purposes of the Commission
14 are to—

15 (1) assess current activities, initiatives, and
16 programs to prevent weapons of mass destruction
17 proliferation and terrorism; and

18 (2) provide a clear and comprehensive strategy
19 and concrete recommendations for such activities,
20 initiatives, and programs.

21 (b) **IN PARTICULAR.**—The Commission shall give
22 particular attention to activities, initiatives, and programs
23 to secure all nuclear weapons-usable material around the
24 world and to significantly accelerate, expand, and
25 strengthen, on an urgent basis, United States and inter-

1 national efforts to prevent, stop, and counter the spread
2 of nuclear weapons capabilities and related equipment,
3 material, and technology to terrorists and states of con-
4 cern.

5 **SEC. 1853. COMPOSITION OF COMMISSION.**

6 (a) MEMBERS.—The Commission shall be composed
7 of 9 members, of whom—

8 (1) 1 member shall be appointed by the leader
9 of the Senate of the Democratic Party (majority or
10 minority leader, as the case may be), with the con-
11 currence of the leader of the House of Representa-
12 tives of the Democratic party (majority or minority
13 leader as the case may be), who shall serve as chair-
14 man of the Commission;

15 (2) 2 members shall be appointed by the senior
16 member of the Senate leadership of the Democratic
17 party;

18 (3) 2 members shall be appointed by the senior
19 member of the Senate leadership of the Republican
20 party;

21 (4) 2 members shall be appointed by the senior
22 member of the leadership of the House of Represent-
23 atives of the Democratic party; and

1 (5) 2 members shall be appointed by the senior
2 member of the leadership of the House of Represent-
3 atives of the Republican party.

4 (b) QUALIFICATIONS.—It is the sense of Congress
5 that individuals appointed to the Commission should be
6 prominent United States citizens, with significant depth
7 of experience in the nonproliferation or arms control fields.

8 (c) DEADLINE FOR APPOINTMENT.—All members of
9 the Commission shall be appointed within 90 days of the
10 date of the enactment of this Act.

11 (d) INITIAL MEETING.—The Commission shall meet
12 and begin the operations of the Commission as soon as
13 practicable.

14 (e) QUORUM; VACANCIES.—After its initial meeting,
15 the Commission shall meet upon the call of the chairman
16 or a majority of its members. Six members of the Commis-
17 sion shall constitute a quorum. Any vacancy in the Com-
18 mission shall not affect its powers, but shall be filled in
19 the same manner in which the original appointment was
20 made.

21 **SEC. 1854. RESPONSIBILITIES OF COMMISSION.**

22 (a) IN GENERAL.—The Commission shall address—

23 (1) the roles, missions, and structure of all rel-
24 evant government departments, agencies, and other
25 actors, including the Office of the United States Co-

1 ordinator for the Prevention of Weapons of Mass
2 Destruction Proliferation and Terrorism established
3 under subtitle D of this title;

4 (2) inter-agency coordination;

5 (3) United States commitments to international
6 regimes and cooperation with other countries; and

7 (4) the threat of weapons of mass destruction
8 proliferation and terrorism to the United States and
9 its interests and allies, including the threat posed by
10 black-market networks, and the effectiveness of the
11 responses by the United States and the international
12 community to such threats.

13 (b) **FOLLOW-ON BAKER-CUTLER REPORT.**—The
14 Commission shall also reassess, and where necessary up-
15 date and expand on, the conclusions and recommendations
16 of the report titled “A Report Card on the Department
17 of Energy’s Nonproliferation Programs with Russia” of
18 January 2001 (also known as the “Baker-Cutler Report”)
19 and implementation of such recommendations.

20 **SEC. 1855. POWERS OF COMMISSION.**

21 (a) **HEARINGS AND EVIDENCE.**—The Commission or,
22 on the authority of the Commission, any subcommittee or
23 member thereof, may, for the purpose of carrying out this
24 subtitle, hold such hearings and sit and act at such times
25 and places, take such testimony, receive such evidence,

1 and administer such oaths as the Commission or such des-
2 ignate subcommittee or designated member may deter-
3 mine advisable.

4 (b) CONTRACTING.—The Commission may, to such
5 extent and in such amounts as are provided in appropria-
6 tions Acts, enter into contracts to enable the Commission
7 to discharge its duties under this subtitle.

8 (c) STAFF OF COMMISSION.—

9 (1) APPOINTMENT AND COMPENSATION.—The
10 chairman of the Commission, in accordance with
11 rules agreed upon by the Commission, may appoint
12 and fix the compensation of a staff director and
13 such other personnel as may be necessary to enable
14 the Commission to carry out its functions, without
15 regard to the provisions of title 5, United States
16 Code, governing appointments in the competitive
17 service, and without regard to the provisions of
18 chapter 51 and subchapter III of chapter 53 of such
19 title relating to classification and General Schedule
20 pay rates, except that no rate of pay fixed under this
21 subsection may exceed the equivalent of that payable
22 for a position at level V of the Executive Schedule
23 under section 5316 of title 5, United States Code.

24 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

1 (A) IN GENERAL.—The executive director
2 and any employees of the Commission shall be
3 employees under section 2105 of title 5, United
4 States Code, for purposes of chapters 63, 81,
5 83, 84, 85, 87, 89, and 90 of that title.

6 (B) MEMBERS OF COMMISSION.—Subpara-
7 graph (A) shall not be construed to apply to
8 members of the Commission.

9 (3) DETAILEES.—Any Federal Government em-
10 ployee may be detailed to the Commission without
11 reimbursement from the Commission, and such
12 detailee shall retain the rights, status, and privileges
13 of his or her regular employment without interrup-
14 tion.

15 (4) CONSULTANT SERVICES.—The Commission
16 may procure the services of experts and consultants
17 in accordance with section 3109 of title 5, United
18 States Code, but at rates not to exceed the daily rate
19 paid a person occupying a position at level IV of the
20 Executive Schedule under section 5315 of title 5,
21 United States Code.

22 (5) EMPHASIS ON SECURITY CLEARANCES.—
23 Emphasis shall be made to hire employees and re-
24 tain contractors and detailees with active security
25 clearances.

1 (d) INFORMATION FROM FEDERAL AGENCIES.—

2 (1) IN GENERAL.—The Commission is author-
3 ized to secure directly from any executive depart-
4 ment, bureau, agency, board, commission, office,
5 independent establishment, or instrumentality of the
6 Government, information, suggestions, estimates,
7 and statistics for the purposes of this subtitle. Each
8 department, bureau, agency, board, commission, of-
9 fice, independent establishment, or instrumentality
10 shall, to the extent authorized by law, furnish such
11 information, suggestions, estimates, and statistics di-
12 rectly to the Commission, upon request made by the
13 chairman, the chairman of any subcommittee cre-
14 ated by a majority of the Commission, or any mem-
15 ber designated by a majority of the Commission.

16 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
17 SEMINATION.—Information shall only be received,
18 handled, stored, and disseminated by members of
19 the Commission and its staff consistent with all ap-
20 plicable statutes, regulations, and Executive orders.

21 (e) ASSISTANCE FROM FEDERAL AGENCIES.—

22 (1) GENERAL SERVICES ADMINISTRATION.—

23 The Administrator of General Services shall provide
24 to the Commission on a reimbursable basis adminis-

1 trative support and other services for the perform-
2 ance of the Commission's functions.

3 (2) OTHER DEPARTMENTS AND AGENCIES.—In
4 addition to the assistance prescribed in paragraph
5 (1), departments and agencies of the United States
6 may provide to the Commission such services, funds,
7 facilities, staff, and other support services as they
8 may determine advisable and as may be authorized
9 by law.

10 (f) GIFTS.—The Commission may accept, use, and
11 dispose of gifts or donations of services or property.

12 (g) POSTAL SERVICES.—The Commission may use
13 the United States mails in the same manner and under
14 the same conditions as departments and agencies of the
15 United States.

16 **SEC. 1856. NONAPPLICABILITY OF FEDERAL ADVISORY**
17 **COMMITTEE ACT.**

18 (a) IN GENERAL.—The Federal Advisory Committee
19 Act (5 U.S.C. App.) shall not apply to the Commission.

20 (b) PUBLIC MEETINGS AND RELEASE OF PUBLIC
21 VERSIONS OF REPORTS.—The Commission shall—

22 (1) hold public hearings and meetings to the ex-
23 tent appropriate; and

24 (2) release public versions of the report re-
25 quired under section 1857.

1 (c) PUBLIC HEARINGS.—Any public hearings of the
2 Commission shall be conducted in a manner consistent
3 with the protection of information provided to or developed
4 for or by the Commission as required by any applicable
5 statute, regulation, or Executive order.

6 **SEC. 1857. REPORT.**

7 Not later than 180 days after the appointment of the
8 Commission, the Commission shall submit to the Presi-
9 dent and Congress a final report containing such findings,
10 conclusions, and recommendations for corrective measures
11 as have been agreed to by a majority of Commission mem-
12 bers.

13 **SEC. 1858. TERMINATION.**

14 (a) IN GENERAL.—The Commission, and all the au-
15 thorities of this subtitle, shall terminate 60 days after the
16 date on which the final report is submitted under section
17 1857.

18 (b) ADMINISTRATIVE ACTIVITIES BEFORE TERMI-
19 NATION.—The Commission may use the 60-day period re-
20 ferred to in subsection (a) for the purpose of concluding
21 its activities, including providing testimony to committees
22 of Congress concerning its report and disseminating the
23 final report.

1 **SEC. 1859. FUNDING.**

2 (a) **IN GENERAL.**—There are authorized to be appro-
3 priated such sums as may be necessary for the purposes
4 of the activities of the Commission under this title.

5 (b) **DURATION OF AVAILABILITY.**—Amounts made
6 available to the Commission under subsection (a) shall re-
7 main available until the termination of the Commission.

8 **TITLE XIX—INTERNATIONAL CO-**
9 **OPERATION ON**
10 **ANTITERRORISM TECH-**
11 **NOLOGIES**

12 **SEC. 1901. PROMOTING ANTITERRORISM CAPABILITIES**
13 **THROUGH INTERNATIONAL COOPERATION.**

14 (a) **FINDINGS.**—Congress finds the following:

15 (1) The development and implementation of
16 technology is critical to combating terrorism and
17 other high consequence events and implementing a
18 comprehensive homeland security strategy.

19 (2) The United States and its allies in the glob-
20 al war on terrorism share a common interest in fa-
21 cilitating research, development, testing, and evalua-
22 tion of equipment, capabilities, technologies, and
23 services that will aid in detecting, preventing, re-
24 sponding to, recovering from, and mitigating against
25 acts of terrorism.

1 (3) Certain United States allies in the global
2 war on terrorism, including Israel, the United King-
3 dom, Canada, Australia, and Singapore have exten-
4 sive experience with, and technological expertise in,
5 homeland security.

6 (4) The United States and certain of its allies
7 in the global war on terrorism have a history of suc-
8 cessful collaboration in developing mutually bene-
9 ficial equipment, capabilities, technologies, and serv-
10 ices in the areas of defense, agriculture, and tele-
11 communications.

12 (5) The United States and its allies in the glob-
13 al war on terrorism will mutually benefit from the
14 sharing of technological expertise to combat domes-
15 tic and international terrorism.

16 (6) The establishment of an office to facilitate
17 and support cooperative endeavors between and
18 among government agencies, for-profit business enti-
19 ties, academic institutions, and nonprofit entities of
20 the United States and its allies will safeguard lives
21 and property worldwide against acts of terrorism
22 and other high consequence events.

23 (b) PROMOTING ANTITERRORISM THROUGH INTER-
24 NATIONAL COOPERATION ACT.—

1 (1) IN GENERAL.—Title III of the Homeland
2 Security Act of 2002 (6 U.S.C. 181 et seq.) is
3 amended by adding after section 316, as added by
4 section 1101 of this Act, the following:

5 **“SEC. 317. PROMOTING ANTITERRORISM THROUGH INTER-**
6 **NATIONAL COOPERATION PROGRAM.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) DIRECTOR.—The term ‘Director’ means
9 the Director selected under subsection (b)(2).

10 “(2) INTERNATIONAL COOPERATIVE ACTIV-
11 ITY.—The term ‘international cooperative activity’
12 includes—

13 “(A) coordinated research projects, joint
14 research projects, or joint ventures;

15 “(B) joint studies or technical demonstra-
16 tions;

17 “(C) coordinated field exercises, scientific
18 seminars, conferences, symposia, and work-
19 shops;

20 “(D) training of scientists and engineers;

21 “(E) visits and exchanges of scientists, en-
22 gineers, or other appropriate personnel;

23 “(F) exchanges or sharing of scientific and
24 technological information; and

1 “(G) joint use of laboratory facilities and
2 equipment.

3 “(b) SCIENCE AND TECHNOLOGY HOMELAND SECU-
4 RITY INTERNATIONAL COOPERATIVE PROGRAMS OF-
5 FICE.—

6 “(1) ESTABLISHMENT.—The Under Secretary
7 shall establish the Science and Technology Home-
8 land Security International Cooperative Programs
9 Office.

10 “(2) DIRECTOR.—The Office shall be headed by
11 a Director, who—

12 “(A) shall be selected, in consultation with
13 the Assistant Secretary for International Af-
14 fairs, by and shall report to the Under Sec-
15 retary; and

16 “(B) may be an officer of the Department
17 serving in another position.

18 “(3) RESPONSIBILITIES.—

19 “(A) DEVELOPMENT OF MECHANISMS.—
20 The Director shall be responsible for devel-
21 oping, in coordination with the Department of
22 State and, as appropriate, the Department of
23 Defense, the Department of Energy, and other
24 Federal agencies, understandings and agree-
25 ments to allow and to support international co-

1 operative activity in support of homeland secu-
2 rity.

3 “(B) PRIORITIES.—The Director shall be
4 responsible for developing, in coordination with
5 the Office of International Affairs and other
6 Federal agencies, strategic priorities for inter-
7 national cooperative activity for the Department
8 in support of homeland security.

9 “(C) ACTIVITIES.—The Director shall fa-
10 cilitate the planning, development, and imple-
11 mentation of international cooperative activity
12 to address the strategic priorities developed
13 under subparagraph (B) through mechanisms
14 the Under Secretary considers appropriate, in-
15 cluding grants, cooperative agreements, or con-
16 tracts to or with foreign public or private enti-
17 ties, governmental organizations, businesses (in-
18 cluding small businesses and socially and eco-
19 nomically disadvantaged small businesses (as
20 those terms are defined in sections 3 and 8 of
21 the Small Business Act (15 U.S.C. 632 and
22 637), respectively)), federally funded research
23 and development centers, and universities.

24 “(D) IDENTIFICATION OF PARTNERS.—
25 The Director shall facilitate the matching of

1 United States entities engaged in homeland se-
2 curity research with non-United States entities
3 engaged in homeland security research so that
4 they may partner in homeland security research
5 activities.

6 “(4) COORDINATION.—The Director shall en-
7 sure that the activities under this subsection are co-
8 ordinated with the Office of International Affairs
9 and the Department of State and, as appropriate,
10 the Department of Defense, the Department of En-
11 ergy, and other relevant Federal agencies or inter-
12 agency bodies. The Director may enter into joint ac-
13 tivities with other Federal agencies.

14 “(c) MATCHING FUNDING.—

15 “(1) IN GENERAL.—

16 “(A) EQUITABILITY.—The Director shall
17 ensure that funding and resources expended in
18 international cooperative activity will be equi-
19 tably matched by the foreign partner govern-
20 ment or other entity through direct funding,
21 funding of complementary activities, or the pro-
22 vision of staff, facilities, material, or equipment.

23 “(B) GRANT MATCHING AND REPAY-
24 MENT.—

1 “(i) IN GENERAL.—The Secretary
2 may require a recipient of a grant under
3 this section—

4 “(I) to make a matching con-
5 tribution of not more than 50 percent
6 of the total cost of the proposed
7 project for which the grant is award-
8 ed; and

9 “(II) to repay to the Secretary
10 the amount of the grant (or a portion
11 thereof), interest on such amount at
12 an appropriate rate, and such charges
13 for administration of the grant as the
14 Secretary determines appropriate.

15 “(ii) MAXIMUM AMOUNT.—The Sec-
16 retary may not require that repayment
17 under clause (i)(II) be more than 150 per-
18 cent of the amount of the grant, adjusted
19 for inflation on the basis of the Consumer
20 Price Index.

21 “(2) FOREIGN PARTNERS.—Partners may in-
22 clude Israel, the United Kingdom, Canada, Aus-
23 tralia, Singapore, and other allies in the global war
24 on terrorism as determined to be appropriate by the

1 Secretary of Homeland Security and the Secretary
2 of State.

3 “(3) LOANS OF EQUIPMENT.—The Director
4 may make or accept loans of equipment for research
5 and development and comparative testing purposes.

6 “(d) FOREIGN REIMBURSEMENTS.—If the Science
7 and Technology Homeland Security International Cooper-
8 ative Programs Office participates in an international co-
9 operative activity with a foreign partner on a cost-sharing
10 basis, any reimbursements or contributions received from
11 that foreign partner to meet its share of the project may
12 be credited to appropriate current appropriations accounts
13 of the Directorate of Science and Technology.

14 “(e) REPORT TO CONGRESS ON INTERNATIONAL CO-
15 OPERATIVE ACTIVITIES.—Not later than one year after
16 the date of enactment of this section, and every 5 years
17 thereafter, the Under Secretary, acting through the Direc-
18 tor, shall submit to Congress a report containing—

19 “(1) a brief description of each grant, coopera-
20 tive agreement, or contract made or entered into
21 under subsection (b)(3)(C), including the partici-
22 pants, goals, and amount and sources of funding;
23 and

24 “(2) a list of international cooperative activities
25 underway, including the participants, goals, expected

1 duration, and amount and sources of funding, in-
2 cluding resources provided to support the activities
3 in lieu of direct funding.

4 “(f) ANIMAL AND ZOO NOTIC DISEASES.—As part of
5 the international cooperative activities authorized in this
6 section, the Under Secretary, in coordination with the
7 Chief Medical Officer, the Department of State, and ap-
8 propriate officials of the Department of Agriculture, the
9 Department of Defense, and the Department of Health
10 and Human Services, may enter into cooperative activities
11 with foreign countries, including African nations, to
12 strengthen American preparedness against foreign animal
13 and zoonotic diseases overseas that could harm the Na-
14 tion’s agricultural and public health sectors if they were
15 to reach the United States.

16 “(g) CONSTRUCTION; AUTHORITIES OF THE SEC-
17 RETARY OF STATE.—Nothing in this section shall be con-
18 strued to alter or affect the following provisions of law:

19 “(1) Title V of the Foreign Relations Author-
20 ization Act, Fiscal Year 1979 (22 U.S.C. 2656a et
21 seq.).

22 “(2) Section 112b(c) of title 1, United States
23 Code.

1 “(3) Section 1(e)(2) of the State Department
2 Basic Authorities Act of 1956 (22 U.S.C.
3 2651a(e)(2)).

4 “(4) Sections 2 and 27 of the Arms Export
5 Control Act (22 U.S.C. 2752 and 22 U.S.C. 2767).

6 “(5) Section 622(c) of the Foreign Assistance
7 Act of 1961 (22 U.S.C. 2382(c)).

8 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to carry out this section
10 such sums as are necessary.”.

11 (2) TECHNICAL AND CONFORMING AMEND-
12 MENT.—The table of contents in section 1(b) of the
13 Homeland Security Act of 2002 (6 U.S.C. 101 et
14 seq.) is amended by inserting after the item relating
15 to section 316, as added by section 1101 of this Act,
16 the following:

 “Sec. 317. Promoting antiterrorism through international cooperation pro-
 gram.”.

17 **SEC. 1902. TRANSPARENCY OF FUNDS.**

18 For each Federal award (as that term is defined in
19 section 2 of the Federal Funding Accountability and
20 Transparency Act of 2006 (31 U.S.C. 6101 note)) under
21 this title or an amendment made by this title, the Director
22 of the Office of Management and Budget shall ensure full
23 and timely compliance with the requirements of the Fed-

1 eral Funding Accountability and Transparency Act of
2 2006 (31 U.S.C. 6101 note).

3 **TITLE XX—9/11 COMMISSION**
4 **INTERNATIONAL IMPLEMEN-**
5 **TATION**

6 **SEC. 2001. SHORT TITLE.**

7 This title may be cited as the “9/11 Commission
8 International Implementation Act of 2007”.

9 **SEC. 2002. DEFINITION.**

10 In this title, except as otherwise provided, the term
11 “appropriate congressional committees”—

12 (1) means—

13 (A) the Committee on Foreign Affairs and
14 the Committee on Appropriations of the House
15 of Representatives; and

16 (B) the Committee on Foreign Relations
17 and the Committee on Appropriations of the
18 Senate; and

19 (2) includes, for purposes of subtitle D, the
20 Committees on Armed Services of the House of Rep-
21 resentatives and of the Senate.

1 **Subtitle A—Quality Educational**
2 **Opportunities in Predominantly**
3 **Muslim Countries.**

4 **SEC. 2011. FINDINGS; POLICY.**

5 (a) **FINDINGS.**—Congress makes the following find-
6 ings:

7 (1) The report of the National Commission on
8 Terrorist Attacks Upon the United States stated
9 that “[e]ducation that teaches tolerance, the dignity
10 and value of each individual, and respect for dif-
11 ferent beliefs is a key element in any global strategy
12 to eliminate Islamist terrorism”.

13 (2) The report of the National Commission on
14 Terrorist Attacks Upon the United States concluded
15 that ensuring educational opportunity is essential to
16 the efforts of the United States to defeat global ter-
17 rorism and recommended that the United States
18 Government “should offer to join with other nations
19 in generously supporting [spending funds] . . . di-
20 rectly for building and operating primary and sec-
21 ondary schools in those Muslim states that commit
22 to sensibly investing their own money in public edu-
23 cation”.

24 (3) While Congress endorsed such a program in
25 the Intelligence Reform and Terrorism Prevention

1 Act of 2004 (Public Law 108–458), such a program
2 has not been established.

3 (b) POLICY.—It is the policy of the United States—

4 (1) to work toward the goal of dramatically in-
5 creasing the availability of modern basic education
6 through public schools in predominantly Muslim
7 countries, which will reduce the influence of radical
8 madrassas and other institutions that promote reli-
9 gious extremism;

10 (2) to join with other countries in generously
11 supporting the International Muslim Youth Oppor-
12 tunity Fund authorized under section 7114 of the
13 Intelligence Reform and Terrorism Prevention Act
14 of 2004, as amended by section 2012 of this Act,
15 with the goal of building and supporting public pri-
16 mary and secondary schools in predominantly Mus-
17 lim countries that commit to sensibly investing the
18 resources of such countries in modern public edu-
19 cation;

20 (3) to offer additional incentives to increase the
21 availability of modern basic education in predomi-
22 nantly Muslim countries; and

23 (4) to work to prevent financing of educational
24 institutions that support radical Islamic fundamen-
25 talism.

1 **SEC. 2012. INTERNATIONAL MUSLIM YOUTH OPPORTUNITY**

2 **FUND.**

3 Section 7114 of the Intelligence Reform and Ter-
4 rorism Prevention Act of 2004 (22 U.S.C. 2228) is
5 amended to read as follows:

6 **“SEC. 7114. INTERNATIONAL MUSLIM YOUTH OPPORTUNITY**

7 **FUND.**

8 “(a) **PURPOSE.**—The purpose of this section is to
9 strengthen the public educational systems in predomi-
10 nantly Muslim countries by—

11 “(1) authorizing the establishment of an Inter-
12 national Muslim Youth Educational Fund through
13 which the United States dedicates resources, either
14 through a separate fund or through an international
15 organization, to assist those countries that commit
16 to education reform; and

17 “(2) providing resources for the Fund and to
18 the President to help strengthen the public edu-
19 cational systems in those countries.

20 **“(b) ESTABLISHMENT OF FUND.—**

21 **“(1) AUTHORITY.**—The President is authorized
22 to establish an International Muslim Youth Oppor-
23 tunity Fund and to carry out programs consistent
24 with paragraph (4) under existing authorities, in-
25 cluding the Mutual Educational and Cultural Ex-

1 change Act of 1961 (commonly referred to as the
2 'Fulbright-Hays Act').

3 “(2) LOCATION.—The Fund may be estab-
4 lished—

5 “(A) as a separate fund in the Treasury;
6 or

7 “(B) through an international organization
8 or international financial institution, such as
9 the United Nations Educational, Science and
10 Cultural Organization, the United Nations De-
11 velopment Program, or the International Bank
12 for Reconstruction and Development.

13 “(3) TRANSFERS AND RECEIPTS.—The head of
14 any department, agency, or instrumentality of the
15 United States Government may transfer any amount
16 to the Fund, and the Fund may receive funds from
17 private enterprises, foreign countries, or other enti-
18 ties.

19 “(4) ACTIVITIES OF THE FUND.—The Fund
20 shall support programs described in this paragraph
21 to improve the education environment in predomi-
22 nantly Muslim countries.

23 “(A) ASSISTANCE TO ENHANCE MODERN
24 EDUCATIONAL PROGRAMS.—

1 “(i) The establishment in predomi-
2 nantly Muslim countries of a program of
3 reform to create a modern education cur-
4 riculum in the public educational systems
5 in such countries.

6 “(ii) The establishment or moderniza-
7 tion of educational materials to advance a
8 modern educational curriculum in such
9 systems.

10 “(iii) Teaching English to adults and
11 children.

12 “(iv) The enhancement in predomi-
13 nantly Muslim countries of community,
14 family, and student participation in the
15 formulation and implementation of edu-
16 cation strategies and programs in such
17 countries.

18 “(B) ASSISTANCE FOR TRAINING AND EX-
19 CHANGE PROGRAMS FOR TEACHERS, ADMINIS-
20 TRATORS, AND STUDENTS.—

21 “(i) The establishment of training
22 programs for teachers and educational ad-
23 ministrators to enhance skills, including
24 the establishment of regional centers to

1 train individuals who can transfer such
2 skills upon return to their countries.

3 “(ii) The establishment of exchange
4 programs for teachers and administrators
5 in predominantly Muslim countries and
6 with other countries to stimulate additional
7 ideas and reform throughout the world, in-
8 cluding teacher training exchange pro-
9 grams focused on primary school teachers
10 in such countries.

11 “(iii) The establishment of exchange
12 programs for primary and secondary stu-
13 dents in predominantly Muslim countries
14 and with other countries to foster under-
15 standing and tolerance and to stimulate
16 long-standing relationships.

17 “(C) ASSISTANCE TARGETING PRIMARY
18 AND SECONDARY STUDENTS.—

19 “(i) The establishment in predomi-
20 nantly Muslim countries of after-school
21 programs, civic education programs, and
22 education programs focusing on life skills,
23 such as inter-personal skills and social re-
24 lations and skills for healthy living, such as
25 nutrition and physical fitness.

1 “(ii) The establishment in predomi-
2 nantly Muslim countries of programs to
3 improve the proficiency of primary and
4 secondary students in information tech-
5 nology skills.

6 “(D) ASSISTANCE FOR DEVELOPMENT OF
7 YOUTH PROFESSIONALS.—

8 “(i) The establishment of programs in
9 predominantly Muslim countries to im-
10 prove vocational training in trades to help
11 strengthen participation of Muslims and
12 Arabs in the economic development of their
13 countries.

14 “(ii) The establishment of programs
15 in predominantly Muslim countries that
16 target older Muslim youths not in school in
17 such areas as entrepreneurial skills, ac-
18 counting, micro-finance activities, work
19 training, financial literacy, and information
20 technology.

21 “(E) OTHER TYPES OF ASSISTANCE.—

22 “(i) The translation of foreign books,
23 newspapers, reference guides, and other
24 reading materials into local languages.

1 “(ii) The construction and equipping
2 of modern community and university li-
3 braries.

4 “(5) AUTHORIZATION OF APPROPRIATIONS.—

5 “(A) IN GENERAL.—There is authorized to
6 be appropriated to the President to carry out
7 this section such sums as may be necessary for
8 fiscal years 2008, 2009, and 2010.

9 “(B) AVAILABILITY.—Amounts appro-
10 priated pursuant to the authorization of appro-
11 priations under subsection (a) are authorized to
12 remain available until expended.

13 “(C) ADDITIONAL FUNDS.—Amounts au-
14 thorized to be appropriated under subsection
15 (a) shall be in addition to amounts otherwise
16 available for such purposes.

17 “(6) REPORT TO CONGRESS.—Not later than
18 180 days after the date of the enactment of this sec-
19 tion and annually thereafter until January 30, 2010,
20 the President shall submit to the appropriate con-
21 gressional committees a report on United States ef-
22 forts to assist in the improvement of educational op-
23 portunities for predominantly Muslim children and
24 youths, including the progress made toward estab-

1 lishing the International Muslim Youth Opportunity
2 Fund.

3 “(7) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES DEFINED.—In this subsection, the term ‘ap-
5 propriate congressional committees’ means the Com-
6 mittee on Foreign Affairs and the Committee on Ap-
7 propriations of the House of Representatives and the
8 Committee on Foreign Relations and the Committee
9 on Appropriations of the Senate.”.

10 **SEC. 2013. ANNUAL REPORT TO CONGRESS.**

11 (a) IN GENERAL.—Not later than June 1 of each
12 year until December 31, 2009, the Secretary of State shall
13 submit to the appropriate congressional committees a re-
14 port on the efforts of predominantly Muslim countries to
15 increase the availability of modern basic education and to
16 close educational institutions that promote religious extre-
17 mism and terrorism.

18 (b) CONTENTS.—Each report shall include—

19 (1) a list of predominantly Muslim countries
20 that are making serious and sustained efforts to im-
21 prove the availability of modern basic education and
22 to close educational institutions that promote reli-
23 gious extremism and terrorism;

24 (2) a list of such countries that are making ef-
25 forts to improve the availability of modern basic edu-

1 cation and to close educational institutions that pro-
2 mote religious extremism and terrorism, but such ef-
3 forts are not serious and sustained;

4 (3) a list of such countries that are not making
5 efforts to improve the availability of modern basic
6 education and to close educational institutions that
7 promote religious extremism and terrorism; and

8 (4) an assessment for each country specified in
9 each of paragraphs (1), (2), and (3) of the role of
10 United States assistance with respect to the efforts
11 made or not made to improve the availability of
12 modern basic education and close educational insti-
13 tutions that promote religious extremism and ter-
14 rorism.

15 **SEC. 2014. EXTENSION OF PROGRAM TO PROVIDE GRANTS**
16 **TO AMERICAN-SPONSORED SCHOOLS IN PRE-**
17 **DOMINANTLY MUSLIM COUNTRIES TO PRO-**
18 **VIDE SCHOLARSHIPS.**

19 (a) FINDINGS.—Congress finds the following:

20 (1) Section 7113 of the Intelligence Reform and
21 Terrorism Prevention Act of 2004 (Public Law 108-
22 458; 22 U.S.C. 2452 note) authorized the establish-
23 ment of a pilot program to provide grants to Amer-
24 ican-sponsored schools in predominantly Muslim
25 countries so that such schools could provide scholar-

1 ships to young people from lower-income and middle-
2 income families in such countries to attend such
3 schools, where they could improve their English and
4 be exposed to a modern education.

5 (2) Since the date of the enactment of that sec-
6 tion, the Middle East Partnership Initiative has pur-
7 sued implementation of that program.

8 (b) **EXTENSION OF PROGRAM.**—

9 (1) **IN GENERAL.**—Section 7113 of the Intel-
10 ligence Reform and Terrorism Prevention Act of
11 2004 is amended—

12 (A) in the section heading by striking
13 “**PILOT**”; and

14 (B) in subsection (c)—

15 (i) in the subsection heading, by strik-
16 ing “**PILOT**”; and

17 (ii) by striking “pilot”;

18 (C) in subsection (d), by striking “pilot”
19 each place it appears;

20 (D) in subsection (f) by striking “pilot”;

21 (E) in subsection (g), in the first sen-
22 tence—

23 (i) by inserting “and April 15, 2008,”
24 after “April 15, 2006,”; and

25 (ii) by striking “pilot”; and

1 (F) in subsection (h)—

2 (i) by striking “2005 and 2006” and
3 inserting “2007 and 2008”; and

4 (ii) by striking “pilot”.

5 (2) CONFORMING AMENDMENT.—Section 1(b)
6 of such Act is amended, in the table of contents, by
7 striking the item relating to section 7113 and insert-
8 ing after section 7112 the following new item:

“7113. Program to provide grants to American-sponsored schools in predomi-
nantly Muslim countries to provide scholarships.”.

9 **Subtitle B—Democracy and Devel-**
10 **opment in the Broader Middle**
11 **East Region**

12 **SEC. 2021. MIDDLE EAST FOUNDATION.**

13 (a) PURPOSES.—The purposes of this section are to
14 support, through the provision of grants, technical assist-
15 ance, training, and other programs, in the countries of the
16 broader Middle East region, the expansion of—

17 (1) civil society;

18 (2) opportunities for political participation for
19 all citizens;

20 (3) protections for internationally recognized
21 human rights, including the rights of women;

22 (4) educational system reforms;

23 (5) independent media;

1 (6) policies that promote economic opportunities
2 for citizens;

3 (7) the rule of law; and

4 (8) democratic processes of government.

5 (b) MIDDLE EAST FOUNDATION.—

6 (1) DESIGNATION.—The Secretary of State is
7 authorized to designate an appropriate private, non-
8 profit organization that is organized or incorporated
9 under the laws of the United States or of a State
10 as the Middle East Foundation (referred to in this
11 section as the “Foundation”).

12 (2) FUNDING.—

13 (A) AUTHORITY.—The Secretary of State
14 is authorized to provide funding to the Founda-
15 tion through the Middle East Partnership Ini-
16 tiative of the Department of State. Notwith-
17 standing any other provision of law, the Foun-
18 dation shall use amounts provided under this
19 paragraph to carry out the purposes specified in
20 subsection (a), including through making
21 grants, using such funds as an endowment, and
22 providing other assistance to entities to carry
23 out programs for such purposes.

24 (B) FUNDING FROM OTHER SOURCES.—In
25 determining the amount of funding to provide

1 to the Foundation, the Secretary of State shall
2 take into consideration the amount of funds
3 that the Foundation has received from sources
4 other than the United States Government.

5 (3) NOTIFICATION TO CONGRESSIONAL COMMIT-
6 TEES.—The Secretary of State shall notify the ap-
7 propriate congressional committees of the designa-
8 tion of an appropriate organization as the Founda-
9 tion.

10 (c) GRANTS FOR PROJECTS.—

11 (1) FOUNDATION TO MAKE GRANTS.—The Sec-
12 retary of State shall enter into an agreement with
13 the Foundation that requires the Foundation to use
14 the funds provided under subsection (b)(2) to make
15 grants to persons or entities (other than govern-
16 ments or government entities) located in the broader
17 Middle East region or working with local partners
18 based in the broader Middle East region to carry out
19 projects that support the purposes specified in sub-
20 section (a).

21 (2) CENTER FOR PUBLIC POLICY.—Under the
22 agreement described in paragraph (1), the Founda-
23 tion may make a grant to an institution of higher
24 education located in the broader Middle East region
25 to create a center for public policy for the purpose

1 of permitting scholars and professionals from the
2 countries of the broader Middle East region and
3 from other countries, including the United States, to
4 carry out research, training programs, and other ac-
5 tivities to inform public policymaking in the broader
6 Middle East region and to promote broad economic,
7 social, and political reform for the people of the
8 broader Middle East region.

9 (3) APPLICATIONS FOR GRANTS.—An entity
10 seeking a grant from the Foundation under this sec-
11 tion shall submit an application to the head of the
12 Foundation at such time, in such manner, and con-
13 taining such information as the head of the Founda-
14 tion may reasonably require.

15 (d) PRIVATE CHARACTER OF THE FOUNDATION.—
16 Nothing in this section shall be construed to—

17 (1) make the Foundation an agency or estab-
18 lishment of the United States Government, or to
19 make the officers or employees of the Foundation of-
20 ficers or employees of the United States for purposes
21 of title 5, United States Code; or

22 (2) impose any restriction on the Foundation's
23 acceptance of funds from private and public sources
24 in support of its activities consistent with the pur-
25 poses specified in subsection (a).

1 (e) LIMITATION ON PAYMENTS TO FOUNDATION
2 PERSONNEL.—No part of the funds provided to the Foun-
3 dation under this section shall inure to the benefit of any
4 officer or employee of the Foundation, except as salary
5 or reasonable compensation for services.

6 (f) RETENTION OF INTEREST.—The Foundation may
7 hold funds provided under this section in interest-bearing
8 accounts prior to the disbursement of such funds to carry
9 out the purposes specified in subsection (a), and may re-
10 tain for such purposes any interest earned without return-
11 ing such interest to the Treasury of the United States.
12 The Foundation may retain and use such funds as an en-
13 dowment to carry out the purposes specified in subsection
14 (a).

15 (g) FINANCIAL ACCOUNTABILITY.—

16 (1) INDEPENDENT PRIVATE AUDITS OF THE
17 FOUNDATION.—The accounts of the Foundation
18 shall be audited annually in accordance with gen-
19 erally accepted auditing standards by independent
20 certified public accountants or independent licensed
21 public accountants certified or licensed by a regu-
22 latory authority of a State or other political subdivi-
23 sion of the United States. The report of the inde-
24 pendent audit shall be included in the annual report
25 required by subsection (h).

1 (2) GAO AUDITS.—The financial transactions
2 undertaken pursuant to this section by the Founda-
3 tion may be audited by the Government Account-
4 ability Office in accordance with such principles and
5 procedures and under such rules and regulations as
6 may be prescribed by the Comptroller General of the
7 United States.

8 (3) AUDITS OF GRANT RECIPIENTS.—

9 (A) IN GENERAL.—A recipient of a grant
10 from the Foundation shall agree to permit an
11 audit of the books and records of such recipient
12 related to the use of the grant funds.

13 (B) RECORDKEEPING.—Such recipient
14 shall maintain appropriate books and records to
15 facilitate an audit referred to in subparagraph
16 (A), including—

17 (i) separate accounts with respect to
18 the grant funds;

19 (ii) records that fully disclose the use
20 of the grant funds;

21 (iii) records describing the total cost
22 of any project carried out using grant
23 funds; and

24 (iv) the amount and nature of any
25 funds received from other sources that

1 were combined with the grant funds to
2 carry out a project.

3 (h) ANNUAL REPORTS.—Not later than January 31,
4 2008, and annually thereafter, the Foundation shall sub-
5 mit to the appropriate congressional committees and make
6 available to the public a report that includes, for the fiscal
7 year prior to the fiscal year in which the report is sub-
8 mitted, a comprehensive and detailed description of—

9 (1) the operations and activities of the Founda-
10 tion that were carried out using funds provided
11 under this section;

12 (2) grants made by the Foundation to other en-
13 tities with funds provided under this section;

14 (3) other activities of the Foundation to further
15 the purposes specified in subsection (a); and

16 (4) the financial condition of the Foundation.

17 (i) BROADER MIDDLE EAST REGION DEFINED.—In
18 this section, the term “broader Middle East region” means
19 Afghanistan, Algeria, Bahrain, Egypt, Iran, Iraq, Jordan,
20 Kuwait, Lebanon, Libya, Morocco, Oman, Pakistan,
21 Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emir-
22 ates, West Bank and Gaza, and Yemen.

23 (j) REPEAL.—Section 534(k) of Public Law 109–102
24 is repealed.

1 **Subtitle C—Reaffirming United**
2 **States Moral Leadership**

3 **SEC. 2031. ADVANCING UNITED STATES INTERESTS**
4 **THROUGH PUBLIC DIPLOMACY.**

5 (a) **FINDING.**—Congress finds that the report of the
6 National Commission on Terrorist Attacks Upon the
7 United States stated that, “Recognizing that Arab and
8 Muslim audiences rely on satellite television and radio, the
9 government has begun some promising initiatives in tele-
10 vision and radio broadcasting to the Arab world, Iran, and
11 Afghanistan. These efforts are beginning to reach large
12 audiences. The Broadcasting Board of Governors has
13 asked for much larger resources. It should get them.”

14 (b) **SENSE OF CONGRESS.**—It is the sense of Con-
15 gress that—

16 (1) the United States needs to improve its com-
17 munication of information and ideas to people in for-
18 eign countries, particularly in countries with signifi-
19 cant Muslim populations; and

20 (2) public diplomacy should reaffirm the para-
21 mount commitment of the United States to demo-
22 cratic principles, including preserving the civil lib-
23 erties of all the people of the United States, includ-
24 ing Muslim-Americans.

1 (c) SPECIAL AUTHORITY FOR SURGE CAPACITY.—
2 The United States International Broadcasting Act of 1994
3 (22 U.S.C. 6201 et seq.) is amended by adding at the end
4 the following new section:

5 **“SEC. 316. SPECIAL AUTHORITY FOR SURGE CAPACITY.**

6 “(a) EMERGENCY AUTHORITY.—

7 “(1) IN GENERAL.—Whenever the President de-
8 termines it to be important to the national interests
9 of the United States and so certifies to the appro-
10 priate congressional committees, the President, on
11 such terms and conditions as the President may de-
12 termine, is authorized to direct any department,
13 agency, or other entity of the United States to fur-
14 nish the Broadcasting Board of Governors with such
15 assistance outside the United States as may be nec-
16 essary to provide international broadcasting activi-
17 ties of the United States with a surge capacity to
18 support United States foreign policy objectives dur-
19 ing a crisis abroad.

20 “(2) SUPERSEDES EXISTING LAW.—The au-
21 thority of paragraph (1) shall supersede any other
22 provision of law.

23 “(3) SURGE CAPACITY DEFINED.—In this sub-
24 section, the term ‘surge capacity’ means the finan-
25 cial and technical resources necessary to carry out

1 broadcasting activities in a geographical area during
2 a crisis abroad.

3 “(4) DURATION.—The President is authorized
4 to exercise the authority provided in subsection
5 (a)(1) for a period of up to six months, which may
6 be renewed for one additional six month period.

7 “(b) AUTHORIZATION OF APPROPRIATIONS.—

8 “(1) IN GENERAL.—There are authorized to be
9 appropriated to the President such sums as may be
10 necessary for the President to carry out this section,
11 except that no such amount may be appropriated
12 which, when added to amounts previously appro-
13 priated for such purpose but not yet obligated,
14 would cause such amounts to exceed \$25,000,000.

15 “(2) AVAILABILITY OF FUNDS.—Amounts ap-
16 propriated pursuant to the authorization of appro-
17 priations in this subsection are authorized to remain
18 available until expended.

19 “(3) DESIGNATION OF APPROPRIATIONS.—
20 Amounts appropriated pursuant to the authorization
21 of appropriations in this subsection may be referred
22 to as the ‘United States International Broadcasting
23 Surge Capacity Fund’.

24 “(c) REPORT.—The annual report submitted to the
25 President and Congress by the Broadcasting Board of

1 Governors under section 305(a)(9) shall provide a detailed
2 description of any activities carried out under this sec-
3 tion.”.

4 **SEC. 2032. OVERSIGHT OF INTERNATIONAL BROAD-**
5 **CASTING.**

6 (a) **TRANSCRIPTION OF PERSIAN AND ARABIC LAN-**
7 **GUAGE BROADCASTS.**—Not later than 90 days after the
8 date of the enactment of this Act, the Broadcasting Board
9 of Governors shall initiate a pilot project to transcribe into
10 the English language news and information programming
11 broadcast by Radio Farda, Radio Sawa, the Persian Serv-
12 ice of the Voice of America, and Alhurra.

13 (b) **RANDOM SAMPLING; PUBLIC AVAILABILITY.**—
14 The transcription required under subsection (a) shall con-
15 sist of a random sampling of such programming. The
16 transcripts shall be available to Congress and the public
17 on the Internet site of the Board.

18 (c) **REPORT.**—Not later than May 1, 2008, the
19 Chairman of the Broadcasting Board of Governors shall
20 submit to the Committee on Foreign Affairs of the House
21 of Representatives and Committee on Foreign Relations
22 of the Senate a report on the feasibility and utility of con-
23 tinuing the pilot project required under subsection (a).

24 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There is
25 authorized to be appropriated to the “International

1 Broadcasting Operations” account of the Broadcasting
2 Board of Governors \$2,000,000 for fiscal year 2008 to
3 carry out the pilot project required under subsection (a).

4 **SEC. 2033. EXPANSION OF UNITED STATES SCHOLARSHIP,**
5 **EXCHANGE, AND LIBRARY PROGRAMS IN**
6 **PREDOMINANTLY MUSLIM COUNTRIES.**

7 (a) REPORT; CERTIFICATION.—Not later than 30
8 days after the date of the enactment of this Act and every
9 180 days thereafter until December 31, 2009, the Sec-
10 retary of State shall submit to the appropriate congres-
11 sional committees a report on the recommendations of the
12 National Commission on Terrorist Attacks Upon the
13 United States and the policy goals described in section
14 7112 of the Intelligence Reform and Terrorism Prevention
15 Act of 2004 (Public Law 108–458) for expanding United
16 States scholarship, exchange, and library programs in pre-
17 dominantly Muslim countries. Such report shall include—

18 (1) a certification by the Secretary of State
19 that such recommendations have been implemented;
20 or

21 (2) if the Secretary of State is unable to make
22 the certification described in paragraph (1), a de-
23 scription of—

24 (A) the steps taken to implement such rec-
25 ommendations and achieve such policy goals;

1 (B) when the Secretary of State expects
2 such recommendations to be implemented and
3 such policy goals to be achieved; and

4 (C) any allocation of resources or other ac-
5 tions by Congress the Secretary of State con-
6 sidered necessary to implement such rec-
7 ommendations and achieve such policy goals.

8 (b) **TERMINATION OF DUTY TO REPORT.**—The duty
9 to submit a report under subsection (a) shall terminate
10 when the Secretary of State submits a certification pursu-
11 ant to paragraph (1) of such subsection.

12 **SEC. 2034. UNITED STATES POLICY TOWARD DETAINEES.**

13 (a) **FINDINGS.**—Congress finds the following:

14 (1) The National Commission on Terrorist At-
15 tacks Upon the United States (commonly referred to
16 as the “9/11 Commission”) declared that the United
17 States “should work with friends to develop mutu-
18 ally agreed-on principles for the detention and hu-
19 mane treatment of captured international terrorists
20 who are not being held under a particular country’s
21 criminal laws” and recommended that the United
22 States engage its allies “to develop a common coali-
23 tion approach toward the detention and humane
24 treatment of captured terrorists”.

1 (2) A number of investigations remain ongoing
2 by countries that are close United States allies in
3 the war on terrorism regarding the conduct of offi-
4 cials, employees, and agents of the United States
5 and of other countries related to conduct regarding
6 detainees.

7 (3) The Secretary of State has launched an ini-
8 tiative to try to address the differences between the
9 United States and many of its allies regarding the
10 treatment of detainees.

11 (b) SENSE OF CONGRESS.—It is the sense of Con-
12 gress that the Secretary, acting through the Legal Adviser
13 of the Department of State, should continue to build on
14 the Secretary's efforts to engage United States allies to
15 develop a common coalition approach, in compliance with
16 Common Article 3 of the Geneva Conventions and other
17 applicable legal principles, toward the detention and hu-
18 mane treatment of individuals detained during Operation
19 Iraqi Freedom, Operation Enduring Freedom, or in con-
20 nection with United States counterterrorist operations.

21 (c) REPORTING TO CONGRESS.—

22 (1) BRIEFINGS.—The Secretary of State shall
23 keep the appropriate congressional committees fully
24 and currently informed of the progress of any dis-
25 cussions between the United States and its allies re-

1 regarding the development of the common coalition ap-
2 proach described in subsection (b).

3 (2) REPORT.—Not later than 180 days after
4 the date of the enactment of this Act, the Secretary
5 of State, in consultation with the Attorney General
6 and the Secretary of Defense, shall submit to the
7 appropriate congressional committees a report on
8 any progress towards developing the common coali-
9 tion approach described in subsection (b).

10 (d) DEFINITION.—In this section, the term “appro-
11 priate congressional committees” means—

12 (1) with respect to the House of Representa-
13 tives, the Committee on Foreign Affairs, the Com-
14 mittee on Armed Services, the Committee on the Ju-
15 diciary, and the Permanent Select Committee on In-
16 telligence; and

17 (2) with respect to the Senate, the Committee
18 on Foreign Relations, the Committee on Armed
19 Services, the Committee on the Judiciary, and the
20 Select Committee on Intelligence.

1 **Subtitle D—Strategy for the United**
2 **States Relationship With Af-**
3 **ghanistan, Pakistan, and Saudi**
4 **Arabia**

5 **SEC. 2041. AFGHANISTAN.**

6 (a) CONGRESSIONAL FINDINGS.—Congress finds the
7 following:

8 (1) A democratic, stable, and prosperous Af-
9 ghanistan is vital to the national security of the
10 United States and to combating international ter-
11 rorism.

12 (2) Following the ouster of the Taliban regime
13 in 2001, the Government of Afghanistan, with as-
14 sistance from the United States and the inter-
15 national community, has achieved some notable suc-
16 cesses, including—

17 (A) adopting a constitution;

18 (B) holding presidential, parliamentary,
19 and provincial council elections;

20 (C) improving the protection of human
21 rights, including women's rights; and

22 (D) expanding educational opportunities.

23 (3) The following factors pose a serious and im-
24 mediate threat to the stability of Afghanistan:

1 (A) Taliban and anti-government forces, al
2 Qaeda, and criminal networks.

3 (B) Drug trafficking and corruption.

4 (C) Weak institutions of administration,
5 security, and justice, including pervasive lack of
6 the rule of law.

7 (D) Poverty, unemployment, and lack of
8 provision of basic services.

9 (4) The United States and the international
10 community must significantly increase political, eco-
11 nomic, and military support to Afghanistan to en-
12 sure its long-term stability and prosperity, and to
13 deny violent extremist groups such as al Qaeda sanc-
14 tuary in Afghanistan.

15 (b) STATEMENTS OF POLICY.—The following shall be
16 the policies of the United States:

17 (1) The United States shall vigorously support
18 the people and Government of Afghanistan as they
19 continue to commit to the path toward a government
20 representing and protecting the rights of all Af-
21 ghans, and shall maintain its long-term commitment
22 to the people of Afghanistan by increased assistance
23 and the continued deployment of United States
24 troops in Afghanistan as long as the Government of

1 Afghanistan supports such United States involve-
2 ment.

3 (2) In order to reduce the ability of the Taliban
4 and al Qaeda to finance their operations through the
5 opium trade, the President shall engage aggressively
6 with the Government of Afghanistan, countries in
7 the region or otherwise influenced by the trade and
8 transit of narcotics, as well as North Atlantic Treaty
9 Organization (NATO) partners of the United States,
10 and in consultation with Congress, to assess the suc-
11 cess of the current Afghan counter-narcotics strat-
12 egy and to explore additional options for addressing
13 the narcotics crisis in Afghanistan, including pos-
14 sible changes in rules of engagement for NATO and
15 Coalition forces for participation in actions against
16 narcotics trafficking and kingpins, and the provision
17 of comprehensive assistance to farmers who rely on
18 opium for their livelihood, including through the pro-
19 motion of alternative crops and livelihoods.

20 (3) The United States shall continue to work
21 with and provide assistance to the Government of
22 Afghanistan to strengthen local and national govern-
23 ment institutions and the rule of law, including the
24 training of judges and prosecutors, and to train and
25 equip the Afghan National Security Forces.

1 (4) The United States shall continue to call on
2 NATO members participating in operations in Af-
3 ghanistan to meet their commitments to provide
4 forces and equipment, and to lift restrictions on how
5 such forces can be deployed.

6 (5) The United States shall continue to foster
7 greater understanding and cooperation between the
8 Governments of Afghanistan and Pakistan by taking
9 the following actions:

10 (A) Facilitating greater communication, in-
11 cluding through official mechanisms such as the
12 Tripartite Commission and the Joint Intel-
13 ligence Operations Center, and by promoting
14 other forms of exchange between the par-
15 liaments and civil society of the two countries.

16 (B) Urging the Government of Afghani-
17 stan to enter into a political dialogue with Paki-
18 stan with respect to all issues relating to the
19 border between the two countries, with the aim
20 of establishing a mutually-recognized and mon-
21 itored border, open to human and economic ex-
22 change, and with both countries fully respon-
23 sible for border security.

