

107TH CONGRESS  
2D SESSION

# H. R. 4660

To establish the Department of National Homeland Security and the National Office for Combating Terrorism.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2002

Mr. THORNBERRY (for himself, Ms. HARMAN, Mrs. TAUSCHER, Mr. GIBBONS, Mr. DAVIS of Florida, Mr. SHAYS, and Mr. ROEMER) introduced the following bill; which was referred to the Committee on Government Reform

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## A BILL

To establish the Department of National Homeland Security and the National Office for Combating Terrorism.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “National Homeland Security and Combating Terrorism  
6 Act of 2002”.

7 (b) **TABLE OF CONTENTS.**—The table of contents is  
8 as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

TITLE I—DEPARTMENT OF NATIONAL HOMELAND SECURITY

- Sec. 101. Establishment of the Department of National Homeland Security.  
 Sec. 102. Transfer of authorities, functions, personnel, and assets to the Department.  
 Sec. 103. Establishment of directorates.  
 Sec. 104. Establishment of Office of Science and Technology and Acceleration Fund for Research and Development of Homeland Security Technologies.  
 Sec. 105. Reporting requirements.  
 Sec. 106. Planning, programming, and budgeting process.  
 Sec. 107. Environmental protection, safety, and health requirements.  
 Sec. 108. Savings provisions.

#### TITLE II—NATIONAL OFFICE FOR COMBATING TERRORISM

- Sec. 201. National Office for Combating Terrorism.  
 Sec. 202. Funding for strategy programs and activities.

#### TITLE III—NATIONAL STRATEGY FOR COMBATING TERRORISM AND THE HOMELAND SECURITY RESPONSE

- Sec. 301. Strategy.  
 Sec. 302. National Homeland Security Panel.

#### TITLE IV—EFFECTIVE DATE

- Sec. 401. Effective Date.

### 1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **DIRECTOR.**—Except as provided under sec-  
 4 tion 104, the term “Director” means the Director of  
 5 the National Office for Combating Terrorism.

6 (2) **DEPARTMENT.**—The term “Department”  
 7 means the Department of National Homeland Secu-  
 8 rity established under title I.

9 (3) **FEDERAL TERRORISM PREVENTION AND**  
 10 **RESPONSE AGENCY.**—The term “Federal Terrorism  
 11 Prevention and Response Agency” means any Fed-  
 12 eral department or agency charged under the Strat-  
 13 egy with responsibilities for carrying out the Strat-  
 14 egy.

1           (4) OFFICE.—The term “Office” means the  
2 National Office for Combating Terrorism established  
3 under title II.

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

6           (6) STRATEGY.—The term “Strategy” means  
7 the National Strategy for Combating Terrorism and  
8 the Homeland Security Response developed under  
9 this Act.

10 **TITLE I—DEPARTMENT OF NA-**  
11 **TIONAL HOMELAND SECU-**  
12 **RITY**

13 **SEC. 101. ESTABLISHMENT OF THE DEPARTMENT OF NA-**  
14 **TIONAL HOMELAND SECURITY.**

15 (a) ESTABLISHMENT.—

16           (1) IN GENERAL.—There is established the De-  
17 partment of National Homeland Security.

18           (2) EXECUTIVE DEPARTMENT.—Section 101 of  
19 title 5, United States Code, is amended by adding  
20 at the end the following:

21           “The Department of National Homeland Secu-  
22 rity.”.

23 (b) SECRETARY OF NATIONAL HOMELAND SECU-  
24 RITY.—

1           (1) IN GENERAL.—The Secretary of National  
2 Homeland Security shall be the head of the Depart-  
3 ment. The Secretary shall be appointed by the Presi-  
4 dent, by and with the advice and consent of the Sen-  
5 ate.

6           (2) RESPONSIBILITIES.—The responsibilities of  
7 the Secretary shall be the following:

8           (A) To develop policies, goals, objectives,  
9 priorities, and plans for the United States for  
10 the promotion of homeland security as it relates  
11 to border security, critical infrastructure protec-  
12 tion, consequence management, and State and  
13 local activities.

14           (B) To develop, with the Director, a com-  
15 prehensive strategy in accordance with title III.

16           (C) To develop processes to integrate the  
17 elements and goals of the Strategy into the  
18 strategies and plans of Federal, State, and local  
19 departments and agencies, including inter-  
20 agency and intergovernmental shared policies.

21           (D) To evaluate the programs of the Fed-  
22 eral Government relating to homeland security  
23 that involve activities of State and local govern-  
24 ments as part of the Strategy.

1           (E)(i) To advise the Director on the devel-  
2           opment of a comprehensive annual budget for  
3           the programs and activities under the Strategy,  
4           including the budgets of the military depart-  
5           ments and agencies within the National Foreign  
6           Intelligence Program relating to international  
7           terrorism, but excluding military programs,  
8           projects, or activities relating to force protec-  
9           tion.

10           (ii) To have the budget authority for bor-  
11           der security, critical infrastructure protection,  
12           consequence management, and Federal support  
13           for State and local activities.

14           (F) To plan, coordinate, and integrate  
15           those United States Government activities relat-  
16           ing to border security, critical infrastructure  
17           protection and emergency preparedness, and to  
18           act as the focal point regarding natural and  
19           manmade crises and emergency planning and  
20           response.

21           (G) To work and coordinate with State  
22           and local governments and executive agencies in  
23           providing United States homeland security, and  
24           to communicate with and support State and

1 local officials through the use of regional offices  
2 around the Nation.

3 (H) To provide overall operational plan-  
4 ning guidance to executive agencies regarding  
5 United States homeland security.

6 (I) To conduct exercise and training pro-  
7 grams for employees of the Department and  
8 other involved agencies, and establish effective  
9 command and control procedures for the full  
10 range of potential contingencies regarding  
11 United States homeland security, including con-  
12 tingencies that require the substantial support  
13 of military assets.

14 (J) To annually update a Federal response  
15 plan for homeland security and emergency pre-  
16 paredness with regard to terrorism and other  
17 manmade and natural disasters.

18 (K) To identify and promote technological  
19 innovation that will enhance homeland security.

