

# Union Calendar No. 40

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1817

**[Report No. 109–71, Parts I, II and III]**

To authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2005

Mr. COX introduced the following bill; which was referred to the Committee on Homeland Security

MAY 3, 2005

Reported with an amendment and referred to the Committees on Energy and Commerce, Government Reform, the Judiciary, Science, Transportation and Infrastructure, and Ways and Means, for a period ending not later than May 13, 2005, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of those committees pursuant to clause 1, rule X; referred to the Permanent Select Committee on Intelligence for a period ending not later than May 13, 2005, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 11(b) of rule X

[Strike out all after the enacting clause and insert the part printed in *italie*]

Reported from the Committee on Energy and Commerce, with an amendment

[Strike out all after the enacting clause and the part printed in *italie*, and insert the part printed in **boldface roman**]

MAY 13, 2005

Reported from the Committee on the Judiciary, with an amendment

[Strike out all after the enacting clause and the part printed in *italie*, and insert the part printed in **boldface italie**]

MAY 13, 2005

The Committees on Government Reform, Science, Transportation and Infrastructure, Ways and Means, and the Permanent Select Committee on Intelligence discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 26, 2005]

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# A BILL

To authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Department of Home-*  
 5 *land Security Authorization Act for Fiscal Year 2006”.*

6 **SEC. 2. TABLE OF CONTENTS.**

7 *The table of contents for this Act is as follows:*

*Sec. 1. Short title.*

*Sec. 2. Table of contents.*

**TITLE I—AUTHORIZATION OF APPROPRIATIONS**

*Sec. 101. Department of Homeland Security.*

*Sec. 102. Border patrol agents.*

*Sec. 103. Departmental management and operations.*

*Sec. 104. Critical infrastructure grants.*

*Sec. 105. Research and development.*

*Sec. 106. Border and transportation security.*

*Sec. 107. State and local terrorism preparedness.*

*Sec. 108. Authorization of appropriations for training of State and local per-*  
*sonnel in border States performing immigration functions.*

**TITLE II—TERRORISM PREVENTION, INFORMATION SHARING, AND  
 RISK ASSESSMENT**

**Subtitle A—Terrorism Prevention**

*Sec. 201. Terrorism Prevention Plan and related budget submission.*

*Sec. 202. Consolidated background check process.*

**Subtitle B—Homeland Security Information Sharing and Analysis  
 Enhancement**

*Sec. 211. Short title.*

*Sec. 212. Provision of terrorism-related information to private sector officials.*

- Sec. 213. Analytic expertise on the threats from biological agents and nuclear weapons.*
- Sec. 214. Alternative analysis of homeland security information.*
- Sec. 215. Assignment of information analysis and infrastructure protection functions.*
- Sec. 216. Authority for disseminating homeland security information.*
- Sec. 217. 9/11 Memorial Homeland Security Fellows Program.*
- Sec. 218. Access to nuclear terrorism-related information.*
- Sec. 219. Access of Assistant Secretary for Information Analysis to terrorism information.*
- Sec. 220. Administration of the Homeland Security Information Network.*
- Sec. 221. IAIP personnel recruitment.*
- Sec. 222. Information collection requirements and priorities.*
- Sec. 223. Homeland Security Advisory System.*
- Sec. 224. Use of open-source information.*
- Sec. 225. Full and efficient use of open-source information.*

### *TITLE III—DOMESTIC PREPAREDNESS AND PROTECTION*

#### *Subtitle A—Preparedness and Protection*

- Sec. 301. National terrorism exercise program.*
- Sec. 302. Technology development and transfer.*
- Sec. 303. Review of antiterrorism acquisitions.*
- Sec. 304. Center of Excellence for Border Security.*
- Sec. 305. Requirements relating to the Container Security Initiative (CSI).*
- Sec. 306. Security of maritime cargo containers.*
- Sec. 307. Security plan for general aviation at Ronald Reagan Washington National Airport.*
- Sec. 308. Interoperable communications assistance.*
- Sec. 309. Report to Congress on implementation of recommendations regarding protection of agriculture.*

#### *Subtitle B—Department of Homeland Security Cybersecurity Enhancement*

- Sec. 311. Short title.*
- Sec. 312. Assistant Secretary for Cybersecurity.*
- Sec. 313. Cybersecurity defined.*
- Sec. 314. Cybersecurity training programs and equipment.*
- Sec. 315. Information security requirements and OMB responsibilities not affected.*

#### *Subtitle C—Security of public transportation systems*

- Sec. 321. Security best practices.*
- Sec. 322. Public awareness.*

#### *Subtitle D—Critical infrastructure prioritization*

- Sec. 331. Critical infrastructure.*
- Sec. 332. Security review.*
- Sec. 333. Implementation report.*
- Sec. 334. Protection of information.*

### *TITLE IV—MISCELLANEOUS*

- Sec. 401. Border security and enforcement coordination and operations.*
- Sec. 402. GAO report to Congress.*

*Sec. 403: Plan for establishing consolidated and collocated regional offices.*

*Sec. 404: Plan to reduce wait times.*

*Sec. 405: Denial of transportation security card.*

*Sec. 406: Transfer of existing Customs Patrol Officers unit and establishment of new CPO units in the Bureau of Immigration and Customs Enforcement.*