24 (c) STATEMENT OF CONGRESS.—Congress strongly
25 urges that the Afghanistan Freedom Support Act of 2002

1 (22 U.S.C. 7501 et seq.) be reauthorized and updated to
2 take into account new developments in Afghanistan and
3 in the region so as to demonstrate the continued support
4 by the United States for the people and Government of
5 Afghanistan.

6 (d) EMERGENCY INCREASE IN EFFECTIVE POLICE
7 TRAINING AND POLICING OPERATIONS.—

8 (1) CONGRESSIONAL FINDING.—Congress finds
9 that police training programs in Afghanistan have
10 achieved far less return on substantial investment to
11 date and require a substantive review and justifica-
12 tion of the means and purposes of such assistance,
13 consequent to any provision of additional resources.

14 (2) ASSISTANCE AUTHORIZED.—The President
15 shall make increased efforts, on an urgent basis,
16 to—

17 (A) dramatically improve the capability
18 and effectiveness of United States and inter-
19 national police trainers, mentors, and police
20 personnel for police training programs in Af-
21 ghanistan, as well as develop a pretraining
22 screening program;

23 (B) increase the numbers of such trainers,
24 mentors, and personnel only if such increase is
25 determined to improve the performance and ca-

1 pabilities of the Afghanistan civil security
2 forces; and

3 (C) assist the Government of Afghanistan,
4 in conjunction with the Afghanistan civil secu-
5 rity forces and their leadership, in addressing
6 the corruption crisis that is threatening to un-
7 dermine Afghanistan's future.

8 (3) REPORT.—Not later than 180 days after
9 the date of the enactment of this Act, and every six
10 months thereafter until September 30, 2010, the
11 President shall transmit to the appropriate congres-
12 sional committees a report on United States efforts
13 to fulfill the requirements of this subsection. The re-
14 port required by this paragraph may be transmitted
15 concurrently with any similar report required by the
16 Afghanistan Freedom Support Act of 2002.

17 **SEC. 2042. PAKISTAN.**

18 (a) CONGRESSIONAL FINDINGS.—Congress finds the
19 following:

20 (1) A democratic, stable, and prosperous Paki-
21 stan that is a full and reliable partner in the strug-
22 gle against the Taliban, al Qaeda, and other ter-
23 rorist groups, and is a responsible steward of its nu-
24 clear weapons and technology, is vital to the national
25 security of the United States.

1 (2) Since September 11, 2001, the Government
2 of Pakistan has been a critical ally and an important
3 partner in removing the Taliban regime in Afghani-
4 stan and combating al Qaeda.

5 (3) Pakistan has made great sacrifices in the
6 shared struggle against al Qaeda-affiliated terrorist
7 groups, engaging in military operations that have led
8 to the deaths of hundreds of Pakistani security per-
9 sonnel and enduring acts of terrorism that have
10 killed hundreds of Pakistani civilians.

11 (4) Publicly-stated goals of the Government of
12 Pakistan and the national interests of the United
13 States are in close agreement in many areas, includ-
14 ing—

15 (A) curbing the proliferation of nuclear
16 weapons technology;

17 (B) combating poverty and corruption;

18 (C) enabling effective government institu-
19 tions, including public education;

20 (D) promoting democracy and the rule of
21 law, particularly at the national level;

22 (E) addressing the continued presence of
23 Taliban and other violent extremist forces
24 throughout the country;

1 (F) maintaining the authority of the Gov-
2 ernment of Pakistan in all parts of its national
3 territory;

4 (G) securing the borders of Pakistan to
5 prevent the movement of militants and terror-
6 ists into other countries and territories; and

7 (H) effectively dealing with violent extre-
8 mism.

9 (5) The opportunity exists for shared effort in
10 helping to achieve correlative goals with the Govern-
11 ment of Pakistan, particularly—

12 (A) increased United States assistance to
13 Pakistan, as appropriate, to achieve progress in
14 meeting the goals of subparagraphs (A)
15 through (C) of paragraph (4);

16 (B) increased commitment on the part of
17 the Government of Pakistan to achieve the
18 goals of paragraph (4)(D), particularly given
19 continued concerns, based on the conduct of
20 previous elections, regarding whether par-
21 liamentary elections scheduled for 2007 will be
22 free, fair, and inclusive of all political parties
23 and carried out in full accordance with inter-
24 nationally-recognized democratic norms; and

1 (C) increased commitment on the part of
2 the Government of Pakistan to take actions de-
3 scribed in paragraph (4)(E), particularly
4 given—

5 (i) the continued operation of the
6 Taliban's Quetta shura, as noted by then-
7 North Atlantic Treaty Organization Su-
8 preme Allied Commander General James
9 Jones in testimony before the Senate For-
10 eign Relations Committee on September
11 21, 2006; and

12 (ii) the continued operation of al
13 Qaeda affiliates Lashkar-e Taiba and
14 Jaish-e Muhammad, sometimes under dif-
15 ferent names, as demonstrated by the lack
16 of meaningful action taken against Hafiz
17 Muhammad Saeed, Maulana Masood
18 Azhar, and other known leaders and mem-
19 bers of such terrorist organizations; and

20 (D) increased commitment on the part of
21 the Government of the United States in regard
22 to working with all elements of Pakistan society
23 in helping to achieve the correlative goals de-
24 scribed in subparagraphs (A) through (H) of
25 paragraph (4).

1 (b) STATEMENTS OF POLICY.—The following shall be
2 the policy of the United States:

3 (1) To maintain and deepen its friendship and
4 long-term strategic relationship with Pakistan.

5 (2) To work with the Government of Pakistan
6 to combat international terrorism, especially in the
7 frontier provinces of Pakistan, and to end the use of
8 Pakistan as a safe haven for terrorist groups, in-
9 cluding those associated with al Qaeda or the
10 Taliban.

11 (3) To support robust funding for programs of
12 the United States Agency for International Develop-
13 ment and the Department of State that assist the
14 Government of Pakistan in working toward the goals
15 described in subsection (a)(4), as the Government of
16 Pakistan demonstrates a clear commitment to build-
17 ing a moderate, democratic state.

18 (4) To work with the international community
19 to secure additional financial and political support to
20 effectively implement the policies set forth in this
21 subsection.

22 (5) To facilitate a just resolution of the dispute
23 over the territory of Kashmir, to the extent that
24 such facilitation is invited and welcomed by the Gov-

1 ernments of Pakistan and India and by the people
2 of Kashmir.

3 (6) To facilitate greater communication and co-
4 operation between the Governments of Afghanistan
5 and Pakistan for the improvement of bilateral rela-
6 tions and cooperation in combating terrorism in both
7 countries.

8 (7) To work with the Government of Pakistan
9 to dismantle existing proliferation networks and pre-
10 vent the proliferation of nuclear technology.

11 (c) STRATEGY RELATING TO PAKISTAN.—

12 (1) REQUIREMENT FOR REPORT ON STRAT-
13 EGY.—Not later than 90 days after the date of the
14 enactment of this Act, the President shall transmit
15 to the appropriate congressional committees a report
16 that describes the long-term strategy of the United
17 States to engage with the Government of Pakistan
18 to achieve the goals described in subparagraphs (A)
19 through (H) of subsection (a)(4) and to carry out
20 the policies described in subsection (b).

21 (2) FORM.—The report required by paragraph
22 (1) shall be transmitted in unclassified form, but
23 may include a classified annex, if necessary.

24 (d) LIMITATION ON UNITED STATES SECURITY AS-
25 SISTANCE TO PAKISTAN.—

1 (1) LIMITATION.—For fiscal year 2008, United
2 States assistance under chapter 2 of part II of the
3 Foreign Assistance Act of 1961 (22 U.S.C. 2311 et
4 seq.) or section 23 of the Arms Export Control Act
5 (22 U.S.C. 2763) may not be provided to, and a li-
6 cense for any item controlled under the Arms Export
7 Control Act (22 U.S.C. 2751 et seq.) may not be ap-
8 proved for, Pakistan until the President transmits to
9 the appropriate congressional committees a report
10 that contains a determination of the President that
11 the Government of Pakistan—

12 (A) is committed to eliminating from Paki-
13 stani territory any organization such as the
14 Taliban, al Qaeda, or any successor, engaged in
15 military, insurgent, or terrorist activities in Af-
16 ghanistan;

17 (B) is undertaking a comprehensive mili-
18 tary, legal, economic, and political campaign to
19 achieving the goal described in subparagraph
20 (A); and

21 (C) is currently making demonstrated, sig-
22 nificant, and sustained progress toward elimi-
23 nating support or safe haven for terrorists.

24 (2) MEMORANDUM OF JUSTIFICATION.—The
25 President shall include in the report required by

1 paragraph (1) a memorandum of justification setting
2 forth the basis for the President's determination
3 under paragraph (1).

4 (3) FORM.—The report required by paragraph
5 (1) and the memorandum of justification required by
6 paragraph (2) shall be transmitted in unclassified
7 form, but may include a classified annex, if nec-
8 essary.

9 (e) NUCLEAR PROLIFERATION.—

10 (1) CONGRESSIONAL FINDING.—Congress finds
11 that the maintenance by any country of a procure-
12 ment or supply network for the illicit proliferation of
13 nuclear and missile technologies would be incon-
14 sistent with that country being considered an ally of
15 the United States.

16 (2) SENSE OF CONGRESS.—It is the sense of
17 Congress that the national security interest of the
18 United States will best be served if the United
19 States develops and implements a long-term strategy
20 to improve the United States relationship with Paki-
21 stan and works with the Government of Pakistan to
22 stop nuclear proliferation.

23 (f) AUTHORIZATION OF APPROPRIATIONS.—

24 (1) IN GENERAL.—There is authorized to be
25 appropriated to the President such sums as may be

1 necessary to provide assistance described in sub-
2 section (d)(1) for Pakistan for fiscal year 2008 in
3 accordance with the requirements of subsection
4 (d)(1).

5 (2) OTHER FUNDS.—Amounts authorized to be
6 appropriated under this subsection are in addition to
7 amounts otherwise available for such purposes.

8 (3) DECLARATION OF POLICY.—Congress de-
9 clares that the amount of funds appropriated pursu-
10 ant to the authorization of appropriations under
11 paragraph (1) and for subsequent fiscal years shall
12 be determined by the extent to which the Govern-
13 ment of Pakistan displays demonstrable progress
14 in—

15 (A) preventing al Qaeda and other ter-
16 rorist organizations from operating in the terri-
17 tory of Pakistan, including eliminating terrorist
18 training camps or facilities, arresting members
19 and leaders of terrorist organizations, and
20 countering recruitment efforts;

21 (B) preventing the Taliban from using the
22 territory of Pakistan as a sanctuary from which
23 to launch attacks within Afghanistan, including
24 by arresting Taliban leaders, stopping cross-

1 border incursions, and countering recruitment
2 efforts; and

3 (C) implementing democratic reforms, in-
4 cluding allowing free, fair, and inclusive elec-
5 tions at all levels of government in accordance
6 with internationally-recognized democratic
7 norms, and respecting the independence of the
8 press and judiciary.

9 (4) BIENNIAL REPORTS TO CONGRESS.—

10 (A) IN GENERAL.—The Secretary of State
11 shall submit to the appropriate congressional
12 committees a biennial report describing in de-
13 tail the extent to which the Government of
14 Pakistan has displayed demonstrable progress
15 in meeting the goals described in subparagraphs
16 (A) through (C) of paragraph (3).

17 (B) SCHEDULE FOR SUBMISSION.—The re-
18 port required by subparagraph (A) shall be sub-
19 mitted not later than April 15 and October 15
20 of each year until October 15, 2009.

21 (C) FORM.—The report required by sub-
22 paragraph (A) shall be submitted in unclassi-
23 fied form, but may include a classified annex, if
24 necessary.

25 (g) EXTENSION OF WAIVERS.—

1 (1) AMENDMENTS.—The Act entitled “An Act
2 to authorize the President to exercise waivers of for-
3 eign assistance restrictions with respect to Pakistan
4 through September 30, 2003, and for other pur-
5 poses”, approved October 27, 2001 (Public Law
6 107–57; 115 Stat. 403), is amended—

7 (A) in section 1(b)—

8 (i) in the heading, to read as follows:

9 “(b) FISCAL YEARS 2007 AND 2008—”; and

10 (ii) in paragraph (1), by striking “any
11 provision” and all that follows through
12 “that prohibits” and inserting “any provi-
13 sion of an Act making appropriations for
14 foreign operations, export financing, and
15 related programs appropriations for fiscal
16 year 2007 or 2008 (or any other appro-
17 priations Act) that prohibits”;

18 (B) in section 3(2), by striking “Such pro-
19 vision” and all that follows through “as are”
20 and inserting “Such provision of an Act making
21 appropriations for foreign operations, export fi-
22 nancing, and related programs appropriations
23 for fiscal years 2002 through 2008 (or any
24 other appropriations Act) as are”; and

1 (C) in section 6, by striking “the provi-
2 sions” and all that follows and inserting “the
3 provisions of this Act shall terminate on Octo-
4 ber 1, 2008.”.

5 (2) EFFECTIVE DATE.—The amendments made
6 by paragraph (1) take effect on October 1, 2006.

7 (3) SENSE OF CONGRESS.—It is the sense of
8 Congress that determinations to provide extensions
9 of waivers of foreign assistance prohibitions with re-
10 spect to Pakistan pursuant to Public Law 107–57
11 for fiscal years after the fiscal years specified in the
12 amendments made by paragraph (1) to Public Law
13 107–57 should be informed by demonstrable
14 progress in achieving the goals described in subpara-
15 graphs (A) through (C) of subsection (f)(3).

16 **SEC. 2043. SAUDI ARABIA.**

17 (a) CONGRESSIONAL FINDINGS.—Congress finds
18 that:

19 (1) The National Commission on Terrorist At-
20 tacks Upon the United States concluded that the
21 Kingdom of Saudi Arabia has “been a problematic
22 ally in combating Islamic extremism. At the level of
23 high policy, Saudi Arabia’s leaders cooperated with
24 American diplomatic initiatives aimed at the Taliban
25 or Pakistan before 9/11. At the same time, Saudi

1 Arabia's society was a place where al Qaeda raised
2 money directly from individuals and through char-
3 ities. It was the society that produced 15 of the 19
4 hijackers.”

5 (2) Saudi Arabia has an uneven record in the
6 fight against terrorism, especially with respect to
7 terrorist financing, support for radical madrassas, a
8 lack of political outlets for its citizens, and restric-
9 tions on religious pluralism, that poses a threat to
10 the security of the United States, the international
11 community, and Saudi Arabia itself.

12 (3) The National Commission on Terrorist At-
13 tacks Upon the United States concluded that the
14 “problems in the U.S.-Saudi relationship must be
15 confronted, openly”. It recommended that the two
16 countries build a relationship that includes a
17 “shared commitment to political and economic re-
18 form . . . and a shared interest in greater tolerance
19 and cultural respect, translating into a commitment
20 to fight the violent extremists who foment hatred”.

21 (4) The United States has a national security
22 interest in working with the Government of Saudi
23 Arabia to combat international terrorists that oper-
24 ate within that country or that operate outside

1 Saudi Arabia with the support of citizens of Saudi
2 Arabia.

3 (5) The United States and Saudi Arabia estab-
4 lished a Strategic Dialogue in 2005, which provides
5 a framework for the two countries to discuss a range
6 of bilateral issues at high levels, including
7 counterterrorism policy and political and economic
8 reforms.

9 (6) It is in the national security interest of the
10 United States to support the Government of Saudi
11 Arabia in undertaking a number of political and eco-
12 nomic reforms, including increasing anti-terrorism
13 operations conducted by law enforcement agencies,
14 providing more political and religious rights to its
15 citizens, increasing the rights of women, engaging in
16 comprehensive educational reform, enhancing moni-
17 toring of charitable organizations, and promulgating
18 and enforcing domestic laws and regulation on ter-
19 rorist financing.

20 (b) STATEMENT OF POLICY.—It is the policy of the
21 United States—

22 (1) to engage with the Government of Saudi
23 Arabia to openly confront the issue of terrorism, as
24 well as other problematic issues such as the lack of
25 political freedoms;

1 (2) to enhance counterterrorism cooperation
2 with the Government of Saudi Arabia; and

3 (3) to support the efforts of the Government of
4 Saudi Arabia to make political, economic, and social
5 reforms, including greater religious freedom,
6 throughout the country.

7 (c) PROGRESS IN COUNTERTERRORISM AND OTHER
8 COOPERATION.—

9 (1) REPORT.—Not later than 180 days after
10 the date of the enactment of this Act, the President
11 shall transmit to the appropriate congressional com-
12 mittees a report that—

13 (A) describes the long-term strategy of the
14 United States—

15 (i) to engage with the Government of
16 Saudi Arabia to facilitate political, eco-
17 nomic, and social reforms, including great-
18 er religious freedom, that will enhance the
19 ability of the Government of Saudi Arabia
20 to combat international terrorism; and

21 (ii) to work with the Government of
22 Saudi Arabia to combat terrorism, includ-
23 ing through effective measures to prevent
24 and prohibit the financing of terrorists by
25 Saudi institutions and citizens; and

1 (B) provides an assessment of the progress
2 made by Saudi Arabia since 2001 on the mat-
3 ters described in subparagraph (A), including—

4 (i) whether Saudi Arabia has become
5 a party to the International Convention for
6 the Suppression of the Financing of Ter-
7 rorism; and

8 (ii) the activities and authority of the
9 Saudi Nongovernmental National Commis-
10 sion for Relief and Charity Work Abroad.

11 (2) FORM.—The report required by paragraph
12 (1) shall be transmitted in unclassified form, but
13 may include a classified annex, if necessary.

14 **TITLE XXI—ADVANCING** 15 **DEMOCRATIC VALUES**

16 **SEC. 2101. SHORT TITLE.**

17 This title may be cited as the “Advance Democratic
18 Values, Address Nondemocratic Countries, and Enhance
19 Democracy Act of 2007” or the “ADVANCE Democracy
20 Act of 2007”.

21 **SEC. 2102. FINDINGS.**

22 Congress finds the following:

23 (1) The United States Declaration of Independ-
24 ence, the United States Constitution, and the United
25 Nations Universal Declaration of Human Rights de-

1 clare that all human beings are created equal and
2 possess certain rights and freedoms, including the
3 fundamental right to participate in the political life
4 and government of their respective countries.

5 (2) The development of democracy constitutes a
6 long-term challenge that goes through unique phases
7 and paces in individual countries as such countries
8 develop democratic institutions such as a thriving
9 civil society, a free media, and an independent judi-
10 ciary, and must be led from within such countries,
11 including by nongovernmental and governmental re-
12 formers.

13 (3) Individuals, nongovernmental organizations,
14 and movements that support democratic principles,
15 practices, and values are under increasing pressure
16 from some governments of nondemocratic countries
17 (as well as, in some cases, from governments of
18 democratic transition countries), including by using
19 administrative and regulatory mechanisms to under-
20 mine the activities of such individuals, organizations,
21 and movements.

22 (4) Democratic countries have a number of in-
23 struments available for supporting democratic re-
24 formers who are committed to promoting effective,
25 nonviolent change in nondemocratic countries and

1 who are committed to keeping their countries on the
2 path to democracy.

3 (5) United States efforts to promote democracy
4 and protect human rights can be strengthened to
5 improve assistance for such reformers, including
6 through an enhanced role for United States dip-
7 lomats when properly trained and given the right in-
8 centives.

9 (6) The promotion of democracy requires a
10 broad-based effort with cooperation between all
11 democratic countries, including through the Commu-
12 nity of Democracies.

13 **SEC. 2103. STATEMENT OF POLICY.**

14 It is the policy of the United States—

15 (1) to promote freedom and democracy in for-
16 eign countries as a fundamental component of
17 United States foreign policy, along with other key
18 foreign policy goals;

19 (2) to affirm fundamental freedoms and inter-
20 nationally recognized human rights in foreign coun-
21 tries, as reflected in the Universal Declaration of
22 Human Rights and the International Covenant on
23 Civil and Political Rights, and to condemn offenses
24 against those freedoms and rights as a fundamental

1 component of United States foreign policy, along
2 with other key foreign policy goals;

3 (3) to protect and promote such fundamental
4 freedoms and rights, including the freedoms of asso-
5 ciation, of expression, of the press, and of religion,
6 and the right to own private property;

7 (4) to commit to the long-term challenge of pro-
8 moting universal democracy by promoting demo-
9 cratic institutions, including institutions that sup-
10 port the rule of law (such as an independent judici-
11 ary), an independent and professional media, strong
12 legislatures, a thriving civil society, transparent and
13 professional independent governmental auditing
14 agencies, civilian control of the military, and institu-
15 tions that promote the rights of minorities and
16 women;

17 (5) to use instruments of United States influ-
18 ence to support, promote, and strengthen democratic
19 principles, practices, and values, including the right
20 to free, fair, and open elections, secret balloting, and
21 universal suffrage, including by—

22 (A) providing appropriate support to indi-
23 viduals, nongovernmental organizations, and
24 movements located in nondemocratic countries

1 that aspire to live in freedom and establish full
2 democracy in such countries; and

3 (B) providing political, economic, and other
4 support to foreign countries and individuals,
5 nongovernmental organizations, and movements
6 that are willingly undertaking a transition to
7 democracy; and

8 (6) to strengthen cooperation with other demo-
9 cratic countries in order to better promote and de-
10 fend shared values and ideals.

11 **SEC. 2104. DEFINITIONS.**

12 In this title:

13 (1) **ANNUAL REPORT ON ADVANCING FREEDOM**
14 **AND DEMOCRACY.**—The term “Annual Report on
15 Advancing Freedom and Democracy” refers to the
16 annual report submitted to Congress by the Depart-
17 ment of State pursuant to section 665(c) of the For-
18 eign Relations Authorization Act, Fiscal Year 2003
19 (Public Law 107–228; 22 U.S.C. 2151n note), in
20 which the Department reports on actions taken by
21 the United States Government to encourage respect
22 for human rights and democracy.

23 (2) **APPROPRIATE CONGRESSIONAL COMMIT-**
24 **TEES.**—The term “appropriate congressional com-
25 mittees” means the Committee on Foreign Affairs of

1 the House of Representatives and the Committee on
2 Foreign Relations of the Senate.

3 (3) ASSISTANT SECRETARY.—The term “Assist-
4 ant Secretary” means the Assistant Secretary of
5 State for Democracy, Human Rights, and Labor.

6 (4) COMMUNITY OF DEMOCRACIES AND COMMU-
7 NITY.—The terms “Community of Democracies”
8 and “Community” mean the association of demo-
9 cratic countries committed to the global promotion
10 of democratic principles, practices, and values, which
11 held its First Ministerial Conference in Warsaw, Po-
12 land, in June 2000.

13 (5) DEPARTMENT.—The term “Department”
14 means the Department of State.

15 (6) NONDEMOCRATIC COUNTRY OR DEMO-
16 CRATIC TRANSITION COUNTRY.—The term “non-
17 democratic country” or “democratic transition coun-
18 try” shall include any country which is not governed
19 by a fully functioning democratic form of govern-
20 ment, as determined by the Secretary, taking into
21 account the general consensus regarding the status
22 of civil and political rights in a country by major
23 nongovernmental organizations that conduct assess-
24 ments of such conditions in countries and whether
25 the country exhibits the following characteristics:

1 (A) All citizens of such country have the
2 right to, and are not restricted in practice from,
3 fully and freely participating in the political life
4 of such country.

5 (B) The national legislative body of such
6 country and, if directly elected, the head of gov-
7 ernment of such country, are chosen by free,
8 fair, open, and periodic elections, by universal
9 and equal suffrage, and by secret ballot.

10 (C) More than one political party in such
11 country has candidates who seek elected office
12 at the national level and such parties are not
13 restricted in their political activities or their
14 process for selecting such candidates, except for
15 reasonable administrative requirements com-
16 monly applied in countries categorized as fully
17 democratic.

18 (D) All citizens in such country have a
19 right to, and are not restricted in practice from,
20 fully exercising such fundamental freedoms as
21 the freedom of expression, conscience, and
22 peaceful assembly and association, and such
23 country has a free, independent, and pluralistic
24 media.

1 (E) The current government of such coun-
2 try did not come to power in a manner contrary
3 to the rule of law.

4 (F) Such country possesses an independent
5 judiciary and the government of such country
6 generally respects the rule of law.

7 (G) Such country does not violate other
8 core principles enshrined in the United Nations
9 Charter, the Universal Declaration of Human
10 Rights, the International Covenant on Civil and
11 Political Rights, United Nations Commission on
12 Human Rights Resolution 1499/57 (entitled
13 “Promotion of the Right to Democracy”), and
14 the United Nations General Assembly Resolu-
15 tion 55/96 (entitled “Promoting and consoli-
16 dating democracy”).

17 (H) As applicable, whether the country has
18 scored favorably on the political, civil liberties,
19 corruption, and rule of law indicators used to
20 determine eligibility for financial assistance dis-
21 bursed from the Millennium Challenge Account.

22 (7) SECRETARY.—The term “Secretary” means
23 the Secretary of State.

1 **Subtitle A—Activities to Enhance**
2 **the Promotion of Democracy**

3 **SEC. 2111. DEMOCRACY PROMOTION AT THE DEPARTMENT**
4 **OF STATE.**

5 (a) DEMOCRACY LIAISON OFFICERS.—

6 (1) IN GENERAL.—The Secretary of State shall
7 establish and staff Democracy Liaison Officer posi-
8 tions. Democracy Liaison Officers shall serve under
9 the supervision of the Assistant Secretary. Democ-
10 racy Liaison Officers may be assigned to the fol-
11 lowing posts:

12 (A) United States missions to, or liaisons
13 with, regional and multilateral organizations,
14 including the United States missions to the Eu-
15 ropean Union, African Union, Organization of
16 American States, and any other appropriate re-
17 gional organization, the Organization for Secu-
18 rity and Cooperation in Europe, the United Na-
19 tions and its relevant specialized agencies, and
20 the North Atlantic Treaty Organization.

21 (B) Regional public diplomacy centers of
22 the Department of State.

23 (C) United States combatant commands.

24 (D) Other posts as designated by the Sec-
25 retary.

1 (2) RESPONSIBILITIES.—Each Democracy Liai-
2 son Officer should—

3 (A) provide expertise on effective ap-
4 proaches to promote and build democracy;

5 (B) assist in formulating and imple-
6 menting strategies for transitions to democracy;
7 and

8 (C) carry out such other responsibilities as
9 the Secretary or the Assistant Secretary may
10 assign.

11 (3) NEW POSITIONS.—To the fullest extent
12 practicable, taking into consideration amounts ap-
13 propriated to carry out this subsection and personnel
14 available for assignment to the positions described in
15 paragraph (1), the Democracy Liaison Officer posi-
16 tions established under subsection (a) shall be new
17 positions that are in addition to existing positions
18 with responsibility for other human rights and de-
19 mocracy related issues and programs, including posi-
20 tions with responsibility for labor issues.

21 (4) RELATIONSHIP TO OTHER AUTHORITIES.—
22 Nothing in this subsection may be construed as al-
23 tering any authority or responsibility of a chief of
24 mission or other employee of a diplomatic mission of
25 the United States provided under any other provi-

1 sion of law, including any authority or responsibility
2 for the development or implementation of strategies
3 to promote democracy.

4 (b) OFFICE RELATED TO DEMOCRATIC MOVEMENTS
5 AND TRANSITIONS.—

6 (1) ESTABLISHMENT.—There shall be identified
7 within the Bureau of Democracy, Human Rights,
8 and Labor of the Department at least one office that
9 shall be responsible for working with democratic
10 movements and facilitating the transition to full de-
11 mocracy of nondemocratic countries and democratic
12 transition countries.

13 (2) RESPONSIBILITIES.—The Assistant Sec-
14 retary shall, including by acting through the office
15 or offices identified pursuant to paragraph (1)—

16 (A) provide support for Democratic Liai-
17 son Officers established under subsection (a);

18 (B) develop relations with, consult with,
19 and provide assistance to nongovernmental or-
20 ganizations, individuals, and movements that
21 are committed to the peaceful promotion of de-
22 mocracy and fundamental rights and freedoms,
23 including fostering relationships with the
24 United States Government and the governments
25 of other democratic countries; and

1 (C) assist officers and employees of re-
2 gional bureaus of the Department to develop
3 strategies and programs to promote peaceful
4 change in nondemocratic countries and demo-
5 cratic transition countries.

6 (3) LIAISON.—Within the Bureau of Democ-
7 racy, Human Rights, and Labor, the Assistant Sec-
8 retary shall identify officers or employees who have
9 expertise in and shall be responsible for working
10 with nongovernmental organizations, individuals,
11 and movements that develop relations with, consult
12 with, and provide assistance to nongovernmental or-
13 ganizations, individuals, and movements in foreign
14 countries that are committed to the peaceful pro-
15 motion of democracy and fundamental rights and
16 freedoms.

17 (c) ACTIONS BY CHIEFS OF MISSION.—Each chief of
18 mission in each nondemocratic country or democratic
19 transition country should—

20 (1) develop, as part of annual program plan-
21 ning, a strategy to promote democratic principles,
22 practices, and values in each such foreign country
23 and to provide support, as appropriate, to non-
24 governmental organizations, individuals, and move-
25 ments in each such country that are committed to

1 democratic principles, practices, and values, such as
2 by—

3 (A) consulting and coordinating with and
4 providing support to such nongovernmental or-
5 ganizations, individuals, and movements regard-
6 ing the promotion of democracy;

7 (B) issuing public condemnations of viola-
8 tions of internationally recognized human
9 rights, including violations of religious freedom,
10 and visiting local landmarks and other local
11 sites associated with nonviolent protest in sup-
12 port of democracy and freedom from oppres-
13 sion; and

14 (C) holding periodic meetings with such
15 nongovernmental organizations, individuals, and
16 movements to discuss democracy and political,
17 social, and economic freedoms;

18 (2) hold ongoing discussions with the leaders of
19 each such nondemocratic country or democratic
20 transition country regarding progress toward a
21 democratic system of governance and the develop-
22 ment of political, social, and economic freedoms and
23 respect for human rights, including freedom of reli-
24 gion or belief, in such country; and

1 (3) conduct meetings with civil society, inter-
2 views with media that can directly reach citizens of
3 each such country, and discussions with students
4 and young people of each such country regarding
5 progress toward a democratic system of governance
6 and the development of political, social, and eco-
7 nomic freedoms in each such country.

8 (d) RECRUITMENT.—The Secretary should seek to
9 increase the proportion of members of the Foreign Service
10 who serve in the Bureau of Democracy, Human Rights,
11 and Labor.

12 (e) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Secretary such
14 sums as may be necessary to carry out this section.

15 **SEC. 2112. DEMOCRACY FELLOWSHIP PROGRAM.**

16 (a) REQUIREMENT FOR PROGRAM.—The Secretary
17 shall establish a Democracy Fellowship Program to enable
18 officers of the Department to gain an additional perspec-
19 tive on democracy promotion in foreign countries by work-
20 ing on democracy issues in appropriate congressional of-
21 fices or congressional committees with oversight over the
22 subject matter of this title, including the Committee on
23 Foreign Affairs and the Committee on Appropriations of
24 the House of Representatives and the Committee on For-
25 eign Relations and the Committee on Appropriations of

1 the Senate, and international or nongovernmental organi-
2 zations involved in democracy promotion.

3 (b) SELECTION AND PLACEMENT.—The Assistant
4 Secretary shall play a central role in the selection of De-
5 mocracy Fellows and facilitate their placement in appro-
6 priate congressional offices, congressional committees,
7 international organizations, and nongovernmental organi-
8 zations.

9 **SEC. 2113. INVESTIGATIONS OF VIOLATIONS OF INTER-**
10 **NATIONAL HUMANITARIAN LAW.**

11 (a) IN GENERAL.—The President, with the assist-
12 ance of the Secretary, the Under Secretary of State for
13 Democracy and Global Affairs, and the Ambassador-at-
14 Large for War Crimes Issues, shall collect information re-
15 garding incidents that may constitute crimes against hu-
16 manity, genocide, slavery, or other violations of inter-
17 national humanitarian law.

18 (b) ACCOUNTABILITY.—The President shall consider
19 what actions can be taken to ensure that any government
20 of a country or the leaders or senior officials of such gov-
21 ernment who are responsible for crimes against humanity,
22 genocide, slavery, or other violations of international hu-
23 manitarian law identified under subsection (a) are brought
24 to account for such crimes in an appropriately constituted
25 tribunal.

1 **Subtitle B—Strategies and Reports**
2 **on Human Rights and the Pro-**
3 **motion of Democracy**

4 **SEC. 2121. STRATEGIES, PRIORITIES, AND ANNUAL REPORT.**

5 (a) **EXPANSION OF COUNTRY-SPECIFIC STRATEGIES**
6 **TO PROMOTE DEMOCRACY.—**

7 (1) **COMMENDATION.—**Congress commends the
8 Secretary for the ongoing work by the Department
9 to develop country-specific strategies for promoting
10 democracy.

11 (2) **EXPANSION.—**The Secretary shall expand
12 the development of such strategies to all nondemo-
13 cratic countries and democratic transition countries.

14 (3) **BRIEFINGS.—**The Secretary shall keep the
15 appropriate congressional committees fully and cur-
16 rently informed as such strategies are developed.

17 (b) **REPORT TITLE.—**Section 665(c) of the Foreign
18 Relations Authorization Act, Fiscal Year 2003 (Public
19 Law 107–228; 22 U.S.C. 2151n note) is amended, in the
20 first sentence, by inserting “entitled the Annual Report
21 on Advancing Freedom and Democracy” before the period
22 at the end.

23 (c) **ENHANCED REPORT.—**The Annual Report on Ad-
24 vancing Freedom and Democracy shall include, as appro-
25 priate—

1 (1) United States priorities for the promotion
2 of democracy and the protection of human rights for
3 each nondemocratic country and democratic transi-
4 tion country, developed in consultation with relevant
5 parties in such countries; and

6 (2) specific actions and activities of chiefs of
7 missions and other United States officials to pro-
8 mote democracy and protect human rights in each
9 such country.

10 (d) SCHEDULE OF SUBMISSION.—Section 665(c) of
11 the Foreign Relations Authorization Act, Fiscal Year
12 2003 (Public Law 107–228; 22 U.S.C. 2151n note) is
13 amended, in the second sentence, by striking “30 days”
14 and inserting “90 days”.

15 **SEC. 2122. TRANSLATION OF HUMAN RIGHTS REPORTS.**

16 (a) IN GENERAL.—The Secretary shall continue to
17 expand the timely translation of the applicable parts of
18 the Country Reports on Human Rights Practices required
19 under sections 116(d) and 502B(b) of the Foreign Assist-
20 ance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)), the
21 Annual Report on International Religious Freedom re-
22 quired under section 102(b) of the International Religious
23 Freedom Act of 1998 (22 U.S.C. 6412(b)), the Traf-
24 ficking in Persons Report required under section 110(b)
25 of the Trafficking Victims Protection Act of 2000 (22

1 U.S.C. 7107(b)), and any separate report on democracy
2 and human rights policy submitted in accordance with sec-
3 tion 665(c) of the Foreign Relations Authorization Act,
4 Fiscal Year 2003 (Public Law 107-228; 22 U.S.C. 2151n
5 note) into the principal languages of as many countries
6 as possible, with particular emphasis on nondemocratic
7 countries, democratic transition countries, and countries
8 in which extrajudicial killings, torture, or other serious
9 violations of human rights have occurred.

10 (b) REPORT.—

11 (1) REQUIREMENT.—Not later than April 1,
12 2008, and annually thereafter through 2010, the
13 Secretary shall submit to the appropriate congress-
14 sional committees a report describing any trans-
15 lations of the reports specified in subsection (a) for
16 the preceding year, including which of such reports
17 have been translated into which principal languages
18 and the countries in which such translations have
19 been distributed by posting on a relevant website or
20 elsewhere.

21 (2) FORM.—The report required under para-
22 graph (1) may be included in any separate report on
23 democracy and human rights policy submitted in ac-
24 cordance with section 665(c) of the Foreign Rela-
25 tions Authorization Act, Fiscal Year 2003.

1 **Subtitle C—Advisory Committee on**
2 **Democracy Promotion and the**
3 **Internet Website of the Depart-**
4 **ment of State**

5 **SEC. 2131. ADVISORY COMMITTEE ON DEMOCRACY PRO-**
6 **MOTION.**

7 Congress commends the Secretary for creating an
8 Advisory Committee on Democracy Promotion, and it is
9 the sense of Congress that the Committee should play a
10 significant role in the Department's transformational di-
11 plomacy by advising the Secretary regarding United
12 States efforts to promote democracy and democratic tran-
13 sition in connection with the formulation and implementa-
14 tion of United States foreign policy and foreign assistance,
15 including reviewing and making recommendations on—

16 (1) how to improve the capacity of the Depart-
17 ment to promote democracy and human rights; and

18 (2) how to improve foreign assistance programs
19 related to the promotion of democracy.

20 **SEC. 2132. SENSE OF CONGRESS REGARDING THE INTER-**
21 **NET WEBSITE OF THE DEPARTMENT OF**
22 **STATE.**

23 It is the sense of Congress that in order to facilitate
24 access by individuals, nongovernmental organizations, and
25 movements in foreign countries to documents, streaming

1 video and audio, and other media regarding democratic
2 principles, practices, and values, and the promotion and
3 strengthening of democracy, the Secretary should take ad-
4 ditional steps to enhance the Internet site for global de-
5 mocracy and human rights of the Department, which
6 should include, where practicable, the following:

7 (1) Narratives and histories, published by the
8 United States Government, of significant democratic
9 movements in foreign countries, particularly regard-
10 ing successful nonviolent campaigns to promote de-
11 mocracy in non-democratic countries and democratic
12 transition countries.

13 (2) Narratives, published by the United States
14 Government, relating to the importance of the estab-
15 lishment of and respect for internationally recog-
16 nized human rights, democratic principles, practices,
17 and values, and other fundamental freedoms.

18 (3) Major human rights reports by the United
19 States Government, including translations of such
20 materials, as appropriate.

21 (4) Any other documents, references, or links to
22 appropriate external Internet websites (such as
23 websites of international or nongovernmental organi-
24 zations), including references or links to training

1 materials, narratives, and histories regarding suc-
2 cessful democratic movements.

3 **Subtitle D—Training in Democracy**
4 **and Human Rights; Incentives**

5 **SEC. 2141. TRAINING IN DEMOCRACY PROMOTION AND THE**
6 **PROTECTION OF HUMAN RIGHTS.**

7 (a) IN GENERAL.—The Secretary shall continue to
8 enhance training for members of the Foreign Service and
9 civil service responsible for the promotion of democracy
10 and the protection of human rights. Such training shall
11 include appropriate instruction and training materials re-
12 garding:

13 (1) International documents and United States
14 policy regarding the promotion of democracy and re-
15 spect for human rights.

16 (2) United States policy regarding the pro-
17 motion and strengthening of democracy around the
18 world, with particular emphasis on the transition to
19 democracy in nondemocratic countries and demo-
20 cratic transition countries.

21 (3) For any member, chief of mission, or dep-
22 uty chief of mission who is to be assigned to a non-
23 democratic country or democratic transition country,
24 ways to promote democracy in such country and to
25 assist individuals, nongovernmental organizations,

1 and movements in such country that support demo-
2 cratic principles, practices, and values.

3 (4) The protection of internationally recognized
4 human rights (including the protection of religious
5 freedom) and standards related to such rights, provi-
6 sions of United States law related to such rights,
7 diplomatic tools to promote respect for such rights,
8 and the protection of individuals who have fled their
9 countries due to violations of such rights.

10 (b) CONSULTATION.—The Secretary, acting through
11 the Director of the National Foreign Affairs Training
12 Center of the Foreign Service Institute of the Department,
13 shall consult, as appropriate, with nongovernmental orga-
14 nizations involved in the protection and promotion of such
15 rights and the United States Commission on International
16 Religious Freedom with respect to the training required
17 by this subsection.

18 (c) REPORT.—Not later than 180 days after the date
19 of the enactment of this Act, the Secretary shall submit
20 to the appropriate congressional committees a report con-
21 taining a description of the current and planned training
22 provided to Foreign Service officers in human rights and
23 democracy promotion, including such training provided to
24 chiefs of mission serving or preparing to serve in non-
25 democratic countries or democratic transition countries.

1 **SEC. 2142. SENSE OF CONGRESS REGARDING ADVANCE DE-**
2 **MOCRACY AWARD.**

3 It is the sense of Congress that—

4 (1) the Secretary should further strengthen the
5 capacity of the Department to carry out results-
6 based democracy promotion efforts through the es-
7 tablishment of an annual award to be known as the
8 “Outstanding Achievements in Advancing Democ-
9 racy Award”, or the “ADVANCE Democracy
10 Award”, that would be awarded to officers or em-
11 ployees of the Department; and

12 (2) the Secretary should establish procedures
13 for selecting recipients of such award, including any
14 financial terms associated with such award.

15 **SEC. 2143. PERSONNEL POLICIES AT THE DEPARTMENT OF**
16 **STATE.**

17 In addition to the awards and other incentives al-
18 ready implemented, the Secretary should increase incen-
19 tives for members of the Foreign Service and other em-
20 ployees of the Department who take assignments relating
21 to the promotion of democracy and the protection of
22 human rights, including the following:

23 (1) Providing performance pay under section
24 405 of the Foreign Service Act of 1980 (22 U.S.C.
25 3965) to such members and employees who carry
26 out their assignment in an outstanding manner.

1 (2) Considering such an assignment as a basis
2 for promotion into the Senior Foreign Service.

3 (3) Providing Foreign Service Awards under
4 section 614 of the Foreign Service Act of 1980 (22
5 U.S.C. 4013) to such members and employees who
6 provide distinguished or meritorious service in the
7 promotion of democracy or the protection of human
8 rights.

9 **Subtitle E—Cooperation With**
10 **Democratic Countries**

11 **SEC. 2151. COOPERATION WITH DEMOCRATIC COUNTRIES.**

12 (a) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that the United States should cooperate with other
14 democratic countries to—

15 (1) promote and protect democratic principles,
16 practices, and values;

17 (2) promote and protect shared political, social,
18 and economic freedoms, including the freedoms of
19 association, of expression, of the press, of religion,
20 and to own private property;

21 (3) promote and protect respect for the rule of
22 law;

23 (4) develop, adopt, and pursue strategies to ad-
24 vance common interests in international organiza-

1 tions and multilateral institutions to which members
2 of cooperating democratic countries belong; and

3 (5) provide political, economic, and other nec-
4 essary support to countries that are undergoing a
5 transition to democracy.

6 (b) COMMUNITY OF DEMOCRACIES.—

7 (1) SENSE OF CONGRESS.—It is the sense of
8 Congress that—

9 (A) the Community of Democracies should
10 develop a more formal mechanism for carrying
11 out work between ministerial meetings, such as
12 through the creation of a permanent secretariat
13 with appropriate staff to carry out such work,
14 and should establish a headquarters; and

15 (B) nondemocratic countries should not
16 participate in any association or group of demo-
17 cratic countries aimed at working together to
18 promote democracy.

19 (2) DETAIL OF PERSONNEL.—The Secretary is
20 authorized to detail on a nonreimbursable basis any
21 employee of the Department to any permanent sec-
22 retariat of the Community of Democracies or to the
23 government of any country that is a member of the
24 Convening Group of the Community of Democracies.

1 (c) ESTABLISHMENT OF AN OFFICE FOR MULTILAT-
2 ERAL DEMOCRACY PROMOTION.—The Secretary should
3 establish an office of multilateral democracy promotion
4 with the mission to further develop and strengthen the in-
5 stitutional structure of the Community of Democracies,
6 develop interministerial projects, enhance the United Na-
7 tions Democracy Caucus, manage policy development of
8 the United Nations Democracy Fund, and enhance coordi-
9 nation with other regional and multilateral bodies with ju-
10 risdiction over democracy issues.

11 (d) INTERNATIONAL CENTER FOR DEMOCRATIC
12 TRANSITION.—

13 (1) SENSE OF CONGRESS.—It is the sense of
14 Congress that the International Center for Demo-
15 cratic Transition, an initiative of the Government of
16 Hungary, serves to promote practical projects and
17 the sharing of best practices in the area of democ-
18 racy promotion and should be supported by, in par-
19 ticular, the United States, other European countries
20 with experiences in democratic transitions, and pri-
21 vate individuals.

22 (2) AUTHORIZATION OF APPROPRIATIONS.—
23 There is authorized to be appropriated \$1,000,000
24 for each of fiscal years 2008, 2009, and 2010 to the
25 Secretary for a grant to the International Center for

1 Democratic Transition. Amounts appropriated under
2 this paragraph are authorized to remain available
3 until expended.

4 **Subtitle F—Funding for Promotion**
5 **of Democracy**

6 **SEC. 2161. THE UNITED NATIONS DEMOCRACY FUND.**

7 (a) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that the United States should work with other coun-
9 tries to enhance the goals and work of the United Nations
10 Democracy Fund, an essential tool to promote democracy,
11 and in particular support civil society in foreign countries
12 in their efforts to help consolidate democracy and bring
13 about transformational change.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated \$14,000,000 for each of fis-
16 cal years 2008 and 2009 to the Secretary for a United
17 States contribution to the United Nations Democracy
18 Fund.

19 **SEC. 2162. UNITED STATES DEMOCRACY ASSISTANCE PRO-**
20 **GRAMS.**

21 (a) SENSE OF CONGRESS REGARDING USE OF IN-
22 STRUMENTS OF DEMOCRACY PROMOTION.—It is the sense
23 of Congress that—

24 (1) United States support for democracy is
25 strengthened by using a variety of different instru-

1 mentalities, such as the National Endowment for
2 Democracy, the United States Agency for Inter-
3 national Development, and the Department; and

4 (2) the purpose of the Department's Human
5 Rights and Democracy Fund should be to support
6 innovative programming, media, and materials de-
7 signed to uphold democratic principles, practices,
8 and values, support and strengthen democratic insti-
9 tutions, promote human rights and the rule of law,
10 and build civil societies in countries around the
11 world.

12 (b) SENSE OF CONGRESS REGARDING MECHANISMS
13 FOR DELIVERING ASSISTANCE.—

14 (1) FINDINGS.—Congress finds the following:

15 (A) Democracy assistance has many dif-
16 ferent forms, including assistance to promote
17 the rule of law, build the capacity of civil soci-
18 ety, political parties, and legislatures, improve
19 the independence of the media and the judici-
20 ary, enhance independent auditing functions,
21 and advance security sector reform.

22 (B) There is a need for greater clarity on
23 the coordination and delivery mechanisms for
24 United States democracy assistance.

1 (2) SENSE OF CONGRESS.—It is the sense of
2 Congress that the Secretary and the Administrator
3 of the United States Agency for International Devel-
4 opment should develop guidelines, in consultation
5 with the appropriate congressional committees,
6 building on the existing framework for grants, coop-
7 erative agreements, contracts, and other acquisition
8 mechanisms to guide United States missions in for-
9 eign countries in coordinating United States democ-
10 racy assistance and selecting the appropriate com-
11 bination of such mechanisms for such assistance.

12 **TITLE XXII—INTEROPERABLE**
13 **EMERGENCY COMMUNICATIONS**

14 **SEC. 2201. INTEROPERABLE EMERGENCY COMMUNICA-**
15 **TIONS.**

16 (a) IN GENERAL.—Section 3006 of Public Law 109–
17 171 (47 U.S.C. 309 note) is amended—

18 (1) by striking paragraphs (1) and (2) of sub-
19 section (a) and inserting the following:

20 “(1) may take such administrative action as is
21 necessary to establish and implement—

22 “(A) a grant program to assist public safe-
23 ty agencies in the planning and coordination as-
24 sociated with, the acquisition of, deployment of,
25 or training for the use of interoperable commu-

1 communications equipment, software and systems
2 that—

3 “(i) utilize reallocated public safety
4 spectrum for radio communication;

5 “(ii) enable interoperability with com-
6 munications systems that can utilize reallo-
7 cated public safety spectrum for radio com-
8 munication; or

9 “(iii) otherwise improve or advance
10 the interoperability of public safety com-
11 munications systems that utilize other pub-
12 lic safety spectrum bands; and

13 “(B) are used to establish and implement
14 a strategic technology reserve to pre-position or
15 secure interoperable communications in advance
16 for immediate deployment in an emergency or
17 major disaster;

18 “(2) shall make payments of not to exceed
19 \$1,000,000,000, in the aggregate, through fiscal
20 year 2010 from the Digital Television Transition
21 and Public Safety Fund established under section
22 309(j)(8)(E) of the Communications Act of 1934
23 (47 U.S.C. 309(j)(8)(E)) to carry out the grant pro-
24 gram established under paragraph (1), of which at

1 least \$75,000,000, in the aggregate, shall be used
2 for purposes described in paragraph (1)(B); and

3 “(3) shall permit any funds allocated for use
4 under paragraph (1)(B) to be used for purposes
5 identified under paragraph (1)(A), if the public safe-
6 ty agency demonstrates that it has already imple-
7 mented such a strategic technology reserve or dem-
8 onstrates higher priority public safety communica-
9 tions needs.”;

10 (2) by redesignating subsections (b), (c), and
11 (d) as subsections (h), (i), and (j), respectively, and
12 inserting after subsection (a) the following:

13 “(b) ELIGIBILITY.—To be eligible for assistance
14 under the grant program established under subsection
15 (a)(1)(A), an applicant shall submit an application, at
16 such time, in such form, and containing such information
17 as the Assistant Secretary may require, including a de-
18 tailed explanation of how assistance received under the
19 program would be used to improve communications inter-
20 operability and ensure interoperability with other public
21 safety agencies in an emergency or a major disaster.

22 “(c) CRITERIA FOR STRATEGIC TECHNOLOGY RE-
23 SERVES.—

24 “(1) IN GENERAL.—In evaluating permitted
25 uses under subsection (a)(1)(B), the Assistant Sec-

1 retary shall consider the continuing technological
2 evolution of communications technologies and de-
3 vices, with its implicit risk of obsolescence, and shall
4 ensure, to the maximum extent feasible, that a sub-
5 stantial part of the reserve involves prenegotiated
6 contracts and other arrangements for rapid deploy-
7 ment of equipment, supplies, and systems (and com-
8 munications service related to such equipment, sup-
9 plies, and systems), rather than the warehousing or
10 storage of equipment and supplies currently avail-
11 able at the time the reserve is established.

12 “(2) REQUIREMENTS AND CHARACTERISTICS.—
13 Funds provided to meet uses described in paragraph
14 (1) shall be used in support of reserves that—

15 “(A) are capable of re-establishing commu-
16 nications when existing critical infrastructure is
17 damaged or destroyed in an emergency or a
18 major disaster;

19 “(B) include appropriate current, widely-
20 used equipment, such as Land Mobile Radio
21 Systems, cellular telephones and satellite-en-
22 abled equipment (and related communications
23 service), Cells-On-Wheels, Cells-On-Light-
24 Trucks, or other self-contained mobile cell sites

1 that can be towed, backup batteries, generators,
2 fuel, and computers;

3 “(C) include equipment on hand for the
4 Governor of each State, key emergency response
5 officials, and appropriate State or local per-
6 sonnel;

7 “(D) include contracts (including
8 prenegotiated contracts) for rapid delivery of
9 the most current technology available from
10 commercial sources; and

11 “(E) include arrangements for training to
12 ensure that personnel are familiar with the op-
13 eration of the equipment and devices to be de-
14 livered pursuant to such contracts.

15 “(3) ADDITIONAL CHARACTERISTICS.—Portions
16 of the reserve may be virtual and may include items
17 donated on an in-kind contribution basis.

18 “(4) ALLOCATION OF FUNDS.—In evaluating
19 permitted uses under section (a)(1)(B), the Assist-
20 ant Secretary shall take into account barriers to im-
21 mediate deployment, including time and distance,
22 that may slow the rapid deployment of equipment,
23 supplies, and systems (and communications service
24 related to such equipment, supplies, and systems) in
25 the event of an emergency in any State.

1 “(d) VOLUNTARY CONSENSUS STANDARDS.—In car-
2 rying out this section, the Assistant Secretary, in coopera-
3 tion with the Secretary of Homeland Security, shall iden-
4 tify and, if necessary, encourage the development and im-
5 plementation of, voluntary consensus standards for inter-
6 operable communications systems to the greatest extent
7 practicable, but shall not require any such standard.