20 (L)(i) To develop and implement within  
21 the Department a coordinating center with rep-  
22 resentatives from other Federal departments or  
23 agencies with homeland security responsibilities.

24 (ii) To designate departments and agencies  
25 to provide one representative under clause (i)

1 and require those departments and agencies to  
2 furnish one representative on a permanent,  
3 part-time, or as needed basis, as determined by  
4 the Secretary. Additional personnel may be re-  
5 quested by the Secretary and coordinated with  
6 appropriate departments or agencies.

7 (iii) To request State and local authorities  
8 to provide representatives to the coordinating  
9 center.

10 (3) EXECUTIVE SCHEDULE LEVEL I POSI-  
11 TION.—Section 5312 of title 5, United States Code,  
12 is amended by adding at the end the following:

13 “Secretary of National Homeland Security.”.

14 (4) MEMBERSHIP ON THE NATIONAL SECURITY  
15 COUNCIL.—Section 101(a) of the National Security  
16 Act of 1947 (50 U.S.C. 402(a)) is amended in the  
17 fourth sentence by striking paragraphs (5), (6), and  
18 (7) and inserting the following:

19 “(5) the Secretary of National Homeland Secu-  
20 rity; and

21 “(6) each Secretary or Under Secretary of such  
22 other executive department, or of a military depart-  
23 ment, as the President shall designate.”.

24 (c) DEPUTY SECRETARY OF NATIONAL HOMELAND  
25 SECURITY.—

1           (1) IN GENERAL.—There shall be in the De-  
 2           partment a Deputy Secretary of National Homeland  
 3           Security, who shall be appointed by the President,  
 4           by and with the advice and consent of the Senate.

5           (2) RESPONSIBILITIES.—The Deputy Secretary  
 6           of National Homeland Security shall—

7                   (A) assist the Secretary in the administra-  
 8                   tion and operations of the Department;

9                   (B) perform such responsibilities as the  
 10                  Secretary shall prescribe; and

11                  (C) act as the Secretary during the ab-  
 12                  sence or disability of the Secretary or in the  
 13                  event of a vacancy in the office of the Sec-  
 14                  retary.

15           (3) EXECUTIVE SCHEDULE LEVEL II POSI-  
 16           TION.—Section 5313 of title 5, United States Code,  
 17           is amended by adding at the end the following:

18                   “Deputy Secretary of National Homeland Secu-  
 19                   rity.”.

20 **SEC. 102. TRANSFER OF AUTHORITIES, FUNCTIONS, PER-**  
 21 **SONNEL, AND ASSETS TO THE DEPARTMENT.**

22           The authorities, functions, personnel, and assets of  
 23           the following entities are transferred to the Department:



1           (1) The Federal Emergency Management Agen-  
2           cy, the 10 regional offices of which shall be main-  
3           tained and strengthened by the Department.

4           (2) The United States Customs Service, which  
5           shall be maintained as a distinct entity within the  
6           Department.

7           (3) The portions of the Immigration and Natu-  
8           ralization Service responsible for law enforcement  
9           and border management, including the Border Pa-  
10          trol and Divisions of Inspections, Investigations, and  
11          Detention and Removal.

12          (4) The United States Coast Guard, which shall  
13          be maintained as a distinct entity within the Depart-  
14          ment.

15          (5) The Critical Infrastructure Assurance Of-  
16          fice.

17          (6) The National Infrastructure Protection  
18          Center and the National Domestic Preparedness Of-  
19          fice of the Federal Bureau of Investigation.

20          (7) The Animal Plant Health Inspection Service  
21          of the Department of Agriculture.

22 **SEC. 103. ESTABLISHMENT OF DIRECTORATES.**

23          The following staff directorates are established within  
24          the Department:

1           (1) DIRECTORATE OF PREVENTION.—The Di-  
2           rectorate of Prevention, which shall be responsible  
3           for the following:

4                   (A) Overseeing and coordinating all United  
5                   States border security activities.

6                   (B) Developing border and maritime secu-  
7                   rity policy for the United States.

8                   (C) Developing and implementing inter-  
9                   national standards for enhanced security in  
10                  transportation nodes.

11          (2) DIRECTORATE OF CRITICAL INFRASTRUC-  
12          TURE PROTECTION.—The Directorate of Critical In-  
13          frastructure Protection, which shall be responsible  
14          for the following:

15                   (A) Acting as the Critical Information  
16                   Technology, Assurance, and Security Officer of  
17                   the Department to coordinate efforts to address  
18                   the vulnerability of the United States to elec-  
19                   tronic or physical attacks on critical infrastruc-  
20                   ture of the United States, including utilities,  
21                   transportation nodes, and energy resources.

22                   (B) Overseeing the protection of such in-  
23                   frastructure and the physical assets and infor-  
24                   mation networks that make up such infrastruc-  
25                   ture.

1           (C) Ensuring the maintenance of a nucleus  
2 of cyber security experts within the United  
3 States Government.

4           (D) Enhancing sharing of information re-  
5 garding cyber security and physical security of  
6 the United States, tracking vulnerabilities and  
7 proposing improved risk management policies,  
8 and delineating the roles of various government  
9 agencies in preventing, defending, and recov-  
10 ering from attacks.

11           (E) Coordinating with the Federal Com-  
12 munications Commission in helping to establish  
13 cyber security policy, standards, and enforce-  
14 ment mechanisms, and working closely with the  
15 Federal Communications Commission on cyber  
16 security issues with respect to international  
17 bodies.

18           (F) Coordinating the activities of Informa-  
19 tion Sharing and Analysis Centers to share in-  
20 formation on threats, vulnerabilities, individual  
21 incidents, and privacy issues regarding United  
22 States homeland security.

23           (G) Assuming the responsibilities carried  
24 out by the Critical Infrastructure Assurance Of-  
25 fice before the effective date of this title.

1 (H) Assuming the responsibilities carried  
2 out by the National Infrastructure Protection  
3 Center before the effective date of this title.

4 (3) DIRECTORATE FOR EMERGENCY PREPARED-  
5 NESS AND RESPONSE.—The Directorate for Emer-  
6 gency Preparedness and Response, which shall be re-  
7 sponsible for the following:

8 (A) Carrying out all emergency prepared-  
9 ness and response activities carried out by the  
10 Federal Emergency Management Agency before  
11 the effective date of this title.