1       **TITLE I—AUTHORIZATION OF**  
 2                               **APPROPRIATIONS**

3       **SEC. 101. DEPARTMENT OF HOMELAND SECURITY.**

4               *There is authorized to be appropriated to the Secretary*  
 5 *of Homeland Security for the necessary expenses of the De-*  
 6 *partment of Homeland Security for fiscal year 2006,*  
 7 *\$34,152,143,000.*

8       **SEC. 102. BORDER PATROL AGENTS.**

9               *Of the amount authorized under section 101, there is*  
 10 *authorized to be appropriated for fiscal year 2006 for bor-*  
 11 *der security and control between ports of entry, including*  
 12 *for the hiring of 2,000 border patrol agents in addition to*  
 13 *the number employed on the date of enactment of this Act,*  
 14 *and related training and support costs, \$1,916,427,000.*

15       **SEC. 103. DEPARTMENTAL MANAGEMENT AND OPERATIONS.**

16               *Of the amount authorized under section 101, there is*  
 17 *authorized to be appropriated for fiscal year 2006 for de-*  
 18 *partmental management and operations, \$634,687,000, of*  
 19 *which—*

20                       *(1) \$44,895,000 is authorized for the Department*  
 21 *of Homeland Security Regions Initiative;*

1           (2) \$4,459,000 is authorized for Operation Inte-  
2           gration Staff; and

3           (3) \$56,278,000 is authorized for Office of Secu-  
4           rity initiatives.

5 **SEC. 104. CRITICAL INFRASTRUCTURE GRANTS.**

6           Of the amount authorized under section 101, there is  
7           authorized to be appropriated for fiscal year 2006 for  
8           grants and other assistance to improve critical infrastruc-  
9           ture protection, \$500,000,000.

10 **SEC. 105. RESEARCH AND DEVELOPMENT.**

11           Of the amount authorized under section 101, there are  
12           authorized to be appropriated for fiscal year 2006—

13           (1) \$76,573,000 to support chemical counter-  
14           measure development activities of the Directorate of  
15           Science and Technology;

16           (2) \$197,314,000 to support a nuclear detection  
17           office and related activities of such directorate;

18           (3) \$10,000,000 for research and development of  
19           technologies capable of countering threats posed by  
20           man-portable air defense systems, including location-  
21           based technologies and noncommercial aircraft-based  
22           technologies; and

23           (4) \$10,600,000 for the activities of such direc-  
24           torate conducted pursuant to subtitle G of title VIII

1       *of the Homeland Security Act of 2002 (6 U.S.C. 441*  
2       *et seq.).*

3       **SEC. 106. BORDER AND TRANSPORTATION SECURITY.**

4       *Of the amount authorized under section 101, there are*  
5       *authorized to be appropriated for fiscal year 2006—*

6               (1) *\$826,913,000 for expenses related to Screen-*  
7       *ing Coordination and Operations of the Directorate of*  
8       *Border and Transportation Security;*

9               (2) *\$100,000,000 for weapons of mass destruc-*  
10       *tion detection technology of such directorate; and*

11              (3) *\$133,800,000 for the Container Security Ini-*  
12       *tiative of such directorate.*

13       **SEC. 107. STATE AND LOCAL TERRORISM PREPAREDNESS.**

14       *Of the amount authorized under section 101, there is*  
15       *authorized to be appropriated for fiscal year 2006—*

16              (1) *\$40,500,000 for the activities of the Office for*  
17       *Interoperability and Compatibility within the Direc-*  
18       *torate of Science and Technology pursuant to section*  
19       *7303 of the Intelligence Reform and Terrorism Pre-*  
20       *vention Act of 2004 (6 U.S.C 194); and*

21              (2) *\$1,000,000,000 for discretionary grants for*  
22       *high-threat, high-density urban areas awarded by the*  
23       *Office of State and Local Government Coordination*  
24       *and Preparedness.*

1 **SEC. 108. AUTHORIZATION OF APPROPRIATIONS FOR**  
2 **TRAINING OF STATE AND LOCAL PERSONNEL**  
3 **IN BORDER STATES PERFORMING IMMIGRA-**  
4 **TION FUNCTIONS.**

5 *(a) IN GENERAL.—To carry out subsection (b), subject*  
6 *to such limitations as may be provided in Acts making ap-*  
7 *propriations for Management and Administration for U.S.*  
8 *Immigration and Customs Enforcement, there are author-*  
9 *ized to be appropriated from such amounts \$40,000,000 for*  
10 *fiscal year 2006, to remain available until September 30,*  
11 *2007, for the purpose of enhancing the integrity of the bor-*  
12 *der security system of the United States against the threat*  
13 *of terrorism.*

14 *(b) USE OF FUNDS.—From amounts made available*  
15 *under subsection (a), the Secretary of Homeland Security*  
16 *may reimburse a State or political subdivision described*  
17 *in subsection (c) for the expenses described in subsection (d).*

18 *(c) ELIGIBLE RECIPIENTS.—A State, or a political*  
19 *subdivision of a State, is eligible for reimbursement under*  
20 *subsection (b) if the State or political subdivision—*

21 *(1) contains a location that is 30 miles or less*  
22 *from a border or coastline of the United States;*