8 “(e) INSPECTOR GENERAL REPORT AND AUDITS.—

9 “(1) REPORT.—Beginning with the first fiscal
10 year beginning after the date of enactment of the
11 Implementing Recommendations of the 9/11 Com-
12 mission Act of 2007, the Inspector General of the
13 Department of Commerce shall conduct an annual
14 assessment of the management of the grant program
15 implemented under subsection (a)(1) and transmit a
16 report containing the findings of that assessment
17 and any recommendations related thereto to the
18 Senate Committee on Commerce, Science, and
19 Transportation and the House of Representatives
20 Committee on Energy and Commerce.

21 “(2) AUDITS.—Beginning with the first fiscal
22 year beginning after the date of enactment of the
23 Implementing Recommendations of the 9/11 Com-
24 mission Act of 2007, the Inspector General of the
25 Department of Commerce shall conduct financial au-

1 dits of entities receiving grants from the program
2 implemented under subsection (a)(1), and shall en-
3 sure that, over the course of 4 years, such audits
4 cover recipients in a representative sample of not
5 fewer than 25 States or territories. The results of
6 any such audits shall be made publicly available via
7 web site, subject to redaction as the Inspector Gen-
8 eral determines necessary to protect classified and
9 other sensitive information.

10 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion shall be construed or interpreted to preclude the use
12 of funds under this section by any public safety agency
13 for interim or long-term Internet Protocol-based interoper-
14 able solutions.”; and

15 (3) by striking paragraph (3) of subsection (j),
16 as so redesignated.

17 (b) FCC VULNERABILITY ASSESSMENT AND REPORT
18 ON EMERGENCY COMMUNICATIONS BACK-UP SYSTEM.—

19 (1) IN GENERAL.—Not later than 180 days
20 after the date of enactment of this Act, the Federal
21 Communications Commission shall conduct a vulner-
22 ability assessment of the Nation’s critical commu-
23 nications and information systems infrastructure
24 and shall evaluate the technical feasibility of cre-
25 ating a back-up emergency communications system

1 that complements existing communications resources
2 and takes into account next generation and ad-
3 vanced communications technologies. The overriding
4 objective for the evaluation shall be providing a
5 framework for the development of a resilient inter-
6 operable communications system for emergency re-
7 sponders in an emergency. The Commission shall
8 consult with the National Communications System
9 and shall evaluate all reasonable options, including
10 satellites, wireless, and terrestrial-based communica-
11 tions systems and other alternative transport mecha-
12 nisms that can be used in tandem with existing tech-
13 nologies.

14 (2) FACTORS TO BE EVALUATED.—The evalua-
15 tion under paragraph (1) shall include—

16 (A) a survey of all Federal agencies that
17 use terrestrial or satellite technology for com-
18 munications security and an evaluation of the
19 feasibility of using existing systems for the pur-
20 pose of creating such an emergency back-up
21 public safety communications system;

22 (B) the feasibility of using private satellite,
23 wireless, or terrestrial networks for emergency
24 communications;

1 (C) the technical options, cost, and deploy-
2 ment methods of software, equipment, handsets
3 or desktop communications devices for public
4 safety entities in major urban areas, and na-
5 tionwide; and

6 (D) the feasibility and cost of necessary
7 changes to the network operations center of ter-
8 restrial-based or satellite systems to enable the
9 centers to serve as emergency back-up commu-
10 nications systems.

11 (3) REPORT.—

12 (A) IN GENERAL.—Upon the completion of
13 the evaluation under subsection (a), the Com-
14 mission shall submit a report to Congress that
15 details the findings of the evaluation, including
16 a full inventory of existing public and private
17 resources most efficiently capable of providing
18 emergency communications.

19 (B) CLASSIFIED INDEX.—The report on
20 critical infrastructure under this subsection
21 may contain a classified annex.

22 (C) RETENTION OF CLASSIFICATION.—The
23 classification of information required to be pro-
24 vided to Congress or any other department or
25 agency under this section by the Federal Com-

1 communications Commission, including the assign-
2 ment of a level of classification of such informa-
3 tion, shall be binding on Congress and any
4 other department or agency.

5 (c) JOINT ADVISORY COMMITTEE ON COMMUNICA-
6 TIONS CAPABILITIES OF EMERGENCY MEDICAL AND PUB-
7 LIC HEALTH CARE FACILITIES.—

8 (1) ESTABLISHMENT.—The Assistant Secretary
9 of Commerce for Communications and Information
10 and the Chairman of Federal Communications Com-
11 mission, in consultation with the Secretary of Home-
12 land Security and the Secretary of Health and
13 Human Services, shall establish a joint advisory
14 committee to examine the communications capabili-
15 ties and needs of emergency medical and public
16 health care facilities. The joint advisory committee
17 shall be composed of individuals with expertise in
18 communications technologies and emergency medical
19 and public health care, including representatives of
20 Federal, State and local governments, industry and
21 non-profit health organizations, and academia and
22 educational institutions.

23 (2) DUTIES.—The joint advisory committee
24 shall—

1 (A) assess specific communications capa-
2 bilities and needs of emergency medical and
3 public health care facilities, including the in-
4 cluding improvement of basic voice, data, and
5 broadband capabilities;

6 (B) assess options to accommodate growth
7 of basic and emerging communications services
8 used by emergency medical and public health
9 care facilities;

10 (C) assess options to improve integration
11 of communications systems used by emergency
12 medical and public health care facilities with ex-
13 isting or future emergency communications net-
14 works; and

15 (D) report its findings to the Senate Com-
16 mittee on Commerce, Science, and Transpor-
17 tation and the House of Representatives Com-
18 mittee on Energy and Commerce, within 6
19 months after the date of enactment of this Act.

20 (d) AUTHORIZATION OF EMERGENCY MEDICAL AND
21 PUBLIC HEALTH COMMUNICATIONS PILOT PROJECTS.—

22 (1) IN GENERAL.—The Assistant Secretary of
23 Commerce for Communications and Information
24 may establish not more than 10 geographically dis-
25 persed project grants to emergency medical and pub-

1 lic health care facilities to improve the capabilities of
2 emergency communications systems in emergency
3 medical care facilities.

4 (2) MAXIMUM AMOUNT.—The Assistant Sec-
5 retary may not provide more than \$2,000,000 in
6 Federal assistance under the pilot program to any
7 applicant.

8 (3) COST SHARING.—The Assistant Secretary
9 may not provide more than 20 percent of the cost,
10 incurred during the period of the grant, of any
11 project under the pilot program.

12 (4) MAXIMUM PERIOD OF GRANTS.—The As-
13 sistant Secretary may not fund any applicant under
14 the pilot program for more than 3 years.

15 (5) DEPLOYMENT AND DISTRIBUTION.—The
16 Assistant Secretary shall seek to the maximum ex-
17 tent practicable to ensure a broad geographic dis-
18 tribution of project sites.

19 (6) TRANSFER OF INFORMATION AND KNOWL-
20 EDGE.—The Assistant Secretary shall establish
21 mechanisms to ensure that the information and
22 knowledge gained by participants in the pilot pro-
23 gram are transferred among the pilot program par-
24 ticipants and to other interested parties, including
25 other applicants that submitted applications.

1 **SEC. 2202. CLARIFICATION OF CONGRESSIONAL INTENT.**

2 The Federal departments and agencies (including
3 independent agencies) identified under the provisions of
4 this title and title III of this Act and title VI of Public
5 Law 109–295 shall carry out their respective duties and
6 responsibilities in a manner that does not impede the im-
7 plementation of requirements specified under this title and
8 title III of this Act and title VI of Public Law 109–295.
9 Notwithstanding the obligations under section 1806 of
10 Public Law 109–295, the provisions of this title and title
11 III of this Act and title VI of Public Law 109–295 shall
12 not preclude or obstruct any such department or agency
13 from exercising its other authorities related to emergency
14 communications matters.

15 **SEC. 2203. CROSS BORDER INTEROPERABILITY REPORTS.**

16 (a) IN GENERAL.—Not later than 90 days after the
17 date of enactment of this Act, the Federal Communica-
18 tions Commission, in consultation with the Department of
19 Homeland Security’s Office of Emergency Communica-
20 tions, the Office of Management of Budget, and the De-
21 partment of State shall report to the Senate Committee
22 on Commerce, Science, and Transportation and the House
23 of Representatives Committee on Energy and Commerce
24 on—

25 (1) the status of the mechanism established by
26 the President under section 7303(e) of the Intel-

1 ligence Reform and Terrorism Prevention Act of
2 2004 (6 U.S.C. 194(c)) for coordinating cross bor-
3 der interoperability issues between—

4 (A) the United States and Canada; and

5 (B) the United States and Mexico;

6 (2) the status of treaty negotiations with Can-
7 ada and Mexico regarding the coordination of the re-
8 banding of 800 megahertz radios, as required under
9 the final rule of the Federal Communication Com-
10 mission in the “Private Land Mobile Services; 800
11 MHz Public Safety Interface Proceeding” (WT
12 Docket No. 02–55; ET Docket No. 00–258; ET
13 Docket No. 95–18, RM–9498; RM–10024; FCC 04–
14 168,) including the status of any outstanding issues
15 in the negotiations between—

16 (A) the United States and Canada; and

17 (B) the United States and Mexico;

18 (3) communications between the Commission
19 and the Department of State over possible amend-
20 ments to the bilateral legal agreements and protocols
21 that govern the coordination process for license ap-
22 plications seeking to use channels and frequencies
23 above Line A;

24 (4) the annual rejection rate for the last 5
25 years by the United States of applications for new

1 channels and frequencies by Canadian private and
2 public entities; and

3 (5) any additional procedures and mechanisms
4 that can be taken by the Commission to decrease the
5 rejection rate for applications by United States pri-
6 vate and public entities seeking licenses to use chan-
7 nels and frequencies above Line A.

8 (b) UPDATED REPORTS TO BE FILED ON THE STA-
9 TUS OF TREATY OF NEGOTIATIONS.—The Federal Com-
10 munications Commission, in conjunction with the Depart-
11 ment of Homeland Security, the Office of Management of
12 Budget, and the Department of State shall continually
13 provide updated reports to the Committee on Commerce,
14 Science, and Transportation of the Senate and the Com-
15 mittee on Energy and Commerce of the House of Rep-
16 resentatives on the status of treaty negotiations under
17 subsection (a)(2) until the appropriate United States trea-
18 ty has been revised with each of—

19 (1) Canada; and

20 (2) Mexico.

21 (c) INTERNATIONAL NEGOTIATIONS TO REMEDY
22 SITUATION.—Not later than 90 days after the date of en-
23 actment of this Act, the Secretary of the Department of
24 State shall report to Congress on—

1 (1) the current process for considering applica-
2 tions by Canada for frequencies and channels by
3 United States communities above Line A;

4 (2) the status of current negotiations to reform
5 and revise such process;

6 (3) the estimated date of conclusion for such
7 negotiations;

8 (4) whether the current process allows for auto-
9 matic denials or dismissals of initial applications by
10 the Government of Canada, and whether such deni-
11 als or dismissals are currently occurring; and

12 (5) communications between the Department of
13 State and the Federal Communications Commission
14 pursuant to subsection (a)(3).

15 **SEC. 2204. EXTENSION OF SHORT QUORUM.**

16 Notwithstanding section 4(d) of the Consumer Prod-
17 uct Safety Act (15 U.S.C. 2053(d)), 2 members of the
18 Consumer Product Safety Commission, if they are not af-
19 filiated with the same political party, shall constitute a
20 quorum for the 6-month period beginning on the date of
21 enactment of this Act.

22 **SEC. 2205. REQUIRING REPORTS TO BE SUBMITTED TO**
23 **CERTAIN COMMITTEES.**

24 In addition to the committees specifically enumerated
25 to receive reports under this title, any report transmitted

1 under the provisions of this title shall also be transmitted
2 to the appropriate congressional committees (as defined
3 in section 2(2) of the Homeland Security Act of 2002 (6
4 U.S.C. 101(2))).

5 **TITLE XXIII—EMERGENCY COM-**
6 **MUNICATIONS MODERNIZA-**
7 **TION**

8 **SEC. 2301. SHORT TITLE.**

9 This title may be cited as the “Improving Emergency
10 Communications Act of 2007”.

11 **SEC. 2302. FUNDING FOR PROGRAM.**

12 Section 3011 of the Digital Television Transition and
13 Public Safety Act of 2005 (Public Law 109–171; 47
14 U.S.C. 309 note) is amended—

15 (1) by striking “The” and inserting:

16 “(a) IN GENERAL.—The”; and

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

18 “(b) CREDIT.—The Assistant Secretary may borrow
19 from the Treasury, upon enactment of the 911 Moderniza-
20 tion Act, such sums as necessary, but not to exceed
21 \$43,500,000, to implement this section. The Assistant
22 Secretary shall reimburse the Treasury, without interest,
23 as funds are deposited into the Digital Television Transi-
24 tion and Public Safety Fund.”.

1 **SEC. 2303. NTIA COORDINATION OF E-911 IMPLEMENTA-**
2 **TION.**

3 Section 158(b)(4) of the National Telecommuni-
4 cations and Information Administration Organization Act
5 (47 U.S.C. 942(b)(4)) is amended by adding at the end
6 thereof the following: “Within 180 days after the date of
7 enactment of the 911 Modernization Act, the Assistant
8 Secretary and the Administrator shall jointly issue regula-
9 tions updating the criteria to allow a portion of the funds
10 to be used to give priority to grants that are requested
11 by public safety answering points that were not capable
12 of receiving 911 calls as of the date of enactment of that
13 Act, for the incremental cost of upgrading from Phase I
14 to Phase II compliance. Such grants shall be subject to
15 all other requirements of this section.”.

16 **TITLE XXIV—MISCELLANEOUS**
17 **PROVISIONS**

18 **SEC. 2401. QUADRENNIAL HOMELAND SECURITY REVIEW.**

19 (a) **REVIEW REQUIRED.**—Title VII of the Homeland
20 Security Act of 2002 is amended by adding at the end
21 the following:

22 **“SEC. 707. QUADRENNIAL HOMELAND SECURITY REVIEW.**

23 **“(a) REQUIREMENT.—**

24 **“(1) QUADRENNIAL REVIEWS REQUIRED.—**In
25 fiscal year 2009, and every 4 years thereafter, the
26 Secretary shall conduct a review of the homeland se-

1 security of the Nation (in this section referred to as
2 a 'quadrennial homeland security review').

3 “(2) SCOPE OF REVIEWS.—Each quadrennial
4 homeland security review shall be a comprehensive
5 examination of the homeland security strategy of the
6 Nation, including recommendations regarding the
7 long-term strategy and priorities of the Nation for
8 homeland security and guidance on the programs,
9 assets, capabilities, budget, policies, and authorities
10 of the Department.

11 “(3) CONSULTATION.—The Secretary shall con-
12 duct each quadrennial homeland security review
13 under this subsection in consultation with—

14 “(A) the heads of other Federal agencies,
15 including the Attorney General, the Secretary
16 of State, the Secretary of Defense, the Sec-
17 retary of Health and Human Services, the Sec-
18 retary of the Treasury, the Secretary of Agri-
19 culture, and the Director of National Intel-
20 ligence;

21 “(B) key officials of the Department; and

22 “(C) other relevant governmental and non-
23 governmental entities, including State, local,
24 and tribal government officials, members of

1 Congress, private sector representatives, aca-
2 demics, and other policy experts.

3 “(4) RELATIONSHIP WITH FUTURE YEARS
4 HOMELAND SECURITY PROGRAM.—The Secretary
5 shall ensure that each review conducted under this
6 section is coordinated with the Future Years Home-
7 land Security Program required under section 874.

8 “(b) CONTENTS OF REVIEW.—In each quadrennial
9 homeland security review, the Secretary shall—

10 “(1) delineate and update, as appropriate, the
11 national homeland security strategy, consistent with
12 appropriate national and Department strategies,
13 strategic plans, and Homeland Security Presidential
14 Directives, including the National Strategy for
15 Homeland Security, the National Response Plan,
16 and the Department Security Strategic Plan;

17 “(2) outline and prioritize the full range of the
18 critical homeland security mission areas of the Na-
19 tion;

20 “(3) describe the interagency cooperation, pre-
21 paredness of Federal response assets, infrastructure,
22 budget plan, and other elements of the homeland se-
23 curity program and policies of the Nation associated
24 with the national homeland security strategy, re-
25 quired to execute successfully the full range of mis-

1 sions called for in the national homeland security
2 strategy described in paragraph (1) and the home-
3 land security mission areas outlined under para-
4 graph (2);

5 “(4) identify the budget plan required to pro-
6 vide sufficient resources to successfully execute the
7 full range of missions called for in the national
8 homeland security strategy described in paragraph
9 (1) and the homeland security mission areas out-
10 lined under paragraph (2);

11 “(5) include an assessment of the organiza-
12 tional alignment of the Department with the na-
13 tional homeland security strategy referred to in
14 paragraph (1) and the homeland security mission
15 areas outlined under paragraph (2); and

16 “(6) review and assess the effectiveness of the
17 mechanisms of the Department for executing the
18 process of turning the requirements developed in the
19 quadrennial homeland security review into an acqui-
20 sition strategy and expenditure plan within the De-
21 partment.

22 “(c) REPORTING.—

23 “(1) IN GENERAL.—Not later than December
24 31 of the year in which a quadrennial homeland se-
25 curity review is conducted, the Secretary shall sub-

1 mit to Congress a report regarding that quadrennial
2 homeland security review.

3 “(2) CONTENTS OF REPORT.—Each report sub-
4 mitted under paragraph (1) shall include—

5 “(A) the results of the quadrennial home-
6 land security review;

7 “(B) a description of the threats to the as-
8 sumed or defined national homeland security in-
9 terests of the Nation that were examined for
10 the purposes of that review;

11 “(C) the national homeland security strat-
12 egy, including a prioritized list of the critical
13 homeland security missions of the Nation;

14 “(D) a description of the interagency co-
15 operation, preparedness of Federal response as-
16 sets, infrastructure, budget plan, and other ele-
17 ments of the homeland security program and
18 policies of the Nation associated with the na-
19 tional homeland security strategy, required to
20 execute successfully the full range of missions
21 called for in the applicable national homeland
22 security strategy referred to in subsection
23 (b)(1) and the homeland security mission areas
24 outlined under subsection (b)(2);

1 “(E) an assessment of the organizational
2 alignment of the Department with the applica-
3 ble national homeland security strategy referred
4 to in subsection (b)(1) and the homeland secu-
5 rity mission areas outlined under subsection
6 (b)(2), including the Department’s organiza-
7 tional structure, management systems, budget
8 and accounting systems, human resources sys-
9 tems, procurement systems, and physical and
10 technical infrastructure;

11 “(F) a discussion of the status of coopera-
12 tion among Federal agencies in the effort to
13 promote national homeland security;

14 “(G) a discussion of the status of coopera-
15 tion between the Federal Government and
16 State, local, and tribal governments in pre-
17 venting terrorist attacks and preparing for
18 emergency response to threats to national
19 homeland security;

20 “(H) an explanation of any underlying as-
21 sumptions used in conducting the review; and

22 “(I) any other matter the Secretary con-
23 siders appropriate.

24 “(3) PUBLIC AVAILABILITY.—The Secretary
25 shall, consistent with the protection of national secu-

1 rity and other sensitive matters, make each report
2 submitted under paragraph (1) publicly available on
3 the Internet website of the Department.

4 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated such sums as may be
6 necessary to carry out this section.”.

7 (b) PREPARATION FOR QUADRENNIAL HOMELAND
8 SECURITY REVIEW.—

9 (1) IN GENERAL.—During fiscal years 2007
10 and 2008, the Secretary of Homeland Security shall
11 make preparations to conduct the first quadrennial
12 homeland security review under section 707 of the
13 Homeland Security Act of 2002, as added by sub-
14 section (a), in fiscal year 2009, including—

15 (A) determining the tasks to be performed;

16 (B) estimating the human, financial, and
17 other resources required to perform each task;

18 (C) establishing the schedule for the execu-
19 tion of all project tasks;

20 (D) ensuring that these resources will be
21 available as needed; and

22 (E) all other preparations considered nec-
23 essary by the Secretary.

24 (2) REPORT.—Not later than 60 days after the
25 date of enactment of this Act, the Secretary shall

1 submit to Congress and make publicly available on
2 the Internet website of the Department of Homeland
3 Security a detailed resource plan specifying the esti-
4 mated budget and number of staff members that will
5 be required for preparation of the first quadrennial
6 homeland security review.

7 (c) CLERICAL AMENDMENT.—The table of sections
8 in section 1(b) of such Act is amended by inserting after
9 the item relating to section 706 the following new item:
“Sec. 707. Quadrennial Homeland Security Review.”.

10 **SEC. 2402. SENSE OF THE CONGRESS REGARDING THE PRE-**
11 **VENTION OF RADICALIZATION LEADING TO**
12 **IDEOLOGICALLY-BASED VIOLENCE.**

13 (a) FINDINGS.—Congress finds the following:

14 (1) The United States is engaged in a struggle
15 against a transnational terrorist movement of radical
16 extremists that plans, prepares for, and engages in
17 acts of ideologically-based violence worldwide.

18 (2) The threat of radicalization that leads to
19 ideologically-based violence transcends borders and
20 has been identified as a potential threat within the
21 United States.

22 (3) Radicalization has been identified as a pre-
23 cursor to terrorism caused by ideologically-based
24 groups.

1 (4) Countering the threat of violent extremists
2 domestically, as well as internationally, is a critical
3 element of the plan of the United States for success
4 in the fight against terrorism.

5 (5) United States law enforcement agencies
6 have identified radicalization that leads to ideologi-
7 cally-based violence as an emerging threat and have
8 in recent years identified cases of extremists oper-
9 ating inside the United States, known as "home-
10 grown" extremists, with the intent to provide sup-
11 port for, or directly commit, terrorist attacks.

12 (6) Alienation of Muslim populations in the
13 Western world has been identified as a factor in the
14 spread of radicalization that could lead to ideologi-
15 cally-based violence.

16 (7) Many other factors have been identified as
17 contributing to the spread of radicalization and re-
18 sulting acts of ideologically-based violence. Among
19 these is the appeal of left-wing and right-wing hate
20 groups, and other hate groups, including groups op-
21 erating in prisons. Other such factors must be exam-
22 ined and countered as well in order to protect the
23 homeland from violent extremists of every kind.

1 (8) Radicalization leading to ideologically-based
2 violence cannot be prevented solely through law en-
3 forcement and intelligence measures.

4 (b) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that the Secretary of Homeland Security, in con-
6 sultation with other relevant Federal agencies, should
7 make a priority of countering domestic radicalization that
8 leads to ideologically-based violence by—

9 (1) using intelligence analysts and other experts
10 to better understand the process of radicalization
11 from sympathizer to activist to terrorist;

12 (2) recruiting employees with diverse
13 worldviews, skills, languages, and cultural back-
14 grounds, and expertise;

15 (3) consulting with experts to ensure that the
16 lexicon used within public statements is precise and
17 appropriate and does not aid extremists by offending
18 religious, ethnic, and minority communities;

19 (4) addressing prisoner radicalization and post-
20 sentence reintegration, in concert with the Attorney
21 General and State and local corrections officials;

22 (5) pursuing broader avenues of dialogue with
23 minority communities, including the American Mus-
24 lim community, to foster mutual respect, under-
25 standing, and trust; and

1 (6) working directly with State, local, and com-
2 munity leaders to—

3 (A) educate such leaders about the threat
4 of radicalization that leads to ideologically-
5 based violence and the necessity of taking pre-
6 ventative action at the local level; and

7 (B) facilitate the sharing of best practices
8 from other countries and communities to en-
9 courage outreach to minority communities, in-
10 cluding the American Muslim community, and
11 develop partnerships among and between all re-
12 ligious faiths and ethnic groups.

13 **SEC. 2403. REQUIRING REPORTS TO BE SUBMITTED TO**
14 **CERTAIN COMMITTEES.**

15 The Committee on Commerce, Science, and Trans-
16 portation of the Senate shall receive the reports required
17 by the following provisions of law in the same manner and
18 to the same extent that the reports are to be received by
19 the Committee on Homeland Security and Governmental
20 Affairs of the Senate:

21 (1) Section 1016(j)(1) of the Intelligence Re-
22 form and Terrorist Prevention Act of 2004 (6
23 U.S.C. 485(j)(1)).

24 (2) Section 511(d) of this Act.

1 (3) Subsection (a)(3)(D) of section 2022 of the
2 Homeland Security Act of 2002, as added by section
3 101 of this Act.

4 (4) Section 7215(d) of the Intelligence Reform
5 and Terrorism Prevention Act of 2004 (6 U.S.C.
6 123(d)).

7 (5) Section 7209(b)(1)(C) of the Intelligence
8 Reform and Terrorism Prevention Act of 2004 (8
9 U.S.C. 1185 note).

10 (6) Section 804(c) of this Act.

11 (7) Section 901(b) of this Act.

12 (8) Section 1002(a) of this Act.

13 (9) Title III of this Act.

14 **SEC. 2404. DEMONSTRATION PROJECT.**

15 (a) **DEMONSTRATION PROJECT REQUIRED.**—Not
16 later than 120 days after the date of enactment of this
17 Act, the Secretary of Homeland Security shall—

18 (1) establish a demonstration project to conduct
19 demonstrations of security management systems
20 that—

21 (A) shall use a management system stand-
22 ards approach; and

23 (B) may be integrated into quality, safety,
24 environmental and other internationally adopted
25 management systems; and

1 (2) enter into one or more agreements with a
2 private sector entity to conduct such demonstrations
3 of security management systems.

4 (b) SECURITY MANAGEMENT SYSTEM DEFINED.—In
5 this section, the term ‘security management system’
6 means a set of guidelines that address the security assess-
7 ment needs of critical infrastructure and key resources
8 that are consistent with a set of generally accepted man-
9 agement standards ratified and adopted by a standards
10 making body.

11 **SEC. 2405. UNDER SECRETARY FOR MANAGEMENT OF DE-**
12 **PARTMENT OF HOMELAND SECURITY.**

13 (a) RESPONSIBILITIES.—Section 701(a) of the
14 Homeland Security Act of 2002 (6 U.S.C. 341) is amend-
15 ed—

16 (1) by inserting “The Under Secretary for
17 Management shall serve as the Chief Management
18 Officer and principal advisor to the Secretary on
19 matters related to the management of the Depart-
20 ment, including management integration and trans-
21 formation in support of homeland security oper-
22 ations and programs.” before “The Secretary”;

23 (2) by striking paragraph (7) and inserting the
24 following:

1 “(7) Strategic management planning and an-
2 nual performance planning and identification and
3 tracking of performance measures relating to the re-
4 sponsibilities of the Department.”; and

5 (3) by striking paragraph (9), and inserting the
6 following:

7 “(9) The management integration and trans-
8 formation process, as well as the transition process,
9 to ensure an efficient and orderly consolidation of
10 functions and personnel in the Department and
11 transition, including—

12 “(A) the development of a management in-
13 tegration strategy for the Department, and

14 “(B) before December 1 of any year in
15 which a Presidential election is held, the devel-
16 opment of a transition and succession plan, to
17 be made available to the incoming Secretary
18 and Under Secretary for Management, to guide
19 the transition of management functions to a
20 new Administration.”.

21 (b) APPOINTMENT AND EVALUATION.—Section 701
22 of the Homeland Security Act of 2002 (6 U.S.C. 341),
23 as amended by subsection (a), is further amended by add-
24 ing at the end the following:

1 “(c) APPOINTMENT AND EVALUATION.—The Under
2 Secretary for Management shall—

3 “(1) be appointed by the President, by and with
4 the advice and consent of the Senate, from among
5 persons who have—

6 “(A) extensive executive level leadership
7 and management experience in the public or
8 private sector;

9 “(B) strong leadership skills;

10 “(C) a demonstrated ability to manage
11 large and complex organizations; and

12 “(D) a proven record in achieving positive
13 operational results;

14 “(2) enter into an annual performance agree-
15 ment with the Secretary that shall set forth measur-
16 able individual and organizational goals; and

17 “(3) be subject to an annual performance eval-
18 uation by the Secretary, who shall determine as part
19 of each such evaluation whether the Under Secretary
20 for Management has made satisfactory progress to-
21 ward achieving the goals set out in the performance
22 agreement required under paragraph (2).”.

23 (c) DEADLINE FOR APPOINTMENT; INCUMBENT.—

24 (1) DEADLINE FOR APPOINTMENT.—Not later
25 than 90 days after the date of the enactment of this

1 Act, the Secretary of Homeland Security shall name
2 an individual who meets the qualifications of section
3 701 of the Homeland Security Act (6 U.S.C. 341),
4 as amended by subsections (a) and (b), to serve as
5 the Under Secretary of Homeland Security for Man-
6 agement. The Secretary may submit the name of the
7 individual who serves in the position of Under Sec-
8 retary of Homeland Security for Management on the
9 date of enactment of this Act together with a state-
10 ment that informs the Congress that the individual
11 meets the qualifications of such section as so amend-
12 ed.

13 (2) INCUMBENT.—The incumbent serving as
14 Under Secretary of Homeland Security for Manage-
15 ment on November 4, 2008, is authorized to con-
16 tinue serving in that position until a successor is
17 confirmed, to ensure continuity in the management
18 functions of the Department.

19 (d) SENSE OF CONGRESS WITH RESPECT TO SERV-
20 ICE OF INCUMBENTS.—It is the sense of the Congress that
21 the person serving as Under Secretary of Homeland Secu-
22 rity for Management on the date on which a Presidential
23 election is held should be encouraged by the newly-elected
24 President to remain in office in a new Administration until
25 such time as a successor is confirmed by Congress.

1 (e) EXECUTIVE SCHEDULE.—Section 5313 of title 5,
2 United States Code, is amended by inserting after the
3 item relating to the Deputy Secretary of Homeland Secu-
4 rity the following:

5 “Under Secretary of Homeland Security for Manage-
6 ment.”.

HLC

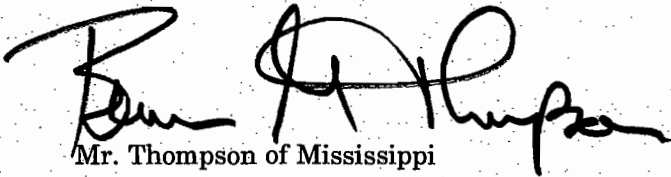
And the Senate agree to the same.

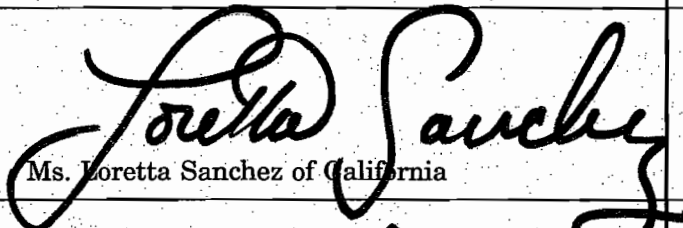
H.R. 1

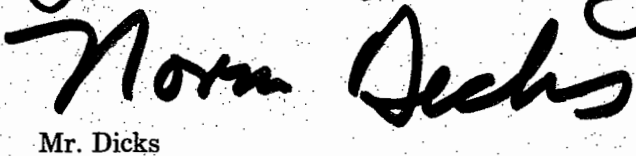
*Managers on the part of the
HOUSE*

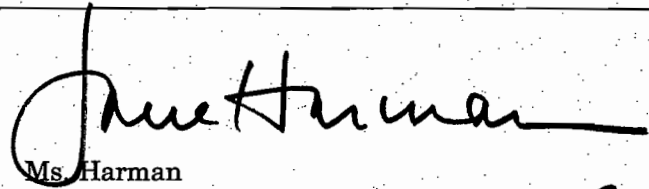
*Managers on the part of the
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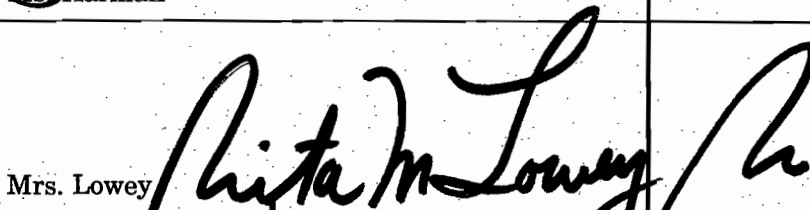
From the Committee on Homeland Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

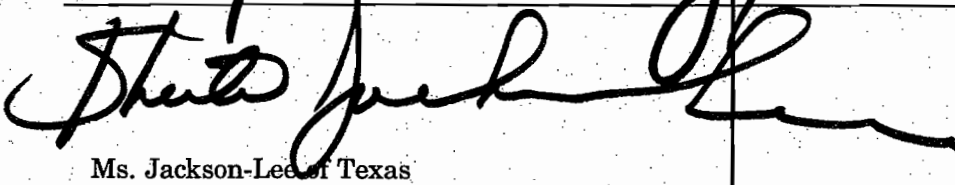

Mr. Thompson of Mississippi

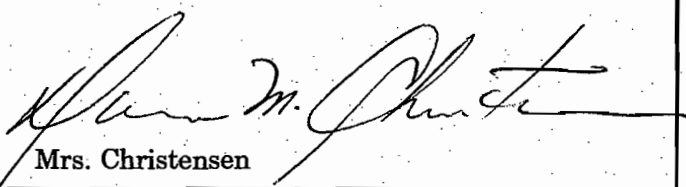

Ms. Loretta Sanchez of California


Mr. Dicks


Ms. Harman


Mrs. Lowey

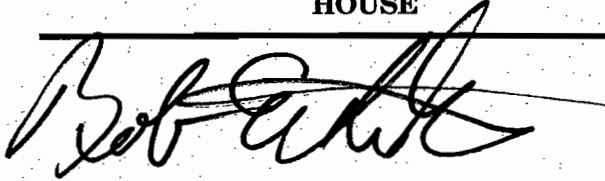

Ms. Jackson-Lee of Texas


Mrs. Christensen

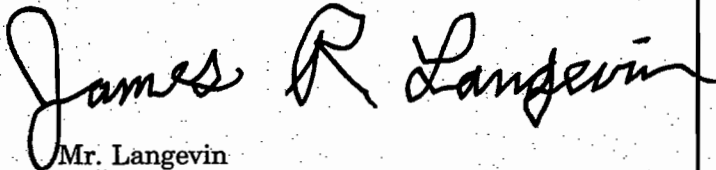
H.R. 1—Continued

*Managers on the part of the
HOUSE*

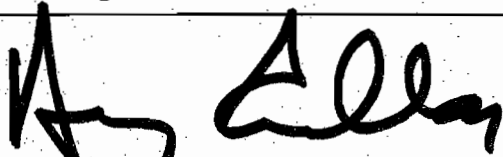
*Managers on the part of the
SENATE*



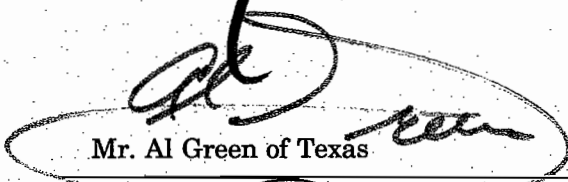
Mr. Etheridge



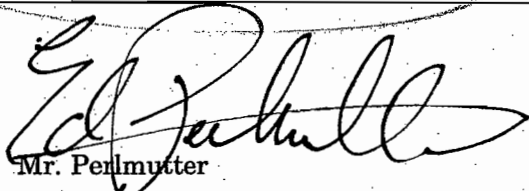
Mr. Langevin



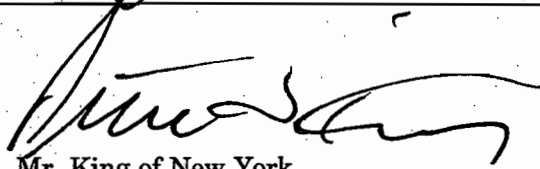
Mr. Cuellar



Mr. Al Green of Texas

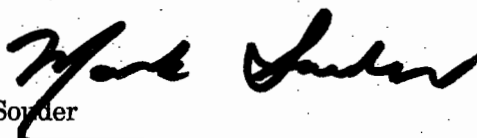


Mr. Peilmutter



Mr. King of New York

~~Mr. Smith of Texas~~

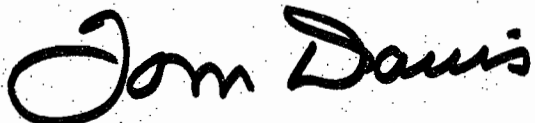


Mr. Souder

H.R. 1—Continued

*Managers on the part of the
HOUSE*

*Managers on the part of the
SENATE*



Mr. Tom Davis of Virginia

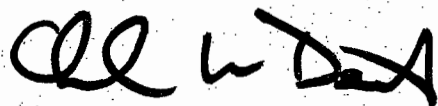


Mr. Daniel E. Lungren of California

~~Mr. Rogers of Alabama~~





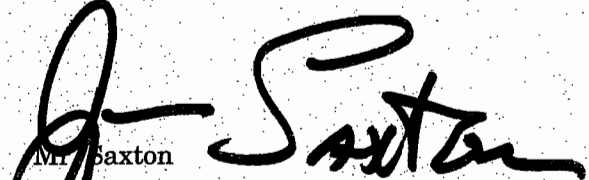
Mr. McCaul of Texas



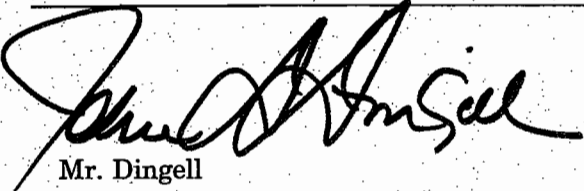
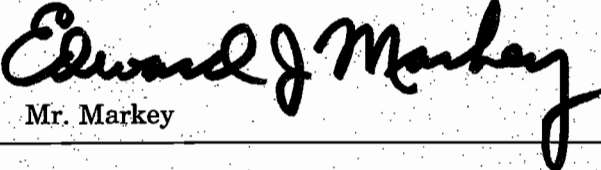
Mr. Dent

~~Mr. Clary Brown-White of Florida~~

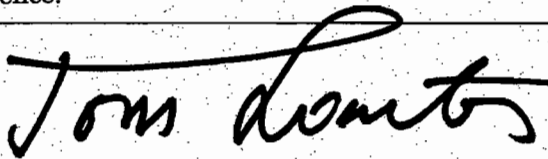


H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
From the Committee on Armed Services, for consideration of secs. 1202, 1211, 1221, 1232, 1233, and 1241 of the House bill, and section 703 of the Senate amendment, and modifications committed to conference:	
 Mr. Skelton	
 Mr. Spratt	
 Mr. Saxton	

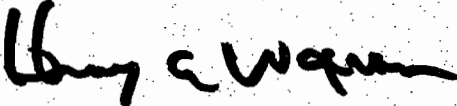
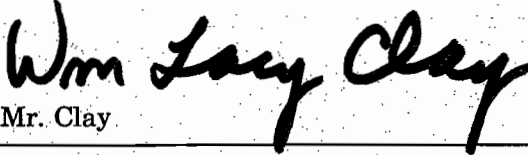
H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
<p>From the Committee on Energy and Commerce, for consideration of Title I, Title II, secs. 743 and 901 of the House bill, and Title III, secs. 1002, 1481, 1482, 1484, and Title XVII of the Senate amendment, and modifications committed to conference:</p>	
 Mr. Dingell	
 Mr. Markey	
Mr. Barton of Texas	

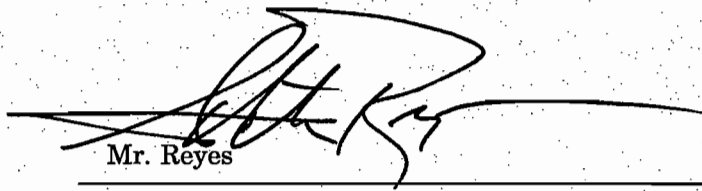

H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
<p>From the Committee on Foreign Affairs, for consideration of secs. 601, 1202, 1211, 1221, 1222, 1232, 1233, 1241, 1302, 1311, 1312, 1322, 1323, 1331-1333, 1412, 1414, 1422, 1431, and 1441-1443 of the House bill, and secs. 502, 1301, Title XVIII, secs. 1911-1913, and 1951 of the Senate amendment, and modifications committed to conference:</p>	
 <p>Mr. Lantos</p>	
 <p>Mr. Ackerman</p>	
 <p>Ms. Ros-Lehtinen</p>	

H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
<p>From the Committee on Oversight and Government Reform, for consideration of sec. 408 and subtitle A of title VIII of the House bill, and secs. 114, 601, 602, 903, 904, 1203, 1205, and 1601 of the Senate amendment, and modifications committed to conference:</p>	
<p style="text-align: center;"></p> <p>Mr. Waxman</p>	
<p style="text-align: center;"></p> <p>Mr. Clay</p>	
<p>Mr. Luce</p>	

H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
<p>From the Permanent Select Committee on Intelligence, for consideration of secs. 601, 712, 723, 732, 733, 741, 742, and subtitle A of title VIII of the House bill, and secs. 111-113, 121, 122, 131, 502, 601, 602, 703, 1201-1203, 1205, 1206, and 1606 of the Senate amendment, and modifications committed to conference:</p>	
 Mr. Reyes	
 Mr. Cramer	
Mr. Hooker	

H.R. 1—Continued

*Managers on the part of the
HOUSE*

*Managers on the part of the
SENATE*

From the Committee on Transportation and Infrastructure, for consideration of Titles I–III, sec. 1002, and Title XI of the House bill, and secs. 202, 301, Title IV, secs. 801–803, 807, 901, 1001, 1002, 1101–1103, 1422–1424, 1426, 1427, 1429, 1430, 1433, 1436–1438, 1441, 1443, 1444, 1446, 1449, 1464, 1473, 1503, and 1605 of the Senate amendment, and modifications committed to conference:

~~Mr. Oberstar~~


Mr. DeFazio

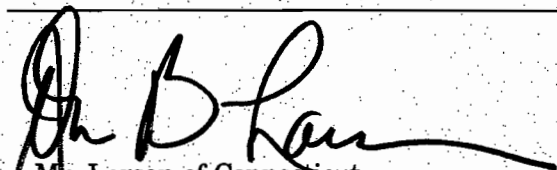
~~Mr. DeFazio~~

H.R. 1—Continued

*Managers on the part of the
HOUSE*



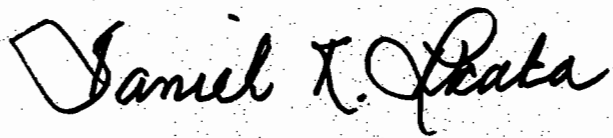

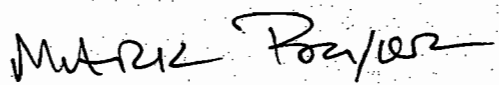
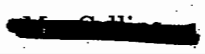

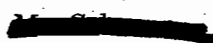
*Managers on the part of the
SENATE*

For consideration of Title II of the House bill, and Title III and subtitle C of title XIV of the Senate amendment, and modifications committed to conference:

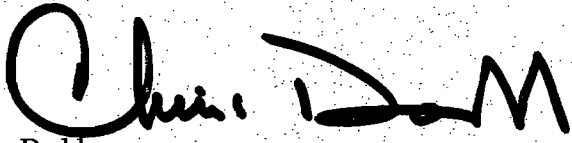


Mr. Larson of Connecticut


H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
	 Mr. Lieberman
	 Mr. Levin
	 Mr. Akaka
	 Mr. Carper
	 Mr. Pryor
	
	
	

H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
	From the Committee on Banking, Housing, and Urban Affairs:
	 Mr. Dodd
	Mr. Shelby

H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
	From the Committee on Commerce, Science, and Transportation:
	 Mr. Inouye
	Mr. Inouye

**JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF
CONFERENCE**

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1), to provide for the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

JOINT EXPLANATORY STATEMENT

TITLE I - HOMELAND SECURITY GRANTS

Section 101. Homeland Security Grant Program

Section 101 of the Conference Report amends the Homeland Security Act to add a new Title XX, comprised of two subtitles and including the following sections:

Subtitle A – Grants to States and High-Risk Urban Areas

Section 2001. Definitions.

Section 2001 of the House bill defines several terms that are used in the title relevant to homeland security grants, including “Covered grant,” “Directly Eligible Tribe,” “Elevations in the Threat Alert Level,” “First Responder,” “Indian Tribe,” “Region,” “Terrorism Preparedness,” and “Capabilities.”

Section 2001 of the Senate bill is a comparable provision, which defines “Administrator,” “Combined Statistical Area,” “Directly Eligible Tribe,” “Eligible Metropolitan Area,” “Indian Tribe,” “Metropolitan Statistical Area,” “National Special Security Event,” “Population,” “Population Density,” “Target Capabilities,” and “Tribal Government.”

The Conference substitute adopts the Senate provision, as modified. The provision defines the terms “Administrator,” “Appropriate Committees of Congress,” “Critical Infrastructure Sectors,” “Directly Eligible Tribe,” “Eligible Metropolitan Area,” “High-Risk Urban Area,” “Indian Tribe,” “Metropolitan Statistical Area,” “National Special Security Event,” “Population,” “Population Density,” “Qualified Intelligence Analyst,” “Target Capabilities,” and “Tribal Government.”

Section 2002. Homeland Security Grant Programs.

Section 2002 of the House bill sets forth the first responder grant programs at the Department that are covered by the provisions in the title. These programs are the State Homeland Security Grant Program, the Urban Area Security Initiative, and the Law Enforcement Terrorism Prevention Program. It specifically excludes the Assistance to Firefighters Grant programs, the Emergency Management Performance Grant program, and the Urban Search and Rescue program.

Section 2002 of the Senate bill authorizes the Secretary of Homeland Security (the Secretary), acting through the Administrator of the Federal Emergency Management Agency (FEMA), to award grants to State, local, and tribal governments. It clarifies that other grant programs, such as the Assistance to Firefighters Grant programs, the Metropolitan Medical Response System, critical infrastructure grant programs, including transportation security grants programs, the port security grant program, and grants administered by agencies other than the Department of Homeland Security (the Department or DHS), are not covered under the title.

The Conference substitute adopts the Senate provision, as modified. It specifically authorizes the Secretary, acting through the Administrator of FEMA

(the Administrator), to make grants under the State Homeland Security Grant Program and the Urban Area Security Initiative. It specifically provides that none of the provisions in subtitle A affect, or may be construed to affect, programs authorized under the Federal Fire Prevention and Control Act; grants authorized under the Stafford Act; Emergency Management Performance Grants under the amendments made by Title II of the Implementing the Recommendations of the 9/11 Commission Act of 2007; grants to protect critical infrastructure, including port security grants authorized under 46 U.S.C. 70107 and grants authorized under titles XIV, XV, and XVI of the Implementing the Recommendations of the 9/11 Commission Act of 2007; Metropolitan Medical Response System grants authorized under section 635 of the Post-Katrina Emergency Management Reform Act; the Interoperable Emergency Communications Grant Program authorized under title XVIII of the Homeland Security Act; and grants not administered by the Department.

Section 1014 of the USA Patriot Act (42 U.S.C. 3714), which authorized grants to States to “enhance the capability of State and local jurisdictions to prepare for and respond to terrorist acts,” has, up until now, served as the authority for grant programs such as the State Homeland Security Grant Program and the Law Enforcement Terrorism Prevention Program. Section 1014 further provided that each State receive a minimum of 0.75 percent of such authorized grants. The Conference substitute clarifies that the grants authorized under sections 2003 and 2004 of the Homeland Security Act are to supersede all grant programs authorized by section 1014 of the USA PATRIOT Act and that such grants shall be governed by the terms of this title and not any other provision of law, including with respect to the minimum guaranteed to each State under section 2004 and the fact that, where there is such a minimum, it is to be allocated as a “true minimum,” in the manner explained below.

The Conferees remain concerned about the implementation of the provisions in the Post-Katrina Emergency Management Reform Act (PL 109-295), which placed the authority to conduct training and exercises and administer grants within FEMA, thus restoring the nexus between emergency preparedness and response. The Conferees continue to believe that the Administrator, in consultation with other relevant Departmental components with issue-area expertise, should have responsibility for administering all grant programs administered by the Department, which will ensure the coordination among those programs and consistency in the guidance issued to grant recipients.

Section 2003. Urban Area Security Initiative.

Section 2003 of the House bill provides that areas determined by the Secretary to be high-threat urban areas may apply for Urban Area Security Initiative grants.

Section 2003 of the Senate bill specifically establishes the Urban Area Security Initiative grant program, to assist high-risk urban areas in preventing, preparing for, and responding to acts of terrorism. It allows eligible metropolitan areas, defined primarily as self-defined areas within the 100 largest metropolitan statistical areas, to apply for the grants. This section requires that the grants be

allocated based on the threat, vulnerability, and consequences of a terrorist attack, as well as the effectiveness of each urban area's proposed spending plan in increasing the area's preparedness for terrorism and reducing risk. The section further describes the allowable uses of the grant funding by urban areas.

The Conference substitute adopts the Senate provision, as modified. The Conference substitute provides for a two-stage process for designating high-risk urban areas eligible to apply for Urban Area Security Initiative grants. First, the Department is to conduct an initial assessment of the risks, threats, and vulnerabilities from acts of terrorism faced by eligible metropolitan areas, defined as the 100 most populous metropolitan statistical areas in the United States. During this initial assessment, these areas may submit relevant information to the Department for consideration. Second, once this initial assessment process is complete, the Department will designate which jurisdictions may apply for Urban Area Security Initiative grants based solely on the assessment of risk from acts of terrorism.

Section 2004. State Homeland Security Grant Program.

Section 2003 of the House bill provides that States, regions, and directly eligible tribes shall be eligible to apply for grant funds under the State Homeland Security Grant Program and the Law Enforcement Terrorism Prevention Program. Section 2004 of the House Bill sets forth minimum amounts each State shall receive (0.25 percent), providing for larger grant awards to applicants that have a significant international land border and/or adjoin a body of water within North America that contains an international boundary line (0.45 percent). Under the House bill territories and directly eligible tribes would receive not less than 0.08 percent of the funds.

Section 2004 of the Senate bill establishes the State Homeland Security Grant Program to assist State, local, and tribal governments in preventing, preparing for, protecting against, responding to, and recovering from acts of terrorism. The section requires that the grants be allocated to States based on the threat, vulnerability, and consequences of terrorism faced by a State, and lists factors to be considered in determining a State's risk. The section further provides that, in allocating funds, no State shall receive less than 0.45 percent of the overall appropriation for this program and that each State distribute a minimum of 80 percent of funding received under this program to local and tribal governments within that State, consistent with the State's homeland security plan. Territories would receive not less than 0.08 percent of the funds. The section also describes the allowable uses for grant funding provided to States under this section.

The Conference substitute adopts the Senate provision, as modified. The Conference substitute requires that each State receive, from the funds appropriated for the State Homeland Security Grant Program, not less than 0.375 percent of the total funds appropriated for grants under sections 2003 and 2004 in Fiscal Year 2008. This minimum decreases to 0.35 percent over five years. Each territory is to receive not less than 0.08 percent of the funds and tribes are to receive, collectively, not less than 0.1 percent of the funds.

In all cases, the minimum is a "true minimum," in which funding allocations

are initially determined entirely on the basis of terrorism risk and the anticipated effectiveness of the proposed use of the grant. Any recipient that does not reach the minimum based on this risk allocation will receive additional funding from the amount appropriated for the State Homeland Security Grant Program to ensure the respective minimum is met. This distribution method is consistent with the Department's practice for FY 2007 for the formula grants in the Homeland Security Grant Program, and maximizes the share of funds distributed on the basis of risk. The Urban Area Security Initiative will continue to be allocated exclusively on the basis of the risk from acts of terrorism and the anticipated effectiveness of the proposed use of the grant.

Section 2005. Grants to Directly Eligible Tribes.

Section 2003 of the House bill authorizes the Secretary to award grants to directly eligible tribes under the State Homeland Security Grant Program, requires the designation of a specific individual to serve as the tribal liaison for each tribe, and allows an opportunity for each State to comment to the Secretary on the consistency of a tribe's application with the State's homeland security plan.

Section 2004 of the Senate bill authorizes the Secretary to award grants to directly eligible tribes under the State Homeland Security Grant Program.