12 (B) Assuming the responsibilities carried  
13 out by the National Domestic Preparedness Of-  
14 fice before the effective date of this title.

15 (C) Organizing and training local entities  
16 to respond to emergencies and providing State  
17 and local authorities with equipment for detec-  
18 tion, protection, and decontamination in an  
19 emergency involving weapons of mass destruc-  
20 tion.

21 (D) Overseeing Federal, State, and local  
22 emergency preparedness training and exercise  
23 programs in keeping with current intelligence  
24 estimates and providing a single staff for Fed-  
25 eral assistance for any emergency (including

1 emergencies caused by flood, earthquake, hurri-  
2 cane, disease, or terrorists).

3 (E) Creating a National Crisis Action Cen-  
4 ter to act as the focal point for monitoring  
5 emergencies and for coordinating Federal sup-  
6 port for State and local governments and the  
7 private sector in crises.

8 (F) Establishing training and equipment  
9 standards, providing resource grants, and en-  
10 couraging intelligence and information sharing  
11 among the Department of Defense, the Federal  
12 Bureau of Investigation, the Central Intel-  
13 ligence Agency, State emergency management  
14 officials, and local first responders.

15 (G) Coordinating and integrating oper-  
16 ational activities of the Department of Defense,  
17 the National Guard, and other Federal agencies  
18 into a Federal response plan.

19 (H) Coordinating activities among private  
20 sector entities, including entities within the  
21 medical community, with respect to recovery,  
22 consequence management, and planning for  
23 continuity of services.

24 (I) Developing and managing a single re-  
25 sponse system for national incidents in coordi-

1 nation with the Department of Justice, the  
2 Federal Bureau of Investigation, the Depart-  
3 ment of Health and Human Services, and the  
4 Centers for Disease Control and Prevention.

5 (J) Maintaining Federal asset databases  
6 and supporting up-to-date State and local data-  
7 bases.

8 **SEC. 104. ESTABLISHMENT OF OFFICE OF SCIENCE AND**  
9 **TECHNOLOGY AND ACCELERATION FUND**  
10 **FOR RESEARCH AND DEVELOPMENT OF**  
11 **HOMELAND SECURITY TECHNOLOGIES.**

12 (a) DEFINITIONS.—In this section:

13 (1) FUND.—The term “Fund” means the Ac-  
14 celeration Fund for Research and Development of  
15 Homeland Security Technologies established under  
16 this section.

17 (2) HOMELAND SECURITY RESEARCH AND DE-  
18 VELOPMENT.—The term “homeland security re-  
19 search and development” means research and devel-  
20 opment of technologies that are applicable in the de-  
21 tection of, prevention of, protection against, response  
22 to, and recovery from homeland security threats,  
23 particularly acts of terrorism.

24 (b) ESTABLISHMENT OF OFFICE OF SCIENCE AND  
25 TECHNOLOGY.—

1           (1) IN GENERAL.—There is established in the  
2 Department an Office of Science and Technology.

3           (2) PURPOSE.—The Office of Science and  
4 Technology shall advise the Secretary regarding re-  
5 search and development efforts and priorities for the  
6 directorates established in section 103.

7           (3) DIRECTOR.—The head of the Office shall be  
8 the Director of Science and Technology.

9           (c) PURPOSES.—The purposes of this section are  
10 to—

11           (1) establish the responsibilities of the Director  
12 of the Office of Science and Technology relating to  
13 homeland security research and development; and

14           (2) establish a fund to leverage existing re-  
15 search and development and accelerate the deploy-  
16 ment of technology that will serve to enhance home-  
17 land defense.

18           (d) DUTIES OF DIRECTOR OF SCIENCE AND TECH-  
19 NOLOGY.—The Director of Science and Technology  
20 shall—

21           (1) assist the Secretary, the directorates, and  
22 cooperating agencies in—

23           (A) assessing and testing homeland secu-  
24 rity vulnerabilities and possible threats;

1 (B) evaluating and advising on maintain-  
2 ing talent resources in key technology and skill  
3 areas required for homeland security, including  
4 information security experts;

5 (C) developing a system for sharing key  
6 homeland security research and technology de-  
7 velopments and opportunities with appropriate  
8 Federal, State, local, and private sector entities;  
9 and

10 (D) proposing risk management strategies  
11 based on technology developments;

12 (2) assist the Directorate of Critical Infrastruc-  
13 ture Protection in the responsibilities of that direc-  
14 torate;

15 (3) with respect to expenditures from the Fund,  
16 exercise acquisition authority consistent with the au-  
17 thority described under section 2371 of title 10,  
18 United States Code, relating to authorizing coopera-  
19 tive agreements and other transactions; and

20 (4) in hiring personnel to assist in the adminis-  
21 tration of the Office of Science and Technology,  
22 have and use the authority to exercise the personnel  
23 hiring and management authorities described in sec-  
24 tion 1101 of the Strom Thurmond National Defense



1 Authorization Act for Fiscal Year 1999 (Public Law  
2 105–261; 5 U.S.C. 3104 note).

3 (e) STEERING GROUP AND COORDINATION COM-  
4 MITTEE.—

5 (1) PLAN.—Not later than one year after the  
6 date of the enactment of this Act, the President  
7 shall submit to Congress plans to establish a steer-  
8 ing group and coordination committee for the Office  
9 of Science and Technology.

10 (2) STEERING GROUP.—The steering group  
11 shall assist the Director of Science and Technology  
12 in establishing priorities and forwarding rec-  
13 ommendations on homeland security technology to  
14 the Secretary. The steering group shall be composed  
15 of senior research and development officials rep-  
16 resenting all appropriate Federal departments and  
17 independent agencies that conduct research and de-  
18 velopment relevant for homeland security and com-  
19 bating terrorism, the Defense Advanced Research  
20 Projects Agency, the National Nuclear Security Ad-  
21 ministration, and the Technical Support Working  
22 Group.