23 *(2) has entered into a written agreement de-*  
24 *scribed in section 287(g) of the Immigration and Na-*  
25 *tionality Act (8 U.S.C. 1357(g)) under which certain*  
26 *officers or employees of the State or subdivision may*

1 *be authorized to perform certain functions of an im-*  
2 *migration officer; and*

3 *(3) desires such officers or employees to receive*  
4 *training from the Department of Homeland Security*  
5 *in relation to such functions.*

6 *(d) EXPENSES.—The expenses described in this sub-*  
7 *section are actual and necessary expenses incurred by the*  
8 *State or political subdivision in order to permit the train-*  
9 *ing described in subsection (c)(3) to take place, including*  
10 *expenses such as the following:*

11 *(1) Costs of travel and transportation to loca-*  
12 *tions where training is provided, including mileage*  
13 *and related allowances for the use of a privately*  
14 *owned automobile.*

15 *(2) Subsistence consisting of lodging, meals, and*  
16 *other necessary expenses for the personal sustenance*  
17 *and comfort of a person required to travel away from*  
18 *the person's regular post of duty in order to partici-*  
19 *pate in the training.*

20 *(3) A per diem allowance paid instead of actual*  
21 *expenses for subsistence and fees or tips to porters and*  
22 *stewards.*

23 *(4) Costs of securing temporary replacements for*  
24 *personnel traveling to, and participating in, the*  
25 *training.*

1 **TITLE II—TERRORISM PREVEN-**  
2 **TION, INFORMATION SHAR-**  
3 **ING, AND RISK ASSESSMENT**

4 **Subtitle A—Terrorism Prevention**

5 **SEC. 201. TERRORISM PREVENTION PLAN AND RELATED**  
6 **BUDGET SUBMISSION.**

7 *(a) DEPARTMENT OF HOMELAND SECURITY TER-*  
8 *RORISM PREVENTION PLAN.—*

9 *(1) REQUIREMENTS.—Not later than 1 year*  
10 *after the date of enactment of the Act, and on a reg-*  
11 *ular basis thereafter, the Secretary of Homeland Secu-*  
12 *rity shall prepare and submit to the Committee on*  
13 *Homeland Security of the House of Representatives*  
14 *and the Committee on Homeland Security and Gov-*  
15 *ernmental Affairs of the Senate a Department of*  
16 *Homeland Security Terrorism Prevention Plan. The*  
17 *Plan shall be a comprehensive and integrated plan*  
18 *that includes the goals, objectives, milestones, and key*  
19 *initiatives of the Department of Homeland Security*  
20 *to prevent acts of terrorism on the United States, in-*  
21 *cluding its territories and interests.*

22 *(2) CONTENTS.—The Secretary shall include in*  
23 *the Plan the following elements:*

24 *(A) Identification and prioritization of*  
25 *groups and subgroups that pose the most signifi-*

1            *cant threat of committing acts of terrorism on*  
2            *the United States and its interests.*

3            *(B) Identification of the most significant*  
4            *current, evolving, and long-term terrorist threats*  
5            *to the United States and its interests, including*  
6            *an evaluation of—*

7                    *(i) the materials that may be used to*  
8                    *carry out a potential attack;*

9                    *(ii) the methods that may be used to*  
10                   *carry out a potential attack; and*

11                   *(iii) the outcome the perpetrators of*  
12                   *acts of terrorism aim to achieve.*

13            *(C) A prioritization of the threats identified*  
14            *under subparagraph (B), based on an assessment*  
15            *of probability and consequence of such attacks.*

16            *(D) A description of processes and proce-*  
17            *dures that the Secretary shall establish to insti-*  
18            *tutionalize close coordination between the De-*  
19            *partment of Homeland Security and the Na-*  
20            *tional Counter Terrorism Center and other ap-*  
21            *propriate United States intelligence agencies.*

22            *(E) The policies and procedures the Sec-*  
23            *retary shall establish to ensure the Department*  
24            *gathers real-time information from the National*  
25            *Counter Terrorism Center; disseminates this in-*

1        *formation throughout the Department, as appro-*  
2        *priate; utilizes this information to support the*  
3        *Department's counterterrorism responsibilities;*  
4        *integrates the Department's information collec-*  
5        *tion and analysis functions; and disseminates*  
6        *this information to its operational units, as ap-*  
7        *propriate.*

8            *(F) A description of the specific actions the*  
9        *Secretary shall take to identify threats of ter-*  
10       *rorism on the United States and its interests,*  
11       *and to coordinate activities within the Depart-*  
12       *ment to prevent acts of terrorism, with special*  
13       *emphasis on prevention of terrorist access to and*  
14       *use of weapons of mass destruction.*

15           *(G) A description of initiatives the Sec-*  
16       *retary shall take to share critical terrorism pre-*  
17       *vention information with, and provide terrorism*  
18       *prevention support to, State and local govern-*  
19       *ments and the private sector.*

20           *(H) A timeline, with goals and milestones,*  
21       *for implementing the Homeland Security Infor-*  
22       *mation Network, the Homeland Security Secure*  
23       *Data Network, and other departmental informa-*  
24       *tion initiatives to prevent acts of terrorism on*  
25       *the United States and its interests, including in-*

1           *tegration of these initiatives in the operations of*  
 2           *the Homeland Security Operations Center.*

3           *(I) Such other terrorism prevention-related*  
 4           *elements as the Secretary considers appropriate.*