The Conference substitute adopts the House provision, as modified. The Conference substitute further clarifies that, regardless of whether a tribe receives funds directly from the Department, the tribe remains eligible to receive a pass-through of section 2004 funds for other purposes from any State within which it is located, and that States retain a responsibility for allocating funds received under section 2004 to assist tribal communities, including tribes that are not directly eligible tribes, achieve target capabilities not achieved through direct grants.

Section 2006. Terrorism Prevention.

There is no comparable House provision.

Section 2005 of the Senate bill requires that the Department of Homeland Security designate a minimum of 25 percent of the funding to States and urban areas through the State Homeland Security Grant Program and Urban Area Security Initiative for law enforcement terrorism prevention activities. It provides a list of allowable uses for the funding. The section also establishes the Office for the Prevention of Terrorism within the Department to, among other things, coordinate policy and operations between Federal, State, local, and tribal governments related to the prevention of terrorism.

The Conference substitute adopts the Senate provision, as modified.

The Conferees note the importance of law enforcement terrorism prevention activities and requires the Administrator to ensure that not less than 25 percent of the combined funds from the State Homeland Security Grant Program and Urban Area Security Initiative are dedicated to these vital activities. This will ensure that law enforcement terrorism prevention activities are appropriately coordinated with other State and high-risk urban area efforts to prevent, prepare for, protect against, and respond to acts of terrorism using grant funds.

The Conference substitute also includes a provision creating an Assistant

Secretary in the DHS Policy Directorate to head an Office for State and Local Law Enforcement. This new Assistant Secretary will lead the coordination of Department-wide policies relating to State and local law enforcement's role in preventing acts of terrorism and will also serve as a liaison between law enforcement agencies across the country and the Department. The Conferees believe this office gives the State and local law enforcement community a much needed voice and high-level point of contact in the Department and integrates prevention and other law enforcement activities across the Department, while avoiding the creation of further stovepipes.

The Conference substitute creates the Assistant Secretary in the Department's Policy Directorate because of that Directorate's central role in coordinating policies across the Department. By such placement, however, the Conferees do not intend to preclude the Secretary from seeking advice directly from the Assistant Secretary, or from having the Assistant Secretary report directly to the Secretary, if the Secretary determines that arrangement would be most helpful and/or most beneficial to the Department.

In addition, the Conference substitute includes language in this section to reflect the general purpose of the Fusion and Law Enforcement Education and Teaming (FLEET) Grant Program in House Sections 701 and 702. Many local and tribal law enforcement and other emergency response providers that would like to participate in State, local, or regional fusion centers lack the resources - in terms of funding and staff - to do so. These providers are not usually in the headlines; instead, they typically serve under represented suburban and rural jurisdictions where terrorists may live, work, and plan attacks - even if they themselves are not likely targets of those attacks.

The Conferees believe that such agencies and departments, based on an appropriate showing of risk, should qualify for grant funding so they can send representatives to State, local, or regional fusion centers. Such funding should be available for (1) backfilling positions for law enforcement officers, intelligence analysts, and other emergency response staff detailed to fusion centers; and (2) appropriate training in the intelligence cycle, privacy and civil liberties, and other relevant matters, as determined by the Secretary.

The Conference substitute also provides for the Assistant Secretary for State and Local Law Enforcement and the Administrator to jointly conduct a study to determine the efficacy and feasibility of establishing specialized law enforcement deployment teams to assist State, local and tribal governments in responding to natural disasters, acts of terrorism, or other man-made disasters, and to report on the results of that study to the appropriate Committees of Congress. By requiring the study, the Conferees do not intend to authorize the creation, use or deployment of such teams, but instead intends that the Assistant Secretary and the Administrator report to Congress on the results of the study and, in the event they determine that such deployment teams are feasible and likely to be effective, that they seek further Congressional authorization before implementing any such program. The Conferees further intend that any such deployment teams, if implemented, would, like other specialized response teams, such as Urban Search and Rescue Teams, be subject to the direction of the Administrator and coordinated with the other

activities of FEMA.

Section 2007. Prioritization.

Section 2004 of the House bill requires the Secretary to evaluate and annually prioritize pending applications for covered grants based upon the degree to which they would lessen the threat to, vulnerability of, and consequences for persons and critical infrastructure from acts of terrorism.

There is no comparable Senate provision. Instead the Senate bill individually lists the factors that the Administrator shall consider when allocating grants under sections 2003 and 2004.

The Conference substitute adopts the House provision, as modified. The Conference substitute requires that in allocating funds among States and high-risk urban areas the Administrator consider for each State and high-risk urban area, its relative threat, vulnerability, and consequences from acts of terrorism, including consideration of several enumerated factors; and the anticipated effectiveness of the proposed use of the grant by the State or high-risk urban area. While the Conference substitute does not specify the particular weight to be given to any of the listed criteria, it nonetheless requires that each of the characteristics listed in subparagraphs 2007(a)(1)(A) through (J) be considered as part of the assessment of threat, vulnerability, and consequences from acts of terrorism faced by the State or high-risk urban area. The Conference substitute also provides that the Administrator may consider additional factors beyond those listed, as specified in writing, in assessing a State or high-risk urban area's risk.

Section 2008. Use of Funds.

Section 2005 of the House bill lists authorized uses of covered grants and prohibits the use of grant funds to supplant State or local funds, to construct physical facilities, to acquire land, or for any State or local government cost sharing contribution. This section also requires each covered grant recipient to submit annual reports on homeland security spending and establishes penalties for States that fail to pass funds through to local governments within 45 days of receipt of grant funds.

There is no comparable Senate provision. Instead, the Senate bill authorizes eligible uses of funds for each grant program individually and provides for limitations on the use of grant funds under Section 2007 of the Senate bill.

The Conference substitute adopts the House provision, with modifications. The Conference substitute authorizes grant funds under sections 2003 and 2004 to be used for a number of uses including planning, training, exercises, protecting critical infrastructure, purchasing equipment, and paying personnel costs associated with both straight time and overtime and backfill, in addition to any allowable use in the FY2007 grant guidance for the State Homeland Security Grant Program, the Urban Area Security Initiative (including activities permitted under the full-time counterterrorism staffing pilot), or the Law Enforcement Terrorism Prevention Program. The Conference substitute authorizes grant recipients to use up to 50 percent of their grant funds for overtime and straight personnel costs because prevention and protection activities are personnel intensive. Nonetheless, the needs

of communities vary considerably, and the Conferees anticipate that many, if not most, recipients will not need to devote the maximum allowable funding to personnel costs. The Conferees encourage grant recipients to also emphasize planning, training, and exercising in their spending plans.

It is important to note that the Conferees are concerned about audits and news reports illustrating some inappropriate uses of grant funds since the programs' inception. The Conferees, therefore, emphasize language in the Conference substitute that prohibits grant recipients from using their funding for social and recreational purposes.

Finally, the Conferees note the provision permitting grant recipients to use their funding for multiple purposes. To be clear, the Conferees do not intend for grant recipients to use their funding solely to prepare for natural disasters. The programs authorized in this title are for counter-terrorism purposes. Nevertheless, the Conferees recognize that many of the planning, training, exercising, and equipment needs of jurisdictions are similar, if not identical, for natural disasters, acts of terrorism, and other man-made disasters, and that, although some preparations for terrorist threats require unique plans and capabilities, many will be part of overall all-hazards preparedness. Therefore, although the use of grant funds under these programs must further a jurisdiction's counter-terrorism activities and programs, the Conferees expect and encourage such jurisdictions to engage in activities, such as evacuation exercises, that will contribute to preparedness for both terrorist and non-terrorist events and not to hesitate to use, for example, equipment purchased for counter-terrorism purposes to respond to a non-terrorist incident.

Subtitle B – Grants Administration

Section 2021. Administration and Coordination.

There is no comparable House provision.

Section 2007 of the Senate bill requires the Administrator to ensure that the recipients of grants administered by the Department coordinate their activities regionally, including across State boundaries where appropriate, and that State and urban recipients establish a planning committee including relevant stakeholders to assist in the preparation and revision of area homeland security plans. This section also requires that the Department coordinate with other relevant Federal agencies to develop a proposal to coordinate the reporting and other requirements for homeland security assistance programs across the Federal government to avoid duplication and undue burdens on State, local, and tribal governments.

The Conference substitute adopts the Senate provision, as modified.

The Conference substitute includes a provision requiring States and high-risk urban areas receiving grants under the State Homeland Security Grant Program or the Urban Area Security Initiative to establish a planning committee if they have not already done so. The Conferees are aware that many multi-jurisdictional councils of governments, regional planning commissions and organizations, development districts, and consortiums have responsibility for implementing emergency response plans and coordinating cross-jurisdictional response capabilities, and urges the Department to support the continued use of such entities.

Because natural disasters, acts of terrorism and other man-made disasters do not respect political boundaries, and because such events have the potential to overwhelm the capabilities of a single jurisdiction, the Conferees believe that it is important that there be regional coordination in preparing for these events, and the Conference substitute requires that the Administrator ensure that grant recipients appropriately coordinate with neighboring State, local and tribal governments. The Conference does not intend, however, that this provide a license to the Administrator to impose burdensome requirements on local subgrantees or other small communities, and encourages the Administrator to ensure regional coordination primarily by working with States, high-risk urban areas, and other direct recipients of grants.

Section 2022. Accountability.

Section 2005 of the House bill requires recipients of grants under the State Homeland Security Grant Program, Urban Area Security Initiative, and Law Enforcement Terrorism Prevention Program to submit an annual report to the Secretary concerning the use and allocation of those grant funds, and provides incentives for submission of quarterly reports. It also requires that the Secretary submit an annual report to Congress concerning the use of funds by grant recipients and describing progress made in enhancing capabilities as a result of the expenditure of grant funds.

Section 2008 of the Senate bill requires the Administrator to submit annual reports to Congress evaluating the extent to which grants have contributed to the progress of State, local, and tribal governments in achieving target capabilities and providing an explanation of the Department's risk methodology. In addition, Section 2009 of the Senate bill requires the Inspector General of the Department (the Inspector General) to audit all recipients of grants under the State Homeland Security Grant Program, Urban Area Security Initiative, and Emergency Management Performance Grant program. The audits are to be conducted within two years of enactment of the bill or receipt of such a grant, and be made publicly available on the website of the Inspector General. The Inspector General is also required to audit each entity that received a preparedness grant from the Department prior to enactment of this legislation.

The Conference substitute adopts the Senate provision, as modified. Among other things, the Conference substitute requires that at least every two years, the Administrator conduct a programmatic and financial review of each State and high-risk urban area receiving a grant administered by the Department to examine whether grant funds are being used properly and effectively. It requires further that the Inspector General follow up these agency reviews by conducting independent audits of a sample of States and high-risk urban areas each year. The Inspector General is to conduct an audit of all States at least once over the next seven years, report to Congress on any findings, and post the results of the audits on the Internet, taking steps to protect classified and other sensitive information. The Conference substitute authorizes additional funding to help ensure that the Administrator and the Office of the Inspector General are able to carry out these oversight and auditing functions. In addition, the Conference substitute requires the submission of

quarterly and annual reports by grant recipients.

While the Conference acknowledges the importance of transparency and therefore requires the public online posting of audits in this section, the Conference substitute exempts any audit information from being released publicly that contains "sensitive" information. The Conference emphasizes that the sensitive information referred to in this provision is information that, while it may not be classified, would be detrimental to national security if made public, such as information designated as Sensitive Security Information. The Conference emphasizes therefore that the term "sensitive information," and the associated exemption from public disclosure, does not apply to information which a grantee or the Department may simply find embarrassing, questionable, unlawful, or otherwise suggestive of poor management or judgment. That an audit contains sensitive information should not be cause to withhold the entire audit from public release, but rather the Conference expects that such information would merely be redacted from posted audits.

Section 102. Other Amendments to the Homeland Security Act of 2002.

Section 2004(a)(1) of the House bill includes a provision requiring the Secretary to coordinate with the National Advisory Council and other components of the Department when evaluating and prioritizing grant applications.

Section 2007 of the Senate bill requires that the Administrator regularly consult and work with the National Advisory Council, an advisory panel of State, local, tribal, private and nonprofit officials established under Section 508 of the Homeland Security Act, on the administration and assessment of the Department's grant programs, in order to ensure regular and continuing input from State, local and tribal governments and emergency response providers and better integration of these parties into the grants process.

The Conference substitute adopts the Senate provision, as modified.

Section 103. Amendments to the Post-Katrina Emergency Management Reform Act of 2006.

Section 2005(h)(5)(E) of the House bill requires that each recipient of a covered grant include in its annual report to the Secretary, information on the extent to which capabilities identified in the applicable State homeland security plan or plans remain unmet.

Section 2008(a)(1) of the Senate bill requires that, as a component of the annual Federal Preparedness Report required under section 652 of the Post-Katrina Emergency Management Reform Act, the Administrator report to Congress on the extent to which grants administered by the Department have contributed to State, local and tribal governments achieving target capabilities and have led to the reduction of risk.

The Conference substitute adopts the Senate provision, as modified. Section 103 of the substitute amends section 652 of the Post-Katrina Emergency Management Reform Act to require that the Administrator conduct an evaluation of the efficacy of Department grants in helping States, localities, and tribes achieve target capabilities and in reducing risk and to require States to report on the extent to which their target capabilities remain unmet and assess the resources needed to meet

preparedness priorities.

Section 104. Technical and Conforming Amendments.

Section 104 makes technical and conforming amendments to the Homeland Security Act of 2002, consistent with those made in section 204 of the Senate bill and paragraphs (a)(1) - (4) of Section 101 of the House bill.

TITLE II - EMERGENCY MANAGEMENT PERFORMANCE GRANTS

There is no comparable House provision.

Title IV of the Senate bill reauthorizes the Emergency Management Performance Grants (EMPG) Program. In the Senate bill, the program provides grants to States to assist State, local and tribal governments in preparing for, responding to, recovering from, and mitigating against all hazards. The section codifies the existing allocation formula for EMPG grants in which each State receives 0.75 percent of the total appropriation for this program, with the remainder of the appropriated funding distributed to States in proportion to their population. The Senate bill also specifies allowable uses for EMPG grants, and continues the existing cost-sharing requirement, whereby the Federal share of an activity's cost may not exceed 50 percent.

The Conference substitute adopts the Senate provision, with modifications. Section 201 of this title directs the Administrator to continue implementation of an Emergency Management Performance Grants program, the nation's principal grant program to assist State, local, and tribal governments in preparing for all hazards. The Conference substitute continues this program, as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and authorizes appropriations for the program through FY 2012. Section 202 of this title amends section 614 of the Stafford Act, concerning the Federal share for construction of Emergency Operations Centers (EOCs). Section 202 allows the Federal Government to finance up to 75 percent of the costs of equipping, upgrading, and constructing State or local EOCs. While equipping, upgrading, and constructing EOCs are eligible activities under the EMPG program, these also remain eligible activities under other provisions of Title VI of the Stafford Act, and section 202 applies the maximum 75 percent Federal cost share to the EMPG program and to any other program authorized under Title VI of the Stafford Act that provides grants for construction of EOCs.

TITLE III - INTEROPERABLE COMMUNICATIONS FOR FIRST RESPONDERS

Section 301. Interoperable Emergency Communications Grant Program.

Section 201 of the House bill amends Title V of the Homeland Security Act

of 2002 by creating a stand-alone interoperability grant program at the Department of Homeland Security (the Department or DHS). This provision directs the Secretary of Homeland Security (the Secretary), acting through the Office of Grants and Training, in coordination with the Director of Emergency Communications, to establish the Improved Communications for Emergency Response (ICER) grant program to improve emergency communications among State, regional, national, and, in some instances, international border communities. The provision provides that the ICER grant program would be established the first fiscal year after the Department met the following requirements: the completion of and delivery to Congress of the National Emergency Communications Plan; the completion of the baseline interoperability assessment, and the determination by the Secretary that substantial progress has been made with regard to emergency communications equipment and technology standards. Further, the provision states that the ICER grants may be used for planning, design and engineering, training and exercises, technical assistance, and other emergency communications activities deemed integral to emergency interoperable communications by the Secretary.

Section 301 of the Senate bill amends Title XVIII of the Homeland Security Act of 2002 by creating a grant program administered by the Federal Emergency Management Agency (FEMA) dedicated to improving operable and interoperable emergency communications at local, regional, State, Federal and, where appropriate, international levels. In applying for the grants, States would have to demonstrate that the grants would be used in a manner consistent with their Statewide interoperability plans and the National Emergency Communications Plan. The States would be required to pass at least 80 percent of the total amount of the grants they receive, or the functional equivalent, to local and tribal governments. Section 301 requires that each State receive not less than 0.75 percent of the total funds appropriated for the grant program in any given year. Further, Section 301 authorizes \$3.3 billion for the grant program for the first five years: \$400 million in Fiscal Year 2008; \$500 million in Fiscal Year 2009; \$600 million in Fiscal Year 2010; \$800 million in Fiscal Year 2011; and \$1 billion in Fiscal Year 2012.

The Conference substitute adopts the Senate provision by amending Title XVIII of the Homeland Security Act to require that the Secretary establish the Interoperable Communications Grant Program to make the grants to States. The Conference Report clarifies the Senate's all-hazards approach for the use of the grants by stating that the grants should be used to carry out initiatives to improve "interoperable emergency communications, including the collective response to natural disasters, acts of terrorism, and other man-made disasters."

The Conference substitute clarifies that the Office of Emergency Communications is responsible for ensuring that the grants awarded under this section are consistent with the policies established by the Office of Emergency Communications in accord with its statutory authority and that the activities funded by the grants must be consistent with the Statewide interoperable communications plans and comply with the National Emergency Communication Plan, when completed. The Conference substitute further makes clear that FEMA will administer the grant program pursuant to its responsibilities and authorities under law. It is the intent of the Conferees that FEMA administer the grant program in a

manner that is consistent with the policies established by the Office of Emergency Communications. FEMA shall provide applicants a reasonable opportunity to correct defects in the application, if any, before making final awards.

The Conference substitute modifies the House and Senate provisions to clarify that the grants administered under this section shall be used for activities determined by the Secretary of the Department to be integral to interoperable communications. Because of a concern about the potential for fraud, waste, and abuse, the Conferees expect the Department to institute aggressive oversight and accountability measures to ensure that grantees under this section use the funds in a manner that advances the standards outlined in the SAFECOM interoperability continuum, including but not limited to governance, standard operating procedures, technology, training and exercises, and usage. Moreover, the Conference substitute states that recipients of grant funds under this program are prohibited from using grants for recreational or social purposes. Nor may grantees use these funds to supplant State or local funds, or to meet cost-sharing contributions. The Conference substitute gives the Secretary clear authority to take "such actions as necessary" to ensure that the grant funds are being used for their intended purpose.

Grants awarded pursuant to the Interoperable Emergency Communications Grant Program may be used for operable communications - the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters - if the Director of Emergency Communications reports to the Secretary of the Department of Homeland Security that a national baseline level of interoperability has been achieved, or if the Director of Emergency Communications finds that an applicant's specific request for grant funds for operability is critical and necessary to achieve interoperability.

The Conference substitute requires that before a State may receive a grant under this section, the Director of the Office of Emergency Communications shall approve the State's statewide interoperable communications plan required under section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. § 194(f)). The Conferees intend it to be the responsibility of the Director of Emergency Communications to ensure that the State-wide interoperability plans are designed to advance interoperability at all levels of government, consider applicable local and regional plans, and comply with the National Emergency Communications Plan, when complete. The Conference substitute provides that each State that receives a grant under this section shall certify that the grant is used for the intended purposes of the grant program.

The Conferees agreed to remove the Senate provision related to a review board to assist in reviewing the grant applications since the Department has entrusted that responsibility to peer review groups made of emergency communication experts.

The Conference substitute reflects the agreed-upon authorization of \$1.6 billion for the grant program under this section which shall be allocated over five fiscal years beginning in Fiscal Year 2008, after the completion of the National Emergency Communications Plan and its submission to Congress. The Conference substitute authorizes such sums as necessary for each fiscal year following the

initial five year period. The Conferees agree that to ensure that grants are spent on effective measures to improve interoperability, the Secretary may not award a grant under this section for the purchase of equipment that does not meet applicable voluntary consensus standards, to the extent that such standards exist, unless the State demonstrates a compelling reason. The Conference substitute adopts the Senate provision, with modifications, that States receiving a grant under this section shall pass through 80 percent of the grant funds, or the functional equivalent, to local and tribal governments. The Conference substitute prohibits States from imposing unreasonable or unduly burdensome requirements on tribal governments as a condition of providing grant funds or resources.

The Conference substitute outlines the funding formula for the distribution of grant dollars to ensure that each State receives a minimum of funds for each fiscal year as follows: 0.50 percent for Fiscal Year 2008; 0.50 percent for Fiscal Year 2009; 0.45 percent for Fiscal Year 2010; 0.40 percent for Fiscal Year 2011; and 0.35 percent for Fiscal Year 2012 and each subsequent fiscal year. The territories of the United States are to receive no less than 0.08 percent of the total amount appropriated for grants under this title for each fiscal year.

The Conference substitute modifies the Senate's provision regarding the annual reporting requirement of States that receive grants. Reports to the Office of Emergency Communications shall be made publicly available, subject to redactions necessary to protect classified or other sensitive information. The Conference substitute requires that the Office of Emergency Communications submit to Congress an annual report detailing how the grants under this section facilitate the implementation of the Statewide interoperability plans and advance interoperability at all levels of government.

Section 302. Border Interoperability Demonstration Project.

There is no comparable House provision.

Section 302 of the Senate bill establishes an international border demonstration project involving at least six pilot projects aimed at improving interoperability along the U.S.-Canada and U.S.-Mexico borders.

The Conference substitute adopts the Senate provision, with modifications. The Senate provision establishes in the Department the International Border Community Interoperable Communications Demonstration Project. The Conference has agreed that the demonstration project will be carried out by the Office of Emergency Communications at the Department in coordination with the Federal Communications Commission and the Department of Commerce. The Conference directs that the demonstration project may only proceed after the Federal Communications Commission and the Department of Commerce have agreed upon the availability of the necessary spectrum resulting from the 800 megahertz rebanding process in the affected border areas.

The Conference substitute directs the Office of Emergency Communications to foster local and tribal, State and Federal interoperable communications in those communities selected for demonstration projects. The Office of Emergency Communications is also directed to identify solutions to facilitate interoperable communications across the national borders, provide technical assistance, and

ensure the emergency responders can communicate in the event of natural disasters, acts of terrorism, and other man-made disasters. The Conference agrees that the Director of the Office of Emergency Communications shall receive a report from each State receiving funds under this section within 90 days of receiving the funds. The Conference substitute specifies that the Director may not fund a demonstration project for more than three years.

TITLE IV – INCIDENT COMMAND SYSTEM

Section 401. Definitions.

There is no comparable House provision.

Section 1002 of the Senate bill includes several definitions relevant to credentialing and typing.

The Conference substitute adopts the Senate provision with minor modifications.

Section 402. National Exercise Program Design.

Section 301 of the House bill strengthens the design of the national exercise program to require the program to enhance the use and understanding of the Incident Command System (ICS).

There is no comparable Senate provision.

The Conference substitute adopts the House provision.

Section 403. National Exercise Program Model Exercises.

Section 302 of the House bill strengthens the national exercise program to enhance the use and understanding of ICS by requiring that the national exercise program include model exercises for use by State, local and tribal governments.

There is no comparable Senate provision.

The Conference substitute adopts the House provision with minor modifications.

Section 404. Preidentifying and Evaluating Multijurisdictional Facilities to Strengthen Incident Command; Private Sector Preparedness.

Section 1001 of the Senate bill and section 303 of the House bill both contain language making it a responsibility of the Federal Emergency Management Agency (FEMA) regional directors to work with State and local governments to pre-identify sites where multi-jurisdictional incident command can be established. Additionally, section 1001 of the Senate bill creates a responsibility for FEMA regional directors to coordinate with the private sector to ensure private sector preparedness.

The Conference substitute adopts these provisions.

Section 405. Federal Response Capability Inventory.

There is no comparable House provision.

Section 1002 of the Senate bill establishes a database of all Federal personnel and resources credentialed and typed that are likely needed to respond to a natural

disaster, act of terrorism, or other man-made disaster.

The Conference substitute adopts the Senate provision with modifications integrating it into the Federal Response Capability Inventory established by the Post-Katrina Emergency Management Reform Act of 2006.

Section 406. Reporting Requirements.

There is no comparable House provision.

Section 1002 of the Senate bill requires an annual report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives detailing the number and qualifications of Federal personnel trained and ready to respond to a natural disaster, act of terrorism or other man-made disaster. This section also requires the Administrator to evaluate whether the list of credentialed FEMA personnel complies with the strategic human capital plan established by the Post-Katrina Emergency Management Reform Act of 2006.

The Conference substitute adopts the Senate provision with modifications which integrate the provisions into the reporting requirements of the Post-Katrina Emergency Management Reform Act of 2006.

Section 407. Federal Preparedness.

There is no comparable House provision.

A critical component of any incident command system is the use of common terminology for disaster response resources to ensure the correct resources are deployed to and used in an incident. Credentialing and typing involves using a common naming system to classify the capabilities or attributes of personnel and equipment, and is a fundamental part of the ICS. In order to fully implement ICS, section 1002 of the Senate bill requires DHS to establish standards for credentialing and typing personnel and other assets likely to be used to respond to disasters.

The Conference substitute adopts the Senate provision with modifications, amending the Post-Katrina Emergency Management Act to clarify that the typing and credentialing provisions will be used to enhance our national preparedness system. The Conference agrees that the typing and credentialing provisions are an essential part of enhancing our national preparedness system and that once completed, such data must be regularly updated so that an inventory of available resources is available to the Administrator of FEMA to aid in preparing for and responding to disasters.

Section 408. Credentialing and Typing.

There is no comparable House provision.

Section 1002 of the Senate bill requires DHS to establish standards for credentialing and typing personnel and other assets likely to be used to respond to disasters. Once the standards have been developed, the language requires DHS and other Federal agencies with responsibilities under the National Response Plan to type, credential, and inventory personnel and resources likely to be used in disaster response, to allow FEMA to be able to effectively coordinate the deployment and use of Federal resources in disaster response. The Senate bill also directs FEMA to

distribute standards to Federal agencies with responsibilities under the National Response Plan, and State and local governments.

The Conference substitute adopts the Senate provisions with some modifications, requiring Federal agencies to credential and type incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a disaster. The Conference substitute also requires the Administrator of FEMA to distribute standards and detailed written guidance to Federal, State, local, and tribal governments that may be used by such governments to credential and type incident management personnel, emergency response providers, and other personnel (including temporary personnel) and other resources likely needed to respond to disasters.

Section 409. Model Standards and Guidelines for Critical Infrastructure Workers.

There is no comparable House provision.

Section 1002 of the Senate bill requires FEMA, working with Federal, State, local, and tribal governments, and the private-sector to establish model standards and guidelines for credentialing critical infrastructure workers that may be used by a State to credential critical infrastructure workers that may respond to disasters.

The Conference substitute adopts the Senate language with minor modifications. The Conference notes that responsibility and authority for access of critical infrastructure workers to disaster sites generally resides with State and local governments, except in limited circumstances, and that this section does not alter those responsibilities and authorities.

Section 410. Authorization of Appropriations.

There is no comparable House provision.

Section 1002 of the Senate bill authorizes the appropriation of such sums as necessary to carry out the section.

The Conference substitute adopts the Senate language with minor modifications.

TITLE V - IMPROVING INTELLIGENCE AND INFORMATION SHARING WITHIN THE FEDERAL GOVERNMENT AND WITH STATE, LOCAL, AND TRIBAL GOVERNMENTS

Section 501. Homeland Security Information Sharing.

Section 723 of the House bill includes several provisions to improve homeland security information sharing. Among other things, it directs the Secretary of Homeland Security (the Secretary), acting through the Under Secretary for Intelligence and Analysis, to establish a comprehensive information technology network architecture for the Department of Homeland Security's (the Department or

DHS) Office of Intelligence and Analysis; requires the Secretary to submit an implementation plan and progress report to Congress in order to monitor the development of that architecture; and encourages its developers to adopt the functions, methods, policies, and network qualities recommended by the Markle Foundation.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with modifications. It deletes the reference to an implementation plan for the comprehensive information technology network architecture and instead includes new text to reflect the purpose of that architecture: to connect the various databases and related information technology assets of the Office of Intelligence and Analysis and the intelligence components of the Department in order to promote internal information sharing within the Department. The Conference substitute likewise deletes references to the Markle Foundation. The Conference nevertheless concurs that the architecture in question should, to the extent possible, incorporate the approaches, features, and functions of the information sharing network proposed by the Markle Foundation in reports issued in October 2002 and December 2003, known as the System-wide Homeland Security Analysis and Resource Exchange (SHARE) Network.

The Conference substitute also directs the Secretary to designate "Information Sharing and Knowledge Management Officers" within each intelligence component to coordinate information sharing efforts and assist the Secretary with the development of feedback mechanisms to State, local, tribal, and private sector entities. The Conference concurs that the Department's outreach to State, local, and tribal intelligence and law enforcement officials has been haphazard and often accompanied by less than timely results. While it can point to many successful examples of coordination and collaboration with State, local, tribal, and private sector officials, the Office of Intelligence and Analysis must increase its involvement with them and appropriately incorporate their non-Federal information into the Department's intelligence products. In addition, it is essential that the Department provide feedback to these non-Federal partners - both to encourage their contributions going forward and to provide helpful guidance for future contributions. The information sharing and knowledge management officers under this section should play a key role in helping to address these gaps.

Section 502. Intelligence Component Defined.

Section 723 of the House bill defines "intelligence component of the Department" as "any directorate, agency, or element of the Department that gathers, receives, analyzes, produces, or disseminates homeland security information" except: (1) "a directorate, agency, or element of the Department that is required to be maintained as a distinct entity" under the Homeland Security Act of 2002 (6 U.S.C. 101); and (2) "any personnel security, physical security, document security, or communications security program within any directorate, agency, or element of the Department."

Although Section 111 of the Senate bill includes a similar definition for "intelligence component of the Department," it does not include either of the two exceptions enumerated by the House provision.

The Conference substitute adopts the House provision, with modifications. In order to capture all of the intelligence information being gathered, received, analyzed, produced, or disseminated that might qualify an element or entity of the Department as an "intelligence component," the Conference has chosen to refer to that universe of information as "intelligence information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, or national intelligence . . ." This phrase appears numerous times throughout the Conference substitute.

The Conference is aware that the Conference substitute defines "terrorism information" to include "weapons of mass destruction information" in section 504 of the Conference substitute. The Conference, nevertheless, has included both terms when describing "intelligence information within the scope of the information sharing environment" for illustrative purposes. This phrase should not be interpreted to give the term "weapons of mass destruction" information any meaning other than the definition for it provided in section 504 of the Conference substitute.

The Conference substitute establishes the position of Under Secretary for Intelligence and Analysis to replace the Assistant Secretary for Information Analysis, commonly known as the Department's Chief Intelligence Officer. The Under Secretary shall also serve as the Department's Chief Intelligence Officer. Through the Secretary, the Under Secretary shall be given new responsibilities, in addition to those of the Assistant Secretary for Information Analysis, in order to drive a common intelligence mission at the Department that involves the full participation of the Department's intelligence components.

The Conference substitute carves out the United States Secret Service from the definition of "intelligence component of the Department" entirely. Subsection (b) nevertheless would require that the Secret Service share all homeland security information, terrorism information, weapons of mass destruction information, national intelligence, or suspect information obtained in criminal investigations with the Under Secretary for Intelligence and Analysis. In addition, the United States Secret Service will cooperate with the Under Secretary concerning information sharing and information technology activities outlined in sections 204 and 205 of the Homeland Security Act of 2002. The Conference also expects that the Secret Service will provide training and guidance to its employees, officials, and senior executives in a manner that is comparable to the training provided to intelligence component personnel under section 208 of the Homeland Security Act of 2002.

The Conference intends that the United States Secret Service should participate to the fullest extent in the integration and management of the intelligence enterprise of the Department. Given unique operational equities of the United States Secret Service, however, the Conference does not believe that it is appropriate to specifically identify the United States Secret Service as an "intelligence component" of the Department. The provision also clarifies that nothing in this Act interferes with the position of the United States Secret Service as a "distinct entity" within the Department.

Subsection (b) carves out the Coast Guard from the definition of "intelligence component of the Department" when it is engaged in certain activities or acting

under or pursuant to particular authorities. The Conference concurs that nothing in this section shall provide the Under Secretary for Intelligence and Analysis with operational or other tasking authority over the Coast Guard. The Conference nevertheless believes that the Coast Guard should collaborate and participate in the intelligence enterprise of the Department of Homeland Security.

Section 503. Role of Intelligence Components, Training, and Information Sharing.

Section 742 of the House bill delineates several key responsibilities for the head of each intelligence component of the Department regarding support for, and coordination and cooperation with, the Under Secretary for Intelligence and Analysis in the areas of acquisition, analysis, and dissemination of homeland security information; performance appraisals, bonus or award recommendations, pay adjustments, and other forms of commendation; recruitment and selection of intelligence officials of intelligence components detailed to the Office of Intelligence and Analysis; reorganization and restructuring of intelligence components; and program and policy compliance.

Section 114 of the Senate bill, in turn, establishes information sharing incentives for employees and officers across the Federal Government by providing the President and agency heads with the discretion to consider, when making cash awards for outstanding performance, an employee's or officer's success in sharing information within the scope of the information sharing environment (ISE) described in Section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485). It also requires agency and department heads to adopt best practices to educate and motivate employees and officers to participate fully in that environment - through, among other things, promotions, other nonmonetary awards, and recognition for a job well done.

The Conference substitute combines the House and Senate provisions, with modifications.

The Conference concurs that creating these additional responsibilities for the heads of the intelligence components will institute a clearer relationship between the Under Secretary for Intelligence and Analysis and the intelligence components of the Department. Successful implementation of this section should result in a strengthened departmental intelligence capability allowing information and intelligence to be seamlessly fused into intelligence products that are truly National.

It would integrate information obtained at America's land and maritime borders; from State and local governments; and including intelligence on ports, mass transit facilities, chemical plants, and other critical infrastructure. While the Department has taken many solid steps in this direction since the completion of the Second Stage Review in July 2005, the Conference believes that the Secretary must redouble efforts to better integrate the intelligence components of the Department internally.

The Conference notes that one of the greatest challenges to establishing the ISE is conveying its importance to employees and officers across the Federal Government who are being asked to do something new and - in many cases - foreign to them. Incentives will motivate many such employees and officers to educate themselves about the guidelines, instructions, policies, procedures, and

standards that are applicable to the ISE and how their particular agency or department is incorporating them into its culture. The Conference observes, however, that nothing in this section should be construed to prohibit an agency or department head, in consultation with the program manager of the ISE under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) ("ISE Program Manager"), from prescribing appropriate penalties for failing to participate fully in the ISE.

Section 504. Information Sharing.

There is no comparable House provision.

Section 112 of the Senate bill amends section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 by broadening the definition of "terrorism information" to include both homeland security information and weapons of mass destruction information and by defining "weapons of mass destruction information." Senate Section 112 likewise eliminates the temporary terms of both the ISE Program Manager and the Information Sharing Council, set to expire in April 2007, and makes them permanent. Additionally, it enhances the ISE Program Manager's government-wide authority not only by clarifying the Program Manager's existing authority over the information sharing activities of Federal agencies but also by establishing new authorities to (1) issue government-wide information sharing standards; (2) identify and resolve information sharing disputes; and (3) identify to the Director of National Intelligence appropriate personnel from agencies represented on the Information Sharing Council for detail assignments to the Program Manager to support staffing needs. Senate Section 112 also authorizes up to 40 FTEs and \$30,000,000 in each of the next two fiscal years to support the Program Manager. Finally, it requires the government to report on the feasibility of eliminating Originator Control markings, adopting an authorized use standard for information sharing, and using anonymized data to promote information sharing.

The Conference substitute adopts the Senate provision, with modifications. Among other things, it excludes "homeland security information", as defined in Section 892(f) of the Homeland Security Act of 2002, from the definition of "terrorism information". The specialized missions of the Department create for it a unique role within the larger Intelligence Community that requires, among other things, specific information for preventing, interdicting, and disrupting terrorist activity and securing the homeland in the aftermath of a terrorist attack. Accordingly, the Conferees concur that "homeland security information" is sufficiently distinct from the more broadly defined "terrorism information" to merit keeping the definitions separate.

Section 511. Department of Homeland Security State, Local, and Regional Fusion Center Initiative.

Section 732 of the House bill directs the Secretary to establish a DHS State, Local, and Regional Fusion Center Initiative to coordinate the Department's intelligence efforts with State, local, and regional fusion centers; assist fusion centers with carrying out their homeland security duties; facilitate information sharing efforts between fusion centers and the Department; encourage nationwide

and integrated information sharing among fusion centers themselves; and incorporate robust privacy and civil liberties safeguards and training into fusion center operations.

Section 121 of the Senate bill contains comparable language.

The Conference concurs that the DHS State, Local, and Regional Fusion Center Initiative is key to Federal information sharing efforts and must succeed in order for the Department to remain relevant in the blossoming State and local intelligence community. State, local, and regional fusion centers are being successfully established across the country by State and local law enforcement and intelligence agencies. The Conference agrees that the Department's Office of Intelligence and Analysis, which has a primary responsibility for sharing information with State, local, and regional officials, needs to play a stronger, more constructive role in assisting these centers and are pleased to see that the Department has begun doing so. However, the Department must act quickly, thoroughly, and cooperatively in order to provide the maximum amount of support for these centers.

The Conference applauds the State, local, and regional efforts to make fusion centers a reality and the dedication of those who staff those centers. The Conference notes, however, that although fusion centers are led, operated, and otherwise run by States and localities, there is a need for a common baseline of operations at fusion centers in order to attain not only their full potential but also the full potential of the various initiatives undertaken in the Conference agreement. The Conference expects that the grant process established in the Conference substitute, the qualifying criteria for fusion centers wishing to participate in the DHS State, Local, and Regional Fusion Center Initiative, and the guidelines for fusion centers included in the Conference substitute will all help create a common baseline of operations for fusion centers that will ensure their success into the future.

The Conference substitute adopts Section 121 of the Senate bill, with modifications, to reflect the key functionalities and priorities of the Border Intelligence Fusion Center Program established in Section 712 of the House bill. That Program was designed to provide the Department with a more robust "border intelligence" capability - a capability essential to improving the Department's ability to interdict terrorists, weapons of mass destruction, and related contraband at America's land and maritime borders. The Conference concurs that the Department can make better use of its resources, and obtain better situational awareness of terrorist threats at or involving those borders, by partnering more effectively with State, local, and tribal law enforcement officers in relevant jurisdictions. With better information sharing, those officers can act as "force multipliers" that may very well help prevent the next terrorist attack from abroad.

The Conference believes that by deploying officers and intelligence analysts from United States Customs and Border Protection (CBP), United States Immigration and Customs Enforcement (ICE), and the Coast Guard to fusion centers participating in the Program, the Department can increase its capacity to create accurate, actionable, and timely border intelligence products aimed at this threat. In order to maximize their effectiveness, CBP, ICE, and Coast Guard officers and analysts creating border intelligence products should not only include

the input of police and sheriffs' officers as part of their process, but also should ensure that those products actually respond to the needs of officers in the field as expressed by those officers. The Conference accordingly believes that the Department personnel assigned to fusion centers under this section should communicate with State, local, and tribal law enforcement officers not only at fusion centers but also in their actual communities where they are headquartered.

While the Conference believes that the Department's effort at State, local, and regional fusion centers is a critical one that should be encouraged, they note that it is not the only such effort. The Federal Bureau of Investigation (FBI), for example, has had long-standing relationships with State, local, and tribal law enforcement and other emergency response providers through Joint Terrorism Task Forces (JTTFs) across the country and has established Field Intelligence Groups (FIGs) that are, in many cases, co-located with the fusion centers. Those relationships have continued through the JTTFs, FIGs, and an established and growing FBI presence at many fusion centers. Nothing in this section should be construed to subordinate the role of the FBI to the Department's own efforts with the JTTFs and at fusion centers. On the contrary, it is the Conference's hope that the Department, the FBI, and other Federal agencies will coordinate as equal players at State, local, and regional fusion centers in order to form a united Federal partnership with their State and local counterparts on the front lines of the nation's homeland security efforts.

Further, the Conference recognizes that the Coast Guard is establishing Interagency Operations Command Centers (IOCC's) pursuant to the SAFE Port Act and authorized under Section 70107A of title 46, United States Code. IOCC's are being developed as model Federal centers to improve interagency cooperation, unity of command, and the sharing of intelligence information in a common mission to provide greater protection for port and intermodal transportation systems against acts of terrorism in the maritime domain. Nothing in this section should be construed to subordinate the role of the Coast Guard's efforts with the IOCC's.

Finally, the Conference recognizes, consistent with the Fusion Center Guidelines produced jointly by the Department of Justice and DHS, the important role of the public safety component in the fusion process. Emergency response providers are able to provide valuable information to the overall intelligence picture; likewise, the fusion process may provide advance information that enables essential preparation measures to enable a more effective response. Therefore, while the Conference stresses that State and local governments must ultimately determine the mission, composition, operating procedures, and communication channels of fusion centers and the fusion process, they emphasize the inherent value in including emergency response providers within the governance structure making these determinations. Nothing in this section is intended to mandate that representatives of the emergency response provider community should be physically located in all fusion centers or that their mission should shift emphasis from the missions of the intelligence and law enforcement communities. Rather, the Conference intends that fusion center governing boards and the fusion process should be structured so as to enable the consideration of nontraditional information from emergency response providers in a collaborative environment.

Section 512. Homeland Security Information Sharing Fellows Program.

Section 733 of the House bill directs the Secretary, through the Under Secretary for Intelligence and Analysis, to establish a fellowship program for State, local, and tribal officials to rotate into the Office of Intelligence and Analysis in order to identify for Department intelligence analysts the kinds of homeland security information that are of interest to State, local, and tribal law enforcement and other emergency response providers; assist Department intelligence analysts in writing intelligence reports in a shareable format that provides end users with accurate, actionable, and timely information without disclosing sensitive sources and methods; serve as a point of contact for State, local, and tribal law enforcement officers and other emergency response providers in the field who want to share information with the Department; and assist in the dissemination of homeland security information to appropriate end users.

Section 122 of the Senate bill contains nearly identical language.

The Conference substitute adopts the Senate's provision, as modified. The Conference concurs that implementation of this section will help break down the cultural barriers to information sharing by teaming State, local, and tribal homeland security and law enforcement officers with the Department intelligence analysts tasked with creating intelligence products for them. The Conference notes that this section will complement the DHS State, Local, and Regional Fusion Center Initiative by providing State, local, and tribal officials with better insight and input into the Department's information sharing operations and allowing them to play a greater role in the Department's information sharing effort.

Section 513. Rural Policing Institute.

There is no comparable House provision.

Section 123 of the Senate bill creates a "Rural Policing Institute" that is to be administered by the Federal Law Enforcement Training Center. The Institute would provide training for local and tribal law enforcement officers located in rural areas — defined as those areas not located within metropolitan statistical areas, as defined by the Office of Management and Budget — and would be tailored to law enforcement requirements that are unique to those areas. Section 123 would require the inclusion of several law enforcement topics in the curriculum, including methamphetamine addiction and distribution, domestic violence, and law enforcement response to school shootings. It likewise requires an assessment of these and other requirements and the development of a curriculum to address those requirements. Section 123 authorizes \$10 million for Fiscal Year 2008 for the administration of the program and \$5 million for each of Fiscal Years 2009 through 2013.

The Conference substitute adopts the Senate provision, with modifications. It broadens the Institute's focus to encompass not only law enforcement agencies but also other emergency response providers located in rural areas. Moreover, it deletes the references to training related to specific criminal offenses, and replaces them with training programs with a greater focus on homeland security in the areas of intelligence-led policing and protections for privacy, civil right, and civil liberties.

Section 521. Interagency Threat Assessment and Coordination Group.

There is no comparable House provision.

Section 131 of the Senate bill directs the Information Sharing Environment (ISE) Program Manager to oversee and coordinate the creation of an Interagency Threat Assessment and Coordination Group (ITACG) that has as its primary mission the production of Federally coordinated products derived from information within the scope of the ISE for distribution to State, local, and tribal government officials and the private sector. Section 131 of the Senate bill locates the ITACG at the National Counterterrorism Center (NCTC) and directs the Secretary to assign a senior level officer to manage and direct the administration of the ITACG; to determine how specific products should be distributed to end users; and to establish standards for the admission of law enforcement and intelligence officials from State, local, or tribal governments into the ITACG. Section 131 of the Senate bill further prescribes the membership of the ITACG - including State, local, and tribal law enforcement and intelligence officials - and directs the ISE Program Manager to establish criteria for the selection of those officials and for the proper handling and safeguarding of information related to terrorism.

The Conference substitute adopts the Senate provision, with modifications. The Conference notes that the ITACG has roots in, among other places, the ISE Implementation Plan (the Plan) prepared by the ISE Program Manager in November 2006 to ensure the timely and effective production, integration, vetting, sanitization, and communication of terrorism information to the Federal Government's State, local, and tribal partners. The Plan explained that a "primary purpose of the ITACG will be to ensure that classified and unclassified intelligence produced by Federal organizations within the intelligence, law enforcement, and homeland security communities is fused, validated, deconflicted, and approved for dissemination in a concise and, where possible, unclassified format" to State, local, and tribal officials.

The ISE Program Manager envisioned having the ITACG based at the NCTC and managed on a day-to-day basis by a senior Department official. The ISE Program Manager likewise envisioned that the Department and the Department of Justice would share the decision-making authority regarding how to disseminate various types of information to State, local, and tribal officials and the private sector.

The Conference substitute bifurcates the ITACG into two distinct entities. The first entity, an ITACG Advisory Council chaired by the Secretary or the Secretary's designee, shall set policy and develop processes for the integration, analysis, and dissemination of Federally-coordinated information within the scope of the ISE, including homeland security information, terrorism information, and weapons of mass destruction information. The second entity, an ITACG Detail created by the Secretary and managed by a senior Department intelligence official, shall be comprised of State, local, and tribal homeland security and law enforcement officers detailed to work in the NCTC with NCTC and other Federal intelligence analysts. Participants in the ITACG Detail shall integrate, analyze, and assist the dissemination of the aforementioned information to appropriate State, local, tribal, and private sector end users.

The Conference strongly believes that the ITACG presents the Department with a unique opportunity to realize its mission as the primary source of accurate,

actionable, and timely homeland security information for its State, local, tribal and private sector partners that Congress had originally envisioned in the Homeland Security Act of 2002 (6 U.S.C. 101). The Department should seize the moment. The ITACG will provide the Department and the wider Intelligence Community with an unmatched ability to identify information that is of interest and utility to those partners; produce reports which can be disseminated to them in an unclassified format or at the lowest possible classification level; and assist in the targeted dissemination of particular intelligence products to appropriate end users. By building upon the Department's customer service approach to information sharing, Department leadership of the ITACG will help the Department and other Federal agencies co-located at the NCTC to leverage their existing ties with their State, local, tribal, and private sector counterparts and ultimately invigorate the two-way flow of information with them that the 9/11 Commission identified as critical to making the homeland more secure.

While the Secretary will play the primary role in establishing and maintaining the ITACG Detail and shall detail a senior intelligence official from the Department to manage its day-to-day activities, the Department is reminded that it is a guest in the NCTC. As direct reports to the Director of the NCTC, the senior intelligence official from the Department and the ITACG detailees themselves must comply with all policies, procedures, and rules applicable to other staff working in the NCTC - including any mandatory polygraph examination for NCTC staff. Neither the ITACG Advisory Council nor the ITACG Detail are in any way intended to impede, replicate, or supplant the analytic and/or production efforts of the NCTC, nor are they intended to duplicate, impede, or otherwise interfere with existing and established counterterrorism roles and responsibilities.

With regard to the preparation, review, and dissemination of products from the ITACG Detail, it is the Conference's intent that those products be subject to the same policies, procedures, and rules applicable to NCTC products. Pursuant to 102A(f)(1)(B)(iii) and 119(f)(E) of the National Security Act of 1947 (50 U.S.C. 402 et seq.), it is the Conference's further intent that the Director should act as a gatekeeper when providing products prepared by the ITACG Detail to the Department, the Department of Justice, and other appropriate agencies for dissemination to State, local, tribal, and private sector end users. Nothing in this section should be construed to mean that the Director may distribute products prepared by the ITACG Detail directly to those end users.

Finally, the Conference agrees that the privacy and civil liberties impact assessment required under this section shall specifically address how the ITACG will incorporate the Guidelines to Implement Information Privacy Rights and other Legal Protections in the Development and Use of the Information Sharing Environment released by the President on November 22, 2006 (Presidential Guidelines) to protect privacy rights and civil liberties.

Section 531. Office of Intelligence and Analysis and Office of Infrastructure Protection

The Homeland Security Act of 2002 (6 U.S.C. 101) created an Under Secretary for Information Analysis, assisted by an Assistant Secretary for

Information and Analysis and an Assistant Secretary for Infrastructure Protection, and specified the Under Secretary's primary responsibilities. These include: (1) receiving and analyzing law enforcement information, intelligence, and other lawfully obtained information in order to understand the nature and scope of the terrorist threat to the United States homeland; (2) integrating relevant information to produce and disseminate infrastructure vulnerabilities assessments; (3) analyzing that information to identify and prioritize the types of protective measures to be taken; (4) making recommendations for information sharing and developing a national plan that would outline recommendations to improve the security of key resources; (5) administering the Homeland Security Advisory System; (6) exercising primary responsibility for public threat advisory and providing specific warning information to State and local governments and the private sector, as well as advice about appropriate protective actions and countermeasures; (7) making recommendations for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to homeland security within the Federal government and between the Federal government and State and local governments.

Following the completion of the Department's Second Stage Review in July of 2005, the Secretary renamed the Office of Information Analysis the "Office of Intelligence and Analysis" and gave it responsibilities in addition to those outlined in the Homeland Security Act. In addition to its statutory duties, one of the major responsibilities for the new Office of Intelligence and Analysis is to serve as the Chief Intelligence Office of the Department - taking responsibility for leading the intelligence components of the Department.

Sections 741 and 743 of the House bill reflect these changes by statutorily reorganizing the Directorate for Information Analysis and Infrastructure Protection by doing away with the Directorate and the Under Secretary for Information Analysis and Infrastructure Protection position and officially establishing in its place a separate Office of Intelligence and Analysis, elevating the Assistant Secretary for Information and Analysis to an Under Secretary for Intelligence and Analysis as its head; and a separate Office of Infrastructure Protection, headed by the Assistant Secretary for Infrastructure Protection. Sections 741 and 743 of the House bill likewise divide the responsibilities of the former Under Secretary for Information Analysis and Infrastructure Protection outlined in Section 201(d) of the Homeland Security Act between the new Under Secretary for Intelligence and Analysis and new Assistant Secretary for Infrastructure Protection. Section 741 in the House bill also adds several new responsibilities for the Under Secretary for Intelligence and Analysis.

There is no comparable Senate provision.

The Conference substitute adopts the House provisions, with substantial modifications. While the Conference agrees with the Department's consolidation of the duties of the Office of Intelligence and Analysis, they also believe that the powers of the Department's Chief Intelligence Officer can only be effectively wielded by an Under Secretary. Therefore, this section amends the Homeland Security Act of 2002 (6 U.S.C. 101) to restructure the Department to reflect the changes wrought by the Second Stage Review by elevating the Assistant Secretary

for Information Analysis to Under Secretary for Intelligence and Analysis and by officially establishing an Office of Intelligence and Analysis and an Office of Infrastructure Protection.

The Conference substitute retains those authorities from Section 201(d) of the Homeland Security Act in the Secretary for delegation to the appropriate officials. Those authorities include a new authority in the Conference agreement, to be carried out most likely by the Under Secretary for Intelligence and Analysis: the provision of guidance to the heads of intelligence components on developing budgets, and the presentation of recommendations for a consolidated intelligence budget to the Secretary.

Finally, the Conference substitute establishes an additional Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs of the Department.

TITLE VI - CONGRESSIONAL OVERSIGHT OF INTELLIGENCE

Section 601. Availability to Public of Certain Intelligence Funding Information.

There is no comparable House provision.