23 (3) COORDINATION COMMITTEE.—The Coordi-  
24 nation Committee shall—

1 (A) be a working level group composed of  
2 representatives managing relevant agency re-  
3 search and development portfolios, appointed by  
4 the head of each department or agency rep-  
5 resented in the steering group;

6 (B) facilitate effective communication  
7 among departments, agencies, and other enti-  
8 ties of the Federal Government with respect to  
9 the conduct of research and development re-  
10 lated to homeland security;

11 (C) identify specific technology areas for  
12 which the Fund shall be used to rapidly transi-  
13 tion homeland security research and develop-  
14 ment into deployed technology and reduce iden-  
15 tified homeland security vulnerabilities; and

16 (D) assist the Director of Science and  
17 Technology in administering the Fund.

18 (f) FUND.—

19 (1) ESTABLISHMENT.—There is established the  
20 Acceleration Fund for Research and Development of  
21 Homeland Security Technologies.

22 (2) USE OF FUND.—The Fund may be used  
23 to—

24 (A) accelerate research, development, test-  
25 ing, and evaluation of critical homeland security

1 technologies either within or outside of the Fed-  
2 eral Government; and

3 (B) support homeland security research  
4 and development.

5 (3) AUTHORIZATION OF APPROPRIATIONS.—

6 There are authorized to be appropriated  
7 \$200,000,000 to the Fund for fiscal year 2003.

8 **SEC. 105. REPORTING REQUIREMENTS.**

9 (a) BIENNIAL REPORTS.—Every 2 years the Sec-  
10 retary shall submit to Congress—

11 (1) a report assessing the resources and re-  
12 quirements of executive agencies relating to border  
13 security and emergency preparedness issues; and

14 (2) a report certifying the preparedness of the  
15 United States to prevent, protect against, and re-  
16 spond to natural disasters, cyber attacks, and inci-  
17 dents involving weapons of mass destruction.

18 (b) ADDITIONAL REPORT.—Not later than 1 year  
19 after the effective date of this title, the Secretary shall  
20 submit to Congress a report—

21 (1) assessing the progress of the Department  
22 in—

23 (A) implementing this title; and

1 (B) ensuring the core functions of each en-  
2 tity transferred to the Department are main-  
3 tained and strengthened; and

4 (2) recommending any conforming changes in  
5 law necessary as a result of the enactment and im-  
6 plementation of this title.

7 **SEC. 106. PLANNING, PROGRAMMING, AND BUDGETING**  
8 **PROCESS.**

9 The Secretary shall establish procedures to ensure  
10 that the planning, programming, budgeting, and financial  
11 activities of the Department comport with sound financial  
12 and fiscal management principles. At a minimum, those  
13 procedures shall provide for the planning, programming,  
14 and budgeting of activities of the Department using funds  
15 that are available for obligation for a limited number of  
16 years.

17 **SEC. 107. ENVIRONMENTAL PROTECTION, SAFETY, AND**  
18 **HEALTH REQUIREMENTS.**

19 The Secretary shall—

20 (1) ensure that the Department complies with  
21 all applicable environmental, safety, and health stat-  
22 utes and substantive requirements; and

23 (2) develop procedures for meeting such re-  
24 quirements.

1 **SEC. 108. SAVINGS PROVISIONS.**

2 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—

3 All orders, determinations, rules, regulations, permits,  
4 agreements, grants, contracts, recognitions of labor orga-  
5 nizations, collective bargaining agreements, certificates, li-  
6 censes, registrations, privileges, and other administrative  
7 actions—

8 (1) which have been issued, made, granted, or  
9 allowed to become effective by the President, any  
10 Federal agency or official thereof, or by a court of  
11 competent jurisdiction, in the performance of func-  
12 tions which are transferred under this title; and

13 (2) which are in effect at the time this title  
14 takes effect, or were final before the effective date  
15 of this title and are to become effective on or after  
16 the effective date of this title,

17 shall, to the extent related to such functions, continue in  
18 effect according to their terms until modified, terminated,  
19 superseded, set aside, or revoked in accordance with law  
20 by the President, the Secretary of National Homeland Se-  
21 curity or other authorized official, a court of competent  
22 jurisdiction, or by operation of law.

23 (b) PROCEEDINGS NOT AFFECTED.—The provisions  
24 of this title shall not affect any proceedings, including no-  
25 tices of proposed rulemaking, or any application for any  
26 license, permit, certificate, or financial assistance pending

1 before an agency at the time this title takes effect, with  
2 respect to functions transferred by this title but such pro-  
3 ceedings and applications shall continue. Orders shall be  
4 issued in such proceedings, appeals shall be taken there-  
5 from, and payments shall be made pursuant to such or-  
6 ders, as if this title had not been enacted, and orders  
7 issued in any such proceedings shall continue in effect  
8 until modified, terminated, superseded, or revoked by a  
9 duly authorized official, by a court of competent jurisdic-  
10 tion, or by operation of law. Nothing in this subsection  
11 shall be deemed to prohibit the discontinuance or modi-  
12 fication of any such proceeding under the same terms and  
13 conditions and to the same extent that such proceeding  
14 could have been discontinued or modified if this title had  
15 not been enacted.

16 (c) SUITS NOT AFFECTED.—The provisions of this  
17 title shall not affect suits commenced before the effective  
18 date of this title, and in all such suits, proceedings shall  
19 be had, appeals taken, and judgments rendered in the  
20 same manner and with the same effect as if this title had  
21 not been enacted.

22 (d) NONABATEMENT OF ACTIONS.—No suit, action,  
23 or other proceeding commenced by or against an agency,  
24 or by or against any individual in the official capacity of

1 such individual as an officer of an agency, shall abate by  
2 reason of the enactment of this title.

3 (e) ADMINISTRATIVE ACTIONS RELATING TO PRO-  
4 MULGATION OF REGULATIONS.—Any administrative ac-  
5 tion relating to the preparation or promulgation of a regu-  
6 lation by an agency relating to a function transferred  
7 under this title may be continued by the Department of  
8 National Homeland Security with the same effect as if this  
9 title had not been enacted.