5           *(3) CONSULTATION.—In formulating the Plan*  
 6           *the Secretary shall consult with—*

7                     *(A) the Director of National Intelligence;*

8                     *(B) the Director of the National Counter*  
 9                     *Terrorism Center;*

10                    *(C) the Attorney General;*

11                    *(D) the Director of the Federal Bureau of*  
 12                    *Investigation;*

13                    *(E) the Secretary of Defense;*

14                    *(F) the Secretary of State;*

15                    *(G) the Secretary of Energy;*

16                    *(H) the Secretary of the Treasury; and*

17                    *(I) the heads of other Federal agencies and*  
 18                    *State, county, and local law enforcement agen-*  
 19                    *cies as the Secretary considers appropriate.*

20           *(4) CLASSIFICATION.—The Secretary shall pre-*  
 21           *pare the Plan in both classified and nonclassified*  
 22           *forms.*

23           *(b) ANNUAL CROSSCUTTING ANALYSIS OF PROPOSED*  
 24           *FUNDING FOR DEPARTMENT OF HOMELAND SECURITY*  
 25           *PROGRAMS.—*

1           (1) *REQUIREMENT TO SUBMIT ANALYSIS.*—*The*  
2           *Secretary of Homeland Security shall submit to the*  
3           *Congress, concurrently with the submission of the*  
4           *President’s budget for each fiscal year, a detailed,*  
5           *crosscutting analysis of the budget proposed for the*  
6           *Department of Homeland Security, by budget func-*  
7           *tion, by agency, and by initiative area, identifying*  
8           *the requested amounts of gross and net appropria-*  
9           *tions or obligational authority and outlays for pro-*  
10           *grams and activities of the Department for each of the*  
11           *following mission areas:*

12                   (A) *To prevent terrorist attacks within the*  
13                   *United States.*

14                   (B) *To reduce the vulnerability of the*  
15                   *United States to terrorism.*

16                   (C) *To minimize the damage, and assist in*  
17                   *the recovery, from terrorist attacks that do occur*  
18                   *within the United States.*

19                   (D) *To carry out all functions of the agen-*  
20                   *cies and subdivisions within the Department*  
21                   *that are not related directly to homeland secu-*  
22                   *rity.*

23           (2) *FUNDING ANALYSIS OF MULTIPURPOSE FUNC-*  
24           *TIONS.*—*The analysis required under paragraph (1)*  
25           *for functions that are both related directly and not re-*

1 *lated directly to homeland security shall include a de-*  
2 *tailed allocation of funding for each specific mission*  
3 *area within those functions, including an allocation*  
4 *of funding among mission support functions, such as*  
5 *agency overhead, capital assets, and human capital.*

6 *(3) INCLUDED TERRORISM PREVENTION ACTIVI-*  
7 *TIES.—The analysis required under paragraph (1)(A)*  
8 *shall include the following activities (among others) of*  
9 *the Department:*

10 *(A) Collection and effective use of intel-*  
11 *ligence and law enforcement operations that*  
12 *screen for and target individuals who plan or in-*  
13 *tend to carry out acts of terrorism.*

14 *(B) Investigative, intelligence, and law en-*  
15 *forcement operations that identify and disrupt*  
16 *plans for acts of terrorism or reduce the ability*  
17 *of groups or individuals to commit acts of ter-*  
18 *rorism.*

19 *(C) Investigative activities and intelligence*  
20 *operations to detect and prevent the introduction*  
21 *of weapons of mass destruction into the United*  
22 *States.*

23 *(D) Initiatives to detect potential, or the*  
24 *early stages of actual, biological, chemical, radio-*  
25 *logical, or nuclear attacks.*

1           (E) *Screening individuals against terrorist*  
2 *watch lists.*

3           (F) *Screening cargo to identify and seg-*  
4 *regate high-risk shipments.*

5           (G) *Specific utilization of information shar-*  
6 *ing and intelligence, both horizontally (within*  
7 *the Federal Government) and vertically (among*  
8 *Federal, State, and local governments), to detect*  
9 *or prevent acts of terrorism.*

10           (H) *Initiatives, including law enforcement*  
11 *and intelligence operations, to preempt, disrupt,*  
12 *and deter acts of terrorism overseas intended to*  
13 *strike the United States.*

14           (I) *Investments in technology, research and*  
15 *development, training, and communications sys-*  
16 *tems that are designed to improve the perform-*  
17 *ance of the Department and its agencies with re-*  
18 *spect to each of the activities listed in subpara-*  
19 *graphs (A) through (H).*

20           (4) *SEPARATE DISPLAYS FOR MANDATORY AND*  
21 *DISCRETIONARY AMOUNTS.—Each analysis under*  
22 *paragraph (1) shall include separate displays for pro-*  
23 *posed mandatory appropriations and proposed discre-*  
24 *tionary appropriations.*

1 **SEC. 202. CONSOLIDATED BACKGROUND CHECK PROCESS.**

2       (a) *REQUIREMENT.*—*The Secretary shall establish a*  
3 *single process for conducting the security screening and*  
4 *background checks on individuals participating in any vol-*  
5 *untary or mandatory departmental credentialing or reg-*  
6 *istered traveler program.*