Section 1201 of the Senate bill requires the President to disclose to the public the aggregate amount of funds requested for the National Intelligence Program for each fiscal year. It also would require Congress to disclose to the public the aggregate amount authorized to be appropriated and the aggregate amount appropriated for the National Intelligence Program. The 9/11 Commission recommended in 2004 that the aggregate amount of funding for national intelligence be declassified, and in 2004 the Senate-passed version of the Intelligence Reform and Terrorism Prevention Act included a similar provision.

The Conference substitute adopts the Senate provision with modifications. The Conference substitute requires the Director of National Intelligence to disclose to the public the aggregate amount of funds appropriated by Congress for the National Intelligence Program, beginning with Fiscal Year 2007. Beginning with Fiscal Year 2009, it allows the President to waive or postpone this disclosure by submitting to the Select Committee on Intelligence of the Senate and Permanent Select Committee of the House of Representatives an unclassified statement that the disclosure would damage national security, and a statement detailing the reasons for the waiver or postponement, which may be submitted in classified form.

Section 602. Public Interest Declassification Board.

There is no comparable House provision.

Section 1203 of the Senate bill authorizes the Public Interest Declassification Board, upon receiving a Congressional request, to conduct a review and make recommendations regardless of whether the review is requested by the President. It further provides that any recommendations submitted by the Board to the President shall also be submitted to the Chairman and Ranking Minority Member of the

requesting Committee and extends the authorization of the Board for four years until the end of 2012.

As described in its report on activities in the 109th Congress (S. Rep. No. 110-57, at p.26), in September 2006, the Senate Select Committee on Intelligence released two reports on prewar intelligence regarding Iraq. In the introduction to one, the Committee expressed disagreement with the Intelligence Community's decision to classify portions of the report. Members of the Committee wrote to the then recently constituted Public Interest Declassification Board to request that it review the material and make recommendations about its classification. The Board responded that it might not be able to do so without White House authorization. In December 2006, the Board wrote to Congress to request that the statute establishing the Board be clarified to enable it to begin, without White House approval, a declassification review requested by Congress.

The Conference substitute adopts the Senate provision with minor technical and conforming changes to the Public Interest Declassification Act of 2000 (50 U.S.C. 435 note) to substitute the "Director of National Intelligence" for the "Director of Central Intelligence."

Section 603. Sense of the Senate Regarding a Report on the 9/11 Commission Recommendations with Respect to Intelligence Reform and Congressional Intelligence Oversight Reform.

There is no comparable House provision.

Section 1204 of the Senate bill makes findings related to the 9/11 Commission's recommendation on Congressional oversight of intelligence. It expresses the Sense of the Senate that the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate should undertake a review of the recommendations made in the final report of the 9/11 Commission with respect to intelligence reform and Congressional intelligence oversight reform, review and consider other suggestions, options, or recommendations for improving intelligence oversight, and not later than December 21, 2007, submit to the Senate a joint report or individual reports that include the recommendations of the Committees, if any, for carrying out such reforms.

The Conference substitute adopts the Senate provision.

Section 604. Availability of Funds for the Public Interest Declassification Board.

There is no comparable House provision.

Section 1205 of the Senate bill allows the National Archives and Records Administration to obligate monies to carry out the activities of the Public Interest Declassification Board from the Continuing Appropriations Resolution of 2007, as amended.

The Conference substitute adopts the Senate provision.

Section 605. Availability of the Executive Summary of the Report on Central Intelligence Agency Accountability Regarding the Terrorist Attacks of September 11, 2001.

There is no comparable House provision.

Section 1206 of the Senate bill provides that not later than 30 days after the enactment of this Act, the CIA Director shall prepare and make available to the public a version of the Executive Summary of a report by the CIA Inspector General that is declassified to the maximum extent possible consistent with national security.

The underlying document is the Office of Inspector General Report on Central Intelligence Agency Accountability Regarding Findings and Conclusions of the Joint Inquiry Into Intelligence Community Activities Before and After September 11, 2001.

The CIA Director is to submit to Congress a classified annex that explains why any redacted material in the Executive Summary was withheld from the public. The Senate Select Committee on Intelligence includes a similar provision in its Intelligence Authorization Act for Fiscal Year 2008. The Committee's efforts to obtain this measure of public accountability are detailed in its report on the Committee's activities in the 109th Congress, S. Rep. No. 110-57, at pp. 24-26 (2007).

The Conference substitute adopts the Senate provision.

TITLE VII - TERRORIST TRAVEL

Section 701. Report on International Collaboration to Increase Border Security, Enhance Global Document Security, and Exchange Terrorist Information.

Section 611 of the House bill requires the Department of Homeland Security (the Department or DHS), in conjunction with the Director of National Intelligence and the heads of other relevant Federal agencies, to submit a report to Congress outlining the actions the U.S. government has taken to collaborate with international partners to increase border security, enhance document security, and exchange information about terrorists.

There is no comparable Senate provision.

The Conference substitute adopts the House provision.

Section 711. Modernization of the Visa Waiver Program.

There is no comparable House provision.

Section 501 of the Senate bill enhances the security requirements in the Visa Waiver Program and provides for the program's limited expansion. This section authorizes the development and implementation of an electronic travel authorization system under which each Visa Waiver Program traveler would electronically provide information, in advance of travel, necessary to determine whether the individual is eligible to travel to the United States. The Section also requires the Secretary of Homeland Security (the Secretary) to establish an exit system that records the departure of every alien who entered under the Visa Waiver Program and departed the United States by air. In addition to existing program requirements, all Visa Waiver Program countries are required to enter into agreements with the

United States to report information about the theft or loss of passports, accept repatriation of its citizens, and share information about whether a national of that country traveling to the United States represents a threat to U.S. security.

Section 501 permits the Secretary of Homeland Security, in consultation with the Secretary of State, to waive the existing 3 percent nonimmigrant visa refusal rate requirement, up to 10 percent, for admission into the Visa Waiver Program. Alternatively, the Secretary can waive the existing 3 percent nonimmigrant visa refusal rate if a country's nationals do not exceed a rate, set by the Secretary, of overstaying their authorized admission in the United States. This waiver authority is only granted to countries meeting additional security criteria, including cooperating in counterterrorism initiatives, and only when the Secretary determines that security or law enforcement interests of the United States will not be compromised. Before exercising a waiver, the Secretary must also certify to Congress that an air exit system is in place that can verify the departure of not less than 97 percent of foreign nationals who exit by air.

The Conference adopts the Senate provision, with modifications.

The Conference recognizes that the Visa Waiver Program, which Congress established in 1986, has benefitted commerce and tourism between the United States and participating Visa Waiver Program countries. The Conference believes that a modernization of the program is long overdue and that a careful and controlled expansion to countries who have not quite met existing program entrance requirements but who have been partners with the U.S. in fighting terrorism is appropriate in order to promote greater international security cooperation. In the wake of the terrorist attacks of September 11, 2001 and subsequent foiled terror plots, the imperative for reform is greater than ever.

The Conference agrees on the need for significant security enhancements to the entire Visa Waiver Program as set forth in the Senate bill and to the implementation of the electronic travel authorization system prior to permitting the Secretary to admit new countries under his new waiver authority. The Conference mandates that the Secretary develop such an electronic travel authorization system to collect biographical and such other information from each prospective Visa Waiver Program traveler necessary to determine whether the alien is eligible to travel under the program and whether a law enforcement or security risk exists in permitting the alien to travel to the United States. The Conference believes the Secretary should check the information collected in the electronic travel authorization system against all appropriate databases, including lost and stolen passport databases such as that maintained by Interpol. The Conference believes that checking travelers from Visa Waiver Program countries against all appropriate watch lists and databases will greatly enhance the overall security of the Visa Waiver Program.

In addition, the Conference agrees to permit the Secretary of Homeland Security, in consultation with the Secretary of State, to waive the existing 3 percent nonimmigrant visa refusal rate requirement, up to 10 percent, and to allow the Secretary to establish an overstay rate in lieu of the 3 percent nonimmigrant visa refusal rate for admission into the Visa Waiver Program. The Conference believes this overstay rate should reflect a reasonable expectation that the country can

continue to participate in the VWP under existing statutory criteria.

The Conference further agrees to provide the Secretary this waiver authority upon certification by the Secretary to Congress that there is an air exit system in place to verify the departure of not less than 97 percent of foreign nationals who exit by air, which may or may not be fully biometric. The Conference also agrees that the ultimate goal is to achieve a fully biometric air exit system, as described in subsection (I) of the bill. Therefore, if such a biometric system is not implemented by June 30, 2009, the Secretary's waiver authority that was based upon his certification of 97 percent accuracy of any non-biometric exit system shall be suspended until a biometric exit system is fully operational. Establishment of this biometric system will implement a 9/11 Commission recommendation and will enhance our border security and immigration enforcement by ensuring our ability to track the arrivals and departures of foreign nationals.

Section 721. Strengthening the Capabilities of the Human Smuggling and Trafficking Center.

Section 601 of the House bill directs the Secretary, acting through the Assistant Secretary of Homeland Security for Immigration and Customs Enforcement (ICE), to: provide administrative support and funding to the Human Smuggling and Trafficking Center (the Center); ensure the Center is staffed with not fewer than 30 full-time equivalent personnel; and seek reimbursement from the Attorney General and the Secretary of State for costs associated with the participation of their respective departments in the operation of the Center. The section also directs the Office of Intelligence and Analysis (renamed under section 741), in coordination with the Center, to submit to law enforcement and relevant agencies periodic reports regarding terrorist threats related to such smuggling, trafficking, and travel.

Section 502 of the Senate bill is a comparable section but amends Section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1777) to direct the Secretary to nominate a U.S. government official to serve as the Director of the Human Smuggling and Trafficking Center, in accordance with the Center's Memorandum of Understanding entitled "Human Smuggling and Trafficking Center Charter." This section also clarifies the role of the Center as the focal point for interagency efforts to integrate and disseminate intelligence and information related to terrorist travel. The section requires that the Center be staffed with at least 40 full time employees and directs the Secretary to work with various DHS agencies and other Federal Departments to provide detailees with appropriate areas of expertise. The section also authorizes \$20 million to allow the Center to carry out its existing responsibilities, fund the administrative costs and management of the Center, increase staffing levels and reimburse other Federal Departments for personnel.

The Conference substitute adopts the Senate provision, with modifications. The Conference agrees that the Center should be staffed with intelligence analysts or special agents with demonstrated experience related to human smuggling, trafficking in persons, or terrorist travel, in addition to individuals with other expertise including consular affairs, counterterrorism, and criminal law enforcement

from throughout the government.

The Conference also agrees that the Secretary and the heads of other relevant agencies should provide incentives for service at the Center, particularly for personnel who serve terms of at least two years. Staff detailed to the Center, except for those subject to the provisions of the Foreign Service Act of 1980, shall be considered for promotion at rates equivalent to or better than similarly situated personnel not so assigned.

The Conference agrees to adopt section 601(f) from the House provision, but delete the requirement that the Office of Intelligence and Analysis submit reports to "Federal" law enforcement agencies and "other relevant agencies," as this would be a function performed by the Center. The Conference clarifies that subsection (d) in no way impedes the authority of the Secretary of State to participate in the selection of the Director of the Center, a role that is described in the Center's memorandum of understanding entitled "Human Smuggling and Trafficking Center Charter," as amended as of October 1, 2006. That Memorandum of Understanding establishes that the Director will be confirmed by the Department, the Department of Justice, and the State Department. Finally, the Conferees agree to fund 40 full-time equivalent staff and to authorize \$20 million for the Center for Fiscal Year 2008.

Section 722. Enhancements to the Terrorist Travel Program.

There is no comparable House provision.

The Department never created the terrorist travel program mandated by section 7215 of Public Law 108-458. Section 503 of the Senate bill requires the Secretary to establish the program within 90 days of enactment and to report to Congress within 180 days on the implementation of the program. The section requires that the Assistant Secretary for Policy at the Department, or another official that reports directly to the Secretary, be designated as head of the terrorist travel program and outlines specific duties to be carried out by the head of the program. Those duties include: developing strategies and policies for the Department to combat terrorist travel; reviewing the effectiveness of existing programs to combat terrorist travel across DHS; making budget recommendations that will improve DHS's ability to combat terrorist travel; and ensuring effective coordination among DHS agencies with missions related to intercepting and apprehending terrorists. This section also designates the head of the program as the point of contact for DHS with the National Counterterrorism Center and requires that the Secretary submit a report to Congress on the implementation of the section.

The Conference substitute adopts the Senate provision.

Section 723. Enhanced Driver's License.

There is no comparable House provision.

Section 504 of the Senate bill would require the Secretary to enter into a memorandum of agreement with at least one State to pilot the use of enhanced driver's licenses that would be valid for a U.S. citizen's admission into the United States from Canada and require a report to Congress on the pilot.

The Conference substitute adopts the Senate provision, as modified to permit a pilot of U.S. citizens entering the country from either Canada or Mexico.

Section 724. Western Hemisphere Travel Initiative.

There is no comparable House provision.

Section 505 of the Senate bill would require the Secretary to complete a cost-benefit analysis of the Western Hemisphere Travel Initiative (WHTI) and a study of ways to reduce the fees associated with passport cards prior to publishing a final rule for WHTI.

The Conference substitute adopts the Senate provision, as modified to specify that the Secretary of State shall develop proposals for reducing passport card fees, including through mobile application teams who could accept applications for the passport card in communities particularly affected by WHTI. The Conference believes that the cost/benefit analysis should include the cost to the State Department and resources required to meet the increased volume of passports requests.

Section 725. Model Ports-of-Entry.

There is no comparable House provision.

Section 506 of the Senate bill would require the Secretary to establish a model ports of entry program aimed at improving security and streamlining the current arrival process for incoming travelers at the 20 busiest international airports in the United States. It requires the Department to hire at least 200 additional Customs and Border Protection officers to address staff shortages at these airports, and it would also require measures that would ensure a more efficient international arrival process.

The Conference substitute adopts the Senate provision, as modified.

Section 731. Report Regarding Border Security.

There is no comparable House provision.

Section 1604 of the Senate bill directs the Secretary to report to Congress regarding ongoing DHS initiatives to improve security along the U.S. northern border. The section also requires the Comptroller General to report to Congress with a review and comments on that report and recommendations regarding any necessary additional actions to protect that border.

The Conference substitute adopts the Senate provision, as modified.

TITLE VIII – PRIVACY AND CIVIL LIBERTIES

Section 801. Modification of Authorities Relating to Privacy and Civil Liberties Oversight Board.

Sections 802, 803, 804, 805, and 806(a) of the House bill amend Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458) by modifying the structure and operations of the Privacy and Civil Liberties Oversight Board (the Board). This section removes the Board from the Executive Office of the President and makes the Board an independent agency. It also

requires each of the Board's five members to be confirmed by the U.S. Senate. The House language also provides the Board with subpoena powers that will be enforced by the U.S. District Court in the judicial district where the subpoenaed person resides. The Board is required to submit not less than two reports each year to the appropriate Committees of Congress that shall include a description of the Board's activities, information on its findings, conclusions, minority views, and recommendations resulting from its advice and oversight functions.

Section 601 of the Senate bill is a comparable provision; however, it strengthens the Board's authority without removing it from the Executive Office of the President. Additionally, the Senate provision also grants subpoena power to the Board; however, it differs from the House provision in that the subpoena must be issued by the Attorney General who shall either issue the subpoena as requested or provide the Board with an explanation if the subpoena request is modified or denied. If the request is modified or denied, Congress shall be notified of this action within thirty days.

The Conference substitute adopts the House provision regarding the removal of the Board from the Executive Office of the President and adopts the Senate provision regarding the Board's subpoena power. All other comparable provisions were integrated.

Section 802. Department Privacy Officer.

Section 812 of the House bill adopts the language contained in the Privacy Officer with Enhanced Rights Act of 2007, as introduced. In particular, this section expands the Department of Homeland Security's (the Department or DHS) Chief Privacy Officer's (CPO) access to any and all material available to the Department that fall under the CPO's purview. The CPO is also given authority to administer oaths and issue subpoenas to facilitate investigations and reporting requirements. The CPO's term of office would last for a period of 5 years and the individual appointed would be required to submit reports to Congress, without any prior comment by the Secretary, Deputy Secretary or any other officer of the Department, regarding the performance and responsibilities of the Privacy Office.

Section 603 of the Senate bill is a comparable provision, except that it does not include the 5-year term of office as mandated by the House provision, and it directs that the CPO's subpoena authority be exercised with the approval of the Secretary of Homeland Security (the Secretary).

The Conference substitute adopts the House language with changes, including the removal of the five year term of office and specifying that the subpoena authority be exercised through the Secretary. It also clarifies the relationship between the CPO and the Office of the Inspector General.

Section 803. Privacy and Civil Liberties Officers.

Section 602 of the Senate bill establishes a network of Privacy and Civil Liberties officers in Executive Branch Agencies, in some cases strengthening the powers of existing officers. It provides that the Departments of Justice, Defense, State, Treasury, Health and Human Services, and Homeland Security, the Director of National Intelligence and the Central Intelligence Agency, and other agencies

designated by the Privacy and Civil Liberties Oversight Board, are required to designate at least one senior official to serve as an internal privacy and civil liberties officer, to function as a source of advice and oversight on privacy and civil liberties matters to the agency. Departments and agencies may designate an existing privacy or civil liberties officer for this role, and the legislation specifies that where a Department or agency has a statutory privacy or civil liberties officer, that officer shall perform the relevant functions required by this section. These officers are directed to make regular reports to their respective department or agency heads, Congress, the Privacy and Civil Liberties Oversight Board, and the public.

Section 806(b) of the House bill is a comparable provision.

The Conference substitute adopts the Senate provision.

Section 804. Federal Agency Data Mining Reporting Act of 2007.

There is no comparable House provision.

Section 604 of the Senate bill requires all Federal agencies to report to Congress within 180 days and every year thereafter on data mining programs developed or used to find a pattern or anomaly indicating terrorist or other criminal activity on the part of individuals, and how these programs implicate the civil liberties and privacy of all Americans. If necessary, specific information in the various reports could be classified.

The Conference substitute adopts the Senate language.

TITLE IX - PRIVATE SECTOR PREPAREDNESS

Section 901. Private Sector Preparedness.

Section 1101 of the House bill requires the Secretary of Homeland Security (the Secretary) to establish a program to enhance private sector preparedness for acts of terrorism and other emergencies and disasters. The language also requires the Secretary to support the development and promulgation of preparedness standards, including the National Fire Protection Association 1600 Standard.

Section 803 of the Senate bill establishes a voluntary certification program to assess whether a private sector entity meets voluntary preparedness standards. In consultation with private sector organizations listed in the section, the Secretary would support the development of voluntary preparedness standards and develop guidelines for the accreditation and certification program. The accreditation and certification process would be implemented and managed by one or more qualified nongovernmental entities selected by the Secretary. Under the program, companies wishing to be certified would have their applications reviewed by third parties accredited by the entity or entities managing the program, which would determine if certification was warranted.

The Conference substitute adopts the Senate provision, as well as aspects of section 1101 of the House bill, with modifications. The Conference substitute permits the development of guidance and recommendations, and identification of best practices, to assist or foster private sector preparedness. If such guidance and

recommendations are developed, the Administrator of Federal Emergency Management Agency (FEMA) and the Assistant Secretary for Infrastructure Protection will work to develop the guidance and recommendations, and the Administrator of FEMA will issue them. The Conference substitute requires the establishment of a voluntary certification program which will be developed by a designated officer within DHS, to be selected by the Secretary from among the Administrator of FEMA, the Assistant Secretary of Infrastructure Protection, and the Under Secretary for Science and Technology, in consultation with appropriate private sector parties designated in the legislation.

As recommended by the 9/11 Commission, through this section, the Department of Homeland Security will be promoting private-sector preparedness of which the 9/11 Commission said: "Private sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world."

Section 902. Responsibilities of the Private Sector Office of the Department.

There is no comparable House provision.

Section 802 of the Senate bill amends section 102(f) of the Homeland Security Act to add promoting to the private sector the adoption of voluntary national preparedness standards to the responsibilities of the Special Assistant to the Secretary. It also establishes a new responsibility for the private sector advisory councils: advising the Secretary on private sector preparedness issues.

The Conference substitute adopts the Senate provision with minor modifications.

TITLE X - CRITICAL INFRASTRUCTURE PROTECTION

Section 1001. National Asset Database.

Section 902 of the House bill requires the Secretary of the Department of Homeland Security (the Department or DHS) to maintain two databases addressing critical infrastructure: the National Asset Database and, as a subset, the National At-Risk Database. To develop the National Asset Database and the At-Risk Database, the Secretary will meet with a consortium of national laboratories and experts. The Secretary is required to annually update both databases and remove assets and resources that are not verifiable or do not comply with the database requirements. The Secretary will also meet with the States and advise them as to the format for submitting assets for the lists and notifying them as to deficiencies before removing or omitting assets from the lists. This provision also requires the Secretary to consult the Databases for purposes of allocating various Department grant programs and to provide an annual report to Congress on the contents of the Databases.

Section 1101 of the Senate bill requires the Secretary to establish a risk-based prioritized list of critical infrastructure and key resources that, if successfully destroyed or disrupted through a terrorist attack or natural catastrophe, would cause catastrophic national or regional impacts. The list must be reviewed and updated at least annually. The provision also requires an annual report summarizing the

construction and contents of the list. The report may include a classified annex.

The Conference substitute adopts the House provision with certain modifications. The Conferees determined that there is a uniform manner by which to compile the country's vital assets and to prioritize those assets, as called for in Homeland Security Presidential Directive-7. This process will enable a more effective cooperation with State and local governments and provide a means by which the appropriate Congressional Committees may annually review the prioritized list as well as receive a report about the database and list.

The Conference substitute modifies the House provision to require the Secretary to maintain a prioritized critical infrastructure list, as called for in the Senate bill, instead of the National At-Risk Database. Furthermore, the Conference substitute authorizes the Secretary to form an optional consortium to advise on the Database, but did not make the formation of such a consortium mandatory.

Section 1002. Risk Assessments and Report.

Section 901 of the House bill requires the Secretary to prepare a vulnerability assessment of the critical infrastructure information available to the Secretary with respect to that fiscal year, unless a vulnerability assessment is required under another provision of law. The Secretary must provide annual comprehensive reports on vulnerability assessments for all critical infrastructure sectors established in Homeland Security Presidential Directive-7. This provision requires the Secretary to provide the appropriate Congressional Committees with a summary vulnerability report and a classified annex for each industry sector. This provision also requires the Department to provide a summary report from the preceding two years to compare with the current report to show any changes in vulnerabilities and provide explanations and comments on greatest risks to critical infrastructure for each sector and any recommendations for mitigating these risks.

Section 1102 of the Senate bill requires the Secretary, for each fiscal year, to prepare a risk assessment of the critical infrastructure and key resources of the United States. It requires that the risk assessment be organized by sector and that it contain any actions or countermeasures proposed, recommended, or directed by the Secretary to address security concerns covered in the assessment. It enables the Secretary to rely upon other assessments prepared by another Federal agency that the Department determines are prepared in coordination with other initiatives of the Department relating to critical infrastructure or key resource protection. It also requires the Secretary to submit an annual report to the relevant Congressional Committees that contains a summary and review of the risk assessments prepared by the Secretary for that year. The report will be organized by sector and will include the Secretary's recommendations for mitigating risks identified by the assessments.

The Conference substitute adopts a compromise provision by eliminating the requirement for the Secretary to conduct risk assessments under this section because those same assessments are required to be conducted under the Homeland Security Act. The Conference substitute requires the Secretary to provide a report on the comprehensive risk assessments on critical infrastructure that the Department is already required to conduct under the Homeland Security Act.

Further, the Conference desires that, if appropriate, the report or reports be furnished in a public form with a classified annex. Furthermore, the Conference intends that the classification of information required to be provided to Congress or shared between the Department and any other sector-specific department or agency pursuant to this new paragraph, including the assignment of a level of classification of such information, shall be binding on Congress, the Department, and any other Federal Department or Agency. With regard to these assessments, the Homeland Security Act requires the Secretary to conduct the assessments with respect to the nation's critical infrastructure and key resources. The Conference intends for the Secretary to exercise his responsibilities under the Homeland Security Act and make a timely report to Congress. Through this section, the Conference does not intend to make any changes to the Secretary's authority under section 201 of the Homeland Security Act. The section requires the Secretary to submit a set of reports to the Senate Committee on Homeland Security and Governmental Affairs and the House of Representatives Committee on Homeland Security as well as other appropriate Congressional Committees containing a summary and review of the assessments prepared by the Secretary, as already required by the Homeland Security Act.

Section 1003. Sense of Congress Regarding the Inclusion of Levees in the National Infrastructure Protection Plan.

There is no comparable House provision.

Section 1101 of the Senate bill requires the Secretary to include levees in the Department's list of critical infrastructure sectors.

The Conference substitute adopts the Senate provision, while modifying it so that it is the sense of Congress that the Secretary should ensure that levees are included in one of the critical infrastructure and key resource sectors identified in the National Infrastructure Protection Plan.

TITLE XI - BIOLOGICAL AND NUCLEAR DETECTION

Section 1101. National Biosurveillance Integration Center.

There is no comparable House provision. However, the House passed, on a bipartisan basis, a very similar provision as part of H.R. 1684, "the Department of Homeland Security Authorization Act for Fiscal Year 2008."

Section 701 of the Senate bill provides for the authorization of a National Biosurveillance Integration Center (NBIC) within the Department of Homeland Security (the Department or DHS). The primary mission of the NBIC is to enhance the situational awareness of the Federal Government of intentional and naturally occurring biological incidents of national concern, and to rapidly alert Federal, State and local entities of such incidents.

The Conference substitute adopts the Senate provision, with technical modifications.

In order to best achieve its mission, the Conference directs that NBIC

Member Agencies to send all information that could indicate a biological incident of national concern, including protected health information from member agencies which are Public Health Authorities as defined by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, to the NBIC.

Section 1102. Biosurveillance Efforts.

There is no comparable House provision.

Section 702 of the Senate bill requires the Comptroller General of the United States to report to Congress on Federal, State, and local biosurveillance efforts, any duplication of such efforts, and recommendations on integration of systems and effective use of resources and professional expertise.

The Conference substitute adopts the Senate provision, with technical modifications.

Section 1103. Interagency Coordination to Enhance Defenses Against Nuclear and Radiological Weapons of Mass Destruction.

There is no comparable House provision.

Section 703 of the Senate bill requires the Secretaries of Homeland Security, State, Defense, Energy, the Attorney General and the Director of National Intelligence to jointly ensure interagency coordination on the development and implementation of the global nuclear detection architecture by completing a joint annual interagency review of matters relating to the global nuclear detection architecture, which shall be submitted to the President and the appropriate Congressional Committees.

The Conference substitute adopts the Senate provision, with technical modifications.

Section 1104. Integration of Detection Equipment and Technologies.

There is no comparable House provision.

Section 1607 of the Senate bill requires the Secretary of Homeland Security to ensure that chemical, biological, radiological, and nuclear detection equipment and technologies are integrated as appropriate with other border security systems and detection technologies, and requires the Secretary to develop a departmental technology assessment process and report the process to Congress within 6 months of enactment.

The Conference substitute adopts the Senate provision, as engrossed by the Senate.

TITLE XII – TRANSPORTATION SECURITY PLANNING AND INFORMATION SHARING

Section 1201. Definitions.

The Conference substitute includes a provision which defines the terms “Department” and “Secretary” for the purposes of this title.

Section 1202. Transportation Security Strategic Planning.

Section 1002 of the House bill requires the Department of Homeland Security (the Department or DHS) to include additional information in subsequent submissions of the National Strategy for Transportation Security. It requires DHS to tie the risk-based priorities identified in the Strategy to the risk assessments conducted by DHS; to coordinate the development of the Strategy with Federal, State, regional, local and tribal authorities and transportation system employees; and to tie the budget and research and development to the priorities in the Strategy. It also requires DHS to build into the Strategy a more intermodal perspective for transportation security.

Section 901 of the Senate bill is a comparable provision.

The Conference substitute adopts modified language from both bills. The Conference would like to clarify that the information required by the periodic progress reports, on the turnover among senior staff of the Department (and any component agencies) working on transportation security issues, includes program managers responsible for transportation security programs, at the GS-13 level or its equivalent, as well as their immediate supervisors and other superiors, up to and including Assistant Secretaries or Under Secretaries.

Section 1203. Transportation Security Information Sharing.

Section 1001 of the House bill improves transportation security information between the public and private sectors by requiring the establishment of a Transportation Security Information Sharing Plan. It also requires the Department to provide a semiannual report to Congress identifying the persons who receive transportation security information.

Section 902 of the Senate bill is a comparable provision, which also requires the plan be developed in consultation with the program manager of the Information Sharing Environment established under the Intelligence Reform and Terrorism Prevention Act of 2004. This section further requires that DHS establish a point or points of contact within the Department for distributing transportation security information to public and private stakeholders.

The Conference substitute adopts the Senate provision, as modified.

Section 1204. National Domestic Preparedness Consortium.

There is no comparable House provision.

Section 1429 of the Senate bill requires the Secretary of Homeland Security (the Secretary) to develop guidance for a rail worker security training program. Section 1505 of the Senate bill requires the Secretary to issue regulations for a public transportation worker training program. Section 202 of the Senate bill authorizes the Secretary to establish a State Homeland Security Grant Program and an Urban Area Security Initiative grant program which allows States and localities to apply for grants from DHS for the purpose of training first responders.

The Conference substitute authorizes the establishment of the National Domestic Preparedness Consortium, which has been responsible for identifying, developing, testing and delivering training to State, local, and tribal emergency

response providers. The Conference substitute further authorizes an expansion of the Consortium to include the National Disaster Preparedness Training Center and the Transportation Technology Center, Incorporated, to assist with providing security training to emergency responders and transportation workers.

In addition, the Conference substitute authorizes specific funding levels for the individual members of the Consortium that are intended to provide a baseline to determine future funding needs. However, the Conference does not believe that these authorized amounts should serve as artificial barriers to increased funding levels should greater increases be necessary and possible. The Conference recognizes the importance of the ongoing training at the National Domestic Preparedness Consortium, expects that the two new members will be able to provide unique training opportunities, and that by authorizing and expanding the Consortium the Department will be able to train even more of our Nation's emergency responders and transportation workers.

Section 1205. National Transportation Security Center of Excellence.

There is no comparable House provision.

Section 1425 of the Senate bill requires the Secretary to carry out a research and development program for the purpose of improving freight rail and intercity passenger rail security. Section 1507 of the Senate bill requires the Secretary to award grants or contracts for research and development of technologies and methods to improve security for public transportation systems. Section 1467 of the Senate bill extends the authorization for the Secretary to carry out research and development for aviation security, until 2009.

The Conference substitute authorizes the establishment of a National Transportation Security Center of Excellence to conduct research and development and education activities, and develop or provide training to transportation employees or professionals.

Section 1206. Civil Immunity for Reporting Suspicious Activity.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference recognizes that the general public often provides critical assistance to law enforcement in its efforts to disrupt terrorist activity against the homeland. The Conference substitute adopts this section to address the potential chilling effect of lawsuits filed against members of the public who reported what they reasonably considered to be suspicious activity to appropriate personnel.

The Conference substitute adopts language granting civil immunity to those who, in good faith and based on objectively reasonable suspicion, report "covered activity" to an "authorized official." The term "covered activity" is defined as suspicious activity indicating that a person is preparing to or may be violating the law in a way that threatens a passenger transportation system, passenger safety, or passenger security or that involves an act of terrorism. The suspicious activity must involve or be directed against a passenger transportation system. An authorized official is defined as any employee or agent of a passenger transportation system or other persons with responsibilities relating to the security of such systems. It also

includes anyone working for or on behalf of the Departments of Homeland Security, Transportation or Justice who have responsibilities relating to the security of passenger transportation systems as well as any Federal, State, or local law enforcement officer. Persons who make false reports or who make a report with reckless disregard for the truth are not entitled to civil immunity under this section.

The Conference substitute also grants qualified civil immunity to any authorized official who takes reasonable action to respond to a report of covered activity. An authorized official not entitled to assert the defense of qualified immunity is nevertheless immune from civil liability under Federal, State or local law. The Conference intends to provide civil immunity to anyone within the chain of reporting who reasonably responds in good faith to the covered activity. However, the Conference does not intend to amend, limit, or reduce existing qualified immunity or other defenses pursuant to Federal, State, or local law that may otherwise be available to authorized officials as defined by this section. To address this concern the Conference substitute includes a savings clause that states that nothing in the section shall affect the ability of any authorized official to assert any defense, privilege, or immunity that would otherwise be available. The savings clause also reiterates that this section is not intended to affect any such defense, privilege or immunity.

The Conference substitute also allows any person or authorized official who is found to be immune from civil liability under this section to recover reasonable costs and attorneys fees should they be named as a defendant in a civil suit. It defines a "passenger transportation system" as public transportation, over-the-road bus transportation, including school bus transportation, intercity rail transportation, passenger vessels, including passenger and automobile ferries, and air transportation. Finally, the Conference substitute states that this section takes effect as of October 1, 2006 and shall apply to all activities and claims arising on or after that date.

TITLE XIII - TRANSPORTATION SECURITY ENHANCEMENTS

Section 1301. Definitions.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute defines several terms used within this title.

Section 1302. Enforcement Authority.

There is no comparable House provision.

Section 1432 of the Senate bill expands the Transportation Security Administration's (TSA) existing administrative civil penalty authority to authorize civil penalties and enforcement of regulations and orders of the Secretary of Homeland Security (the Secretary) relating to non-aviation security. Under this

section, the Secretary must give written notice of the finding of a violation and the penalty, and the penalized person has the opportunity to request a hearing on the matter. This section also provides that, in a civil action to collect such a penalty, the issues of liability and the amount of the penalty may not be reexamined; it places exclusive jurisdiction for these actions in the Federal district courts in certain instances; and it establishes ceilings for the penalty amounts the Secretary may administratively impose.

The Conference substitute adopts the Senate provision with minor changes, including a provision that requires the Secretary to make publicly available summaries of enforcement actions taken and a report on the Department's enforcement process. The Conference substitute limits this administrative enforcement authority as it relates to fines and civil penalties against public transportation agencies and violations of administrative and procedural requirements related to the transportation security grant programs of this Act through section 1304 of the Conference substitute.

Section 1303. Visible Intermodal Prevention and Response Teams.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute authorizes the existing Transportation Security Administration (TSA) practice of deploying security teams, known as Visible Intermodal Prevention and Response teams (VIPR), to augment the security of any mode of transportation. This provision authorizes the Secretary to determine, consistent with ongoing security threats, when a VIPR team should be deployed and for what duration, in coordination with local law enforcement. The provision also allows the Secretary to use any asset of the Department, including Federal Air Marshals, Surface Transportation Security Inspectors, canine detection teams, and advanced screening technology as part of VIPR teams. Under this section, the Secretary would be required to consult with local law enforcement and security officials and transportation entities directly affected by VIPR deployments, prior to and during deployments of VIPR teams to ensure coordination and operation protocols. This section authorizes such sums as necessary annually from FY 2008-2011 to cover costs associated with the VIPR program.

Section 1304. Surface Transportation Security Inspectors.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute authorizes the existing Transportation Security Administration (TSA) Surface Transportation Security Inspectors (STSIs) program and includes language addressing the mission and authorities of the inspectors, requiring coordination and consultation with the Department of Transportation (DOT) and affected entities, and providing limitations regarding the issuance of fines and civil penalties against public transportation agencies and for violations of administrative and procedural requirements of the Act. Additionally, the Conference substitute requires the Secretary to increase the number of STSIs employed by TSA, up to a level of 200 STSIs in FY 2010 and FY 2011, and

requires the DHS Inspector General to issue a report to the appropriate Congressional Committees regarding the performance and effectiveness of STSIs, the need for additional inspectors, and other recommendations. The provision also authorizes the following amounts for the STSI program: \$11.4 million for FY 2007, \$17.1 million for FY 2008, \$19.95 million for FY 2009 and \$22.8 million for FY 2010 and 2011, respectively.

The Secretary and the STSIs should use fines and civil penalties as a last recourse to achieve public transportation agency compliance with DHS security regulations only when other reasonable methods of gaining compliance have not produced adequate results. If a public transportation agency fails to correct a violation or to propose an alternative means of compliance acceptable to the Secretary, then the Secretary may issue fines or civil penalties under section 1302 of the Conference substitute. Additionally, the provision restricts the Secretary or STSIs from issuing fines and civil penalties for violations of administrative and procedural requirements related to the application and use of funds awarded under the transportation security grant programs in this Act. However, the Conference does not consider fraud, gross misuse of grant funds, or any criminal conduct related to the application for or use of grant funds awarded under this Act to be administrative requirements and, therefore, those acts will not be shielded from fines or civil penalties issued by the Secretary.

Section 1305. Surface Transportation Security Technology Information Sharing.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute adopts a new provision that would require the Secretary, in consultation with the Secretary of Transportation, to establish a program to provide appropriate information that the Department has gathered or developed on the performance, use, and testing of technologies that may be used to enhance railroad, public transportation, and surface transportation security to surface transportation entities and State, local, and tribal governments that provide security assistance to such entities. The purpose of the program is to assist eligible grant recipients under this Act and others, as appropriate, to purchase and use the best technology and equipment available to meet the security needs of the Nation's surface transportation system.

The provisions allow the Secretary to include in such information whether the technology is designated as a qualified antiterrorism technology under the SAFETY Act, as appropriate, and requires the Secretary to ensure that the program established under this section makes use of and is consistent with other Department technology testing, information sharing, evaluation, and standards-setting programs, as appropriate.

Section 1306. TSA Personnel Limitations.

There is no comparable House provision.

Section 1451 of the Senate bill provides that any statutory limitation on the number of Transportation Security Administration employees shall not apply to

employees carrying out this title.

The Conference substitute adopts the Senate provision as it applies to this title and titles XII, XIV, and XV of the Conference substitute.

Section 1307. National Explosives Detection Canine Team Training Program.

There is no comparable House provision.

Section 1476 of the Senate bill directs the Secretary to enhance the National Explosive Detection Canine Team Program and maximize canine training capacity so that up to 200 additional dogs can be certified each year, starting at the end of calendar year 2008. The Secretary would be given flexibility across transportation modes to use as needed and deemed necessary. The provision encourages the Secretary to review potential benefits of establishing new canine training partnerships throughout the United States.

The Conference substitute adopts the Senate provision as modified. The modified provision requires the Secretary to increase the number of explosives detection canine teams certified by the TSA for the purposes of transportation-related security by up to 200 canine teams annually by the end of 2010 and encourage State, local, and tribal governments and private owners of high-risk transportation facilities to strengthen security through the use of highly trained explosives detection canine teams.

To increase the number of explosives detection canine teams, the Secretary shall use a combination of methods including the use and expansion of TSA's National Explosives Detection Canine Team Training Center; partnering with other Federal, State, or local agencies, nonprofit organizations, universities, or the private sector; and procuring explosives detection canines trained by nonprofit organizations, universities, or the private sector, provided they are trained in a manner consistent with the standards and requirements developed pursuant to this section or other criteria developed by the Secretary.

The Secretary is also required to establish criteria that include canine training curricula, performance standards, and other requirements approved by TSA as necessary to ensure that explosives detection canine teams trained by nonprofit organizations, universities, and private sector entities are adequately trained and maintained. In developing and implementing such curricula, performance standards, and other requirements, the Secretary would be required to coordinate with key stakeholders to develop best practice guidelines for such a standardized program; ensure that explosives detection canine teams trained by nonprofit organizations, universities, or private sector entities that are used or made available by the Secretary be trained consistent with specific training criteria developed by the Secretary; and review the status of the private sector programs on at least an annual basis to ensure compliance with training curricula, performance standards, and other requirements.

The Conference substitute also requires the Secretary to use the additional explosives detection canine teams as part of the Department's efforts to strengthen security across the Nation's transportation network. The Secretary may use the canine teams on a more limited basis to support other homeland security missions, as determined appropriate. The Secretary is also required to make available

explosives detection canine teams to all modes of transportation, for high-risk areas or to address specific threats, on an as-needed basis and as otherwise determined appropriate by the Secretary and shall encourage, but not require, transportation facilities or systems to deploy TSA-certified explosives detection canine teams.

The Conference substitute requires the Secretary, acting through the TSA Administrator, to ensure that explosives detection canine teams are procured as efficiently as possible and at the best price using available procurement methods and increased domestic breeding, if appropriate. Additionally, the Comptroller General is required to report to the appropriate Congressional Committees on the utilization of explosives detection canine teams to strengthen security and the capacity of the national explosive detection canine team program. Finally, the Conference substitute authorizes such sums as may be necessary to carry out this section for Fiscal Years 2007 through 2011.

The Conferees note that the definition of "explosives detection canine team" as a "canine and a canine handler that are trained to detect explosives, radiological materials, chemical, nuclear or biological weapons, or other threats as defined by the Secretary" is intended to ensure that individual canine teams that are trained to detect any of these specific materials listed are eligible under this section. The Conferees recognize that explosives detection canines are not trained to additionally detect chemical, nuclear or biological weapons and that, at present, such teams cannot detect radiological materials. Further, the Conferees recognize that canines are trained to detect specific threats and cannot, at this time, effectively be cross-trained to identify multiple threats. In requiring the TSA to develop canine training curriculum and performance standards under this section, the Conferees expect TSA to do so for those threats within the definition that are currently applicable to canine team detection. However, the Conferees trust that TSA will explore opportunities to train and/or acquire canines that are able to detect new and emerging threats, such as chemical, radiological, nuclear and biological weapons. To that end, the Conferees expect that prior to developing and distributing canine training curriculum and performance standards under this section, TSA will fully vet any ongoing training, whether domestic or international, that has a proven method to successfully detect those additional threats that may not currently be applicable to TSA-trained canines.

Section 1308. Maritime and Surface Transportation Security User Fee Study.

There is no comparable House provision.

Section 1452 of the Senate bill requires the Secretary to study the need for, and feasibility of, establishing a system of maritime and surface transportation-related user fees that may be imposed and collected to fund maritime and surface transportation security improvements. In developing the study, the Secretary would be directed to consult with maritime and surface transportation carriers, shippers, passengers, facility owners and operators, and other persons. The study would include an assessment of current security-related fees in the United States, Canada, and Mexico; an analysis of the impact of fees on transportation carriers and shippers; and an evaluation of current private and public sector expenditures on maritime and surface transportation security. Within 1 year after the date of enactment, the Secretary would be required to transmit a report to Congress on the

results of the study.

The Conference substitute adopts the Senate provision with minor modifications.

Section 1309. Transportation Worker Identification Credential (TWIC).

There is no comparable House provision.

Sections 1454 and 1455 of the Senate bill codify the existing regulatory prohibitions against the issuance of transportation security cards to certain convicted felons.

The Conference substitute adopts the Senate provision, with minor modifications, codifying the existing regulatory prohibitions against the issuance of transportation security cards to certain convicted felons. Nothing in this section is intended to change the waiver and appeal rights afforded to workers in 70105 of title 46. In fact, the Conferees expect that as the Secretary moves to implement the TWIC program, workers will have their waiver and appeal cases decided expeditiously and that a sufficient number of administrative law judges will be available to adjudicate these cases.

Section 1310. Roles of the Department of Homeland Security and the Department of Transportation.

There is no comparable House provision.

Sections 1421, 1425, 1435, 1441, 1442, 1444, 1448, 1449, 1445, 1503 and 1506 of the Senate bill require the Secretary of Homeland Security to consult, coordinate, or work with the Secretary of Transportation in the implementation of the requirements of the sections. Section 1443 of the Senate bill further requires the Department of Homeland Security and the Department of Transportation to execute and develop an annex to the Memorandum of Understanding between the Departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing motor carrier transportation security matters.

The Conference substitute includes a provision which affirms and clarifies the current delineation of the roles and responsibilities of Department of Homeland Security and the Department of Transportation related to carrying out the provisions of this Act related to transportation security.

TITLE XIV - PUBLIC TRANSPORTATION SECURITY

Section 1401. Short Title.

There is no comparable House provision.

Section 1501 of the Senate bill cited the short title as "The Public Transportation Terrorism Prevention Act of 2007."

The Conference Substitute adopts a compromise provision, providing that this title may be cited as "The National Transit Systems Security Act of 2007."

Section 1402. Definitions.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute adopts a definition section in an effort to clarify terms used in Title XIV of the bill.

Section 1403. Findings.

There is no comparable House provision.

Senate Section 1502 finds that public transit is a top target of terrorism worldwide, that the Federal Government has invested significant sums in creating and maintaining the nation's transit infrastructure, that transit is heavily used and that the current Federal investment in security has been insufficient and greater investment is warranted.

The Conference substitute adopts the Senate findings as modified.

Section 1404. National Strategy for Public Transportation Security.

There is no comparable House provision.

The Senate bill does not require an additional strategy for transit beyond the modal requirements in Title XII.

The Conference substitute adopts the Senate provision with modifications. The purpose of the strategy is to minimize security threats and maximize the abilities of public transportation systems to mitigate damage that may result from terrorist attacks. The Secretary of Homeland Security (the Secretary) is required to use established and ongoing public transportation security assessments and consult with all relevant stakeholders that are specified in the legislation in developing a national strategy.

Section 1405. Security Assessments and Plans.

There is no comparable House provision.

Section 1503 of the Senate bill requires the Federal Transit Administration of the Department of Transportation to submit all public transportation security assessments and other relevant information to the Secretary 30 days after the date of enactment. The Secretary is also required to use the security assessments received as the basis for allocating grant funds, unless the Secretary notified the Senate Committee on Banking, Housing, and Urban Affairs that the Secretary determined an adjustment is necessary to respond to an urgent threat or other significant factors.

The Senate provision requires the Secretary to conduct both annual updates to the existing assessments and new security assessments of all public transportation agencies considered to be at greatest risk of a terrorist attack. In addition, the Secretary is required to establish a process for developing security guidelines for public transportation security and to design a security improvement strategy that minimizes terrorist threats to public transportation systems, and maximizes the efforts of public transportation systems to mitigate damage from terrorist attacks. It also requires the Secretary to conduct security assessments, appropriate to the size and nature of each system, to determine the specific needs of bus-only and rural

transit systems.

The Conference substitute adopts the requirements included in the Senate bill with modification. It requires the Federal Transit Administration and the Department of Transportation to transfer all existing security assessments as well as any other relevant information to the Department of Homeland Security (the Department or DHS). It also requires the Secretary to review and augment the assessments and to conduct additional assessments as necessary to ensure that, at a minimum, all high-risk public transportation agencies will have a completed security assessment. The Conference substitute further specifies that each completed assessment should include, at a minimum, an identification of critical assets, infrastructure and systems and their vulnerabilities and an identification of any other security weaknesses, including weaknesses in emergency response planning and employee training. The Conference substitute adopts the Senate's provisions addressing bus-only and rural transit systems with a clarification that these assessments are meant to be representative of the needs of these systems and shall be made available for use by similarly situated systems.

The Conference substitute adopts provisions related to mandatory security plans. All high-risk systems will be required to have a security plan provided they receive grant funding. However, the Conference agreed to provide the Secretary a waiver of that provision in order that he may require a security plan for a high-risk system that has not received grant funding, provided that upon issuance of that waiver, the Secretary, not less than three days after making that determination, provides Congress and the public transportation system written notice detailing the need for the security plan, the reason grant funding has not been made available and the reason the agency has been designated high-risk. The Secretary is required to provide guidance on developing, preparing and implementing these plans. Developing security plans is an eligible expense for funds received under this Title.

The security plans must be consistent with the security assessments developed by the Department and the National Strategy for Public Transportation Security. The Secretary is authorized to establish a program to develop security plans for systems that are not designated at high-risk, provided that no such system may be required to develop a plan. Security plans are required to be updated annually, as appropriate.

The Conference substitute also includes language on nondisclosure of information, encouraging coordination among different modes of transportation to the extent they share facilities, and allowing public transportation agencies to petition the Secretary to recognize existing protocols, procedures and standards as meeting all or part of the requirements for security assessments or plans.

Section 1406. Public Transportation Security Assistance.

There is no comparable House provision.

Section 1504 of the Senate bill created two separate grant programs, one for capital expenses and another for operating expenses. The Senate bill required coordination with State homeland security plans and appropriate consideration of multi-State transportation systems, along with Congressional notification prior to grant awards and the requirement that transit agencies return any misspent grant funds.

The Conference substitute adopts the Senate provision with modifications. The Conference substitute establishes a single grant program that awards grants directly to eligible public transportation agencies for security improvements. A public transportation agency is eligible if the Secretary has performed a security assessment or the agency has developed a security plan. Grant funds provided under this program may only be awarded for permissible uses described in this section that address items in a security assessment or further the agency's security plan.

The Conference agrees that the grants should be awarded pursuant to an agreement between the Departments of Homeland Security and Transportation. These two Departments are required to make their determination on the basis of what is the most efficient and effective method to deliver these grants directly to the transit agencies. The Conference expects that the delivery system chosen will reflect the system that meets these criteria. We note that there have been some concerns with the efficiency, efficacy and timeliness of the disbursement of these grants and believe that it is critical that the Secretaries reach a decision that will provide for these grants to be distributed as efficiently, effectively and quickly as possible. The Conference substitute in Section 1406(e) declares that all requirements of Section 5307 of Title 49 shall be applied to the recipients of these grant funds. Whichever Department distributes and awards the grants will have to be responsible for ensuring that those requirements are met.

The Conference substitute also includes a list of eligible capital expenses and separately, a list of eligible operating expenses for the distribution of grant funds, and retains Senate language addressing coordination with State homeland security plans, multi-state transportation systems, Congressional notification and the requirement that transit systems return any misspent grant funds.

The Conference substitute includes authorization levels for each year, although the overall amount of \$3.5 billion was similar to the Senate bill. In addition, the Conference substitute includes a structure that caps the amount of funds that can be used for operational expenses each year of the authorization, declining from 50 percent in Fiscal Year 2008 to 10 percent in 2011. The Conference expects that training costs will be the predominant use of operating funds in the first two years of the program which led to the decreasing limitation on operating funds over the life of the bill. The Conference substitute provides the Secretary with a waiver of the limitation on operating expenses, provided such waiver is used only in the interest of national security. Use of the waiver requires Congressional notification, prior to any such action. The Conference substitute also requires any funds distributed under Public Law 110-28 to be allocated based on risk and distributed solely to address security issues that have already been identified in security assessments.

Section 1407. Security Exercises.

There is no comparable House provision.

The Senate bill did not include a separate exercise provision, although security exercises were an eligible expense under the program, as shown in Section 1504(b).

The Conference substitute adopts more specific language and requirements for the Secretary to establish a program for conducting security exercises. The program shall cover public transportation agencies, Federal, State and local governments, including emergency response providers and law enforcement as well as any other organizations that the Secretary determines are appropriate to include.

Section 1408. Public Transportation Security Training Program.

There is no comparable House provision.

Section 1505 of the Senate bill contains a transit security training program detailing how the Secretary, in consultation with appropriate officials, is required to develop and issue detailed regulations for a public transportation worker security training program. Public transportation agencies who receive security funding must develop a comprehensive worker training program and submit it to the Secretary for approval. The Secretary must review the program and make necessary revisions. No later than one year after the plan has been established and reviewed, the public transportation agency must complete the training of all workers. The Secretary is required to report to Congress on the training program and update it as necessary.

The Conference substitute adopts the security training program with modification. The Conference substitute requires all public transportation systems that receive security grants under this Title to train all frontline public transportation employees and other workers, as appropriate. The training requirement is for both initial and ongoing training for any agency that receives a security grant. The Conference substitute requires the Secretary to issue regulations, including interim final regulations, to implement the training requirement. In developing these regulations the Secretary must consult with appropriate law enforcement, fire service security, terrorism experts, representatives of public transportation systems and nonprofit employee labor organizations representing public transportation workers or emergency response personnel. Public transportation agencies that receive security funding must develop a comprehensive employee training program and submit it to the Secretary for approval. The Secretary must review the program and make necessary revisions. Not later than one year after each public transportation agency's training program has been established and reviewed, the public transportation agency must complete the training of all workers covered under the program. The Conference substitute also includes a study to be conducted by the Comptroller General on the implementation of the training program, requiring a survey of transit agencies and employees.

Section 1409. Public Transportation Research and Development.

There is no comparable House provision.