10 (f) EMPLOYMENT AND PERSONNEL.—

11 (1) INTERIM AUTHORITY FOR APPOINTMENT  
12 AND COMPENSATION.—Funds available to any offi-  
13 cial or component of any entity the functions of  
14 which are transferred to the Department, may with  
15 the approval of the Director of the Office of Man-  
16 agement and Budget, be used to pay the compensa-  
17 tion and expenses of any officer or employee under  
18 this title until such time as funds for that purpose  
19 are otherwise available.

20 (2) EMPLOYEE RIGHTS.—

21 (A) IN GENERAL.—The Department or a  
22 subdivision within the Department shall not be  
23 excluded under section 7103(b)(1) of title 5,  
24 United States Code, from coverage under chap-  
25 ter 71 of that title unless the President deter-

1 mines that a majority of employees within the  
2 Department or applicable subdivision have, as  
3 their primary job duty, intelligence, counter-  
4 intelligence, or investigative work directly re-  
5 lated to terrorism investigation.

6 (B) NATIONAL SECURITY POSITIONS.—

7 Employees transferred under this title shall not  
8 be considered to perform work which directly  
9 affects national security within the meaning of  
10 section 7112(b)(6) of title 5, United States  
11 Code, unless their primary job duty involves in-  
12 telligence, counterintelligence, or investigative  
13 duties directly related to terrorism investiga-  
14 tion. All employees transferred under this title  
15 who are not in the counterterrorism positions  
16 described in the preceding sentence shall con-  
17 tinue to be afforded the full rights and protec-  
18 tions under chapter 71 of title 5, United States  
19 Code.

20 (g) REFERENCES.—Any reference in any other Fed-  
21 eral law, Executive order, rule, regulation, or delegation  
22 of authority, or any document of or pertaining to a depart-  
23 ment, agency, or office from which a function is trans-  
24 ferred by this title—



1           (1) to the head of such department, agency, or  
2 office is deemed to refer to the Secretary of National  
3 Homeland Security; or

4           (2) to such department, agency, or office is  
5 deemed to refer to the Department of National  
6 Homeland Security.

7           **TITLE II—NATIONAL OFFICE**  
8           **FOR COMBATING TERRORISM**

9           **SEC. 201. NATIONAL OFFICE FOR COMBATING TERRORISM.**

10          (a) ESTABLISHMENT.—There is established within  
11 the Executive Office of the President the National Office  
12 for Combating Terrorism.

13          (b) OFFICERS.—

14           (1) DIRECTOR.—The head of the Office shall be  
15 the Director of the National Office for Combating  
16 Terrorism, who shall be appointed by the President,  
17 by and with the advice and consent of the Senate.

18           (2) EXECUTIVE SCHEDULE LEVEL I POSI-  
19 TION.—Section 5312 of title 5, United States Code,  
20 is amended by adding at the end the following:

21           “Director of the National Office for Combating  
22 Terrorism.”.

23           (3) OTHER OFFICERS.—The President shall as-  
24 sign to the Office such other officers as the Presi-  
25 dent, in consultation with the Director, considers ap-

1       appropriate to discharge the responsibilities of the Of-  
2       fice.

3       (c) RESPONSIBILITIES.—Subject to the direction and  
4 control of the President, the responsibilities of the Office  
5 shall include the following:

6           (1) To develop national objectives and policies  
7       for combating terrorism and those homeland security  
8       efforts outside the specific control of the Secretary  
9       as outlined in title I.

10          (2) To direct and review the development of a  
11       comprehensive national assessment of terrorist  
12       threats and vulnerabilities to those threats, which  
13       shall be conducted by the heads of relevant Federal  
14       agencies, and to provide the Secretary of National  
15       Homeland Security with a national threat and vul-  
16       nerability assessment.

17          (3) To develop with the Secretary of National  
18       Homeland Security, the Strategy under title III.

19          (4) To coordinate, oversee, and evaluate the im-  
20       plementation and execution of the Strategy by agen-  
21       cies of the Federal Government with responsibilities  
22       for combating terrorism under the Strategy, and  
23       those homeland security efforts outside the specific  
24       control of the Secretary as outlined in title I, par-

1           particularly those involving military, intelligence, law  
2           enforcement, and diplomatic assets.

3           (5)(A) To coordinate, with the advice of the  
4           Secretary, the development of a comprehensive an-  
5           nual budget for the programs and activities under  
6           the Strategy, including the budgets of the military  
7           departments and agencies within the National For-  
8           eign Intelligence Program relating to international  
9           terrorism, but excluding military programs, projects,  
10          or activities relating to force protection.

11          (B) To have the lead responsibility for budget  
12          recommendations relating to military, intelligence,  
13          law enforcement, and diplomatic assets.

14          (6) To exercise funding authority for Federal  
15          Terrorism Prevention and Response Agencies in ac-  
16          cordance with section 202.

17          (d) RESOURCES.—In consultation with the Director,  
18          the President shall assign or allocate to the Office such  
19          resources, including funds, personnel, and other resources,  
20          as the President considers appropriate in order to facili-  
21          tate the discharge of the responsibilities of the Office.

22          (e) OVERSIGHT BY CONGRESS.—The establishment  
23          of the Office within the Executive Office of the President  
24          shall not be construed as affecting access by Congress, or  
25          any committee of Congress, to—

1           (1) any information, document, record, or paper  
2           in the possession of the Office or any study con-  
3           ducted by or at the direction of the Director; or

4           (2) any personnel of the Office.

5 **SEC. 202. FUNDING FOR STRATEGY PROGRAMS AND AC-**  
6 **TIVITIES.**

7           (a) BUDGET REVIEW.—In consultation with the Di-  
8           rector of the Office of Management and Budget, the Sec-  
9           retary of National Homeland Security, and the heads of  
10          other executive departments and agencies, the Director  
11          shall—

12           (1) identify programs that contribute to the  
13          Strategy; and

14           (2) in the development of the budget submitted  
15          by the President to Congress under section 1105 of  
16          title 31, United States Code, review and provide ad-  
17          vice to the heads of executive departments and agen-  
18          cies on the amount and use of funding for programs  
19          identified under paragraph (1).