7       (b) *INCLUDED PROGRAMS.*—*The process established*  
8 *under subsection (a) shall be sufficient to meet the security*  
9 *requirements of all applicable Departmental programs, in-*  
10 *cluding—*

11           (1) *the Transportation Worker Identification*  
12 *Credential;*

13           (2) *the Hazmat Endorsement Credential;*

14           (3) *the Free and Secure Trade program;*

15           (4) *the NEXUS and SENTRI border crossing*  
16 *programs;*

17           (5) *the Registered Traveler program of the*  
18 *Transportation Security Administration; and*

19           (6) *any other similar program or credential con-*  
20 *sidered appropriate for inclusion by the Secretary.*

21       (c) *FEATURES OF PROCESS.*—*The process established*  
22 *under subsection (a) shall include the following:*

23           (1) *A single submission of security screening in-*  
24 *formation, including personal data and biometric in-*  
25 *formation as appropriate, necessary to meet the secu-*

1 *rity requirements of all applicable departmental pro-*  
2 *grams:*

3 *(2) An ability to submit such security screening*  
4 *information at any location or through any process*  
5 *approved by the Secretary with respect to any of the*  
6 *applicable departmental programs.*

7 *(3) Acceptance by the Department of a security*  
8 *clearance issued by a Federal agency, to the extent*  
9 *that the security clearance process of the agency satis-*  
10 *fies requirements that are at least as stringent as*  
11 *those of the applicable departmental programs under*  
12 *this section.*

13 *(4) Standards and procedures for protecting in-*  
14 *dividual privacy, confidentiality, record retention,*  
15 *and addressing other concerns relating to information*  
16 *security.*

17 *(d) DEADLINES.—The Secretary of Homeland Secu-*  
18 *rity shall—*

19 *(1) submit a description of the process developed*  
20 *under subsection (a) to the Committee on Homeland*  
21 *Security of the House of Representatives and the*  
22 *Committee on Homeland Security and Governmental*  
23 *Affairs of the Senate by not later than 6 months after*  
24 *the date of the enactment of this Act; and*

1           (2) *begin implementing such process by not later*  
 2           *than 12 months after the date of the enactment of this*  
 3           *Act.*

4           (e) *RELATIONSHIP TO OTHER LAWS.—(1) Nothing in*  
 5           *this section affects any statutory requirement relating to the*  
 6           *operation of the programs described in subsection (b).*

7           (2) *Nothing in this section affects any statutory re-*  
 8           *quirement relating to title III of the Intelligence Reform*  
 9           *and Terrorism Prevention Act of 2004 (50 U.S.C. 435b et*  
 10          *seq.).*

11          ***Subtitle B—Homeland Security In-***  
 12          ***formation Sharing and Analysis***  
 13          ***Enhancement***

14          ***SEC. 211. SHORT TITLE.***

15           *This subtitle may be cited as the “Homeland Security*  
 16           *Information Sharing and Analysis Enhancement Act of*  
 17           *2005”.*

18          ***SEC. 212. PROVISION OF TERRORISM-RELATED INFORMA-***  
 19          ***TION TO PRIVATE SECTOR OFFICIALS.***

20           *Section 201(d) of the Homeland Security Act of 2002*  
 21           *(6 U.S.C. 121(d)) is amended by adding at the end the fol-*  
 22           *lowing:*

23                   *“(20) To require, in consultation with the Assist-*  
 24                   *ant Secretary for Infrastructure Protection, the ere-*  
 25                   *ation and routine dissemination of analytic reports*

1 *and products designed to provide timely and accurate*  
2 *information that has specific relevance to each of the*  
3 *Nation's critical infrastructure sectors (as identified*  
4 *in the national infrastructure protection plan issued*  
5 *under paragraph (5)), to private sector officials in*  
6 *each such sector who are responsible for protecting in-*  
7 *stitutions within that sector from potential acts of*  
8 *terrorism and for mitigating the potential con-*  
9 *sequences of any such act.”.*

10 **SEC. 213. ANALYTIC EXPERTISE ON THE THREATS FROM BI-**  
11 **OLOGICAL AGENTS AND NUCLEAR WEAPONS.**

12 *Section 201(d) of the Homeland Security Act of 2002*  
13 *(6 U.S.C. 121(d)) is further amended by adding at the end*  
14 *the following:*

15 *“(21) To ensure sufficient analytic expertise*  
16 *within the Office of Information Analysis to create*  
17 *and disseminate, on an ongoing basis, products based*  
18 *on the analysis of homeland security information, as*  
19 *defined in section 892(f)(1), with specific reference to*  
20 *the threat of terrorism involving the use of nuclear*  
21 *weapons and biological agents to inflict mass casual-*  
22 *ties or other catastrophic consequences on the popu-*  
23 *lation or territory of the United States.”.*

1 **SEC. 214. ALTERNATIVE ANALYSIS OF HOMELAND SECU-**  
 2 **RITY INFORMATION.**

3 *(a) REQUIREMENT.—Subtitle A of title II of the Home-*  
 4 *land Security Act of 2002 (6 U.S.C. 121 et seq.) is amended*  
 5 *by adding at the end the following:*