Section 1507 of the Senate bill includes a transportation research and development section to establish, through the Homeland Security Advanced Research Projects Agency, and in consultation with the Federal Transit Administration, a program to distribute grants or contracts to public and private entities to conduct appropriate research into technologies or methods of deterring and mitigating the effects of terrorist attacks. The Secretary must report to the Congress on the use of these funds and if the Secretary determines that grant funds

were misspent, the grantee shall return grant funds to the Treasury of the United States.

The Conference substitute adopts the Senate provision with a modification to establish a research and development program related to public transportation. The program will be established through the Homeland Security Advanced Research Projects Agency in the Science and Technology Directorate and will consult with the Federal Transit Administration. Grants and/or contracts will be awarded to public or private entities to conduct research or demonstrate technologies and methods to reduce and deter terrorist threats or to mitigate damage resulting from an attack. The Conference substitute also adopts language regarding privacy and civil rights and the Senate language on reporting and misspent grant funds and requires coordination with the priorities included in the National Strategy for Public Transportation Security. The Conference substitute authorizes \$25,000,000 per year for this program.

Section 1410. Intelligence Sharing.

There is no comparable House provision.

The Senate bill, Section 1506, required the Secretary to provide sufficient financial assistance for the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (ISAC). All transit agencies would be encouraged to participate in the ISAC and those that the Secretary deemed to be at significant risk would be required to participate. The imposition of fees was prohibited.

The Conference substitute adopts the Senate proposal with modification. It includes a report to be conducted by the Comptroller General to examine the value and efficacy of the ISAC along with any other public transportation information sharing programs ongoing at the Department of Homeland Security, including the Homeland Security Information Network (HSIN) system. The Conference substitute also authorizes specific dollar amounts for the ISAC for Fiscal Years 2008-2010 and such sums as necessary for 2011 provided the Comptroller's report has been submitted to Congress.

Section 1411. Threat Assessments.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute requires the Secretary to complete a name-based security background check of public transportation front-line employees against the consolidated terrorist watch list and an immigration status check, within one year after the date of enactment, similar to the threat assessment conducted by the U.S. Coast Guard with regard to facility employees and longshoremen.

Section 1412. Reporting Requirements.

There is no comparable House provision.

Section 1508 of the Senate bill includes a reporting section that required the Secretary to submit a semi-annual report to the Committee on Banking, Housing and Urban Affairs, the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations, on the implementation of the capital and

operational grant programs, the use of funds and the State of public transportation security in the United States. It further requires the Secretary to submit an annual report regarding the amount and use of grant funds to the Governor of each State with a public transportation agency that has received a grant.

The Conference substitute broadens the reporting requirements included in the Senate bill to ensure that Congress receives substantive, useful information regarding public transportation security from the Department of Homeland Security.

To that end, the Conference substitute includes an annual report to Congress, due on March 31st of each year, that includes: a description of the implementation of the provisions of Title XIV; the amount of funds appropriated to carry out the title that have not been spent; the National Strategy for Public Transportation Security; an estimate of the costs to fully implement the National Strategy for Public Transportation Security, to be broken out for each Fiscal Year from 2008 through 2018; and the state of public transportation security in the United States. The Conference substitute maintains the Senate's requirement of an annual report to the Governors.

Section 1413. Whistleblower Protection.

There is no comparable House provision.

The Senate bill modifies existing whistleblower protections for rail employees.

The Conference substitute adopts protections for public transportation employee whistleblowers, modeled on the protections available to railroad employees under 49 U.S.C. 20109 as amended by this Act and aviation employees under 49 U.S.C. 42121.

Section 1414. Security Background Checks of Covered Individuals for Public Transportation.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute adopts a provision to ensure that if the Secretary of Homeland Security requires or recommends security background checks of public transportation employees, adversely affected employees will have an adequate redress process.

Section 1415. Limitation on Fines and Civil Penalties.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute prohibits the Secretary and the surface transportation security inspectors (STSI) from issuing fines and civil penalties on public transportation agencies except in certain circumstances.

The Secretary and the STSIs should use fines and civil penalties as a last recourse to achieve public transportation agency compliance with DHS security regulations only when other reasonable methods of gaining compliance have not produced adequate results. If a public transportation agency fails to correct a violation or to propose an alternative means of compliance acceptable to the

Secretary, then the Secretary may issue fines or civil penalties under section 1302 of the Conference substitute. Additionally, the provision restricts the Secretary or STSIs from issuing fines and civil penalties for violations of administrative and procedural requirements related to the application and use of funds awarded under the transportation security grant programs in this Act. However, the Conference does not consider fraud, gross misuse of grant funds, or any criminal conduct related to the application for or use of grant funds awarded under this Act to be administrative requirements and, therefore, those acts will not be shielded from fines or civil penalties issued by the Secretary.

TITLE XV - SURFACE TRANSPORTATION SECURITY

Subtitle A - General Provisions

Section 1501. Definitions.

Section 1001 of the House bill contains several definitions related to transportation security.

Section 1411 of the Senate bill defines the term "high hazard materials."

The Conference substitute adopts definitions for terms applicable to the title, including a new definition of "security-sensitive materials," which must be defined by the Secretary of Homeland Security (the Secretary) through a rule making. The Conference believes that completing the definition of "security-sensitive materials" should be a high priority for the Department of Homeland Security (the Department or DHS), since the definition of this term is a pre-requisite for the implementation of several other provisions within this title.

Section 1502. Oversight and Grant Procedures.

There is no comparable House provision.

Section 1426 of the Senate bill authorizes the Secretary of Homeland Security to enter into contracts to audit and review grants awarded under the bill. The Secretary is required to prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures. In awarding grants, the Secretary may issue letters of intent (LOI) to recipients of grants awarded under this bill, as the Secretary may do now for aviation security funding through the Transportation Security Administration (TSA).

The Conference substitute adopts the Senate provision as modified. It requires the Secretary to establish procedures, including those for monitoring and auditing to ensure that grants are expended properly and for application and qualification for grants. The provision also provides that for grants awarded to Amtrak under this title, the Secretary shall coordinate with the Secretary of the Department of Transportation (DOT) in establishing necessary grant procedures. Additionally, the provision permits either Department to enter into contracts for additional audits and reviews of such grants to Amtrak.

The Conference substitute also permits the Secretary of Homeland Security to

issue LOI's to grant recipients. The Conference acknowledges that an LOI is not a commitment of future funds by an agency. The Conference substitute requires that grant recipients return any misspent funds and that the Secretary take all necessary action to return such funds. It also requires the Secretary to notify appropriate Congressional Committees of its intent to award a grant. Finally, the Conference substitute requires that the Secretary ensure, to extent practicable, that grant recipients use disadvantaged business concerns as contractors or subcontractors.

Section 1503. Authorization of Appropriations.

There is no comparable House provision.

Section 1437 of the Senate bill authorizes appropriations for the Secretary of Homeland Security for Fiscal Years (FY's) 2008-2010 and for the Secretary of Transportation for FY's 2008-2011 to carry out the activities required by the Act.

The Conference substitute adopts the Senate provision as modified to reflect the authorization levels contained within the sections of this title.

Section 1504. Public Awareness.

There is no comparable House provision.

Section 1434 of the Senate bill requires the Secretary of Homeland Security, in consultation with the Secretary of Transportation, within 90 days after the date of enactment of this Act, to develop a national plan for improved public outreach and awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Not later than 9 months after the date of enactment of this Act, the Secretary would be directed to implement this plan.

The Conference substitute adopts the Senate provision with minor modifications, including adding over-the-road bus security matters to the provision.

Subtitle B - Railroad Security

Section 1511. Railroad Transportation Security Risk Assessment and National Strategy.

There is no comparable House provision.

Section 1421 of the Senate bill requires the Secretary of Homeland Security to establish a task force comprised of the Transportation Security Administration (TSA) and others to complete a risk assessment of freight and passenger rail transportation. It also requires the development of recommendations for improving rail security based on the required risk assessment and the establishment of plans to address such recommendations. This section requires the Secretary to report to the appropriate Congressional Committees on the assessment, recommendation, plans and costs to implement such recommendations. In addition, the Secretary is required to include in the recommendations a plan for the Federal government to provide security support at high threat levels of alert; a plan for coordinating existing and planned rail security initiatives undertaken by public and private entities; and a contingency plan developed in conjunction with intercity and

commuter passenger railroads to ensure the continued movement of freight and passengers in the event of a terrorist attack. The provision authorizes \$5 million for Fiscal Year 2008 to carry out this section.

The Conference substitute adopts the Senate provision, as modified. The modified provision requires the Secretary to establish a task force to complete a nationwide railroad security risk assessment, including freight, intercity passenger and commuter railroads. The Secretary may make use of the Government Coordinating Council in the establishing of the task force. Based upon this assessment, the Secretary is required to develop a modal plan for railroad security, entitled the "National Strategy for Railroad Transportation Security," which will serve as the general Federal strategy for improving railroad security.

In completing the assessment and the strategy required by this section, the Conference does not intend for TSA and the Department of Homeland Security to unnecessarily re-do existing assessment and modal plan work, of sufficient quality and relevance, already completed by the agency or other Federal, private or public stakeholders. However, the Conference expects any existing assessments and existing modal plans used to be synthesized into a comprehensive and coherent total assessment and strategy, not simply compiled into a single document. The Conference substitute authorizes \$5 million for FY 2008 to carry out this section.

The Conference notes its frustration with TSA's inability to complete a comprehensive risk assessment and national strategy for the railroad sector. The Conference believes fulfillment of this section to be an absolute priority, so that the results of the assessment may be used to guide the ongoing rail security efforts and the new programs called for in this Conference substitute.

Section 1512. Railroad Carrier Assessments and Plans.

There is no comparable House provision.

Section 1421 of the Senate bill requires the Secretary of Homeland Security to establish a task force to complete a risk assessment of freight and passenger rail transportation, develop recommendations for improving rail security based on the risk assessment, and establish plans to address such recommendations.

The Conference substitute adopts a provision addressing railroad carrier risk assessments based upon elements of Senate Section 1421. The provision would require that railroad carriers assigned to a high-risk tier by the Secretary complete a vulnerability assessment and develop security plans to be approved by the Secretary. In addition, the Secretary would be authorized to establish a program to provide guidance and assistance for undertaking assessments and security plans and a process by which such voluntary assessments and plans may be approved by the Secretary for railroad carriers not assigned to a high-risk tier.

Section 1513. Railroad Security Assistance.

There is no comparable House provision.

Section 1424 of the Senate bill authorizes the Secretary of Homeland Security, in consultation with the TSA and other entities, to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used to transport hazardous materials, institutions of higher education, State and

local governments, and Amtrak, for full or partial reimbursement of costs incurred to prevent or respond to acts of terrorism, sabotage, or other risks. The Secretary would be required to adopt necessary procedures to ensure that grants made under this section are expended in accordance with the purposes of the Act. The Secretary awards and distributes all grants under this provision, except for grants to Amtrak which the Secretary can award, but the Secretary of Transportation would distribute using the well-established DOT grant process which is used to distribute Federal operating and capital grants Amtrak. This section authorizes \$100 million for the Department of Homeland Security for each of Fiscal Years 2008 through 2010 to carry out this section. Grants to Amtrak are limited to \$45 million over the authorization period and certain grants related to hazardous materials rail security are limited to \$80 million in total over the authorization period.

The Conference substitute adopts a modified version of the Senate provision. The provision establishes a railroad security grant program for railroads that have completed a vulnerability assessment and security plan under Section 1513 of the Conference substitute for a permissible use identified within the section. However, the Secretary has the discretion during the first three years after the date of enactment of the Act, or up until one year after the regulations are issued under section 1513, to award grants based on vulnerability assessments and security plans developed by railroad carriers that do not meet the requirements of Section 1513 if the Secretary finds such assessments and plans sufficient. Additionally, grants can be awarded under this provision to fully or partially fund the assessments and plans required under Section 1513. The Conference includes these provisions to ensure that eligible entities would be authorized to receive grants funds under this section as soon as possible upon enactment of the Conference substitute and so that eligible entities could use grant funds to develop the assessments and plans required under Section 1513 in a timely fashion.

The Conference substitute assigns the responsibility of awarding and distributing grants to the Secretary, except for grants to Amtrak which the Secretary can award, but which the Secretary of Transportation would distribute using the well-established Department of Transportation grant process to Amtrak. The Secretary of Homeland Security is also required to report to the appropriate Congressional Committees on the feasibility and appropriateness of requiring non-Federal match for grants awarded under this provision.

The Conference believes the authorization of this grant program is particularly important because little of the existing DHS rail and transit security grant funds have been available to intercity passenger rail security and no grant funds have been made available for freight railroad security.

Section 1514. System-wide Amtrak Security Upgrades.

There is no comparable House provision.

Section 1422 of the Senate bill authorizes the Secretary of Homeland Security, in consultation with the TSA, to make grants to Amtrak for the purposes of upgrading the security of assets, systems and infrastructure; securing tunnels, trains, and stations; hiring additional police officers; expanding emergency preparedness efforts; and for employee security training. The provision also

requires that the Secretary of Transportation disburse the grants to Amtrak for projects contained in its system-wide security plan that it is required to develop. The provision authorizes funds to be appropriated for grants under this section for Fiscal Years 2008 through 2010.

The Conference substitute adopts the Senate provision as modified. The authorization amounts are increased and extended one Fiscal Year to reflect current and anticipated Amtrak security expenditures.

Section 1515. Fire and Life Safety Improvements.

There is no comparable House provision.

Section 1423 of the Senate bill authorizes the Secretary of Transportation to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor. This section authorizes \$100 million in funding for the Department of Transportation for each of Fiscal Years 2008 through 2011 to make fire and life-safety improvements to the New York/New Jersey tunnels; \$10 million for each of Fiscal Years 2008 through 2011 for improvements of the Baltimore & Potomac and Union tunnels in Baltimore, Maryland; and \$8 million for each of Fiscal Years 2008 through 2011 for improvements of the Washington, D.C., Union Station tunnels. The Secretary of Transportation is required to approve plans submitted by Amtrak before distributing grants. In addition, the Secretary of Transportation is authorized to consider the feasibility of seeking a financial contribution from other rail carriers towards the cost of the project. This section also authorizes \$3 million in FY 2008 for preliminary design of a new railroad tunnel in Baltimore, Maryland.

The Conference substitute adopts the Senate provision, but with reduced authorization levels to reflect the completion of portions of phase 1 of Amtrak's tunnel fire and life safety projects since the consideration of S.4 by the Senate, and other changes.

Section 1516. Railroad Carrier Exercises.

Section 101 of the House bill provides grants to fund exercises to strengthen preparedness against risks of terrorism. Sections 301 and 302 of the House bill strengthen the design of the national exercise program to require it to enhance the use and understanding of the Incident Command System (ICS) by requiring that the national exercise program include model exercises for use by State, local and tribal governments. Section 1101 of the House bill requires the Secretary of Homeland Security to establish a program to enhance private sector preparedness for acts of terrorism and other emergencies and disasters, developing and conducting training and exercises to support and evaluate emergency preparedness and response plans and operational procedures.

There is no comparable Senate provision.

The Conference substitute adopts a new provision that requires the Secretary to create a security exercises program to test and evaluate the ability of railroads to prevent, prepare for, mitigate against, respond to, and recover from acts of terrorism. The provision also requires that the exercises conducted be tailored to the needs of particular facilities, including accommodations for individuals with

disabilities; live, in the case of the most at-risk facilities to a terrorist attack; and coordinated with appropriate officials. The Conference substitute also requires that the Secretary, together with the Secretary of Transportation, ensure that the program consolidates existing railroad security exercises that are administered by the Departments, unless this requirement is waived by the Secretary of Homeland Security.

The Conference intends for there to be one primary rail security exercises program within the Federal government administered by TSA, but are including the waiver authority to ensure that any Department of Transportation railroad safety or railroad hazardous materials exercises that have a nexus with security are not automatically consolidated into this program. The Conference expects that the consolidation of exercises that primarily relate to safety would only occur with the concurrence of the Secretary of Transportation and the Secretary of Homeland Security.

Section 1517. Railroad Security Training Program.

There is no comparable House provision.

Section 1429 of the Senate bill requires the Secretary of Homeland Security, in consultation with the Secretary of Transportation, not later than 1 year after the date of enactment of this Act, to work with law enforcement officials, as well as terrorism and railroad security experts, to develop and issue detailed guidance for a railroad worker security training program to prepare front-line workers for potential security threat conditions. This section also would require railroad carriers to adopt a worker security training program in accordance with the guidance and submit it to the Secretary of Homeland Security for approval. Within one year after the Secretary completes a review of a railroad carriers' training programs, the railroad carrier would be required to complete the training of all front-line employees consistent with the approved program.

The Conference substitute adopts the Senate provision with modified language that requires the Secretary, in consultation with appropriate parties, to issue regulations for a railroad training program to prepare frontline employees, as defined in section 1501 of the Conference substitute, for potential security threats and conditions. Not later than 90 days after the Secretary issues regulations, each railroad carrier would be required to submit for review and approval a security training program. Each freight and passenger railroad is required to complete training of all employees not later than one year after the Secretary approves its training program. The Secretary is required to review implementation of the training program.

Section 1518. Railroad Security Research and Development.

There is no comparable House provision.

Section 1425 of the Senate bill requires the Secretary of Homeland Security to, in conjunction with the Department of Homeland Security's Undersecretary for Science and Technology and the Administrator for TSA, and in consultation with the Secretary of Transportation, carry out a research and development program for the purpose of improving freight and intercity passenger rail security. In carrying

out this section, the Secretary of Homeland Security would be required to coordinate with other research and development initiatives at the Department of Transportation. The Secretary also may award research and development grants to certain entities described in this section. This section authorizes \$33 million for the DHS for each of Fiscal Years 2008 through 2011 for the Secretary to carry out this section.

The Conference substitute adopts the Senate provision as modified to extend the authorizations to Fiscal Year 2011, to ensure coordination with other research and development initiatives, and with a provision included to ensure that any activities carried out under this section that could affect privacy, civil liberties or civil rights would receive privacy impact assessments.

Section 1519. Railroad Tank Car Security Testing.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute adopts a provision that would assess likely methods of a deliberate attack on a railroad tank car transporting toxic-inhalation-hazard materials and the potential impact of such attacks. It requires the Secretary of Homeland Security to conduct certain physical tests as part of the assessment and to submit a report within 30 days of completing the assessment to the appropriate Congressional Committees. The Conference substitute also requires an air dispersion modeling analysis of a rail tank car carrying toxic-inhalation-hazard materials and specifies factors to be considered in that analysis, as well as parties to be consulted in conducting such analysis. Further, the substitute directs the Secretary to share the information developed through the analysis and submit a report to the appropriate Congressional Committees within 30 days of completion of all the modeling exercises. In performing the physical testing required under this section, the Conference expects that the Secretary will take into account other Federal agencies and resources with applicable expertise in such matters.

Section 1520. Railroad Threat Assessments.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute requires the Secretary of Homeland Security to implement a threat assessment screening program for all relevant transportation employees within one year after the date of enactment, including a name-based check for all employees against the consolidated terrorist watch list and an immigration status check, similar to the threat assessment conducted by the U.S. Coast Guard with regard to port workers.

Section 1521. Railroad Employee Protections.

There is no comparable House provision.

Section 1430 of the Senate bill updates the existing railroad employee protections statute to protect railroad employees from adverse employment impacts due to whistleblower activities related to rail security. The provision precludes railroad carriers from discharging, or otherwise discriminating against, a railroad

employee because the employee, or the employee's representative: provided, caused to be provided, or is about to provide, to the employer or the Federal government information relating to a reasonably perceived threat to security; provided, caused to be provided, or is about to provide testimony before a Federal or State proceeding; or refused to violate or assist in violation of any law or regulation related to rail security.

The Conference substitute adopts a modified version of the Senate language. It modifies the railroad carrier employee whistleblower provisions and expand the protected acts of employees, including refusals to authorize the use of safety-related equipment, track or structures that are in a hazardous condition. Additionally, the Conference substitute enhances administrative and civil remedies for employees, similar to those in subsection 42121(b) of title 49, United States Code. The language also provides for *de novo* review of a complaint in Federal District Court if the Department of Labor does not timely issue an order related to the complaint. The Conference substitute also raises the cap on punitive damages that could be awarded under this provision from \$20,000 to \$250,000.

The Conference notes that railroad carrier employees must be protected when reporting a safety or security threat or refusing to work when confronted by a hazardous safety or security condition to enhance the oversight measures that improve transparency and accountability of the railroad carriers. The Conference, through this provision, intends to protect covered employees in the course of their ordinary duties. The intent of this provision is to ensure that employees can report their concerns without the fear of possible retaliation or discrimination from employers.

Section 1522. Security Background Checks of Covered Individuals.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute adopts a provision that would ensure that if the Secretary of Homeland Security issues a rule, regulation or directive requiring private employers to conduct security background checks for railroad workers, that it include a redress process for such workers similar to that provide under the Transportation Worker Identification Credential (TWIC) final rule, as required by 46 U.S.C. 70105 (c). The Secretary is also required to update private employers conducting background checks regarding guidance that has been issued and ensure that any future guidance issued on the topic is consistent with this provision. The Conference substitute requires the Secretary to issue a regulation prohibiting a railroad carrier or contractor or subcontractor to a railroad carrier from knowingly misrepresenting to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check.

It is not the intent of the Conference that this provision imply that it favors the Department of Homeland Security (DHS) requiring private employers to undertake security background checks. Rather, the Conference intends for the provision to

ensure that if such regulations were ever to be promulgated by DHS, that it would contain due process protections similar to those in the TWICE rule would be available for employees. The Conference intends for private employees to retain all rights and authorities afforded them otherwise as private employers.

Section 1523. Northern Border Railroad Passenger Report.

There is no comparable House provision.

Section 1428 of the Senate bill requires the Secretary, in consultation with the Transportation Security Administration (TSA), the Secretary of Transportation, heads of other appropriate Federal Departments and Agencies, and Amtrak, within one year after the date of enactment, to submit a report to Congress that contains: a description of the current system for screening passengers and baggage on rail service between the United States and Canada; an assessment of the current program to provide pre-clearance of airline passengers between the United States and Canada; an assessment of the current program to provide pre-clearance of freight railroad traffic between the United States and Canada; information on progress by the Department and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for pre-clearance of passengers on trains operating between the United States and Canada; a description of legislative, regulatory, budgetary, or policy barriers to providing pre-screened passenger lists for such passengers; a description of the Canadian position with respect to pre-clearance; a draft of any changes to Federal law necessary to allow for pre-screening; and a feasibility analysis of reinstating in-transit inspections onboard international Amtrak trains.

The Conference substitute adopts the Senate provision and includes language to ensure that any activities carried out under this section that could affect privacy, civil liberties or civil rights will receive privacy impact assessments. The Conference notes the significant delays that routinely plague Amtrak trains due to screening of passenger at or near the U.S.-Canadian border and that these delays both hamper international rail travel and increase costs for Amtrak, and therefore the Federal government. The Conference expects the Secretary of Homeland Security to work, in cooperation with Amtrak and the Canadian Government, to take steps to minimize such delays, as soon as practicable.

Section 1524. International Railroad Security Program.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute adopts a provision that would require the Secretary of Homeland Security to develop a system to detect both undeclared passengers and contraband entering the United States by railroad, with a primary focus on the detection of nuclear and radiological materials and to submit a report to Congress on its progress. The Secretary, in consultation with the TSA, the Domestic Nuclear Detection Office, and Customs and Border Protection, may take a number of actions authorized by the provision to develop this system.

Section 1525. Transmission Line Report.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute adopts a provision that would require that the Comptroller General perform the assessment of the security, safety, economic benefits and risks associated with the placement of high-voltage transmission lines along active railroad and other transportation rights of way.

Section 1526. Railroad Security Enhancements.

There is no comparable House provision.

Section 1433 of the Senate bill allows police officers employed by a railroad to be deputized to help a second railroad in carrying out enforcement duties on the second railroad. In addition, the provision would require the Secretary of Transportation to write and distribute to States model railroad police commissioning laws to help prevent the problems posed by so-called "scam railroads." "Scam railroads" are companies that are organized as railroads in order to obtain police powers but are not actually engaged in the railroad business.

The Conference substitute adopts the Senate provision as modified to extend the date by which the Secretary of Transportation would be directed to complete the model state legislation.

Section 1527. Applicability of District of Columbia Law to Certain Amtrak Contracts.

There is no comparable House provision.

Senate Section 1438 would require that any lease entered into between the National Railroad Passenger Corporation and the State of Maryland be governed by District of Columbia law.

The Conference substitute adopts the Senate provision.

Section 1528. Railroad Preemption Clarification.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute adopts a provision that is would to clarify the intent and interpretations of the existing preemption statute and to rectify the Federal court decisions related to the Minot, North Dakota accident that are in conflict with precedent. The modified language restructures 49 U.S.C. § 20106 and changes its title from "National Uniformity of Regulation" to "Preemption" to indicate that the entire section addresses the preemption of State laws related to railroad safety and security.

Subpart (a) of the Conference substitute is titled "National Uniformity of Regulation" and contains the exact text of 49 U.S.C. § 20106 as it existed prior to enactment of this Act. It is restructured for clarification purposes; however, the restructuring is not intended to indicate any substantive change in the meaning of the provision.

Subpart (b) of the Conference substitute provides further clarification of the intention of 49 U.S.C. §20106, as it was enacted in the Federal Railroad Safety Act of 1970, to explain what State law causes of action for personal injury, death or

property damage are not preempted. It clarifies that 49 U.S.C. §20106 does not preempt State law causes of action where a party has failed to comply with the Federal standard of care established by a regulation or order issued by the Secretary of Transportation or the Secretary of Homeland Security, its own plan or standard that it created pursuant to a regulation or order issued by either of the Secretaries, or a State law, regulation or order that is not incompatible with 49 U.S.C. § 20106(a)(2).

The modified language also contains a retroactivity provision, which clarifies that 49 U.S.C. § 20106 applies to all pending State law causes of action arising from activities or events occurring on or after January 18, 2002, the date of the Minot, North Dakota derailment. Finally, this provision indicates that nothing in 49 U.S.C. § 20106 creates a Federal cause of action on behalf of an injured party or confers Federal question jurisdiction for such State law causes of action.

Subtitle C - Over-the-Road Bus and Trucking Security.

Section 1531. Over-the-Road Bus Security Assessments and Plans.

There is no comparable House provision.

Section 1447 of the Senate bill requires the Secretary of Homeland Security to establish a program within the Transportation Security Administration (TSA) to make grants to private over-the-road bus operators and over-the-road bus terminal operators for the purposes of improving bus security. The provision stipulates that the Secretary may not make grants to over-the-road operators until the operators have submitted security plans and provided additional information that the Secretary may require. Section 1447 also requires the Secretary to undertake a bus security assessment, that would include an assessment of: the existing over-the-road bus security grant program; actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed; whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses; the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees; ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; industry best practices to enhance security; and school bus security, if the Secretary deems it appropriate.

The Conference substitute requires the Secretary to issue regulations, not later than 18 months after the date of enactment, to require high-risk over-the-road bus operators to conduct vulnerability assessments and develop, submit and implement approved security plans. It allows the Secretary to establish a security program for over-the-road bus operators not assigned to a high-risk tier, including guidance on vulnerability assessments and security plans, and a review process, as appropriate. The Conference substitute also requires the Secretary to provide technical assistance and guidance on components of vulnerability assessments and security plans, in addition to relevant threat information necessary for preparing such assessments and plans. It requires the Secretary to review the vulnerability assessments and security

plans not later than 6 months upon receipt, and approve such assessments and plans meeting the established requirements. The Conference substitute requires the Secretary to assign each over-the-road bus operator to a risk based tier and operators may be reassigned by the Secretary based on changes in risk. Finally, it requires that the over-the-road bus operators evaluate the adequacy of the assessments and plans submitted to the Secretary not later than 3 years after the date on which the assessment or plan was submitted, and at least once every five years thereafter.

Section 1532. Over-the-Road Bus Security Assistance.

There is no comparable House provision.

Section 1447 of the Senate bill requires the Secretary of Homeland Security to establish a program within TSA to make grants to private over-the-road bus operators and over-the-road bus terminal operators for the purposes of emergency preparedness drills and exercises, protecting high risk assets, counter-terrorism training and other security-related actions. This provision requires the Secretary, in making grants, to take into consideration security measures that over-the-road bus operators have taken since September 11, 2001. The Secretary may not make grants to private operators until the operators have submitted security plans and provided additional information that the Secretary may require. The provision further stipulates that the Secretary must submit a report to Congress and must consult with industry, labor and other groups. This provision authorizes the following funding: \$12 million for FY 2008, \$25 million for FY 2009, and \$25 million for FY 2010. Section 1447 requires the Secretary to select the grant recipients, award, and distribute grants to eligible recipients.

The Conference substitute adopts the Senate language, with modifications. It requires the Secretary to establish a grant program and stipulates that the funds may be used for one or more of the following: construction and modifying terminals to increase security; modifying over-the-road buses to increase their security; protecting the driver of an over-the-road bus; acquiring or improving equipment to collect, store and exchange passenger and driver information with ticketing systems and for links with government agencies for security purposes; installing cameras and video surveillance equipment; establishing and improving emergency communications systems; implementing and operating passenger screening programs; developing public awareness campaigns for over-the-road bus security; operating and capital costs associated with over-the-road bus security; detection of chemical, biological, radiological or explosives, including the use of canine patrols; overtime reimbursement for security personnel; live or simulated security exercises; operational costs to hire, train and employ security officers; development of assessments or security plans; and other improvements deemed appropriate by the Secretary. The Conference substitute requires the Secretary to select the grant recipients and award the grants, but would require that, within 90 days following the date of enactment, that the Secretary and the Secretary of Transportation jointly determine the most effective and efficient means to distribute grants awarded under this section to grant recipients. Dependent on the result of this determination, one of the two Secretaries would be authorized to distribute the grants awarded under this section.

The Conference substitute also stipulates eligibility, limitations on uses of funds, annual reports, and consultation with stakeholders. It authorizes \$12 million for FY 2008 and \$25 million for each of Fiscal Years 2009 through 2011.

Section 1533. Over-the-Road Bus Exercises.

Section 101 of the House bill provides for grants to fund exercises to strengthen terrorism preparedness. Sections 301 and 302 of the House bill strengthen the design of the National exercise program to require it to enhance the use and understanding of the Incident Command System (ICS) by requiring that the National Exercise Program include model exercises for use by State, local and tribal governments. Section 1101 of the House bill requires the Secretary of Homeland Security to establish a program to enhance private sector preparedness for acts of terrorism and other emergencies and disasters, including the development and the conducting of training and exercises to support and evaluate emergency preparedness, response plans, and operational procedures.

There is no comparable Senate provision.

The Conference substitute adopts a provision based on elements of the House provisions that require the Secretary to establish a program for conducting security exercises for over-the-road bus transportation to prevent, prepare for, mitigate, respond to, and recover from acts of terrorism. The program shall include Federal, State, local agencies and tribal governments; over-the-road bus operators and terminal owners and operators; governmental and nongovernmental emergency response providers and law enforcement agencies; and other applicable entities. The program calls for consolidation of existing security exercises administered by the Department of Homeland Security, TSA and the Department of Transportation, as appropriate, and shall be comprised of live exercises tailored to the needs of the recipients, coordinated with appropriate officials, inclusive of over-the-road bus frontline employees, and consistent with the National Incident Management System, the National Response Plan and other related national initiatives, including the National Exercise Program. The exercises shall be evaluated by the Secretary and the ensuing best practices shall be shared with appropriate stakeholders, and used to develop recommendations of appropriate action.

The Conference intends for there to be one primary over-the-road bus security exercises program within the Federal government administered by TSA, but are including the waiver authority to ensure that any DOT motor carrier safety exercises that have a nexus with security are not automatically consolidated into this program.

The Conference expects that the consolidation of exercises that primarily relate to safety would only occur with the concurrence of the Secretary of Transportation and the Secretary of Homeland Security.

Section 1534. Over-the-Road Bus Security Training Program.

There is no comparable House provision.

While there is no comparable Senate provision, Section 1447 of the Senate bill provides grants to over-the-road bus operators and over-the-road bus terminal operators and owners for the purposes of improving bus security, including training employees in recognizing and responding to security risks, evacuation procedures,

passenger screening procedures, and baggage inspection and hiring and training security officers.

The Conference substitute adopts a new provision that would require, not later than 6 months after enactment, the Secretary of Homeland Security and TSA to develop and issue regulations for a bus training program to prepare the over-the-road bus frontline employees, as defined in section 1501 of the Conference substitute, for potential security threats and conditions. In developing the regulation, the Secretary shall consult with the appropriate stakeholders including law enforcement, over-the-road bus operators, and nonprofit employee labor organizations. The program shall include security training for determining the following, including: the seriousness of an incident or threat; driver and passenger communication; appropriate responses and training related to terrorist incidents; understanding security procedures; operation and maintenance of security equipment. Not later than 90 days upon issuance of the regulations, the over-the-road bus operators shall develop security training programs, which the Secretary shall review not later than 60 days upon receipt. Not later than 1 year after receiving the Secretary's approval of the program, the over-the-road bus operator shall complete the security training of all over-the-road bus frontline employees. The Secretary shall update the training regulations, as appropriate and shall ensure that the program developed is a component of the National Training Program. Not later than 2 years after the issuance of the regulation, the Secretary shall review the program and report to the appropriate Congressional Committees.

Section 1535. Over-the-Road Bus Security Research and Development.

There is no comparable House provision.

While there is no comparable Senate provision, Section 1447 of the Senate bill requires the Secretary of Homeland Security to establish a program within TSA to make grants to private over-the-road bus operators and over-the-road bus terminal operators for the purposes of improving bus security. The section also requires the Secretary to undertake a bus security assessment that would include an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver.

The Conference substitute adopts a provision that requires the Secretary, acting through the Under Secretary for Science and Technology and the Administrator of the Transportation Security Administration, to establish a research and development (R&D) program for over-the-road bus security. Eligible R&D projects include the following: reducing the vulnerability to explosives and hazardous chemical, biological and radioactive substances; testing of new emergency response and recovery techniques; developing improved technologies for emergency response training, and security and redundancy for critical communications. The R&D program shall be consistent with other transportation security R&D programs required by the Act, and shall be coordinated with related activities within the DHS as well as DOT, in addition to R&D conducted by additional entities and agencies. The provision permits R&D projects authorized in

this section to be enacted through a reimbursable agreement, if necessary, or memoranda of understanding, contracts, grants, cooperative agreements or other applicable transactions. The Conference substitute also requires the Secretary to consult with the Chief Privacy Officer of the Department, and the Officer for Civil Rights and Civil Liberties, who must conduct privacy impact assessments and reviews, respectively and as appropriate, for R&D initiatives that could have an impact on privacy, civil rights or civil liberties. Finally, the provision authorizes \$2 million for each of Fiscal Years 2008 through 2011.

Section 1536. Motor Carrier Employee Protections.

There is no comparable House provision.

Section 1430 of the Senate bill updates the existing railroad employee protections statute to protect railroad employees from adverse employment impacts due to whistleblower activities related to rail security.

The Conference substitute adopts a provision related to the Senate provision which expands whistleblower protections to motor carrier, including over-the-road bus, employees. It amends the current motor carrier employee whistleblower provision for safety to include whistleblower protections and increase employee protections related to security. This provision prohibits motor carriers from discriminating against or discharging any employee who reports a safety or security threat, or who refuses to work when confronted by hazardous safety or security conditions. The Conference substitute also provides employees with additional administrative and civil remedies, including *de novo* review of a complaint in Federal District Court if the Department of Labor does not issue an order related to the complaint in a timely fashion. It authorizes all relief necessary to make a whistleblower whole, including damages, reinstatement with prior seniority status, special damages, and attorneys' fees. Punitive damages are also made available to employees in an amount not exceed \$250,000.

The Conference believes that motor carrier, including over-the-road bus, employees must be protected when reporting a safety or security threat or refusing to work when confronted by hazardous safety or security condition. The Conference, through this provision, intends to protect covered employees in the course of their ordinary duties. The intent of this provision is to ensure that employees can report their concerns without the fear of possible retaliation or discrimination from employers.

Section 1537. Unified Carrier Registration System Agreement.

There is no comparable House provision.

Section 1436 of the Senate bill reinstates the Single State Registration System (SSRS) used by some States to levy motor carrier registration fees. This system was repealed pursuant to the Safe, Accountable, Flexible and Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU) in the 109th Congress and a new Unified Carrier Registration (UCR) system was required to be developed. However, the Department of Transportation missed the deadlines to implement the new UCR system, meaning the States no longer have the necessary Federal authority to charge motor carriers registration fees. The Senate provisions

reinstate the SSRS system until the UCR is implemented and thus provide authority for the States to collect registration fees.

The Conference substitute adopts a modified version of the Senate provision which will extend the effect of Section 14504 of title 49, U.S. Code, until January 1, 2008 or the effective date of final regulations issued under this section. The provision establishes a deadline of not later than October 1, 2007 for the Federal Motor Carrier Safety Administration (FMCSA) to issue final regulations to establish the Unified Carrier Registration System and set fees for the calendar year 2008 and subsequent calendar years, as required by law. The provision also amends relevant sections of SAFETEA-LU. By enacting this provision, the Conference does not intend that FMCSA should wait until 2008 to enact the Unified Carrier Registration System, in the event that the necessary regulations and fee structure are finalized in 2007. The Conference believes that FMCSA has the authority to set fees for 2007 pursuant to SAFETEA-LU and urges the expeditious enactment of the UCR plan and agreement and system as soon as possible.

Section 1538. School Bus Transportation Security.

There is no comparable House provision.

While there is no comparable Senate provision, Section 1447 of the Senate bill requires the Secretary of Homeland Security to establish a program within TSA to make grants to private over-the-road bus operators and over-the-road bus terminal operators for the purposes of improving bus security. The section also requires the Secretary to undertake a bus security assessment that would include an assessment of school bus security, if the Secretary deems it appropriate.

The Conference substitute expands upon the Senate provision and directs the Secretary to transmit a report to the appropriate Congressional Committees containing a comprehensive assessment of the risk of a terrorist attack on the Nation's school bus transportation system. The report shall include assessments of the following: the security risks to the Nation's publicly and privately operated school bus systems; actions taken by operators to address security risks; and the need for additional actions and investments to improve the security of passengers traveling on school buses. In conducting these assessments, the Secretary shall consult with relevant stakeholders.

Section 1539. Technical Amendment.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute amends subsection 1992(d)(7) of title 18, United States Code, to clarify that a definition includes intercity bus transportation.

Section 1540. Truck Security Assessment.

There is no comparable House provision.

Section 1445 of the Senate bill requires the Secretary, in coordination with the Secretary of Transportation, to transmit a report to Congress on security issues related to the trucking industry.

The Conference substitute adopts the Senate provision, as modified. The Conference substitute requires the Secretary of Homeland Security, in coordination with the Secretary of Transportation, to issue a report, in either classified or redacted format, or both, within one year that includes an assessment of the security risks to the trucking industry, an assessment of truck security actions already taken by public and private entities, an assessment of the economic impact that security upgrades might have on the trucking industry, an assessment of ongoing security research, an assessment of industry best practices, and an assessment of the current status of secure truck parking.

Section 1541. Memorandum of Understanding Annex.

There is no comparable House provision.

Section 1443 of the Senate bill requires an annex to the existing Memorandum of Understanding between the Department of Transportation and the Department of Homeland Security governing the specific roles, delineations of responsibilities, resources and commitments of the two Departments in addressing motor carrier transportation security.

The Conference substitute adopts the Senate provision with a minor modification to emphasize that motor carrier transportation includes over-the-road bus transportation.

Section 1542. DHS Inspector General Report on Trucking Security Grant Program.

There is no comparable House provision.

Section 1453 of the Senate bill requires the Inspector General of the Department to submit a report to Congress within 90 days of enactment on the Trucking Security Grant Program for Fiscal Years 2004 and 2005.

The Conference substitute adopts the Senate provision, as amended, to require the Inspector General of the Department of Homeland Security to submit an additional report within one year to Congress that analyzes, using all years of available data, the performance, efficiency, and effectiveness of, the need for, and recommendations regarding the future of the Trucking Security Grant Program.

Subtitle D- Hazardous Material and Pipeline Security

Section 1551. Railroad Routing of Security-Sensitive Materials.

There is no comparable House provision.

Section 1431 of the Senate bill directs the Secretary of Homeland Security, in consultation with TSA and the Department of Transportation, to require rail carriers transporting high hazard materials to develop security threat mitigation plans, including alternative routing and temporary shipment suspension options, and to address assessed risks to high consequence targets. These threat mitigation plans are to be implemented when the threat levels of the Homeland Security Advisory System are high or severe or specific intelligence of probable or imminent threat exists toward high-consequence rail targets or infrastructure. Within 60 days of enactment of the Act, a list of routes used to transport high hazard materials must be

submitted to the Secretary. Within 180 days after receiving the notice of high consequence targets on such routes by the Secretary, each rail carrier must develop and submit a high hazard materials security threat mitigation plan to the Secretary. Any revisions must be submitted to the Secretary within 30 days of the revisions being made. The Secretary, with the assistance of the Secretary of Transportation, is directed to review and transmit comments on the plans to the railroad carrier. A railroad carrier must respond to those comments within 30 days. The plans would be required to be updated by the railroad carrier every two years. This section also defines the following terms: "high-consequence target," "catastrophic impact zone," and "rail carrier."

The Conference substitute adopts a modified version of the Senate provision that requires the Secretary of Transportation, in consultation with the Secretary of Homeland Security, to publish a final rule for the transportation of hazardous materials that would require railroad carriers to compile commodity data of security sensitive materials and analysis of the safety and security risks for transportation routes of security sensitive materials. It also mandates that the final rule require that rail carriers that ship security-sensitive materials identify alternate routes, analyze the safety and security considerations of such alternative routes, and use such routes with the least safety and security risk when transporting security-sensitive materials.

The Conference substitute requires that when railroads consider alternative routes, they consider the use of routes with interchange agreements.

Section 1552. Railroad Security Sensitive Material Tracking.

There is no comparable House provision.

Section 1435 of the Senate bill requires the Secretary of Homeland Security, in consultation with TSA, to develop a program to encourage the equipping of rail cars transporting high hazard materials with communications technology that provides information concerning car position, depressurization, and the release of hazardous materials. This section also authorizes \$3 million in funding for each of Fiscal Years 2008 through 2010 for the Secretary to carry out this section.

The Conference substitute adopts the Senate language with minor modifications.

Section 1553. Hazardous Materials Highway Routing.

There is no comparable House provision.

Section 1442 of the Senate bill requires the Secretary of Transportation, within one year of enactment of the Act, in consultation with the Secretary of Homeland Security, to: document existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier and develop a framework by using a Geographic Information System-based approach to characterize routes in the National Hazardous Materials Route Registry; assess and characterize existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier for the purpose of identifying measurable criteria for selecting routes based on safety and security concerns; analyze current route-related hazardous materials regulations in the US, Canada, and Mexico to identify cross-border differences and conflicting

regulations; document the concerns of the public, motor carriers, and State, local, territorial, and tribal governments about the highway routing of hazardous materials for the purpose of identifying and mitigating security risks associated with hazardous material routes; prepare guidance materials for State officials to assist them in identifying and reducing both safety concerns and security risks when designating highway routes for hazardous materials; develop a tool that will enable State officials to examine potential routes for the highway transportation of hazardous materials; transmit to the Senate Committee on Commerce, Science, and Transportation, and the House Committee on Transportation and Infrastructure a report on the actions taken to fulfill all the requirements of this section and any recommended changes to the routing requirements for the highway transportation of hazardous materials.

Under Section 1442, within 1 year of the date of enactment, the Secretary of Transportation would be required to complete an assessment of the safety and national security benefits achieved under existing requirements for route plans for explosives and radioactive materials and shall submit a report to the appropriate Congressional Committees with the findings and conclusions of the assessment. The Secretary of Transportation is also directed to assess, and potentially require, the addition of certain high-hazardous materials to the list of existing hazardous materials that are required to be transported by motor carriers that use highway routing plans.

The Conference substitute adopts the Senate language with minor modifications.

Section 1554. Motor Carrier Security-Sensitive Material Tracking.

There is no comparable House provision.

Section 1442 of the Senate bill requires the Secretary of Homeland Security, through TSA, and in consultation with the Secretary of Transportation, to develop a program to facilitate the equipping of motor carriers transporting high hazard materials with communications technology that provides frequent or continuous communications, vehicle position and location and tracking capabilities, and an emergency broadcast capability. This section authorizes \$7 million to carry out this section for each of Fiscal Years 2008 through 2010, of which \$3 million per year may be used for equipment and \$1 million per year may be used for operations.

The Conference substitute adopts the Senate language as modified. This section would require that the Secretary of Homeland Security, through the TSA, and in consultation with the Secretary of Transportation, develop a program to facilitate the deployment and use of tracking technologies for motor carrier shipments of certain security-sensitive hazardous materials. It retains the Senate provision authorization level amounts, but does not include the specific set-aside of a \$1 million per year that may be used for operations.

The Conference expects that this program will help expand the use of technology that allows for continuous communication, position location and tracking, and emergency distress signal broadcasting, when such technologies can improve security without being overly burdensome, and that the provision will expand TSA's analysis of other tracking-related security technologies that could be

beneficial to the security of hazardous materials truck shipments through the evaluation required under this section.

Section 1555. Hazardous Materials Security Inspections and Study.

There is no comparable House provision.

Section 1444 of the Senate bill requires the Secretary of Homeland Security to establish a program within TSA, in consultation with the Secretary of Transportation, for reviewing hazardous materials security plans within one year after the enactment of this Act. Failure by any covered person to comply with part 172, title 49, Code of Federal Regulations, within 180 days after being notified by the Secretary is punishable by a civil penalty. In reviewing compliance with part 172, the Secretary is required to utilize risk assessment methodologies to prioritize review and enforcement actions to the highest risk hazardous materials transportation operations. This section also requires the Secretary of Transportation, within one year, in coordination with the Secretary of Homeland Security, to study to what extent the insurance, security, and safety costs borne by carriers of hazardous materials are reflected in the rates paid by shippers of such commodities, as compared to those for the transportation of non-hazardous materials. Section 1444 authorizes \$2 million each of Fiscal Years 2008 through 2010.

The Conference substitute adopts the Senate provision as modified. It directs the Secretary of Transportation, in consultation with the Secretary of Homeland Security to limit duplicative reviews of hazardous materials security plans required under part 172, title 49, Code of Federal Regulations. The Conference substitute retains the cost study from the original Senate provision.

Section 1556. Technical Corrections.

There is no comparable House provision.

Section 1450 of the Senate bill corrects technical errors to section 5103a of title 49, United States Code, by inserting "Secretary of Homeland Security" in place of the term "Secretary". This section also clarifies that an individual with a valid transportation worker identification card has satisfied the background records check required under 5103a of title 49, United States Code. This section does not preempt State requirements on background checks required to receive a hazardous materials endorsement.

The Conference substitute adopts the Senate language with minor modifications to clarify the Department of Transportation and the Department of Homeland Security's roles in carrying out section 5103a of title 49, United States Code.

Section 1557. Pipeline Security Inspections and Enforcement.

There is no comparable House provision.

Section 1449 of the Senate bill requires the Secretary of Homeland Security, in consultation with the Secretary of Transportation, to establish a program for reviewing pipeline operator adoption of recommendations in the September 5, 2002, Department of Transportation Research and Special Programs Administration

Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections. Section 1449 also requires the Secretary of Homeland Security and the Secretary of Transportation to develop and implement a plan for reviewing pipeline security plans and an inspection of the critical facilities of the 100 most critical pipeline operators covered by the September 5, 2002 Circular. In reviewing pipeline operators, the Secretary of Homeland Security and the Secretary of Transportation shall use risk assessment methodologies to prioritize risks and to target inspection and enforcement actions to the highest risk pipeline assets. The section also requires the Secretary of Homeland Security and the Secretary of Transportation to develop and transmit to pipeline operators security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities. If the Secretary of Homeland Security determines that regulations are appropriate, the regulations must incorporate the guidance provided to pipeline operators in the September 5, 2002 Circular and contain additional requirements as necessary based upon the results of inspections performed under this section. The regulations must also include the imposition of civil penalties for non-compliance. Finally, the provision authorizes appropriations of \$2 million for Fiscal Years 2008 and 2009 for a pipeline security inspection and enforcement program.

The Conference substitute adopts the Senate provision, with modifications to the dates for program implementation, review, and issuance of regulations, an extension of the authorization to Fiscal Year 2010, and other changes.

With respect to pipelines, the Conference is aware that a portion of these critical facilities have been inspected, and do not expect re-inspections to be performed needlessly. The Conference expects the Secretary of Homeland Security and the Secretary of Transportation to inspect facilities that have not been inspected for security purposes since September 5, 2002, by either the Department of Transportation or the Department of Homeland Security, and to re-inspect those facilities which the Secretaries deem appropriate.

Section 1558. Pipeline Security and Incident Recovery Plan.

There is no comparable House provision.

Section 1448 of the Senate bill requires the Secretary of Homeland Security, in consultation with the Secretary of Transportation and the Pipeline and Hazardous Materials Safety Administration (PHMSA), to develop a pipeline security and incident recovery protocols plan. The plan must be developed in accordance with the Memorandum of Understanding Annex executed on August 9, 2006 and take into account actions taken or planned by both private and public entities to address identified pipeline security issues and assess the effective integration of such actions. It also requires the Secretary of Homeland Security to transmit to Congress a report containing the plan, along with an estimate of the private and public sector costs to implement any recommendations.

The Conference substitute adopts the Senate provision with modifications, including the requirement that the incident recovery protocols plan be developed in accordance with the National Strategy for Transportation Security and Homeland Security Presidential Directive-7, in addition to the pipeline security annex to the Department of Homeland Security-Department of Transportation Memorandum of

Understanding. Language was also added to require that the incident recovery protocol plan address the restoration of essential services supporting pipelines, such as electrical service.

TITLE XVI - AVIATION SECURITY

Section 1601. Airport Checkpoint Screening Fund.

Section 403 of the House bill establishes an airport checkpoint screening fund to be funded in Fiscal Year 2008 with \$250 million and expanded until exhausted for the procurement of explosives detection equipment at security checkpoints. These funds would be derived from the current Transportation Security Administration (TSA) security fee.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It provides the TSA Administrator with the authority to expend funds in FY 2008 for the purchase, deployment, installation, research, and development of equipment to improve security screening for explosives at commercial airport checkpoints.

The National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission) asserted that while more advanced screening technology is being developed, Congress should provide funding for, and TSA should move as expeditiously as possible to support, the installation of explosives detection trace portals or other applicable technologies at more of the nation's commercial airports.

Advanced technologies, such as the use of non-intrusive imaging, have been evaluated by TSA over the last few years and have demonstrated that they can provide significant improvements in threat detection at airport passenger screening checkpoints for both carry-on baggage and the screening of passengers.

The Conference urges TSA to deploy such technologies quickly and broadly to address security shortcomings at passenger screening checkpoints. The Conference believes the best way to provide for the research and development of technologies and techniques that would prevent explosives from being placed onto passenger aircraft is to pilot these technologies at a diverse group of airports. The Conference directs the Secretary of Homeland Security (the Secretary) to give priority for these pilot projects to airports that have demonstrated their expertise as pilot sites and that have been selected by the TSA as "model airports" for the deployment of technology to detect explosives.

Section 1602. Screening of Cargo Carried Aboard Passenger Aircraft.

Section 406 of the House bill requires 100 percent of cargo carried on passenger aircraft to be inspected no later than 3 years after the date of enactment. At a minimum, the inspection of such cargo should provide a level of security equivalent to the inspection of passenger checked baggage. The provision requires that the percent of such cargo that should meet these screening standards should be 35 percent by the end of Fiscal Year 2007, 65 percent by the end of Fiscal Year 2008, and 100 percent by the end of Fiscal Year 2009. The Secretary may issue an

interim final rule (IFR) but must issue a final rule not later than one year after the IFR. After the system becomes operational, TSA is required to report to Congress, within 1 year, detailing the operations; and within 120 days, report on exemptions permitted under the system. The report on exemptions must also be provided to the Government Accountability Office (GAO) which must provide an assessment of such exemptions to Congress within 120 days of receiving the report.