20          (b) SUBMITTAL OF PROPOSED BUDGETS TO THE DI-  
21          RECTOR.—

22           (1) IN GENERAL.—The head of each Federal  
23          Terrorism Prevention and Response Agency shall  
24          submit to the Director each year the proposed budg-  
25          et of that agency for the fiscal year beginning in

1 that year for programs and activities of that agency  
2 under the Strategy during that fiscal year.

3 (2) DATE FOR SUBMISSION.—The proposed  
4 budget of an agency for a fiscal year under para-  
5 graph (1) shall be submitted to the Director—

6 (A) not later than the date on which the  
7 agency completes the collection of information  
8 for purposes of the submission by the President  
9 of a budget to Congress for that fiscal year  
10 under section 1105 of title 31, United States  
11 Code; and

12 (B) before that information is submitted to  
13 the Director of the Office of Management and  
14 Budget for such purposes.

15 (3) FORMAT.—In consultation with the Director  
16 of the Office of Management and Budget, the Direc-  
17 tor shall specify the format for the submittal of pro-  
18 posed budgets under paragraph (1).

19 (c) REVIEW OF PROPOSED BUDGETS.—

20 (1) IN GENERAL.—The Director shall review  
21 each proposed budget submitted to the Director  
22 under subsection (b).

23 (2) INADEQUATE FUNDING DETERMINATION.—  
24 If the Director determines under paragraph (1) that  
25 the proposed budget of an agency for a fiscal year

1 under subsection (b) is inadequate, in whole or in  
2 part, to permit the implementation by the agency  
3 during the fiscal year of the goals of the Strategy  
4 applicable to the agency during the fiscal year, the  
5 Director shall submit to the head of the agency—

6 (A) a notice in writing of the determina-  
7 tion; and

8 (B) a statement of the proposed funding,  
9 and any specific initiatives, that would (as de-  
10 termined by the Director) permit the implemen-  
11 tation by the agency during the fiscal year of  
12 the goals of the Strategy applicable to the agen-  
13 cy during the fiscal year.

14 (3) ADEQUATE FUNDING DETERMINATION.—If  
15 the Director determines under paragraph (1) that  
16 the proposed budget of an agency for a fiscal year  
17 under subsection (b) is adequate to permit the im-  
18 plementation by the agency during the fiscal year of  
19 the goals of the Strategy applicable to the agency  
20 during the fiscal year, the Director shall submit to  
21 the head of the agency a notice in writing of that  
22 determination.

23 (4) MAINTENANCE OF RECORDS.—The Director  
24 shall maintain a record of—

1 (A) each notice submitted under paragraph  
2 (2), including any statement accompanying  
3 such notice; and

4 (B) each notice submitted under paragraph  
5 (3).

6 (d) AGENCY RESPONSE TO REVIEW OF PROPOSED  
7 BUDGETS.—

8 (1) INCORPORATION OF PROPOSED FUNDING.—

9 The head of a Federal Terrorism Prevention and  
10 Response Agency that receives a notice under sub-  
11 section (c)(2) with respect to the proposed budget of  
12 the agency for a fiscal year shall incorporate the  
13 proposed funding, and any initiatives, set forth in  
14 the statement accompanying the notice into the in-  
15 formation submitted to the Office of Management  
16 and Budget in support of the proposed budget for  
17 the agency for the fiscal year under section 1105 of  
18 title 31, United States Code.

19 (2) ADDITIONAL INFORMATION.—The head of  
20 each agency described under paragraph (1) for a fis-  
21 cal year shall include as an appendix to the informa-  
22 tion submitted to the Office of Management and  
23 Budget under that paragraph for the fiscal year the  
24 following:

1           (A) A summary of any modifications in the  
2           proposed budget of such agency for the fiscal  
3           year under that paragraph.

4           (B) An assessment of the effect of such  
5           modifications on the capacity of such agency to  
6           perform its responsibilities during the fiscal  
7           year other than its responsibilities under the  
8           Strategy.

9           (3) SUBMISSION TO CONGRESS.—The head of  
10          each agency described by paragraph (1) for a fiscal  
11          year shall submit to Congress a copy of the appendix  
12          submitted to the Office of Management and Budget  
13          for the fiscal year under paragraph (2) at the same  
14          time the budget of the President for the fiscal year  
15          is submitted to Congress under section 1105 of title  
16          31, United States Code.

17          (e) SUBMITTAL OF REVISED PROPOSED BUDGETS.—

18               (1) IN GENERAL.—At the same time the head  
19               of a Federal Terrorism Prevention and Response  
20               Agency submits its proposed budget for a fiscal year  
21               to the Office of Management and Budget for pur-  
22               poses of the submission by the President of a budget  
23               to Congress for the fiscal year under section 1105  
24               of title 31, United States Code, the head of the



1 agency shall submit a copy of the proposed budget  
2 to the Director.

3 (2) REVIEW AND DECERTIFICATION AUTHOR-  
4 ITY.—The Director of the National Office for Com-  
5 bating Terrorism—

6 (A) shall review each proposed budget sub-  
7 mitted under paragraph (1); and

8 (B) in the case of a proposed budget for a  
9 fiscal year to which subsection (c)(2) applies in  
10 the fiscal year, if the Director determines as a  
11 result of the review that the proposed budget  
12 does not include the proposed funding, and any  
13 initiatives, set forth in the notice under that  
14 subsection with respect to the proposed  
15 budget—

16 (i) may decertify the proposed budget;

17 and

18 (ii) with respect to any proposed  
19 budget so decertified, shall submit to  
20 Congress—

21 (I) a notice of the decertification;

22 (II) a copy of the notice sub-  
23 mitted to the agency concerned for  
24 the fiscal year under subsection  
25 (c)(2)(B); and

1 (III) the budget recommenda-  
2 tions made under this section.

3 (f) NATIONAL TERRORISM PREVENTION AND RE-  
4 SPONSE PROGRAM BUDGET.—

5 (1) IN GENERAL.—For each fiscal year, fol-  
6 lowing the submittal of proposed budgets to the Di-  
7 rector under subsection (b), the Director shall, in  
8 consultation with the Secretary of National Home-  
9 land Security and the head of each Federal Ter-  
10 rorism Prevention and Response Agency  
11 concerned—

12 (A) develop a consolidated proposed budget  
13 for such fiscal year for all programs and activi-  
14 ties under the Strategy for such fiscal year; and

15 (B) submit the consolidated proposed  
16 budget to the President and to Congress.