6 **“SEC. 203. ALTERNATIVE ANALYSIS OF HOMELAND SECU-**  
 7 **RITY INFORMATION.**

8 *“The Secretary shall establish a process and assign an*  
 9 *individual or entity the responsibility to ensure that, as ap-*  
 10 *propriate, elements of the Department conduct alternative*  
 11 *analysis (commonly referred to as ‘red-team analysis’) of*  
 12 *homeland security information, as that term is defined in*  
 13 *section 892(f)(1), that relates to potential acts of terrorism*  
 14 *involving the use of nuclear weapons or biological agents*  
 15 *to inflict mass casualties or other catastrophic consequences*  
 16 *on the population or territory of the United States.”.*

17 *(b) CLERICAL AMENDMENT.—The table of contents in*  
 18 *section 1(b) of such Act is amended by inserting after the*  
 19 *item relating to section 202 the following:*

*“Sec. 203. Alternative analysis of homeland security information.”.*

20 **SEC. 215. ASSIGNMENT OF INFORMATION ANALYSIS AND IN-**  
 21 **FRAStructure PROTECTION FUNCTIONS.**

22 *Section 201(b) of the Homeland Security Act of 2002*  
 23 *(6 U.S.C. 121(b)) is amended by adding at the end the fol-*  
 24 *lowing:*

1           “(4) *ASSIGNMENT OF SPECIFIC FUNCTIONS.—The*  
2           *Under Secretary for Information Analysis and Infra-*  
3           *structure Protection—*

4           “(A) *shall assign to the Assistant Secretary*  
5           *for Information Analysis the responsibility for*  
6           *performing the functions described in para-*  
7           *graphs (1), (4), (7) through (14), (16), and (18)*  
8           *of subsection (d);*

9           “(B) *shall assign to the Assistant Secretary*  
10           *for Infrastructure Protection the responsibility*  
11           *for performing the functions described in para-*  
12           *graphs (2), (5), and (6) of subsection (d);*

13           “(C) *shall ensure that the Assistant Sec-*  
14           *retary for Information Analysis and the Assist-*  
15           *ant Secretary for Infrastructure Protection both*  
16           *perform the functions described in paragraphs*  
17           *(3), (15), (17), and (19) of subsection (d);*

18           “(D) *may assign to each such Assistant Sec-*  
19           *retary such other duties relating to such respon-*  
20           *sibilities as the Under Secretary may provide;*

21           “(E) *shall direct each such Assistant Sec-*  
22           *retary to coordinate with Federal, State, and*  
23           *local law enforcement agencies, and with tribal*  
24           *and private sector entities, as appropriate, and*

1           “~~(F)~~ shall direct the Assistant Secretary for  
2           Information Analysis to coordinate with ele-  
3           ments of the intelligence community, as appro-  
4           priate.”

5   **SEC. 216. AUTHORITY FOR DISSEMINATING HOMELAND SE-**  
6           **CURITY INFORMATION.**

7           (a) *IN GENERAL.*—Title I of the Homeland Security  
8   Act of 2002 (6 U.S.C. 111 et seq.) is amended by adding  
9   at the end the following:

10   **“SEC. 104. AUTHORITY FOR DISSEMINATING HOMELAND SE-**  
11           **CURITY INFORMATION.**

12           “~~(a)~~ *PRIMARY AUTHORITY.*—Except as provided in  
13   subsection (b), the Secretary shall be the executive branch  
14   official responsible for disseminating homeland security in-  
15   formation to State and local government and tribal officials  
16   and the private sector.

17           “~~(b)~~ *PRIOR APPROVAL REQUIRED.*—No Federal offi-  
18   cial may disseminate any homeland security information,  
19   as defined in section 892(f)(1), to State, local, tribal, or  
20   private sector officials without the Secretary’s prior ap-  
21   proval, except—

22           “~~(1)~~ in exigent circumstances under which it is  
23   essential that the information be communicated im-  
24   mediately; or



1           ~~“(B) the role, programs, products, and per-~~  
2           ~~sonnel of the Office of Information Analysis, the~~  
3           ~~Office of Infrastructure Protection, and other ele-~~  
4           ~~ments of the Department responsible for the inte-~~  
5           ~~gration, analysis, and dissemination of home-~~  
6           ~~land security information, as defined in section~~  
7           ~~892(f)(1).~~

8           ~~“(2) PROGRAM NAME.—The program under this~~  
9           ~~section shall be known as the 9/11 Memorial Home-~~  
10          ~~land Security Fellows Program.~~

11          ~~“(b) ELIGIBILITY.—In order to be eligible for selection~~  
12          ~~as a fellow under the program, an individual must—~~

13                 ~~“(1) have homeland security-related responsibil-~~  
14                 ~~ities; and~~

15                 ~~“(2) possess an appropriate national security~~  
16                 ~~clearance.~~

17          ~~“(e) LIMITATIONS.—The Secretary—~~

18                 ~~“(1) may conduct up to 4 iterations of the pro-~~  
19                 ~~gram each year, each of which shall be 90 days in du-~~  
20                 ~~ration; and~~

21                 ~~“(2) shall ensure that the number of fellows se-~~  
22                 ~~lected for each iteration does not impede the activities~~  
23                 ~~of the Center.~~

24          ~~“(d) CONDITION.—As a condition of selecting an indi-~~  
25          ~~vidual as a fellow under the program, the Secretary shall~~

1 *require that the individual's employer agree to continue to*  
 2 *pay the individual's salary and benefits during the period*  
 3 *of the fellowship.*