Section 1462 of the Senate bill requires TSA to develop and implement a system, within 3 years of the date of enactment, to provide for the screening of all cargo being carried on passenger aircraft. The Secretary may issue an interim final rule (IFR) but must issue a final rule not later than one year after the IFR. After the system becomes operational, the TSA is required to report to Congress, within 1 year, detailing the operations and, within 180 days, assessing exemptions permitted under the system. The report on exemptions must also be provided to GAO which must provide an assessment of such exemptions to Congress within 120 days of receiving the report.

The Conference substitute adopts a combination of the House and Senate provisions, as modified. It requires minimum standards for the screening of cargo on commercial passenger aircraft that must be commensurate with the level of screening for passenger checked baggage. The Conference substitute includes one benchmark; 50 percent of cargo on commercial passenger aircraft must be screened in 18 months and 100 percent screening achieved in the three years following the date enactment of the legislation. The Conference considers that if TSA were unable to meet the first benchmark, TSA would be required to give classified briefings, on a periodic and to be determined frequency, to the Senate Committee on Commerce, Science and Transportation and to the House Committee on Homeland Security, to explain the status of TSA's ability to maximize the screening of cargo on commercial personal aircraft without causing negative repercussions on the flow of commerce.

The Conference substitute also defines the term "screening" in order to clarify the requirements of the section and the methods of screening the TSA Administrator is permitted to use to screen cargo on commercial aircraft. The Conference notes that the use of the phrase "physical search together with manifest verification" denotes one method of screening, separate and apart from the other methods listed in this subsection, such as X-ray systems, etc. The Conference is also concerned about TSA using data checks of cargo or shippers, including a review of information about the contents of the cargo or verifying the identity of a shipper through a database, such as the Known Shipper database, as a single factor in determining whether cargo poses a threat to transportation security. The Conference substitute, therefore, requires that if such data checks are used, they must be paired with an additional physical or non-intrusive screening method approved by TSA that examines the cargo's contents.

If TSA does not submit a final rule to implement this program within one year after an interim final rule becomes effective, the Department of Homeland Security (the Department or DHS) will be required to submit status reports to the relevant Congressional Committees every 30 days until a final rule is issued. After the system becomes operational, TSA is required to report to Congress, within 1 year,

detailing the operations and, within 120 days, report on exemptions permitted under the system. The report on exemptions must also be provided to GAO which must provide an assessment of such exemptions to Congress within 120 days of receiving the report.

The Conference believes that TSA should consider establishing a system whereby aviation ground service providers that perform cargo security screening services for passenger aircraft, are compensated for costs incurred as a result of increased cargo security requirements.

Section 1603. In-Line Baggage Screening.

Section 401 of the House bill requires the submission of an overdue cost-sharing study on in-line explosive detection systems (EDS) installation within 30 days of enactment, along with the Secretary's analysis of the study, a list of provisions the Secretary intends to implement, and a plan and schedule for implementation.

Section 1465 of the Senate bill authorizes \$450 million in discretionary funds for Fiscal Years 2008 through 2011 to fund the installation of in-line EDS at U.S. airports at a level approximate to the TSA's strategic plan for the deployment of such systems. It also requires the submission of an overdue cost-sharing study on in-line EDS installation within 30 days of enactment.

The Conference substitute adopts a combination of the House and Senate provisions, as modified. It authorizes funding through Fiscal Year 2028. It further requires the submission of a cost sharing study and an analysis of the study by the DHS Secretary within 60 days of enactment of the legislation.

Section 1604. In-Line Baggage System Deployment.

There is no comparable House provision.

Section 1466 of the Senate bill mandates, through Fiscal Year 2028, the annual dedication of \$250 million of the amounts currently collected in aviation security fees to the Aviation Security Capital Fund for the installation of in-line electronic screening systems for the enhanced screening of checked baggage at airports. The provision also bolsters the existing Letter of Intent (LOI) program, through changes in funding allocation requirements and requiring the creation of a prioritization schedule for planned projects.

The Conference substitute adopts the Senate provision, as modified to require annual dedication, through Fiscal Year 2028, of \$250 million of the amounts currently collected in aviation security fees to the Aviation Security Capital Fund for the installation of in-line electronic screening systems for the enhanced screening of checked baggage at airports. Four-fifths of the annual allotment—not less than \$200 million—must be committed to the completion of LOIs, while the remaining funds may be distributed in a discretionary manner to fund such projects, in a priority manner, at small and non-hub airports. It also promotes leveraged funding for such projects, and to permit airports that have incurred eligible costs to improve baggage screening at their facilities to pursue reimbursement of such costs from TSA.

The Conference strongly believes that this program should be managed as

outlined in the legislation and that TSA and the Administration must have a 20 year horizon for the LOIs, rather than a limited short-term view which would have detrimental effects on the ability of airports to obtain requisite funding from the financial bond markets. The Conference believes that airports may not renegotiate previously agreed-upon Government contributions, through LOIs, or any other applicable arrangement, for in-line EDS systems.

Section 1605. Strategic Plan to Test and Implement Advanced Passenger Prescreening System.

Section 409 of the House bill requires the Department, within 90 days of enactment, to submit a strategic plan to Congress that describes the system to be utilized for comparing passenger information to watch lists; explain the integration with international flights; and provide a projected timeline for testing and implementation its advanced passenger prescreening system.

Section 1472 of the Senate bill requires the Department, within 180 days of enactment, to submit a strategic plan to Congress that describes the system to be utilized for comparing passenger information to watch lists; explains the integration with international flights; and provides a projected timeline for testing and implementation its advanced passenger prescreening system. In addition, the provision requires that a report by the GAO be issued to Congress within 90 days of enactment. This report must describe progress made in implementing Secure Flight; the effectiveness of the appeals process; integration with the international flight pre-screening program operated by Customs and Border Protection (CBP); and other relevant observations.

The Conference substitute adopts the House and Senate provisions, as modified. The provision would require the Department, in consultation with TSA, to submit a strategic plan to Congress, within 120 days of enactment of the legislation, that includes timelines for testing and implementation of its advanced passenger prescreening system. In addition, a GAO report must be issued to Congress within 180 days to review, *inter alia*, the implementation of Secure Flight by the Department; the effectiveness of the appeals process; integration with the international flight pre-screening program operated by the CBP.

Section 1606. Appeal and Redress Process for Passengers Wrongly Delayed or Prohibited from Boarding a Flight.

Section 407 of the House bill directs DHS to create an Office of Appeals and Redress to establish and administer a timely and fair process for airline passengers who believe they have been delayed or prohibited from boarding a passenger flight because they have been misidentified against the "No-Fly" or "Selectee" watch lists. The Office of Appeals and Redress must establish a presence at each airport to begin the appeals process for those passengers wrongly identified against watch lists.

Section 1471 of the Senate bill directs DHS to create an Office of Appeals and Redress to establish and administer a timely and fair process for airline passengers who believe they have been delayed or prohibited from boarding a passenger flight because they have been misidentified against the "No-Fly" or

“Selectee” watch lists.

The Conference substitute combines the House and Senate provisions, as modified. It creates the Office in DHS to ensure an adequate appeal and redress process in place for passenger wrongly identified against watch lists, and to increase privacy protections for individuals. The provision requires Federal employees within DHS handling personally identifiable information (PII) of passengers to complete mandatory privacy and security training. In addition, the provision requires that DHS ensure that airline passengers are able to initiate the redress process at airports with a significant TSA presence.

Section 1607. Strengthening Explosives Detection at Passenger Screening Checkpoints.

Section 404 of the House bill directs TSA to issue, within 7 days, a strategic plan, as required by the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458), for the deployment of explosives detection equipment at airport checkpoints.

Section 1470 of the Senate bill directs DHS to issue, within 90 days after enactment, a strategic plan, as required by the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458), for the deployment of explosives detection equipment at airport checkpoints. It also requires TSA to begin full implementation of the strategic plan within 1 year of its submission.

The Conference substitute adopts a combination of the House and Senate provisions, as modified. It directs DHS, in consultation with TSA, to issue a strategic plan for the deployment of explosives detection equipment at airport checkpoints within 30 days of enactment, and requires the TSA to begin implementation of the plan within 1 year of its submission.

Section 1608. Research and Development of Aviation Transportation Security Technology.

There is no comparable House provision.

Section 1467 of the Senate bill extends an authorization for research and development spending for aviation security technology at a level of \$50 million through Fiscal Year 2009.

The Conference substitute adopts the Senate provision, as modified to authorize research and development funding for aviation security technology at a level of \$50 million through Fiscal Year 2011.

Section 1609. Blast-Resistant Cargo Containers.

There is no comparable House provision.

Section 1463 of the Senate bill requires TSA to develop a system by which the Administrator provides blast-resistant cargo containers to commercial passenger air carriers for use, on a random or risk-assessed basis, as determined by the agency.

The cargo containers must be acquired by TSA within 90 days of the agency's completion of development of the system.

The Conference substitute adopts the Senate provision, as modified. It

requires TSA to evaluate and distribute a report to Congress and the air carrier industry that includes the results of its blast resistant cargo container pilot program.

After reporting, TSA must develop and implement a program consistent with the results of the evaluation to acquire the necessary blast resistant cargo containers and make them available to air carriers on a risk-assessed basis, as determined appropriate by the Administrator.

Section 1610. Protection of Passenger Planes from Explosives.

There is no comparable House provision.

Section 1464 of the Senate bill directs DHS to expedite research and development pilot projects that advance technology to protect passenger planes from the threat of explosive devices. It also requires the establishment of a grant program to fund projects the agency develops through this process, with an authorization for such sums as necessary for Fiscal Year 2008.

The Conference substitute adopts the Senate provision, as modified. It requires DHS, in consultation with TSA, to develop pilot projects that advance technology for protecting passenger planes from the threat of explosive devices and to establish a grant program to fund projects developed under the program with an authorization for fiscal 2008.

Section 1611. Specialized Training.

There is no comparable House provision.

Section 1469 of the Senate bill requires TSA to provide specialized training to Transportation Security Officers for the development of advanced security skills, including behavior observation, explosives detection and document verification.

The Conference substitute adopts the Senate provision. It requires TSA to provide specialized training to Transportation Security Officers for the development of advanced security skills, including behavior observation, explosives detection and document verification, to enhance the effectiveness of layered transportation security measures.

Section 1612. Certain TSA Personnel Limitation not to Apply.

There is no comparable House provision.

To ensure that the agency is properly staffed at a level necessary to screen travelers as air passenger traffic numbers continue to increase, Section 1468 of the Senate bill removes the arbitrary hiring cap on Transportation Security Officers of 45,000 full-time equivalent (FTE) employees that is currently imposed on the TSA's screener workforce.

The Conference substitute adopts the Senate provision. It removes the arbitrary screener cap of 45,000 full-time equivalent (FTE) employees that is currently imposed on the TSA's screener workforce so that the agency will be properly staffed at a level necessary to screen travelers as air passenger traffic numbers continue to increase.

Section 1613. Pilot Project to Test Different Technologies at Airport Exit Lanes.

There is no comparable House provision. Section 1479 of the Senate bill establishes a pilot program to test new technologies for reducing the number of TSA employees at airport exit lanes, and requires the TSA Administrator to brief Congressional Committees, within 180 days, on the program, and provide a final report within 1 year.

The Conference substitute adopts the Senate provision, as modified. It directs TSA to conduct a pilot project, at no more than two airports, to identify technologies to improve security at airport exit lanes. The pilot program must ensure that the level of safety remains at, or above, the existing level of security at airports where the pilot program is initiated. TSA must brief appropriate Congressional Committees on the pilot program within 180 days of enactment on the pilot program, and provide a report on the program to those Committees within 18 months of the program's implementation. The provision also stipulates that this section shall be executed using existing funds.

Section 1614. Security Credentials for Airline Crews.

There is no comparable House provision.

Section 1475 of the Senate bill mandates a report to Congress, within 180 days of enactment, on the status of efforts to institute a sterile area access system that will grant flight deck and cabin crews expedited access to secure areas through screening checkpoints. The report must include recommendations to implement the program for the domestic aviation industry within 1 year after the report is submitted, and fully deploy the system within 1 year of the report's submission.

The Conference substitute adopts the Senate provision, as modified. It requires a report to Congress, within 180 days of enactment of the Act, on the status of efforts to institute a sterile area access system that will grant flight deck and cabin crews expedited access to secure areas through screening checkpoints. The report must include recommendations to implement the program for the domestic aviation industry within one year after the report is submitted, and fully deploy the system within one year of the report's submission. In addition, the provision lists the appropriate Committees of jurisdiction in the provision's reporting requirements.

Section 1615. Law Enforcement Officer Biometric Credential.

There is no comparable House provision.

Section 1477 of the Senate bill requires a credential or system that incorporates biometric and other applicable technologies to verify the identity of law enforcement officers seeking to carry a weapon on board an aircraft.

The Conference substitute adopts the Senate provision, as modified. It establishes, within 18 months of enactment, of a Federally managed, national registered armed law enforcement program for armed law enforcement officers traveling by commercial aircraft. It also requires that a report be submitted to Congress within 180 days of the program's implementation or a report explaining to Congress why the program has not been implemented with a further report every 90 days until the program becomes operational.

Section 1616. Repair Station Security.

There is no comparable House provision.

Section 1473 of the Senate bill mandates that security rules be put in place at foreign aviation repair stations, within 90 days of passage of the Act, and that once security rules are established, each repair station be reviewed and audited within a 6-month period. If no action is taken within 90 days, the Administration will be prohibited from certifying any further foreign repair stations until such regulations are in place.

The Conference substitute adopts the Senate provision, as modified. It requires that security rules be put in place at foreign aviation repair stations within 1 year of passage and that any security rules established be reviewed and audited within a 6 month period. If no action is taken within 1 year, the Administration will be prohibited from certifying any foreign repair stations that are not presently certified or in the process of certification until such regulations are in place.

Section 1617. General Aviation Security.

There is no comparable House provision.

Section 1474 of the Senate bill requires TSA to develop a standardized threat and vulnerability assessment program for general aviation (GA) airports within 1 year, and create a program to perform such assessments at GA airports in the United States on a risk-assessed basis. TSA must also study the feasibility of a grant program for GA airport operators to fund key projects to upgrade security at such facilities, and establish that program if feasible. It further requires TSA to develop a program, within 6 months, under which foreign registered GA aircraft must submit passenger information to TSA to be checked against appropriate watch list databases prior to entering the United States.

The Conference substitute adopts the Senate provision. It requires TSA to develop a standardized threat and vulnerability assessment program for GA airports within one year, and create a program to perform such assessments at GA airports in the United States on a risk-assessed basis. TSA must also study the feasibility of a grant program for GA airport operators to fund key projects to upgrade security at such facilities, and establish that program if feasible. The provision requires TSA to develop a program, within six months, under which GA aircraft originating from a foreign location must submit passenger information to TSA to be checked against appropriate watch list databases prior to entering the United States.

Section 1618. Extension of Authorization for Aviation Security Funding.

Section 405 of the House bill provides an extension for aviation security funding through Fiscal Year 2011.

Section 1461 of the Senate bill provides an extension for aviation security funding through Fiscal Year 2009.

The Conference substitute combines the House and Senate provisions, as modified to extend aviation security funding through Fiscal Year 2011, corresponding to the time limits and other authorizations within the bill.

TITLE XVII – MARITIME CARGO

Section 1701. Container Scanning and Seals.

Section 501 of the House bill prohibits a container from entering the United States unless the container is scanned and secured with a seal that uses the best available technology, including technology to detect any breach of the container and record the time of that breach. The Secretary of Homeland Security (the Secretary) must establish standards for scanning and sealing containers, and must review and revise those standards at least once every two years. This section requires all countries (those exporting 75,000 or more twenty-foot equivalent units (TEU)) scan and seal containers within three years of the date of enactment. All other countries must scan and seal container within five years. The Secretary may extend the deadline for a port by one year.

Section 905 of the Senate bill amends Section 232 of the SAFE Port Act of 2006 to require the Secretary develop a plan, which includes benchmarks, for scanning 100 percent of the containers destined for the United States using integrated scanning systems developed in the pilot program authorized in that section. It also requires that the plan incorporate existing programs, such as the Container Security Initiative and the Customs-Trade Partnership Against Terrorism.

The Conference substitute adopts the House provision, as modified. This provision amends Section 232 of the SAFE Port Act of 2006 to require full-scale implementation of the 100 percent scanning system pilot program required by that section no later than July 1, 2012. However, the Secretary is authorized to extend the deadline by two years, and may renew the extension in additional two-year increments, if the Secretary certifies to Congress that particular conditions can not be met. The provision provides a waiver for U.S. and foreign military cargo. It also requires the Secretary consult with other appropriate Federal agencies to ensure that actions taken under this section do not violate international trade obligations.

This substitute also amends section 204(a)(4) of the SAFE Port Act by requiring the Secretary to issue an interim rule to establish minimum standards and procedures for securing containers in transit to the United States not later than April 1, 2008. If the Secretary fails to meet that deadline, this section requires that effective October 15, 2008, and until such interim rule is issued, all containers in transit to the United States shall be required to meet the requirements of International Organization for Standardization Publicly Available Specification 17712 standard for sealing containers.

The Conference expects the Secretary to work with the Secretary of State, the United States Trade Representative, and other appropriate Federal officials to work with our international partners and international organizations such as the World Customs Organization to establish an international framework for scanning and securing containers.

The Conference is aware that the Department of Energy (DOE) has inherent capabilities to assess, through its cooperative agreements with numerous countries and port authorities, the adequacy of technical and operating procedures for cargo container scanning. To ensure smooth continuation of DOE's cooperative

relationships with numerous countries and the further expansion of the Megavolts Second Line of Defense (SLEDDED) programs, the Conference expects that DHS and DOE shall closely coordinate their activities and consult prior to the establishment of technological or operational standards by the Secretary of Homeland Security. As part of the coordination requirement in this section, the Conference expects that where the scanning technology standards affect the DOE's Megavolts and SLEDDED programs, the Secretary shall invite the DOE to participate in the development and final review of such standards, and the Secretary of Homeland Security shall seek the concurrence of the Secretary of Energy.

TITLE XVIII - PREVENTING WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM

Section 1801. Findings.

Section 1201 of the House bill contains findings and recommendations of the 9/11 Commission.

There is no comparable Senate provision.

The Conference substitute adopts the House provision with respect to the recommendations of the 9/11 Commission.

The Conference notes that in late 2005 the members of the 9/11 Commission also made the following determinations: (1) The United States Government has made insufficient progress, and deserves a grade "D", on efforts to prevent weapons of mass destruction (W.D.) proliferation and terrorism. (2) The Cooperative Threat Reduction (CAR) Program has made significant accomplishments but much remains to be done to secure weapons-grade nuclear materials. The size of the problem still dwarfs the policy response. Nuclear materials in the Former Soviet Union still lack effective security protection, and sites throughout the world contain enough highly-enriched uranium to fashion a nuclear device but lack even basic security features. (3) Preventing the proliferation of W.D. and acquisition of such weapons by terrorists warrants a maximum effort, by strengthening counter-proliferation efforts, expanding the Proliferation Security Initiative (PSI), and supporting the CAR Program. (4) Preventing terrorists from gaining access to W.D. must be an urgent national security priority because of the threat such access poses to the American people. The President should develop a comprehensive plan to dramatically accelerate the timetable for securing all nuclear weapons-usable material around the world and request the necessary resources to complete this task.

The President should publicly make this goal his top national security priority and ensure its fulfillment. (5) Congress should provide the resources needed to secure vulnerable materials as quickly as possible.

Section 1802. Definitions.

Section 1202 of the House bill defines terms used throughout Title XII of the House bill.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment to clarify the term “items of proliferation concern” and makes a further clarifying change.

Section 1811. Repeal and Modifications of Limitations on Assistance for Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

Section 1211 of the House bill repeals and modifies various conditions on assistance to former Soviet States under the Department of Defense Cooperative Threat Reduction (CAR) Program and the Department of Energy Defense Nuclear Nonproliferation programs. Section 1211 would also repeal the cap on Department of Defense CAR program assistance outside the former Soviet Union, with respect to prior year funds, as well as Department of Energy nonproliferation program assistance outside the former Soviet Union, while increasing oversight of such programs.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that removes the repeal and modification of various conditions on assistance to States outside the former Soviet Union under the Department of Energy nonproliferation programs; removes the repeal of the funding cap on Department of Defense CAR assistance outside the former Soviet Union; and makes a clarifying change.

The Conference notes that substitute is consistent with the recommendations of the 9/11 Commission regarding the need to expand, improve, and otherwise fully support the Department of Defense CAR Program and other efforts to prevent weapons of mass destruction proliferation and terrorism.

The Conference further notes that the National Defense Authorization Act for Fiscal Year 2008, as passed by the House of Representatives (Report 110-146, May 11, 2007) and the National Defense Authorization Act for Fiscal Year 2008, as reported by the Senate Armed Services Committee (Report 110-77, June 5, 2007) both address the matters contained in this provision, including the funding cap on Department of Defense CAR assistance outside the former Soviet Union, and the Conferees expect that any final national defense authorization act for Fiscal Year 2008, as enacted, will further address these matters.

Section 1821. Proliferation Security Initiative Improvements and Authorities.

Section 1221 of the House bill expresses the sense of Congress that, consistent with the recommendations of the 9/11 Commission, the President should strive to expand and strengthen the Proliferation Security Initiative (PSI). Section 1221 also requires the Secretary of Defense, in coordination with the Secretary of State and the head of any other Federal Department or Agency involved with PSI-related activities, to submit to the Congressional defense Committees a defined budget for the PSI, beginning with the Department of Defense budget submission for fiscal year 2009. Section 1221 further requires the President to submit to the relevant Congressional Committees, not later than 180 days after the enactment of H.R.1, as passed by the House of Representatives (H.R.1 EH, January 9, 2007), a

report on the implementation of section 1221, including steps taken to implement the recommendations of the Government Accountability Office (GAO) in the September 2006 Report titled "Better Controls Needed to Plan and Manage Proliferation Security Initiative Activities". Section 1221 also directs GAO to submit to Congress, beginning in fiscal year 2008, an annual report on its assessment of the progress and effectiveness of the PSI.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that narrows the scope of the sense of Congress; clarifies the annual budget submission; requires each budget submission to be accompanied by a report on PSI funding and activities; changes the GAO report to a biannual report for 2007, 2009 and 2011; and makes clarifying and technical changes.

The Conference recognizes that the annual budget request and the accompanying report for the PSI, required by the substitute, may not be fully inclusive of all funding required for PSI-related activities during the fiscal year for the budget request given unknown PSI-related activities that may arise throughout the fiscal year. However, the Conference expects the budget request and accompanying report to include all reasonably known obligations, costs and expenditures for PSI-related activities for the fiscal year of the budget request.

The Conference believes that in order to effectively expand and strengthen the PSI, the United States should work with the international community to strengthen the PSI under international law and other international legal authorities. It is important for the United States and other PSI partners to seek greater international recognition of the need to conduct PSI-related activities within certain international areas, so that international waters and airspace do not become "transit sanctuaries" for countries, terrorist organizations, and unscrupulous businesses and individuals seeking to transfer items of proliferation concern. One promising avenue could be to encourage the U.N.'s "1540 Committee," which is charged with monitoring international compliance with United Nations Security Council Resolution 1540 promoting nonproliferation, to recognize and endorse the need and ability of PSI partners to monitor and, in appropriate circumstances, interdict such shipments.

Section 1822. Authority to Provide Assistance to Cooperative Countries.

Section 1222 of the House bill authorizes the President to, notwithstanding any other provision of law, provide Foreign Military Financing, International Military Education and Training, and draw down of excess defense articles and services to any country, for a maximum of three years, that cooperates with the United States and with other countries allied with the United States to prevent the transport and transshipment of items of proliferation concern in its national territory or airspace or in vessels under its control or registry. Such assistance would be provided to enhance the capability of the recipient country to prevent the transport and transshipment of items of proliferation concern in its national territory or airspace, or in vessels under its control or registry, including through the development of a legal framework in that country, consistent with any international laws or legal authorities governing the PSI, to enhance such capability by criminalizing proliferation, enacting strict export controls, and securing sensitive

materials within its borders, and to enhance the ability of the recipient country to cooperate in operations conducted with other participating countries. Such assistance could only be provided in accordance with existing procedures regarding reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961. Finally, this section prohibits the transfer of any excess defense vessel or aircraft to a country until reprogramming notice is made, if that country has not agreed that it will support and assist efforts by the United States to interdict items of proliferation concern.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that narrows the authority and adds an exemption to the limitation on an excess vessel or aircraft transfer if such transfer does not involve significant military equipment and the primary use of the vessel or aircraft will be for counter-narcotics, counter-terrorism or counter-proliferation purposes.

The Conference intends that assistance provided pursuant to this section shall remain subject to all existing law regarding the authorities listed in subsection (b) of this section. Thus, for example, the normal Congressional notification and review procedures will apply, as well as limitations related to human rights or military coups.

Section 1831. Findings; Statement of Policy.

Section 1231 of the House bill contains findings and a statement of policy regarding assistance to accelerate programs to prevent weapons of mass destruction proliferation and terrorism. Section 1231 emphasizes that it shall be the policy of the United States, consistent with the 9/11 Commission's recommendations, to eliminate any obstacles to timely obligating and executing the full amount of any appropriated funds for threat reduction and nonproliferation programs in order to accelerate and strengthen progress on preventing weapons of mass destruction proliferation and terrorism, and that such policy shall be implemented with concrete measures such as those described in Title XII of H.R. 1, as passed by the House of Representatives (H.R.1 EH, January 9, 2007).

There is no comparable Senate provision.

The Conference substitute adopts the House provision with respect to the policy of the United States to eliminate any obstacles to timely obligating and executing the full amount of any appropriated funds for threat reduction and nonproliferation programs, and the implementation of such policy with concrete measures.

The Conference notes that certain U.S. threat reduction and nonproliferation programs have in past years encountered obstacles to timely obligating and executing the full amount of appropriated funds, and have therefore maintained unobligated and uncosted balances. Such obstacles have included lack of effective policy guidance, limits on program scope, practical inefficiencies, lack of cooperation with other countries, and lack of effective leadership to overcome such obstacles. The Conference also notes that although currently most Department of Defense Cooperative Threat Reduction and Department of Energy National Nuclear Security Administration nonproliferation programs are timely obligating and

executing appropriated funds, the Department of Defense and the Department of Energy should ensure that this practice continues as such threat reduction and nonproliferation programs are accelerated, expanded and strengthened.

Section 1832. Authorization of Appropriations for the Department of Defense Cooperative Threat Reduction Program.

Section 1232 of the House bill authorizes to be appropriated to the Department of Defense Cooperative Threat Reduction (CAR) Program such sums as may be necessary for Fiscal Year 2007 for biological weapons proliferation prevention; chemical weapons destruction at Shchuch'ye; and to accelerate, expand and strengthen CAR Program activities.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that changes the fiscal year of the authorization of appropriations to the Department of Defense CAR Program to Fiscal Year 2008; and clarifies that any sums appropriated pursuant to such authorization may not exceed the amounts authorized to be appropriated for such purposes by any national defense authorization act for Fiscal Year 2008.

The Conference expects that any national defense authorization act for 2008 will authorize specific amounts to be appropriated for the Department of Defense CAR Program for Fiscal Year 2008.

Section 1833. Authorization of Appropriations for the Department of Energy Programs to Prevent Weapons of Mass Destruction Proliferation and Terrorism.

Section 1233 of the House bill authorizes to be appropriated to the Department of Energy National Nuclear Security Administration such sums as may be necessary for Fiscal Year 2007 nonproliferation programs.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that changes the fiscal year of the authorization of appropriations to Department of Energy National Nuclear Security Administration nonproliferation programs to Fiscal Year 2008; addresses specific purposes for any such authorization of appropriations in report language below; and clarifies that any sums appropriated pursuant to such authorization may not exceed the amounts authorized to be appropriated for such purposes by any national defense authorization act for Fiscal Year 2008.

The Conference expects that any national defense authorization act for 2008 will authorize specific amounts to be appropriated for Department of Energy National Nuclear Security Administration nonproliferation programs for Fiscal Year 2008.

The Conference notes that high priority Department of Energy National Nuclear Security Administration nonproliferation programs that could use additional funding include:

- (1) The Global Threat Reduction Initiative (GTRI), for (A) the Russian research reactor fuel return program; (B) conversion of research and test

reactors from the use of highly enriched uranium to low-enriched uranium; (C) development of alternative low-enriched uranium fuels; (D) international radiological threat reduction, including security of vulnerable radiological sites, recovery and removal of unsecured radiological sources, and activities to address concerns and recommendations of the Government Accountability Office, in its report of March 13, 2007 titled "Focusing on the Highest Priority Radiological Sources Could Improve DOE's Efforts to Secure Sources in Foreign Countries"; (E) emerging threats and sensitive nuclear materials not covered by other GTRI programs ("gap material"), including removal and disposal of highly-enriched uranium and plutonium, and development of mobile equipment that enables rapid-response teams to quickly secure and remove nuclear materials and denuclearize comprehensive nuclear weapons programs; and (F) United States radiological threat reduction, including development of alternative materials for radiological sources that could be used in a radiological dispersion device, known as a "dirty bomb", and securing and storing excess and unwanted domestic radiological sources within United States borders.

(2) Nonproliferation and International Security, to be used for (A) technical support to the six-party process on the denuclearization of the Democratic People's Republic of Korea; (B) application and deployment of technologies to detect weapons of mass destruction (W.D.) proliferation and verify W.D. dismantlement; (C) efforts to strengthen nuclear safeguards, including improved safeguards analysis capabilities for the International Atomic Energy Agency and research and development on the next generation of nuclear safeguards, and W.D. export control systems in foreign countries, including technical and other support to the International Atomic Energy Agency's efforts to build the capacity of countries to implement United Nations Security Council Resolution 1540; (D) training of border, customs and other officials in foreign countries to detect and prevent theft or other illicit transfer of W.D. or W.D.-related materials; (E) re-direction of displaced scientists and other personnel with expertise relating to W.D. research and development to sustained civil employment, including in Iraq, Libya and Russia; and (F) activities relating to the Proliferation Security Initiative (PSI) and other W.D. interdiction programs.

(3) International Materials Protection and Cooperation, to be used for (A) implementation of physical protection and material control and accounting upgrades at sites; (B) national programs and sustainability activities in Russia, including activities to address concerns and recommendations of the Government Accountability Office in its report of February 2007 titled "Progress Made in Improving Security at Russian Nuclear Sites, but the Long-Term Sustainability of U.S. Funded Security Upgrades is Uncertain"; (C) material-consolidation and conversion (including consolidation of excess highly-enriched uranium and plutonium into fewer more secure locations in Russia, and conversion of highly-enriched uranium to low-enriched uranium in Russia); and (D) deployment and support of radiation detection equipment at key ports of transit, and implementation of

Department of Energy actions under the Security and Accountability for Every Port Act of 2006 (also known as the SAFE Port Act; Public Law 109-347), under the Second Line of Defense Megavolts program.

(4) Nonproliferation and Verification Research and Development, to be used for (A) development of technologies to detect and analyze activities relating to the global proliferation of W.D., including plutonium reprocessing, uranium enrichment, and special nuclear material movement; and (B) nuclear explosion monitoring, including improved nuclear material and debris analysis capabilities and research and development on improved domestic and world-wide nuclear material and debris collection capabilities.

Section 1841. Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

Section 1241 of the House bill establishes a Presidential Coordinator to improve the effectiveness of United States strategy and policies on weapons of mass destruction (W.D.) nonproliferation and threat reduction programs. The Coordinator's duties would include serving as the principal advisor to the President, formulating a comprehensive and well-coordinated U.S. strategy for preventing W.D. proliferation and terrorism, and coordinating inter-agency action on these matters. The Coordinator would also conduct oversight and evaluation of relevant programs across the government and develop a comprehensive budget for such programs. Section 1241 would also direct the Coordinator to consult regularly with the Commission on the Prevention of W.D. Proliferation and Terrorism, established under House section 1251, and to submit to Congress, for Fiscal Year 2009 and each fiscal year thereafter, an annual report on the strategic plan required under this section.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that strengthens the role of the Coordinator, by providing that the Coordinator may attend and participate in meetings of the National Security Council and the Homeland Security Council. It also makes clarifying and technical changes.

Section 1842. Sense of Congress on United States-Russia Cooperation and Coordination on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

Section 1242 of the House bill expresses a sense of Congress that the President should request the President of the Russian Federation to designate a Russian official having the authorities and responsibilities for preventing weapons of mass destruction (W.D.) proliferation and terrorism, commensurate with those of the U.S. Coordinator for these matters, established under House section 1241, and with whom the U.S. Coordinator would interact.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that expresses a sense of Congress that the President should engage Russia's President in a discussion of the purposes and goals for the establishment of the Office of the United States Coordinator for the Prevention of Weapons of Mass

Destruction and Terrorism; the authorities and responsibilities of the U.S. Coordinator; and the importance of strong cooperation between the U.S. Coordinator and a senior Russian official having authorities and responsibilities for preventing W.D. destruction and terrorism, and with whom the U.S. Coordinator would interact.

Section 1851. Establishment of Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

Section 1251 of the House bill establishes a Congressional–Executive Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

There is no comparable Senate provision.

The Conference substitute adopts the House provision.

Section 1852. Purposes of Commission.

Section 1252 of the House bill specifies that the purposes of the commission established in House section 1251 are to assess current United States and international nonproliferation activities and provide a comprehensive strategy and concrete recommendations for such activities.

There is no comparable Senate provision.

The Conference substitute adopts the House provision.

Section 1853. Composition of Commission.

Section 1253 of the House bill specifies the composition of the commission established in House Section 1251, including the appointment of co-chairmen of the commission.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that creates one chairman of the commission, rather than co-chairmen, and makes other changes to membership structure. The substitute also specifies qualifications for commission members; and makes clarifying the technical changes.

Section 1854. Responsibilities of Commission.

Section 1254 of the House bill specifies the responsibilities of the commission established under section 1251, including assessment of United States inter-agency coordination and commitments to international regimes. House Section 1254 also specifies that the commission shall reassess, and where necessary update and expand on, the conclusions and recommendations of the report titled “A Report Card on the Department of Energy’s Nonproliferation Programs with Russia” of January 2001 (also known as the “Baker-Cutler Report”).

There is no comparable Senate provision.

The Conference substitute adopts the House provision.

Section 1855. Powers of Commission.

Section 1255 of the House bill specifies the powers and responsibilities of the commission established under section 1251 of that bill.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that authorizes staff for the commission.

Section 1856. Nonapplicability of Federal Advisory Committee Act.

Section 1256 of the House bill specifies that the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the commission established under section 1251.

There is no comparable Senate provision.

The Conference substitute adopts the House provision.

Section 1857. Report.

Section 1257 of the House bill requires, not later than 180 days after the appointment of the commission established under section 1251 of that bill, the commission to submit to the President and Congress a final report containing the commission's findings, conclusions and recommendations.

There is no comparable Senate provision.

The Conference substitute adopts the House provision.

Section 1858. Termination.

Section 1258 of the House bill requires all authorities relating to the commission established under section 1251 to terminate 60 days after the date on which the commission's final report under House section 1257 is submitted.

There is no comparable Senate provision.

The Conference substitute adopts the House provision.

Section 1859. Funding.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute adopts a provision that specifically authorizes such sums as may be necessary for the purposes of the activities of the Commission under this title.

TITLE XIX - INTERNATIONAL COOPERATION OF ANTITERRORISM TECHNOLOGIES

Section 1901. Promoting Antiterrorism Capabilities through International Cooperation.

There is no comparable House provision. However, the House has twice passed legislation to establish a Science and Technology Homeland Security International Cooperative Programs Office (Office). Specifically, the House passed H.R. 4942 during the 109th Congress, and H.R. 884, a slightly modified version of H.R. 4942, during the 110th Congress.

Section 1301 of the Senate bill directs the Department of Homeland Security's

(Department) Under Secretary for Science and Technology (S&T) to establish the Science and Technology Homeland Security International Cooperative Programs Office. The purpose of the Office is to facilitate the planning, development, and implementation of international cooperative activities, such as joint research projects, exchange of scientists and engineers, training of personnel, and conferences, in support of homeland security.

The Conference substitute adopts the Senate provisions, with minor modifications.

The Conference substitute directs the Under Secretary for S&T to establish an Office to promote cooperation between entities of the United States and its allies in the global war on terrorism for the purpose of engaging in cooperative endeavors focused on the research, development, and commercialization of high-priority technologies intended to detect, prevent, respond to, recover from, and mitigate against acts of terrorism and other high consequence events and to address the homeland security needs of Federal, State, and local governments. The Office, located within the Department's S&T Directorate, is responsible for: promoting cooperative research between the United States and its allies on homeland security technologies; developing strategic priorities for international cooperative activity and addressing them through agreements with foreign entities; facilitating the matching of U.S. entities engaged in homeland security research with appropriate foreign research partners; ensuring funds and resources expended for international cooperative activity are equitably matched; and coordinating the activities of the Office with other relevant Federal agencies. This provision also requires the Office to submit a report every five years to Congress on the S&T Directorate's international cooperative activities.

This provision also directs the Department to identify critical knowledge and technology gaps, if any, and establish priorities for international cooperative activities to address such gaps. The Department shall coordinate with other appropriate research agencies in order to avoid creating redundant activities. Specifically, it is understood that this new office must coordinate its activities with the Department of State and shall not infringe on the Department of State's role as the agency with primary responsibility within the Executive Branch for coordination and oversight over all major science or science and technology agreements and activities between the United States and foreign countries, in accord with Title V of the Foreign Relations Authorization Act, Fiscal Year 1979. Further, any international agreements that the Department wishes to negotiate and conclude in support of international cooperative activity relating to homeland security would be subject to the Case-Zablocki Act (1 U.S.C. § 112b).

Section 1902. Transparency of Funds.

There is no comparable House provision.

Section 1302 of the Senate bill requires the Director of the Office of Management and Budget to ensure that all Federal grants expended by the Office are done so in compliance with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282).

The Conference substitute adopts the Senate provision.

TITLE XX - INTERNATIONAL IMPLEMENTATION

Section 2001. Short Title.

The Conference substitute provides that Title XX of the Act may be cited as the "9/11 Commission International Implementation Act of 2007."

Section 2002. Definitions.

Section 1402 of the House bill contains the definitions applicable to Title XIV.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified.

Section 2011. Findings; Policy.

Section 1411(a) of the House bill contains Congressional findings.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It describes the importance of education that teaches tolerance and respect for different beliefs as a key element in eliminating Islamic terrorism. The findings note that the National Commission on Terrorist Attacks Upon the United States concluded that ensuring education opportunity is essential to U.S. efforts to defeat global terrorism and recommended that the United States join other nations in providing funding for building and operating primary and secondary schools in Muslim countries where the Governments of those Countries commit to sensibly investing financial resources in public education. The findings also note that despite Congressional endorsement in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458), such a program was not established. They also declare that it is United States policy: to work toward the goal of dramatically increasing the availability of modern basic education through public schools in predominantly Muslim countries; to join with other countries in supporting the International Muslim Youth Opportunity Fund; to offer additional incentives to increase the availability of basic education in Arab and predominantly Muslim countries; and to work to prevent financing of education institutions that support radical Islamic fundamentalism.

Section 2012. International Muslim Youth Opportunity Fund.

Section 1412 of the House bill amends section 7114 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458) by establishing an International Muslim Youth Opportunity Fund.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It states the purpose is to strengthen the public educational systems in predominantly Muslim countries by authorizing the establishment of an International Muslim Youth Opportunity Fund and providing resources for the Fund to help strengthen

the public educational systems in predominantly Muslim countries. The new section authorizes the establishment of an International Muslim Youth Opportunity Fund as either a separate fund in the U.S. Treasury or through an international organization or international financial institution; authorizes the Fund to support specific activities, including assistance to enhance modern educational programs; assistance for training and exchange programs for teachers, administrators, and students; assistance targeting primary and secondary students; assistance for development of youth professionals; and other types of assistance such as the translation of foreign books, newspapers, reference guides, and other reading materials into local languages and the construction and equipping of modern community and university libraries; and authorizes such sums as may be necessary for Fiscal Years 2008, 2009 and 2010 to carry out these activities. This subsection also authorizes the President to carry out programs consistent with these objectives under existing authorities, including the Mutual Educational and Cultural Exchange Act. This subsection requires the President to prepare a report to Congress on the United States efforts to assist in the improvement of education opportunities for Muslim children and youths as well as the progress in establishing the International Muslim Youth Opportunity Fund.

Section 2013. Annual Report to Congress.

Section 1413(a) of the House bill directs the Secretary of State to prepare an annual report.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It directs the Secretary of State to prepare an annual report, not later than June 1 of each year until December 31, 2009, on the efforts of predominantly Muslim countries to increase the availability of modern basic education and to close educational institutions that promote religious extremism and terrorism. It also provides the requirements for the annual report.

Section 2014. Extension of Program to Provide Grants to American Sponsored Schools in Predominantly Muslim Countries.

Section 1414(a) of the House bill extends a program to provide grants to American sponsored schools in predominantly Muslim Countries.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It provides findings regarding the pilot program established by section 7113 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458). It also states that this program for outstanding students from lower-income and middle-income families in predominantly Muslim countries is being implemented. It also provides for amendments to that section to extend the program for Fiscal Years 2007 and 2008, authorizes such sums as may be necessary for such years, and requires a report in April 2008 about the progress of the program.

Section 2021. Middle East Foundation.

Section 1421(a) of the House bill deals with the Middle East Foundation.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It states the purpose of this section which is to support in the countries of the broader Middle East region, the expansion of civil society, opportunities for political participation of all citizens, protections for internationally recognized human rights; educational reforms; independent media, policies that promote economic opportunities for citizens; the rule of law; and democratic processes of government. It authorizes the Secretary of State to designate an appropriate private, non-profit United States organization as the Middle East Foundation and to provide funding to the Middle East Foundation through the Middle East Partnership Initiative. It also requires the Middle East Foundation to award grants to persons located in the broader Middle East region or working with local partners based in the region to carry out projects that support the purposes specified in subsection (a); and permits the Foundation to make a grant to a Middle Eastern institution of higher education to create a center for public policy. It also establishes the private nature of the Middle East Foundation. It prevents the funds provided to the Foundation from benefitting any officer or employee of the Foundation, except as salary or reasonable compensation for services. It also provides that the Foundation may hold and retain funds provided in this section in interest-bearing accounts. The Conference substitute requires annual independent private audits, permits audits by the Government Accountability Office, and requires audits of the use of funds under this section by the grant recipient. This subsection also directs the Foundation to prepare an annual report on the Foundation's activities and operations, the grants awarded with funds provided under this section, and the financial condition of the Foundation. It defines the geographic scope of this section. It also repeals section 534(k) of Public Law 109-102.

Section 2031. Advancing United States Interests Through Public Diplomacy.

Section 1431(a) of the House bill deals with advancing U.S. interests through public diplomacy.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It contains a finding that the National Commission on Terrorist Attacks Upon the United States stated that the U.S. government initiated some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan and that these efforts are beginning to reach larger audiences. It includes a sense of Congress that the United States needs to improve its communication of ideas and information to people in countries with significant Muslim populations, that public diplomacy should reaffirm the United States commitment to democratic principles, and that a significant expansion of United States international broadcasting would provide a cost-effective means of improving communications with significant Muslim populations. It amends the United States International Broadcasting Act of 1994 to include a provision establishing special authority for surge capacity for U.S. international broadcasting activities to support United States foreign policy objectives during a crisis abroad. The provision also authorizes such sums to carry out the surge capacity authority and directs the Broadcasting Board of Governors to

provide information on the use of this authority, as part of an existing annual report to the President and Congress.

Section 2032. Oversight of International Broadcasting.

There is no comparable House provision.

Section 1913 of the Senate bill requires the Board of Broadcasting Governors to transcribe into English all broadcasts by Voice of America, Radio Free Europe/Radio Liberty, Radio Free Asia, Radio Farad, Radio Saw, Alhurra, and the Office of Cuba Broadcasting.

The Conference substitute is a narrower version of the Senate provision. It requires the Broadcasting Board of Governors to initiate a pilot project to transcribe into the English language news and information programming broadcast by Radio Farad, Radio Saw, the Persia Service of the Voice of America, and Alhurra. It also provides that this transcription shall consist of random sampling and that the transcripts shall be made available to Congress and the public. In addition, it contains a reporting requirement and authorizes \$2 million in appropriations for this pilot project.

Section 2033. Expansion of United States Scholarship, Exchange, and Library Programs in Predominantly Muslim Countries.

Section 1433(a) of the House bill directs the Secretary of State to prepare a report every 180 days until December 31, 2009, on the recommendations of the National Commission on Terrorist Attacks Upon the United States,

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It directs the Secretary of State to prepare a report every 180 days until December 31, 2009, on the recommendations of the National Commission on Terrorist Attacks Upon the United States for expanding U.S. scholarship, exchange, and library programs in predominantly Muslim countries, including a certification by the Secretary of State that such recommendations have been implemented or if a certification cannot be made, what steps have been taken to implement such recommendations. It provides for the termination of the duty to report when the certification pursuant to subsection (a) has been submitted.

Section 2034. U.S. Policy Toward Detainees.

Section 1434 of the House bill deals with detainees.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It provides findings that the 9/11 Commission recommended that the United States develop a common coalition approach toward detention and humane treatment of captured terrorists, that a number of U.S. allies are conducting investigations related to treatment of detainees and the Secretary of State has launched an initiative to address the differences between the United States and its allies. It expresses the sense of Congress that the Secretary of State should continue to build on the efforts to engage U.S. allies in compliance with Common Article 3 of the Geneva Conventions and other applicable legal principles, toward the detention and humane

treatment of individuals detained during Operation Iraqi Freedom, Operation Enduring Freedom, or in connection with United States counterterrorism operations. It also requires that the Secretary keep the appropriate Congressional Committees fully informed of the developments of these discussions and requires a report on the progress made 180 days after enactment of this Act.

Section 2041. Afghanistan.

Section 1441 of the House bill relates to Afghanistan.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It describes Congressional findings, including that a democratic, stable, and prosperous Afghanistan is vital to the national security of the United States and to combating international terrorism; that following the ouster of the Taliban regime in 2001, the Government of Afghanistan has achieved some notable successes; that there continue to be factors that pose a serious and immediate threat to the stability of Afghanistan; and that the United States and the international community must significantly increase political, economic, and military support to Afghanistan to ensure its long-term stability and prosperity, and to deny violent extremist groups such as al Qaeda sanctuary in Afghanistan. It declares that it is the United States policy to vigorously support the Government and people of Afghanistan with assistance and training, particularly in strengthening government institutions, as they continue to commit to the path toward a government representing and protecting the rights of all Afghans.

Moreover, the Conference substitute declares that the United States shall maintain its long-term commitment to the people of Afghanistan by increased assistance and the continued deployment of United States troops in Afghanistan. This section also states that the President shall engage aggressively with the Government of Afghanistan and NATO to explore all additional options for addressing the narcotics crisis in Afghanistan, including considering whether NATO forces should change their rules of engagement regarding counter-narcotics operations. In addition, this subsection declares that the United States shall continue to foster greater understanding and cooperation between the Governments of Afghanistan and Pakistan. This provision makes it a statement of Congress that the Afghanistan Freedom Support Act of 2002 be reauthorized and updated. It also directs the President to make increased effort to improve the capability and effectiveness of police training programs, including, if appropriate, by dramatically increasing the numbers of United States and international police trainers, mentors, and police personnel operating with Afghan civil security forces and shall increase efforts to assist the Government of Afghanistan in addressing corruption; and directs the President to submit a report on the United States efforts to fulfill the requirements in this subsection.

Section 2042. Pakistan.

Section 1442 of the House bill relates to Pakistan's commitment to fighting terrorism.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It contains Congressional findings describing the Government of Pakistan's commitment to combating international terrorism and the critical issues threatening to disrupt the relationship between the United States and Pakistan, undermine international security, and destabilize Pakistan. The findings also describe the publicly stated goals of Pakistan and their close agreement with the national interests of the United States and the opportunity for a shared effort in achieving correlative goals. This provision also declares that it is the policy of the United States to work with the Government of Pakistan to maintain its long-term strategic relationship; to combat international terrorism; to end the use of Pakistan as a safe haven for forces associated with the Taliban; to dramatically increase funding for programs of the U.S. Agency for International Development and the Department of State; to work with the international community to secure additional financial and political support to assist the Government of Pakistan in building a moderate, democratic State; to facilitate greater cooperation between the Governments of Afghanistan and Pakistan; and to work with the Government of Pakistan to prevent the proliferation of nuclear technology.

The Conference substitute requires the President to submit a report on the long-term strategy of the United States to engage with the Government of Pakistan to address curbing the proliferation of nuclear weapons technology, combating poverty and corruption, building effective government institutions, promoting democracy and the rule of law, addressing the continued presence of the Taliban and other violent extremist forces throughout the country, and effectively dealing with Islamic extremism. This section also prohibits the provision of United States security assistance to Pakistan for Fiscal Year 2008 until the President determines that the Government of Pakistan is committed to eliminating the Taliban from operating in areas under its sovereign control, is undertaking a comprehensive campaign to accomplish this goal, and is making demonstrated, significant, and sustained progress towards eliminating support or safe haven for terrorists, and requires the President to submit a justification for any such determination made.

Moreover, the Conference substitute provides a sense of Congress that the national security interest of the United States will best be served if the United States develops and implements a long-term strategy to improve the United States relationship with Pakistan and works with Pakistan to stop nuclear proliferation. It also authorizes such sums as may be necessary for assistance for Pakistan in various different accounts. This subsection also states that the determination of the level of funds authorized to be appropriated be determined by the degree to which the Government of Pakistan makes progress in preventing terrorist organizations from operating in Pakistan and in implementing democratic reforms and respecting the independence of the press and the judiciary. In addition, it requires a report to be submitted by the Secretary of State describing the degree to which such progress has been made. It also extends waivers of foreign assistance restrictions with respect to Pakistan through the end of Fiscal Year 2008 and includes a sense of Congress that extensions of these waivers beyond Fiscal Year 2008 should be informed by whether Pakistan makes progress in rule of law and other democratic reforms and whether it holds a successful parliamentary election.

Section 2043. Saudi Arabia.

Section 1443 of the House bill contains Congressional findings that the Kingdom of Saudi Arabia.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It contains Congressional findings that the Kingdom of Saudi Arabia's record in the fight against terrorism has been uneven and that the United States has a national security interest in working with the Government of Saudi Arabia to combat international terrorists. This section also expresses a sense of Congress that the Government of Saudi Arabia must undertake a number of political and economic reforms in order to more effectively combat terrorism. In addition, the Conference substitute requires a report on United States long-term strategy to engage with the Saudi Government to facilitate reform, to combat terrorism and to provide an assessment on Saudi progress to becoming a party to the International Convention for the Suppression of the Financing of Terrorism and on the activities and authority of the Saudi Nongovernmental National Commission for Relief and Charity Work Abroad.

TITLE XXI - ADVANCING DEMOCRATIC VALUES

Section 2101. Short Title.

Section 2101 of the Senate bill states that this title may be referred to as the, "Advance Democratic Values, Address Nondemocratic Countries, and Enhance Democracy Act of 2007," or the "ADVANCE Democracy Act of 2007."

There is no comparable House provision.

The Conference substitute adopts the Senate provision, with an amendment expanding and revising the findings in this section.

Title XXI, which was title XIX of the Senate bill and has no comparable House provision other than section 1421 of the House bill, comprises the ADVANCE Democracy Act of 2007, which gives statutory standing to the U.S. framework to strengthen and institutionalize U.S. support for the promotion of democratic principles and practices worldwide. Since the President's speech at the National Endowment for Democracy on November 6, 2003, and his second inaugural address on January 20, 2005, the Department of State has been taking steps to strengthen U.S. Government democracy promotion programs. The Conference recognizes that there are already a number of experienced and dedicated career State Department officials who focus their talents and energy on democracy promotion. The Conference believes these efforts could be strengthened by further institutionalizing the focus on the protection of human rights and the promotion of democracy. In this sense, the ADVANCE Democracy Act represents Congressional support for the President's commitment to democracy promotion and the Secretary of State's ongoing efforts to change the State Department through the "Transformational Diplomacy Initiative." The Conference intends that the Act will

contribute to making democracy promotion a core element of U.S. foreign policy well beyond the time when the President's term of office has been completed.