17 (2) DESIGNATION OF CONSOLIDATED PRO-  
18 POSED BUDGET.—The consolidated proposed budget  
19 for a fiscal year under this subsection shall be  
20 known as the National Terrorism Prevention and  
21 Response Program Budget for the fiscal year.

22 (g) REPROGRAMMING AND TRANSFER REQUESTS.—

23 (1) APPROVAL BY THE DIRECTOR.—The head  
24 of a Federal Terrorism Prevention and Response  
25 Agency may not submit to Congress a request for

1 the reprogramming or transfer of any funds speci-  
2 fied in the National Terrorism Prevention and Re-  
3 sponse Program Budget for programs or activities of  
4 the agency under the Strategy for a fiscal year in  
5 excess of \$5,000,000 without the approval of the Di-  
6 rector.

7 (2) APPROVAL BY THE PRESIDENT.—The  
8 President may, upon the request of the head of the  
9 agency concerned, permit the submittal to Congress  
10 of a request previously disapproved by the Director  
11 under paragraph (1) if the President determines  
12 that the submittal of the request to Congress will  
13 further the purposes of the National Strategy for  
14 Combating Terrorism.

15 **TITLE III—NATIONAL STRATEGY**  
16 **FOR COMBATING TERRORISM**  
17 **AND THE HOMELAND SECU-**  
18 **RITY RESPONSE**

19 **SEC. 301. STRATEGY.**

20 (a) DEVELOPMENT.—There shall be a National  
21 Strategy for Combating Terrorism and Homeland Secu-  
22 rity Response for detection, prevention, protection, re-  
23 sponse, and recovery to counter terrorist threats, including  
24 the plans, policies, training, exercises, evaluation, and

1 interagency cooperation that address each such action re-  
2 lating to such threats.

3 (b) RESPONSIBILITIES.—

4 (1) RESPONSIBILITIES OF THE SECRETARY.—

5 The Secretary shall have responsibility for portions  
6 of the Strategy addressing border security, critical  
7 infrastructure protection, consequence management,  
8 and integrating State and local efforts with activities  
9 of the Federal Government.

10 (2) RESPONSIBILITIES OF THE DIRECTOR.—

11 The Director shall have overall responsibility for de-  
12 velopment of the Strategy.

13 (c) CONTENTS.—The contents of the Strategy shall  
14 include—

15 (1) policies and procedures to maximize the col-  
16 lection, translation, analysis, exploitation, and dis-  
17 semination of information relating to combating ter-  
18 rorism and the homeland security response through-  
19 out the Federal Government and with State and  
20 local authorities;

21 (2) plans for countering chemical, biological, ra-  
22 diological, nuclear and explosives, and cyber threats;

23 (3) plans for improving the resources of, coordi-  
24 nation among, and effectiveness of health and med-

1 ical sectors for detecting and responding to terrorist  
2 attacks on the homeland;

3 (4) specific measures to enhance cooperative ef-  
4 forts between the public and private sectors in pro-  
5 tecting against terrorist attacks;

6 (5) a review of measures needed to enhance  
7 transportation security with respect to potential ter-  
8 rorist attacks; and

9 (6) other critical areas.

10 (d) COOPERATION.—At the request of the Director,  
11 departments and agencies shall provide necessary informa-  
12 tion or planning documents relating to the Strategy.

13 (e) INTERAGENCY COUNCIL.—

14 (1) ESTABLISHMENT.—There is established the  
15 National Combating Terrorism and Homeland Secu-  
16 rity Council to assist with preparation and imple-  
17 mentation of the Strategy.

18 (2) MEMBERSHIP.—The members of the Coun-  
19 cil shall be the heads of the Federal Terrorism Pre-  
20 vention and Response Agencies or their designees.  
21 The Secretary and Director shall designate such  
22 agencies.

23 (3) CO-CHAIRS AND MEETINGS.—The Secretary  
24 and Director shall co-chair the Council, which shall  
25 meet at their direction.

1 (f) SUBMISSION TO CONGRESS.—Not later than De-  
2 cember 1, 2003, and each year thereafter in which a Presi-  
3 dent is inaugurated, the Secretary and the Director shall  
4 submit the Strategy to Congress.

5 (g) UPDATING.—Not later than December 1, 2005,  
6 and on December 1, of every 2 years thereafter, the Sec-  
7 retary and the Director shall submit to Congress an up-  
8 dated version of the Strategy.

9 (h) PROGRESS REPORTS.—Not later than December  
10 1, 2004, and on December 1, of each year thereafter, the  
11 Secretary and the Director may submit to Congress a re-  
12 port that—

13 (1) describes the progress on implementation of  
14 the Strategy; and

15 (2) provides recommendations for improvement  
16 of the Strategy and the implementation of the Strat-  
17 egy.

18 **SEC. 302. NATIONAL HOMELAND SECURITY PANEL.**

19 (a) ESTABLISHMENT.—The Secretary and the Direc-  
20 tor shall establish a nonpartisan, independent panel to be  
21 known as the National Homeland Security Panel (in this  
22 section referred to as the “Panel”).

23 (b) MEMBERSHIP.—

24 (1) APPOINTMENT.—The Panel shall be com-  
25 posed of a chairperson and 8 other individuals ap-

1 pointed by the Secretary and the Director, in con-  
2 sultation with the majority and minority leaders in  
3 the Senate and the House of Representatives, from  
4 among individuals in the private sector who are rec-  
5 ognized experts in matters relating to the homeland  
6 security of the United States.

7 (2) TERMS.—

8 (A) IN GENERAL.—An individual shall be  
9 appointed to the Panel for an 18-month term.

10 (B) TERM PERIODS.—Terms on the Panel  
11 shall not be continuous. All terms shall be for  
12 the 18-month period which begins 12 months  
13 before each date a report is required to be sub-  
14 mitted under subsection (1)(2)(A).

15 (C) MULTIPLE TERMS.—An individual may  
16 serve more than 1 term.