4 *“(e) STIPEND.—During the period of the fellowship of*  
 5 *an individual under the program, the Secretary shall, sub-*  
 6 *ject to the availability of appropriations—*

7 *“(1) provide to the individual a stipend to cover*  
 8 *the individual's reasonable living expenses during the*  
 9 *period of the fellowship; and*

10 *“(2) reimburse the individual for round-trip,*  
 11 *economy fare travel to and from the individual's*  
 12 *place of residence twice each month.”.*

13 *(b) CLERICAL AMENDMENT.—The table of contents in*  
 14 *section 1(b) of such Act is further amended by adding at*  
 15 *the end of the items relating to such subtitle the following:*  
*“Sec. 204. 9/11 Memorial Homeland Security Fellows Program.”.*

16 **SEC. 218. ACCESS TO NUCLEAR TERRORISM-RELATED IN-**  
 17 **FORMATION.**

18 *Section 201(d) of the Homeland Security Act of 2002*  
 19 *(6 U.S.C. 121(d)) is further amended by adding at the end*  
 20 *the following:*

21 *“(22) To ensure that—*

22 *“(A) the Assistant Secretary for Informa-*  
 23 *tion Analysis receives promptly and without re-*  
 24 *quest all information obtained by any compo-*  
 25 *nent of the Department if that information re-*

1 *lates, directly or indirectly, to a threat of ter-*  
 2 *rorism involving the potential use of nuclear*  
 3 *weapons;*

4 *“(B) such information is—*

5 *“(i) integrated and analyzed com-*  
 6 *prehensively; and*

7 *“(ii) disseminated in a timely manner,*  
 8 *including to appropriately cleared State,*  
 9 *local, tribal, and private sector officials;*  
 10 *and*

11 *“(C) such information is used to determine*  
 12 *what requests the Department should submit for*  
 13 *collection of additional information relating to*  
 14 *that threat.”.*

15 **SEC. 219. ACCESS OF ASSISTANT SECRETARY FOR INFOR-**  
 16 **MATION ANALYSIS TO TERRORISM INFORMA-**  
 17 **TION.**

18 *Section 201(d) of the Homeland Security Act of 2002*  
 19 *(6 U.S.C. 121(d)) is further amended by adding at the end*  
 20 *the following:*

21 *“(23) To ensure that the Assistant Secretary for*  
 22 *Information Analysis—*

23 *“(A) is routinely and without request given*  
 24 *prompt access to all terrorism-related informa-*  
 25 *tion collected by or otherwise in the possession of*

1           *any component of the Department, including all*  
2           *homeland security information (as that term is*  
3           *defined in section 892(f)(1)); and*

4           *“(B) to the extent technologically feasible*  
5           *has direct access to all databases of any compo-*  
6           *nent of the Department that may contain such*  
7           *information.”.*

8   **SEC. 220. ADMINISTRATION OF THE HOMELAND SECURITY**  
9           **INFORMATION NETWORK.**

10          *Section 201(d) of the Homeland Security Act of 2002*  
11          *(6 U.S.C. 121(d)) is further amended by adding at the end*  
12          *the following:*

13                 *“(24) To administer the homeland security infor-*  
14                 *mation network, including—*

15                         *“(A) exercising primary responsibility for*  
16                         *establishing a secure nationwide real-time home-*  
17                         *land security information sharing network for*  
18                         *Federal, State, and local government agencies*  
19                         *and authorities, tribal officials, the private sec-*  
20                         *tor, and other governmental and private entities*  
21                         *involved in receiving, analyzing, and distrib-*  
22                         *uting information related to threats to homeland*  
23                         *security;*

24                         *“(B) ensuring that the information sharing*  
25                         *systems, developed in connection with the net-*

1           work established under subparagraph (A), are  
2           utilized and are compatible with, to the greatest  
3           extent practicable, Federal, State, and local gov-  
4           ernment, tribal, and private sector antiterrorism  
5           systems and protocols that have been or are being  
6           developed; and

7           “(C) ensuring, to the greatest extent pos-  
8           sible, that the homeland security information  
9           network and information systems are integrated  
10          and interoperable with existing private sector  
11          technologies.”.

12 **SEC. 221. IAIP PERSONNEL RECRUITMENT.**

13          (a) *IN GENERAL.*—Chapter 97 of title 5, United States  
14          Code, is amended by adding after section 9701 the fol-  
15          lowing:

16 **“§ 9702. Recruitment bonuses**

17          “(a) *IN GENERAL.*—Notwithstanding any provision of  
18          chapter 57, the Secretary of Homeland Security, acting  
19          through the Under Secretary for Information Analysis and  
20          Infrastructure Protection, may pay a bonus to an indi-  
21          vidual in order to recruit such individual for a position  
22          that is primarily responsible for discharging the analytic  
23          responsibilities specified in section 201(d) of the Homeland  
24          Security Act of 2002 (6 U.S.C. 121(d)) and that—

1           “(1) is within the Directorate for Information  
2           Analysis and Infrastructure Protection; and

3           “(2) would be difficult to fill in the absence of  
4           such a bonus.

5           In determining which individuals are to receive bonuses  
6           under this section, appropriate consideration shall be given  
7           to the Directorate’s critical need for linguists.