The Conference substitute adopts the Senate provisions, with amendments. The ADVANCE Democracy Act of 2007: (1) establishes new Democratic Liaison Officers and requires the Secretary to identify at least one office responsible for supporting the new officers and providing liaison with both U.S. and foreign non-governmental organizations; (2) endorses long-term strategies for democracy promotion and human rights protection for non-democratic and democratic transition countries; (3) requires the Secretary to continue to enhance training on democracy promotion and human rights protection for members of the Foreign Service and other State Department employees; (4) supports incentives for employees who excel in democracy promotion and human rights protection; (5) encourages Ambassadors and other members of the Foreign Service to reach out to foreign audiences and engage robustly with foreign government officials, media, non-governmental organizations, and students in order to engage in discussions about U.S. foreign policy, in particular democracy and human rights; (6) supports efforts to work on democracy promotion through international institutions, such as the UN Democracy Fund and the Community of Democracies, and in cooperation with other countries.

The ADVANCE Democracy Act of 2007 represents several years of discussion with outside activists, democracy practitioners, and the Department of State. It seeks to bridge the differences between individuals and non-governmental organizations that focus on the promotion of democracy and those that focus on the protection of human rights. The Conference believes that the work of these two groups of reform advocates is mutually reinforcing.

Section 2102. Findings.

There is no comparable House provision.

Section 1902 of the Senate bill contains Congressional findings describing the need to promote democracy throughout the world. The findings note that the development of universal democracy constitutes a long-term challenge that goes through unique phases at different paces in individual countries. It requires reforms that go well beyond the holding of free elections to include, among other institutions, a thriving civil society, a free media, and an independent judiciary. The findings state that the development of democracy must be led from within countries themselves. This section also recognizes that democracy and human rights activists are under increasing pressure from authoritarian regimes and, in some cases, the governments of democratic transition countries. While recognizing that individuals, non-governmental organizations, and movements in nondemocratic and democratic transition countries must take the lead in making their own decisions, the findings state that democratic countries have a number of instruments to support such reformers and should cooperate with each other to do so.

The Conference substitute adopts the Senate provision, with an amendment expanding and revising the findings in this section.

Section 2103. Statement of Policy.

There is no comparable House provision.

Section 1903 of the Senate bill declares that it is United States policy: To promote freedom, democracy and human rights as fundamental components of United States foreign policy; to promote democratic institutions, including an independent judiciary, an independent and professional media, strong legislatures and a thriving civil society; to provide appropriate support to individuals, non-governmental organizations, and movements living in nondemocratic countries and democratic transition countries that aspire to live in freedom; to provide political, economic, and other support to foreign countries that are undertaking a transition to democracy; and to strengthen cooperation with other democratic countries in order to better promote and defend shared values and ideals.

The Conference substitute adopts the Senate provision, with an amendment expanding and revising the statement of policy in this section.

Section 2104. Definitions.

There is no comparable House provision.

Section 1904 of the Senate bill provides definitions for use in this title.

The Conference substitute adopts the Senate provision, with an amendment adding or revising several definitions, particularly by adding a definition of Nondemocratic or Democratic Transition Country.

Subtitle A - Activities to Enhance the Promotion of Democracy

Section 2111. Democracy Promotion at the Department of State.

There is no comparable House provision.

Section 1911 of the Senate bill provides for the establishment of Democracy Liaison Officers. It describes the responsibilities of the Democracy Liaison Officers and indicates that these positions should be in addition to, and not in replacement of, other positions. Section 1911 also provides that nothing in this subsection may be construed as affecting Chief of Mission authority under any provision of law, including the President's direction to Chiefs of Mission in the exercise of the President's constitutional responsibilities.

The Conference report adopts the Senate provision, with an amendment.

In addition to the Democracy Liaison Officers described above, the Conference substitute requires that the Secretary of State identify at least one office in the Bureau of Democracy, Human Rights, and Labor (DRL) responsible for working with democratic movements and facilitating the transition of countries to democracy, including having at least one employee in each office specifically responsible for working with such movements. This section provides for the identification of such an office; describes the responsibilities of the Assistant Secretary for DRL in this regard, which may be exercised through this office; and provides that the Assistant Secretary shall identify officers or employees in DRL that shall have expertise in and responsibility for working with non-governmental organizations, individuals and movements that are committed to the peaceful promotion of democracy.

The Conference substitute also describes actions that Chiefs of Missions

should take to promote democracy. It provides for the development of a strategy to promote democracy in nondemocratic or democratic transition countries and to provide support to non-governmental organizations, individuals and movements in such countries that are committed to democratic principles, practices, and values. It also provides for meetings with leaders of nondemocratic and democratic transition countries regarding progress toward a democratic form of governance, encourages chiefs of missions to conduct meetings with civil society, interviews with media and discussions with students and young people regarding democratic governance.

Moreover, the Conference substitute provides that the Secretary of State should seek to increase the proportion of DRL's nonadministrative employees who are members of the Foreign Service and authorizes such sums as may be necessary to carry out the provision.

The Conferees believe that the Democracy Liaison Officers provided for in subsection (a) of the Conference substitute should be selected with the concurrence of the Assistant Secretary of Democracy, Human Rights and Labor in order to ensure that appropriate individuals are put in those posts. The Conferees also believe that more senior officials at posts where there are significant human rights abuses should also be selected with input from the Assistant Secretary for DRL.

The Conferees note that the Department of State, as part of its Transformational Diplomacy Initiative, intends to reduce or eliminate labor officers in posts abroad. While not objecting to normal rotations and assignments designed to meet the Secretary of State's priorities and reflect the changing needs of host countries, the Conferees are concerned that eliminating such positions would signal an abandonment of the core consensus that has existed since the 1980's that the promotion of democracy includes the promotion of the freedoms of association and organization by laborers.

The Conferees observe that activists in other countries sometimes are not sure whom to contact at the Department of State to discuss local democracy and human rights issues; thus, the Conferees intend that the Secretary of State have discretion to either create a new office for this purpose or to identify one or more existing offices with regional expertise to be the points of contact for such activists. With respect to the officers or employees in DRL that shall have expertise in and responsibility for working with non-governmental organizations, individuals and movements that are committed to the peaceful promotion of democracy, as identified by the Assistant Secretary for DRL, the Conferees expect that such individuals would serve in the office or offices identified pursuant to subpart (b)(1).

Finally, the Conferees believe that encouraging a greater number of members of the Foreign Service to serve in DRL will enhance democracy promotion.

Section 2112. Democracy Fellowship Program.

There is no comparable House provision.

Section 1912 of the Senate bill, requested by the Department of State, provides for a program to obtain an additional perspective on democracy promotion abroad by working with appropriate Congressional offices and Committees and in non-governmental and international organizations involved in democracy promotion.

The Conference substitute adopts the Senate provision, with an amendment making some minor and conforming changes.

Section 2113. Investigations of Violations of International Humanitarian Law.

There is no comparable House provision.

There is no comparable Senate provision.

The Conference substitute adopts a compromise provision, regarding violations of international humanitarian law by nondemocratic countries. This section requires the President to collect information regarding incidents that may constitute crimes against humanity, genocide and other violations of international humanitarian law. It requires that the President consider what actions he can take to hold governments and responsible individuals accountable.

Subtitle B—Strategies and Reports on Human Rights and the Promotion of Democracy.

Section 2121. Strategies, Priorities and Annual Report.

Section 1421 of the House bill provides a statement of policy on the importance of promoting democracy human rights and requires country-by-country strategies to address the elements in the statement of policy.

Section 1921 of the Senate bill changes the title of an existing annual report, "Supporting Human Rights and Democracy" (SHRD), which was required by the amendments made by section 665 of the Foreign Relations Authorization Act of 2003, to "Annual Report on Advancing Freedom and Democracy" and changes the date on which that report needs to be submitted.

The Conference substitute adopts the Senate provision, with an amendment adding features of section 1421 of the House bill and expanding the provisions of the Senate amendment. It addresses the need for long-term strategies for the promotion of democracy in nondemocratic and democratic transition countries. This section commends the Secretary of State for the ongoing country-specific strategies to promote democracy and requires the Secretary of State to expand the development of country-specific strategies to all nondemocratic and democratic transition countries. It also provides that the Secretary of State shall keep the appropriate Congressional Committees fully and currently informed as strategies are developed.

The Conference substitute also provides that the report shall include, as appropriate, United States: (1) priorities for the promotion of democracy and the protection of human rights for each non democratic country and democratic transition country, developed in consultation with relevant parties in such countries; and (2) specific actions and activities of Chiefs of Missions and other U.S. officials to promote democracy and protect human rights. This section also extends the due date of the Annual Report.

The Conferees believe that the Department of State's process for implementing subpart (a)(2) should incorporate both short-term objectives and a long-term approach to democratization. The Conferees intend for the Department

of State to fulfill the requirement of keeping the appropriate Congressional Committees informed by briefing the Committees, upon request, in addition to any hearings that Congress may conduct.

The Conferees observe that the existing SHRD Report all too often reflects a catalogue of program activities of the U.S. Government over the past year without context or a demonstration of what leadership the top U.S. representative is exercising in the area of democracy promotion and human rights protection. Also, the Report contains some country sections where both U.S. priorities for assistance and actions by U.S. officials are included. The Conferees expect that such inconsistencies will be addressed by including both components for each country described in the Report.

Section 2122. Translation of Human Rights Reports.

There is no comparable House Provision.

Section 1932 of the Senate bill requires the Secretary of State to continue to expand the translation of various human rights reports.

The Conference substitute adopts the Senate provision, with an amendment making the translations mandatory and making other minor changes to the Senate language.

The Conferees believe that the value of these reports will be significantly enhanced if they are available in the language of the country about which they are written. The Conferees do not intend that the entire contents of all reports be translated. Rather, the general overview and the country-specific sections should be translated into the major languages of each country. The Conferees recognize that the Department of State's current focus is on the annual *Country Reports on Human Rights Practices* required by the Foreign Assistance Act. However, the Conferees believe that translation of the other reports referred to in this section would further expand the impact of the U.S. Government's work on democracy and human rights.

Subtitle C - Advisory Committee on Democracy Promotion and the Internet Website of the Department of State

Section 2131. Advisory Committee on Democracy Promotion.

There is no comparable House provision.

Section 1931 of the Senate bill expresses the sense of Congress commending the Secretary of State for establishing the Advisory Committee on Democracy Promotion and expresses the hope that the Committee will play a significant role in transformational diplomacy by advising the Secretary of State on all aspects of democracy promotion, including improving the capacity of the Department of State and U.S. foreign assistance programs.

The Conference substitute adopts the Senate provision, with an amendment making minor changes to the Senate language.

Section 2132. Sense of Congress Regarding the Internet Website of the Department of State.

There is no comparable House provision.

Section 1932 of the Senate bill expresses the sense of Congress that the Secretary of State should take additional steps to enhance the Internet website for global democracy to facilitate access by individuals and non-governmental organizations in foreign countries to documents and other media regarding democratic principles, practices, and values, and the promotion and strengthening of democracy. This website is intended to be an address where democracy activists from around the world can obtain or be linked to information on conditions in their country, materials on successful democracy movements elsewhere and tactics for peaceful democratic change, and other groups around the world that engage in similar struggles for freedom. The website should also include parts of other relevant human rights reports, including translations where appropriate, such as the annual Country Reports on Human Rights Practices, the annual Religious Freedom Report, and the annual Report on Trafficking in Persons.

The Conference substitute adopts the Senate provision, with an amendment making minor changes to the Senate language.

Subtitle D—Training in Democracy and Human Rights; Incentives.

Section 2141. Training in Democracy Promotion and Protection of Human Rights.

There is no comparable House provision.

Section 1941 of the Senate bill provides that the Secretary of State should continue to enhance training on democracy promotion and the protection of human rights for members of the Foreign Service and that such training should include case studies and practical workshops.

The Conference substitute adopts the Senate provision, with an amendment. Pursuant to the amendment, the Secretary of State is required to continue to enhance training on democracy promotion and the protection of human rights and provides that the training shall include appropriate instruction and training materials regarding: (1) international documents and U.S. policy regarding electoral democracy and respect for human rights, including trafficking in persons; (2) U.S. policy regarding the promotion and strengthening of democracy around the world, with particular emphasis on the transition to democracy in nondemocratic countries; (3) ways to assist individuals and non-governmental organizations that support democratic principles, practices, and values for any member, Chief of Mission, or deputy Chief of Mission who is to be assigned to a non-democratic or democratic transition country; and (4) the protection of internationally recognized human rights, including the protection of religious freedom and the prevention of slavery and trafficking in persons. Section 1941 also provides that the Secretary of State shall consult as appropriate with non-governmental organizations with respect to the training required in this section, and provides for a one-time report on how this section is being implemented.

The Conference notes that the Department of State is working with members of the Community of Democracies on a training manual relating to democracy promotion, which may prove useful in the training efforts described in this section. Such instruction may include: techniques for conducting discussions with political

leaders of such country regarding United States policy with respect to promoting democracy in foreign countries; treatment of opposition and alternatives to repression; techniques to engage civil society, students and young people regarding U.S. policy on democracy and human rights; methods of nonviolent action and the most effective manner to share such information with individuals and non-governmental organizations; and the collection of information regarding violations of internationally-recognized human rights in coordination with non-governmental human rights organizations, violations of religious freedom, and government-tolerated or condoned trafficking in persons.

The Conference understands that certain training courses already include some human rights training. However, the Conference expects that the scope and content will be updated and expanded as part of the Secretary of State's Transformational Diplomacy Initiative and that continuous improvements will be made well into the future.

Section 2142. Sense of Congress Regarding Advance Democracy Award.

There is no comparable House provision.

Section 1942 of the Senate bill expresses the sense of Congress that the Secretary of State should further strengthen the capacity of the Department of State to carry out results-based democracy promotion efforts through the establishment of awards and other employee incentives, including the establishment of an annual award to be known as the "Outstanding Achievements in Advancing Democracy Award", or the "ADVANCE Democracy Award", and should establish procedures regarding such awards.

The Conference substitute adopts the Senate provision.

Section 2143. Personnel Policies at the Department of State.

There is no comparable House provision.

Section 1943 of the Senate bill expresses the sense of Congress that precepts for promotion for members of the Foreign Service should include consideration of a candidate's experience or service in the promotion of human rights and democracy.

The Conference substitute adopts the Senate provision, with an amendment to add suggested mechanisms for creating incentives. It provides that in addition to other awards, such as the award described in section 1942 in that bill, the Secretary of State should increase incentives for members of the Foreign Service and other State Department employees to serve in assignments that have as their primary focus the promotion of democracy and the protection of human rights, including awarding performance pay to members of the Foreign Service, considering whether a member of the Service serving in such assignments as a basis for promotion into the Senior Foreign Service, and providing for Foreign Service Awards.

Subtitle E - Cooperation with Democratic Countries.

Section 2151. Cooperation with Democratic Countries.

There is no comparable House provision.

Section 1951 of the Senate bill expresses the sense of Congress that the

United States should forge alliances with other democratic countries to promote democracy, protect fundamental freedoms around the world, promote and protect respect for the rule of law, pursue common strategies at international organizations and multilateral institutions and provide support to countries undergoing democratic transitions. Section 1951 of the Senate bill also supports the initiative of the Government of Hungary establishing the International Center for Democratic Transition.

The Conference substitute adopts the Senate provision, with an amendment making substantive and technical changes. The Conference substitute expresses the sense of Congress that the Community of Democracies should establish a more formal mechanism for carrying out work between ministerial meetings, such as through the creation of a permanent secretariat with an appropriate staff and should establish a headquarters. The Conference substitute authorizes the Secretary of State to detail personnel to such a secretariat or any country that is a member of the Convening Group of the Community of Democracies and provides that the Secretary of State should establish an office of multilateral democracy promotion to address the Community of Democracies, pursue initiatives coming out of the UN Democracy Caucus, and enhance the UN Democracy Fund. The Conference substitute also authorizes an appropriation of \$1,000,000 for each of Fiscal Years 2008, 2009, and 2010 to the Secretary of State for a grant to the International Center for Democratic Transition and provides additional guidance as to the purposes of the Centers work, including providing grants or voluntary contributions to develop, adopt, and pursue programs and campaigns to promote the peaceful transition to democracy in non-democratic countries.

Subtitle F – Funding for Promotion of Democracy

Section 2161. The United Nations Democracy Fund.

There is no comparable House provision.

Section 1961 of the Senate bill expresses the sense of Congress that the United States should continue to contribute to and work with other countries to enhance the goals and work of the UN Democracy Fund.

The Conference substitute adopts the Senate provision, with an amendment adding an authorization for the UN Democracy Fund. It authorizes \$14,000,000 for a United States contribution to the Fund for each of the Fiscal Years 2008 and 2009, as requested by the President.

Section 2162. United States Democracy Assistance Programs.

There is no comparable House provision.

Section 1962 of the Senate bill states the sense of Congress that the purpose of the Human Rights and Democracy Fund should be to support innovative programming, media, and materials designed to uphold democratic principles, support and strengthen democratic institutions, promote human rights and the rule of law, and build civil societies in countries around the world. Section 1962 of the Senate bill provides findings reflecting that democracy assistance has many different forms and there is a need for greater clarity on the coordination and

delivery mechanisms for U.S. democracy assistance. It also provides that the Secretary of State and the Administrator of the U.S. Agency for International Development (USAID) should develop guidelines, in consultation with the appropriate Committees of Congress, to clarify for U.S. diplomatic and consular missions abroad the need for coordination and the appropriate mix of delivery mechanisms for democracy assistance.

The Conference substitute adopts the Senate provision, with an amendment including minor and technical amendments and adding a sense of Congress regarding mechanisms for delivering assistance. The Conference substitute provides that United States support for democracy is strengthened by using a variety of different instrumentalities, such as the National Endowment for Democracy, the United States Agency for International Development, and the Department of State, and expresses the view that the Human Rights and Democracy Fund (HRDF), established pursuant to the Freedom Investment Act of 2002, should continue to be used for innovative approaches to promoting democracy and human rights. It also addresses the different mechanisms that are used to define the relationship between the U.S. Government and organizations that deliver services or materials to foreign individuals or communities.

The Conference believes that the HRDF should remain a flexible instrument to exploit emerging opportunities while at the same time be managed in a cost-effective way and coordinated at the country-level to complement the mix of other democracy assistance being provided.

The U.S. Government works with a variety of organizations, including non-profit groups such as non-governmental organizations and private and voluntary organizations, and provides them with government funding to carry out U.S. foreign assistance goals. The government also hires for-profit private sector companies to implement foreign assistance programs. The use of such companies has been growing over the last 15 years. In general, as in other areas of government procurement, the use of contracts, cooperative agreements, and grants are the three main acquisition mechanisms through which agreement is reached on appropriate benchmarks for success, the level of U.S. government funding that will be spent, and the specific programs and projects to be undertaken.

In the democracy field, there are a number of U.S. Government entities that manage programs. The Democracy, Human Rights and Labor Bureau at the State Department oversees a large number of programs. The Coordinator's office for the Independent States of the Former Soviet Union oversees programs carried out through the Freedom Support Act. The Middle East Partnership Initiative, also managed by the State Department, promotes democracy and other development priorities in the Middle East. For its part, USAID has a specialized unit focused on providing democracy and governance assistance worldwide. Because of a constrained operating budget that limits permanent staff, USAID has increasingly relied on contract mechanisms, although it continues to use grants and cooperative agreements. The National Endowment for Democracy also provides extensive assistance worldwide. More recently, a Millennium Challenge Corporation (MCC) threshold program is providing electoral reform assistance in Jordan.

Non-profit organizations sometimes apply for and receive funding from

several or all of these U.S. Government entities, most often through grants and cooperative agreements and sometimes through contracts. Private sector companies work almost exclusively through contracts. Both private sector and non-profit organizations bring unique strengths to the effort. Private sector companies have the ability to hire employees with specialized skills to provide technical assistance on a short-notice basis. Non-profit organizations often develop longer-term contacts in the field, country expertise, and have revenue sources other than U.S. Government funding that allows for a more sustained approach to underlying problems. With this multitude of actors, mechanisms, and foreign assistance “spigots,” and given the characteristics of such actors, the Conference requests that the Secretary of State and the Administrator of USAID develop appropriate guidelines to assist U.S. missions in their efforts to coordinate democracy assistance in-country and select appropriate mechanisms for its effective implementation.

TITLE XXII - INTEROPERABLE EMERGENCY COMMUNICATIONS

Section 2201. Interoperable Emergency Communications.

There is no comparable House provision.

Section 1481(a) of the Senate bill generally amends Section 3006 of the Deficit Reduction Act of 2005 (Public Law 109-171) (DRA) by deleting statutory language that currently limits funding to systems that either use, or interoperate with systems that use, public safety spectrum in the 700 megahertz band (specifically, 764-776 megahertz and 794-806 megahertz), and inserting new subsections providing Congressional direction with respect to eligible activities under NTIA's administration of the \$1 billion public safety grant program.

New 3006(a) of the DRA establishes the scope of the permissible grants under the program and permits NTIA to allocate up to \$100 million for the establishment of strategic technology reserves that will provide communications capability and equipment for first responders and other emergency personnel in the event of an emergency or a major disaster. In addition to strategic technology reserves, this subsection describes a broad range of topics related to improving communications interoperability that will be eligible for assistance under the grant program including, Statewide or regional planning and coordination, design and engineering support, technical assistance and training, and the acquisition or deployment of interoperable communications equipment, software, or systems.

New 3006(b) of the DRA reiterates the requirement imposed under section 4 of the Call Home Act of 2006, which, subject to the receipt of qualified applications as determined by the Assistant Secretary, would require that not less than \$1 billion be awarded no later than September 30, 2007.

New 3006(C) of the DRA requires that funding distributions be made among the several States consistent with section 1014(C)(3) of the USA PATRIOT Act (0.75 percent to each State) to ensure a fair distribution of funds. It also requires that the calculation of risk factors be based upon an “all-hazards” approach that

recognizes the critical need for effective emergency communications in response not only to terrorist attacks, but also to a variety of natural disasters.

New section 3006(d) of the DRA establishes requirements for grant applicants, including an explanation of how assistance would improve interoperability and a description of how any equipment or system request would be compatible or consistent with certain relevant sections of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. § 194(a)(1)).

New section 3006(e) of the DRA directs NTIA to rely on the most current grant guidance issued under the Department of Homeland Security (the Department or DHS) SAFECOM program to promote greater consistency in the criteria used to evaluate interoperability grant applications.

New section 3006(f) of the DRA establishes criteria for grants of equipment, supplies, systems and related communications service related to support for strategic technology reserve initiatives. This section also requires that funding for strategic reserves be divided between block grants to States in support of state reserves and grants in support of Federal reserves at each Federal Emergency Management Agency (FEMA) regional office and in each of the noncontiguous States.

New section 3006(g) of the DRA permits the Assistant Secretary to encourage the development of voluntary consensus standards for interoperable communications systems, but precludes the Assistant Secretary from requiring any such standard.

New section 3006(h) of the DRA permits NTIA to seek assistance from other Federal agencies where appropriate in the administration of the grant program.

New section 3006(i) of the DRA requires the Inspector General of the Department of Commerce annually to assess the management of NTIA's interoperability grant program.

New section 3006(j) of the DRA requires NTIA, in consultation with the DHS and the FCC, to promulgate final program rules for implementation within 90 days of enactment.

New section 3006(k) of the DRA creates a rule of construction clarifying that nothing in this section precludes funding for interim or long-term Internet Protocol-based solutions, notwithstanding compliance with the Project 25 standard.

Section 1481(b) of the Senate bill requires the FCC, in coordination with the Assistant Secretary of Commerce for Communications and Information and the Secretary of DHS, to report on the feasibility of a redundant system for emergency communications no later than one year after enactment.

Section 1481(c) of the Senate bill directs the Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of DHS and the Secretary of Health and Human Services, to create a joint advisory committee to examine the communications capabilities and needs of emergency medical care facilities. The joint advisory committee will assess current communications capabilities at emergency care facilities, options to accommodate the growth of communications services used by emergency medical care facilities, and options to better integrate emergency medical care communications systems with other emergency communications networks. The joint advisory committee

would be required to report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce, within six months after the date of enactment.

Section 1481(d) of the Senate bill provides authorization for not more than 10 pilot projects to improve the capabilities of emergency communications systems in emergency medical care facilities. Grants would be administered by the Assistant Secretary of Commerce for Communications and Information, would require a fifty percent match, would not exceed \$2 million per grant, and would be geographically distributed to the maximum extent possible.

The Conference substitute adopts the Senate provision, with modifications. Most notably, it authorizes NTIA, in consultation with DHS, to permit up to \$75 million of the Public Safety Interoperability Communications grant to be used by States to contribute to a strategic technology reserve. The substitute permits waivers to States that have already implemented a strategic technology reserve or can demonstrate higher priority public safety communications needs. The Conference substitute adopts the Senate's provisions relating to the FCC's vulnerability assessment and report on emergency communications back-up system.

The Conference agreed to set a deadline of 180 days for FCC to deliver its findings to Congress. The Conference substitute also adopts the Senate's provision that directs the Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Homeland Security (the Secretary) and the Secretary of Health and Human Services, to establish of a joint advisory committee that will assess current communications capabilities at emergency care facilities.

The Conference substitute provides for reports and audits by the Inspector General of the Department of Commerce. With respect to grants under this title, these provisions strengthen oversight over this program and clarify the intent of the conferees that the provisions in Sec. 2022 of the Homeland Security Act (added by Title I) do not apply to this grant program.

Section 2202. Clarification of Congressional Intent.

There is no comparable House provision.

Section 1482(a) of the Senate bill would amend Title VI of the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109-295) by including a savings clause clarifying the concurrent authorities of the Department of Commerce and the Federal Communications Commission (FCC), with respect to their existing authorities related public safety and promoting the safety of life and property through the use of communications. Section 1482(b) of the Senate bill makes the effective date of this savings clause as if enacted with the Department of Homeland Security Appropriations for FY 2007 (Public Law 109-295).

The Conference substitute modifies the Senate language to clarify that it is Congress' intent that Federal Departments and Agencies work cooperatively in a manner that does not impede the implementation of the requirements of Title III and Title XXII of this Act and Title VI of Public Law 109-295.

The Conference observes that Federal Departments and Agencies should not be precluded or obstructed from carrying out their other authorities relating to other emergency communications matters.

Section 2203. Cross Border Interoperability Reports.

There is no comparable House provision.

Section 1483 of the Senate bill would require the FCC, in conjunction with the DHS, the Office of Management and Budget, and the Department of State to report, not later than 90 days after enactment on the status of efforts to coordinate cross border interoperability issues and the re-banding of 800 megahertz radios with Canada and Mexico. The FCC would further be required to report on any communications between the FCC and the Department of State regarding possible amendments to legal agreements and protocols governing the coordination process for license applications seeking to use channels and frequencies above Line A, to submit information about the annual rejection rate over the last 5 years by the United States for new channels and frequencies above Line A, and to suggest additional procedures and mechanisms that could be taken to reduce the rejection rate for such applications. The FCC would be required to provide regular updates of the report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce of treaty negotiations related to the re-banding of 800 megahertz radios until the appropriate treaty has been revised with Canada and Mexico.

The Conference Report adopts the Senate provision.

Section 2204. Extension of Short Quorum.

There is no comparable House provision.

Section 1484 of the Senate bill permits two members of the Consumer Product Safety Commission to constitute a quorum for six months following enactment of this Act.

The Conference substitute adopts the Senate provision.

Section 2205. Requiring Reports to Be Submitted to Certain Committees.

Section 1485 of the Senate bill requires under provisions of this Act to be shared with other relevant Congressional Committees.

The Conference substitute modifies the Senate reporting provision and agrees that in addition to the Committees specifically enumerated to receive the reports under this Title, any report transmitted under the provisions of this Title shall also be transmitted to the appropriate Congressional Committees as provided for by under section 2(2) of the Homeland Security Act (6 U.S.C. § 101).

TITLE XXIII - 911 MODERNIZATION

Section 2301. Short Title.

The Conference substitute provides that Title XXIII may be cited as the "911 Modernization Act."

Section 2302. Funding for Program.

There is no comparable House provision.

Section 1702 of the Senate bill amends Section 3011 of Public Law 109-171 (47 U.S.C. § 309) to give borrowing authority to the Assistant Secretary of the National Telecommunications and Information Administration (NTIA) for not more than \$43,500,000 to implement the Enhance 911 Act of 2004 (Public Law 108-494). The Assistant Secretary must reimburse the Treasury without interest once funds are deposited into the Digital Television Transition and Public Safety Fund.

The Conference substitute adopts the Senate provision.

Section 2303. NTIA Coordination of E-911 Implementation.

There is no comparable House provision.

Section 1703 of the Senate bill amends Section 158 (b)(4) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. § 942(b)(4)) to require the Assistant Secretary and the Administrator of the National Highway Safety Administration to issue regulations that allow a portion of the Phase II E-911 Implementation Grants to be prioritized for Public Safety Answering Points (PSAPs) that were not capable of receiving 911 calls on the date of the enactment of the Enhanced 911 Act of 2004 (Public Law 108-494). These grants will be used for the incremental cost of upgrading from Phase I to Phase II compliance. Such grants are subject to all the other requirements of this section, such as the fifty percent matching funds requirement and the requirement to certify that no portion of any E-911 charges imposed by an applicant's State or taxing jurisdiction are being obligated or expended for any purpose other than for which such charges were designated.

The Conference substitute adopts the Senate provision.

TITLE XXIV – MISCELLANEOUS PROVISIONS

Section 2401. Quadrennial Homeland Security Review.

There is no comparable House provision. However, the House passed a similar provision in H.R. 1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008, which called for a Comprehensive Homeland Security Review at the beginning of each new Presidential Administration.

Section 1606 of the Senate bill included a provision to conduct a Quadrennial Homeland Security Review, requiring the Department of Homeland Security (the Department or DHS) to conduct a comprehensive examination of the national homeland security strategy.

The Conference substitute adopts a compromise provision which in several places clarifies the scope of the Review. It requires the Secretary of Homeland Security (the Secretary) to carry out the first Quadrennial Homeland Security Review in Fiscal Year 2009, and every four years thereafter. The Conferees believe that this review should take place in the first year after a Presidential election, so that a new Administration can act upon the results of the review or a re-elected Administration can review its policies and emerging threats and revise the review accordingly. This also recognizes the time span during which a new President will

appoint and the Senate will confirm senior departmental officials who will be responsible for this review. The provision also requires the Secretary to consult with other Federal agencies, key officials of the Department, and other relevant governmental and non-governmental entities in carrying out the review.

The Conference substitute also describes the required content of the review, including an update of the national homeland security strategy, a prioritization of homeland security mission areas, and the identification of a budget plan for executing these missions. These review activities are intended to strengthen the linkages between strategy and execution at the Department of Homeland Security. The Conference substitute requires the Secretary to submit to Congress a report regarding the results of the Quadrennial Homeland Security Review no later than December 31 of the year in which a review is conducted, and also to make that report public consistent with the protection of national security and other sensitive matters. It also requires the Department to begin in Fiscal Year 2007 and Fiscal Year 2008 to prepare to carry out this review, and to report to Congress on these preparations.

The Conference understands that the Administration already has begun this process by including a request for designated funding in the President's Fiscal Year 2008 request for the Office of Policy to lead this initiative.

Section 2402. Sense of the Congress Regarding the Prevention of Radicalization Leading to Ideologically-Based Violence.

There is no comparable House provision.

Section 1602 of the Senate bill includes extensive findings concerning the threat of radicalization in the United States as a component of the struggle against the transnational ideological movement of Islamist extremism. This provision also makes recommendations to the Secretary regarding measures that can be taken to prevent radicalization and concludes that the Secretary should work across the Federal government and with State and local officials to make countering radicalization a priority.

The Conference substitute adopts the Senate provision with changes. The changes include modifying the terms used to describe radicalization so that it is clear that protected behavior is not included. As a result, radicalization is referred to as radicalization that leads to ideologically-based violence. Additionally, while the language is intended to address the global struggle against violent extremism, the language is broadened to include ideologically-based violence from all sources.

Section 2403. Requiring Reports to Be Submitted to Certain Committees.

There is no comparable House provision.

Section 1485 of the Senate bill contained a provision to provide certain Senate Committees with reports required elsewhere in the bill.

The Conference substitute adopts part of the Senate provision with updated references to certain reports.

Section 2404. Demonstration Project.

There is no comparable House provision.

Section 805 of the Senate bill requires the Secretary to establish a demonstration project to conduct demonstrations of security management systems.

The Conference substitute adopts the Senate provision, while modifying it so that it defines "security management system" as a set of guidelines that address the security assessment needs of critical infrastructure and key resources that are consistent with a set of generally accepted management standards ratified and adopted by a standards making body.

Section 2405. Under Secretary for Management of the Department of Homeland Security.

There is no comparable House provision, as Members believe that this issue would be best addressed as part of a comprehensive homeland security authorization bill.

Section 1601 of the Senate bill elevates the position of Under Secretary for Management to a Deputy Secretary, adds qualifications for the position, and gives this newly created position a five-year term with removal only for performance reasons.

The Conference substitute adopts a modified version of the Senate provision by enhancing the Under Secretary's authority while maintaining the position at the Under Secretary level without a fixed term. Specifically, the substitute designates the Under Secretary for Management as the Chief Management Officer and the Secretary's principal advisor on management-related matters. It also requires the Under Secretary to facilitate strategic management planning, integration, transformation, and transition and succession for the Department.

The Conference substitute requires the Under Secretary to develop a transition and succession plan, and authorizes the incumbent Under Secretary to remain in the position, after a Presidential election, until a successor is confirmed in the subsequent Administration. It also expresses the Sense of the Congress that a newly-elected President should encourage the incumbent Under Secretary to remain until a successor is confirmed, to provide continuity during the transition. The legislation also requires that the Under Secretary be accountable for his or her performance - each year, the Under Secretary must enter into a performance agreement with the Secretary and be subject to an evaluation based on the same. The substitute also enhances the President's ability to attract qualified candidates, as it elevates the Under Secretary for Management to Level II of the Executive Schedule.

Because the Department is newly formed, and in light of the integration and management challenges it has faced to date, the Conference is concerned about the impending transition between Administrations and believes this transition should be well-planned and smoothly implemented. The Conference believes that this position requires a person with strong management skills and a proven track record of success, and this legislation requires the selection of a person with such experience.

Pursuant to House Rule XXI, clause 9(a)(4), the Committee of Conference attaches a list of earmarks included in the Conference Report to accompany H.R. 1, including a list of Congressional earmarks, limited tax benefits, and limited tariff benefits in the conference report or joint statement (and the name of any Member, Delegate, Resident Commissioner, or Senator who submitted a request to the House or Senate Committees of jurisdiction for each respective item included in such list) or a statement that the proposition contains no Congressional earmarks, limited tax benefits, or limited tariff benefits, as follows:

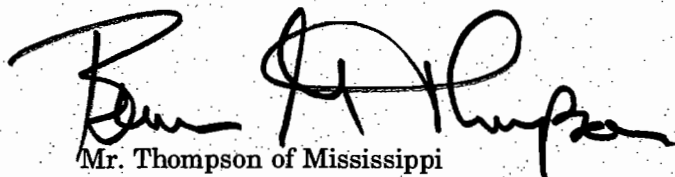
Section	Earmark	Member
Section 1204	National Disaster Preparedness Training Center, University of Hawaii	Sen. Daniel K. Inouye
	Transportation Technology Center, Inc.	Sen. Wayne Allard Sen. Ken Salazar Rep. John T. Salazar Rep. Ed Perlmutter
Section 1205	Connecticut Transportation Institute, University of Connecticut	Sen. Christopher J. Dodd Sen. Joseph I. Lieberman
	National Transit Institute, Rutgers, the State University of New Jersey	Sen. Robert Menendez Sen. Frank R. Lautenberg
	Mack-Blackwell National Rural Transportation Study Center at the University of Arkansas	Sen. Mark L. Pryor
	Homeland Security Management Institute, Long Island University	Sen. Charles E. Schumer Rep. Peter T. King
	Texas Southern University in Houston, Texas	Rep. Al Green
	Tougaloo College	Rep. Bennie G. Thompson

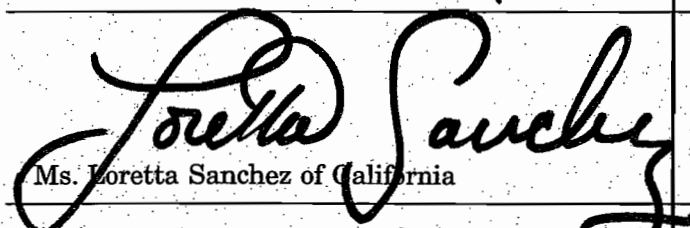
H.R. 1

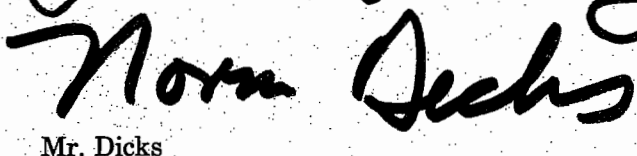
**Managers on the part of the
HOUSE**

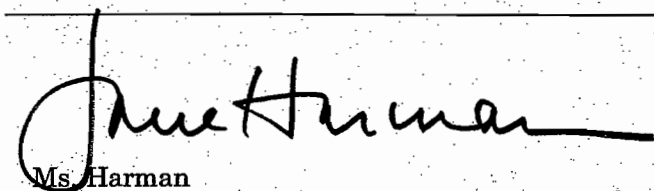
**Managers on the part of the
SENATE**

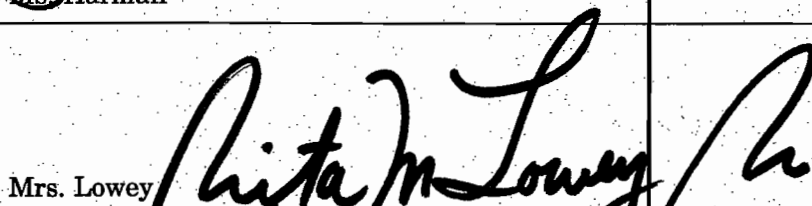
From the Committee on Homeland Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

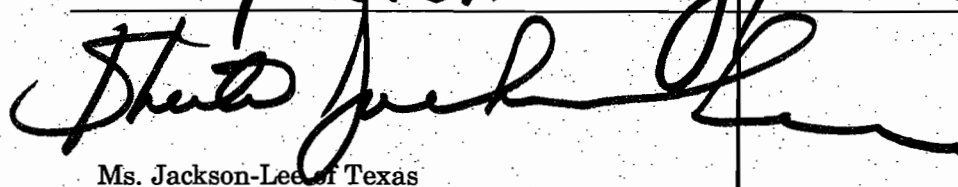

Mr. Thompson of Mississippi

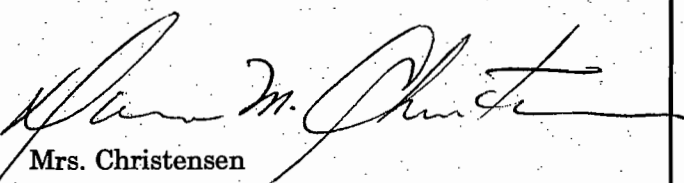

Ms. Loretta Sanchez of California


Mr. Dicks


Ms. Harman


Mrs. Lowey

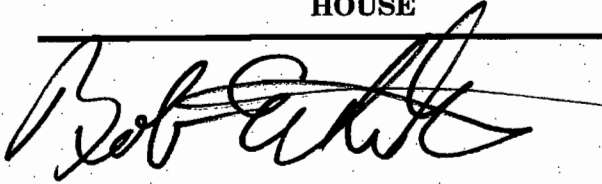

Ms. Jackson-Lee of Texas


Mrs. Christensen

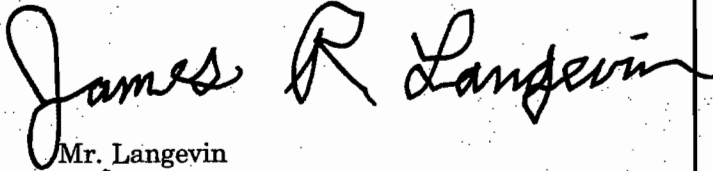
H.R. 1—Continued

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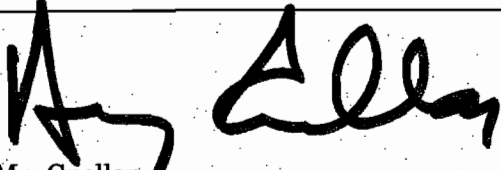
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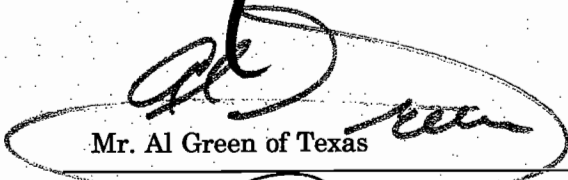
Mr. Etheridge




Mr. Langevin



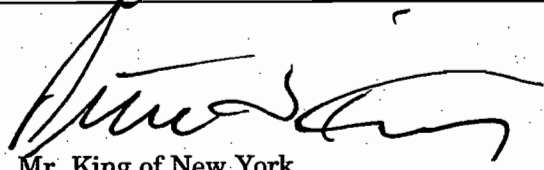
Mr. Cuellar



Mr. Al Green of Texas

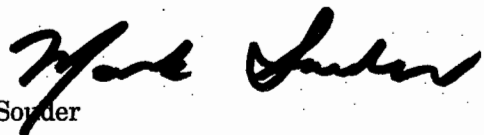


Mr. Perlmutter



Mr. King of New York

~~Mr. Smith of Texas~~

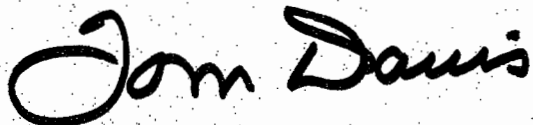


Mr. Souder

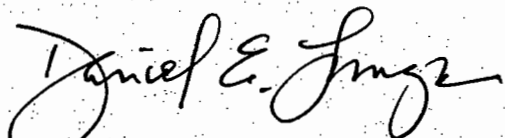
H.R. 1—Continued

*Managers on the part of the
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*Managers on the part of the
SENATE*

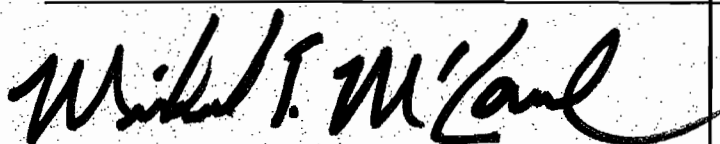


Mr. Tom Davis of Virginia



Mr. Daniel E. Lungren of California

~~Mr. Rogers of Alabama~~



Mr. McCaul of Texas



Mr. Dent

~~Mr. Jimmy Brown Waite of Florida~~

H.R. 1—Continued

*Managers on the part of the
HOUSE*

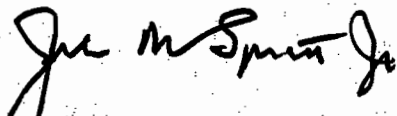
*Managers on the part of the
SENATE*

From the Committee on Armed Services, for consideration of secs. 1202, 1211, 1221, 1232, 1233, and 1241 of the House bill, and section 703 of the Senate amendment, and modifications committed to conference:

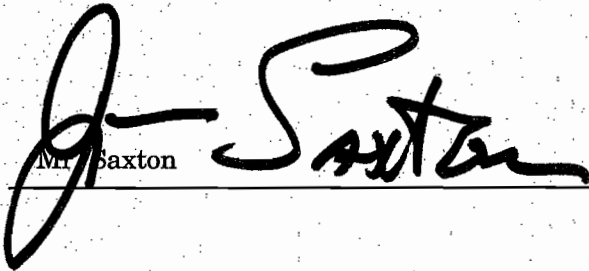
Mr. Skelton



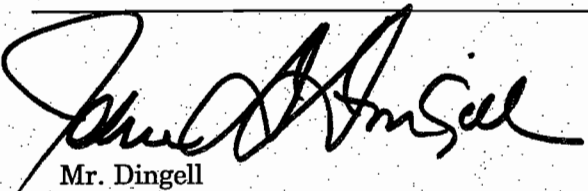
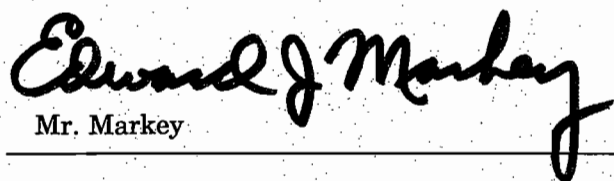
Mr. Spratt



Mr. Saxton



H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
From the Committee on Energy and Commerce, for consideration of Title I, Title II, secs. 743 and 901 of the House bill, and Title III, secs. 1002, 1481, 1482, 1484, and Title XVII of the Senate amendment, and modifications committed to conference:	
 Mr. Dingell	
 Mr. Markey	
Mr. Barton of Texas	

H.R. 1—Continued

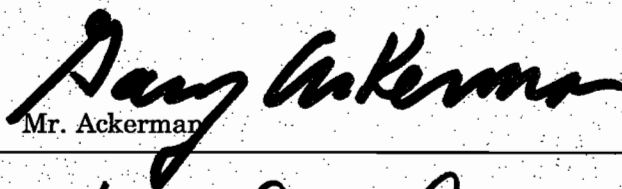
*Managers on the part of the
HOUSE*

*Managers on the part of the
SENATE*

From the Committee on Foreign Affairs, for consideration of secs. 601, 1202, 1211, 1221, 1222, 1232, 1233, 1241, 1302, 1311, 1312, 1322, 1323, 1331–1333, 1412, 1414, 1422, 1431, and 1441–1443 of the House bill, and secs. 502, 1301, Title XVIII, secs. 1911–1913, and 1951 of the Senate amendment, and modifications committed to conference:



Mr. Lantos


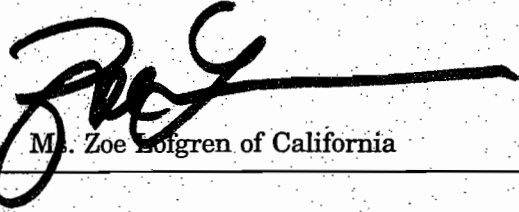


Mr. Ackerman

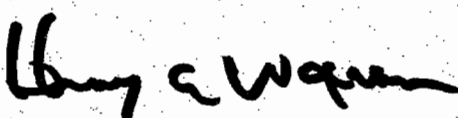
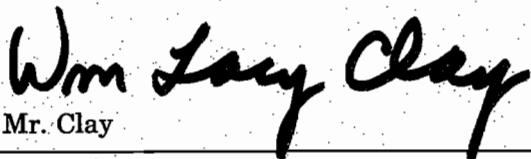


Ms. Ros-Lehtinen

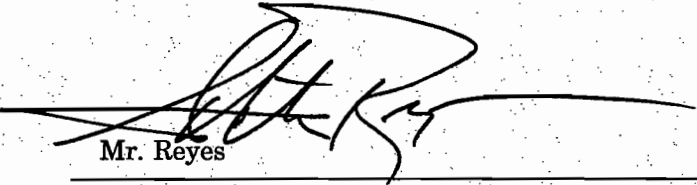

H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
From the Committee on the Judiciary, for consideration of secs. 406, 501, 601, 702, and Title VIII of the House bill, and secs. 123, 501-503, 601-603, 1002, and 1432 of the Senate amendment, and modifications committed to conference:	
 Mr. Conyers	
 Ms. Zoe Lofgren of California	
Mr. Sensenbrenner	

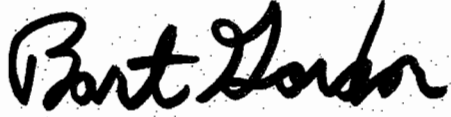

H.R. 1—Continued

<i>Managers on the part of the</i> HOUSE	<i>Managers on the part of the</i> SENATE
From the Committee on Oversight and Government Reform, for consideration of sec. 408 and subtitle A of title VIII of the House bill, and secs. 114, 601, 602, 903, 904, 1203, 1205, and 1601 of the Senate amendment, and modifications committed to conference:	
 Mr. Waxman	
 Mr. Clay	
Mr. [unclear]	


H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
From the Permanent Select Committee on Intelligence, for consideration of secs. 601, 712, 723, 732, 733, 741, 742, and subtitle A of title VIII of the House bill, and secs. 111-113, 121, 122, 131, 502, 601, 602, 703, 1201-1203, 1205, 1206, and 1606 of the Senate amendment, and modifications committed to conference:	
 Mr. Reyes	
 Mr. Cramer	
Mr. Haskett	

H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
From the Committee on Science and Technology, for consideration of secs. 703, 1301, 1464, 1467, and 1507 of the Senate amendment, and modifications committed to conference:	
 Mr. Gordon	
 Mr. Wu	
Mr. Gingrey	

H.R. 1—Continued

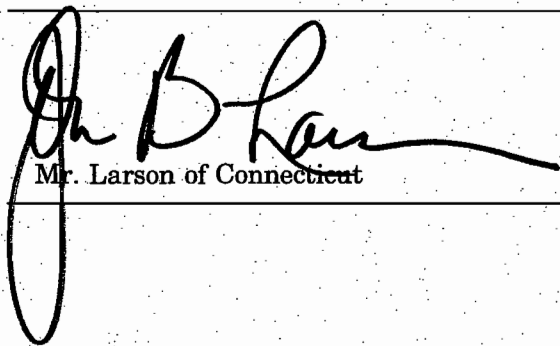
<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
From the Committee on Transportation and Infrastructure, for consideration of Titles I–III, sec. 1002, and Title XI of the House bill, and secs. 202, 301, Title IV, secs. 801–803, 807, 901, 1001, 1002, 1101–1103, 1422–1424, 1426, 1427, 1429, 1430, 1433, 1436–1438, 1441, 1443, 1444, 1446, 1449, 1464, 1473, 1503, and 1605 of the Senate amendment, and modifications committed to conference:	
Mr. Oberstar	
 Mr. DeFazio	
Mr. Justice	

H.R. 1—Continued

*Managers on the part of the
HOUSE*

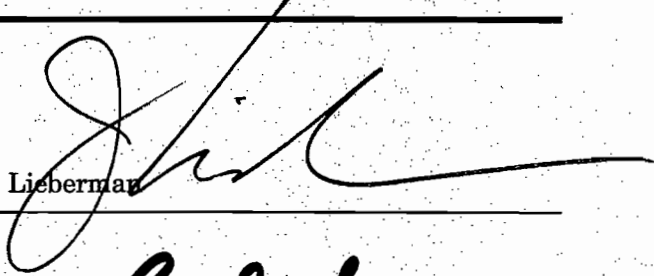

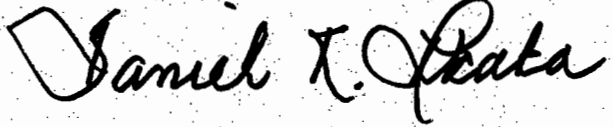

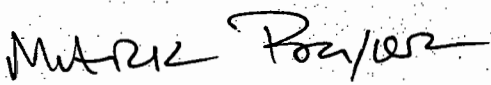



*Managers on the part of the
SENATE*

For consideration of Title II of the House bill, and Title III and subtitle C of title XIV of the Senate amendment, and modifications committed to conference:



Mr. Larson of Connecticut

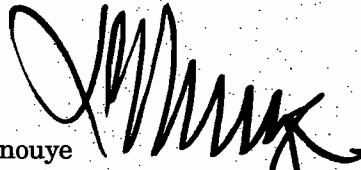
H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
	 Mr. Lieberman
	 Mr. Levin
	 Mr. Akaka
	 Mr. Carper
	 Mr. Pryor
	
	
	

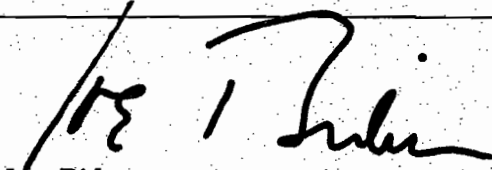
H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
	Mr. Coburn

H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
	From the Committee on Commerce, Science, and Transportation:
	Mr. Inouye 
	Mr. Stabenow

H.R. 1—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
	From the Committee on Foreign Relations:
	 Mr. Biden
	Mr. Lugar