17 (c) DUTIES.—The Panel shall—

18 (1) conduct and submit to the Secretary and  
19 the Director the assessment of the Strategy; and

20 (2) conduct the independent, alternative assess-  
21 ment of homeland security and combating terrorism  
22 measures required under this section.

23 (d) ALTERNATIVE ASSESSMENT.—The Panel shall  
24 submit to the Secretary an independent assessment of the  
25 optimal policies and programs to enhance homeland secu-

1 rity and combating terrorism. As part of the assessment,  
2 the Panel shall, to the extent practicable, estimate the  
3 funding required by fiscal year to achieve these optimal  
4 approaches.

5 (e) INFORMATION FROM FEDERAL AGENCIES.—The  
6 Panel may secure directly from any Federal department  
7 or agency such information as the Panel considers nec-  
8 essary to carry out this section. Upon request of the  
9 Chairperson, the head of such department or agency shall  
10 furnish such information to the Panel.

11 (f) COMPENSATION OF MEMBERS.—Each member of  
12 the Panel shall be compensated at a rate equal to the daily  
13 equivalent of the annual rate of basic pay prescribed for  
14 level IV of the Executive Schedule under section 5315 of  
15 title 5, United States Code, for each day (including travel  
16 time) during which such member is engaged in the per-  
17 formance of the duties of the Panel.

18 (g) TRAVEL EXPENSES.—The members of the Panel  
19 shall be allowed travel expenses, including per diem in lieu  
20 of subsistence, at rates authorized for employees of agen-  
21 cies under subchapter I of chapter 57 of title 5, United  
22 States Code, while away from their homes or regular  
23 places of business in the performance of services for the  
24 Panel.

25 (h) STAFF.—



1           (1) IN GENERAL.—The Chairperson of the  
2 Panel may, without regard to the civil service laws  
3 and regulations, appoint and terminate an executive  
4 director and such other additional personnel as may  
5 be necessary to enable the Panel to perform its du-  
6 ties. The employment of an executive director shall  
7 be subject to confirmation by the Panel.

8           (2) COMPENSATION.—The Chairperson of the  
9 Panel may fix the compensation of the executive di-  
10 rector and other personnel without regard to chapter  
11 51 and subchapter III of chapter 53 of title 5,  
12 United States Code, relating to classification of posi-  
13 tions and General Schedule pay rates, except that  
14 the rate of pay for the executive director and other  
15 personnel may not exceed the rate payable for level  
16 V of the Executive Schedule under section 5316 of  
17 such title.

18           (3) PERSONNEL AS FEDERAL EMPLOYEES.—

19           (A) IN GENERAL.—The executive director  
20 and any personnel of the Panel who are employ-  
21 ees shall be employees under section 2105 of  
22 title 5, United States Code, for purposes of  
23 chapters 63, 81, 83, 84, 85, 87, 89, and 90 of  
24 that title.

1 (B) MEMBERS OF PANEL.—Subparagraph  
2 (A) shall not be construed to apply to members  
3 of the Panel.

4 (4) REDUCTION OF STAFF.—During periods  
5 that members are not serving terms on the Panel,  
6 the executive director shall reduce the number and  
7 hours of employees to the minimum necessary to—

8 (A) provide effective continuity of the  
9 Panel; and

10 (B) minimize personnel costs of the Panel.

11 (i) DETAIL OF GOVERNMENT EMPLOYEES.—Any  
12 Federal Government employee may be detailed to the  
13 Panel without reimbursement, and such detail shall be  
14 without interruption or loss of civil service status or privi-  
15 lege.

16 (j) ADMINISTRATIVE PROVISIONS.—

17 (1) USE OF MAIL AND PRINTING.—The Panel  
18 may use the United States mails and obtain printing  
19 and binding services in the same manner and under  
20 the same conditions as other departments and agen-  
21 cies of the Federal Government.

22 (2) SUPPORT SERVICES.—The Secretary shall  
23 furnish the Panel any administrative and support  
24 services requested by the Panel.

1           (3) GIFTS.—The Panel may accept, use, and  
2           dispose of gifts or donations of services or property.

3           (k) PAYMENT OF PANEL EXPENSES.—The com-  
4           pensation, travel expenses, and per diem allowances of  
5           members and employees of the Panel shall be paid out of  
6           funds available to the Department for the payment of  
7           compensation, travel allowances, and per diem allowances,  
8           respectively, of civilian employees of the Department. The  
9           other expenses of the Panel shall be paid out of funds  
10          available to the Department for the payment of similar  
11          expenses incurred by the Department.

12          (l) REPORTS.—

13           (1) PRELIMINARY REPORT.—

14           (A) REPORT TO SECRETARY.—Not later  
15           than July 1, 2004, the Panel shall submit to  
16           the Secretary and the Director a preliminary  
17           report setting forth the activities and the find-  
18           ings and recommendations of the Panel under  
19           subsection (d), including any recommendations  
20           for legislation that the Panel considers appro-  
21           priate.

22           (B) REPORT TO CONGRESS.—Not later  
23           than 30 days after the submission of the report  
24           under subparagraph (A), the Secretary and the  
25           Director shall submit to the committees re-

1           ferred to under subsection (b) a copy of that re-  
2           port with the comments of the Secretary on the  
3           report.

4           (2) QUADRENNIAL REPORTS.—

5                   (A) REPORTS TO SECRETARY.—Not later  
6           than December 1, 2004, and not later than De-  
7           cember 1 every 4 years thereafter, the Panel  
8           shall submit to the Secretary and the Director  
9           a report setting forth the activities and the  
10          findings and recommendations of the Panel  
11          under subsection (d), including any rec-  
12          ommendations for legislation that the Panel  
13          considers appropriate.

14                   (B) REPORTS TO CONGRESS.—Not later  
15          than 60 days after each report is submitted  
16          under subparagraph (A), the Secretary shall  
17          submit to the committees referred to under sub-  
18          section (b) a copy of the report with the com-  
19          ments of the Secretary and the Director on the  
20          report.

## 21           **TITLE IV—EFFECTIVE DATE**

### 22           **SEC. 401. EFFECTIVE DATE.**

23           This Act shall take effect 180 days after the date of  
24          enactment of this Act.

○