8           “(b) BONUS AMOUNT, FORM, ETC.—

9           “(1) IN GENERAL.—The amount of a bonus  
10           under this section shall be determined under regula-  
11           tions of the Secretary of Homeland Security, but may  
12           not exceed 50 percent of the annual rate of basic pay  
13           of the position involved.

14           “(2) FORM OF PAYMENT.—A bonus under this  
15           section shall be paid in the form of a lump-sum pay-  
16           ment and shall not be considered to be part of basic  
17           pay.

18           “(3) COMPUTATION RULE.—For purposes of  
19           paragraph (1), the annual rate of basic pay of a posi-  
20           tion does not include any comparability payment  
21           under section 5304 or any similar authority.

22           “(c) SERVICE AGREEMENTS.—Payment of a bonus  
23           under this section shall be contingent upon the employee  
24           entering into a written service agreement with the Depart-  
25           ment of Homeland Security. The agreement shall include—

1           “(1) the period of service the individual shall be  
2           required to complete in return for the bonus; and

3           “(2) the conditions under which the agreement  
4           may be terminated before the agreed-upon service pe-  
5           riod has been completed; and the effect of any such  
6           termination.

7           “(d) *ELIGIBILITY.*—A bonus under this section may  
8           not be paid to recruit an individual for—

9           “(1) a position to which an individual is ap-  
10          pointed by the President, by and with the advice and  
11          consent of the Senate;

12          “(2) a position in the Senior Executive Service  
13          as a noncareer appointee (as defined under section  
14          3132(a)); or

15          “(3) a position which has been excepted from the  
16          competitive service by reason of its confidential, pol-  
17          icy-determining, policy-making, or policy-advocating  
18          character.

19          “(e) *TERMINATION.*—The authority to pay bonuses  
20          under this section shall terminate on September 30, 2008.

21       **“§ 9703. Reemployed annuitants**

22          “(a) *IN GENERAL.*—If an annuitant receiving an an-  
23          nuity from the Civil Service Retirement and Disability  
24          Fund becomes employed in a position within the Direc-  
25          torate for Information Analysis and Infrastructure Protec-

1 *tion of the Department of Homeland Security, the annu-*  
 2 *itant's annuity shall continue. An annuitant so reemployed*  
 3 *shall not be considered an employee for the purposes of*  
 4 *chapter 83 or 84.*

5 *“(b) TERMINATION.—The exclusion pursuant to this*  
 6 *section of the Directorate for Information Analysis and In-*  
 7 *frastructure Protection from the reemployed annuitant pro-*  
 8 *visions of chapters 83 and 84 shall terminate 3 years after*  
 9 *the date of the enactment of this section, unless extended*  
 10 *by the Secretary of Homeland Security. Any such extension*  
 11 *shall be for a period of 1 year and shall be renewable.*

12 *“(c) ANNUITANT DEFINED.—For purposes of this sec-*  
 13 *tion, the term ‘annuitant’ has the meaning given such term*  
 14 *under section 8331 or 8401, whichever is appropriate.*

15 **“§ 9704. Regulations**

16 *“The Secretary of Homeland Security, in consultation*  
 17 *with the Director of the Office of Personnel Management,*  
 18 *may prescribe any regulations necessary to carry out sec-*  
 19 *tion 9702 or 9703.”.*

20 *(b) CLERICAL AMENDMENT.—The analysis for chapter*  
 21 *97 of title 5, United States Code, is amended by adding*  
 22 *after the item relating to section 9701 the following:*

*“9702. Recruitment bonuses.*

*“9703. Reemployed annuitants.*

*“9704. Regulations.”.*

1 **SEC. 222. INFORMATION COLLECTION REQUIREMENTS AND**  
 2 **PRIORITIES.**

3 *(a) IN GENERAL.—Section 102 of the Homeland Secu-*  
 4 *rity Act of 2002 (6 U.S.C. 112) is amended—*

5 *(1) by redesignating subsections (e), (f), and (g),*  
 6 *as subsections (f), (g), and (h), respectively; and*

7 *(2) by inserting after subsection (d) the following*  
 8 *new subsection (e):*

9 *“(e) PARTICIPATION IN FOREIGN COLLECTION RE-*  
 10 *QUIREMENTS AND MANAGEMENT PROCESSES.—The Sec-*  
 11 *retary shall be a member of any Federal Government inter-*  
 12 *agency board, established by Executive order or any other*  
 13 *binding interagency directive, that is responsible for estab-*  
 14 *lishing foreign collection information requirements and pri-*  
 15 *orities for estimative analysis.”.*

16 *(b) HOMELAND SECURITY INFORMATION REQUIRE-*  
 17 *MENTS BOARD.—*

18 *(1) IN GENERAL.—Title I of such Act (6 U.S.C.*  
 19 *111 et seq.) is further amended by adding at the end*  
 20 *the following new section:*

21 **“SEC. 105. HOMELAND SECURITY INFORMATION REQUIRE-**  
 22 **MENTS BOARD.**

23 *“(a) ESTABLISHMENT OF BOARD.—There is estab-*  
 24 *lished an interagency Homeland Security Information Re-*  
 25 *quirements Board (hereinafter in this section referred to as*  
 26 *the ‘Information Requirements Board’).*

1       “(b) *MEMBERSHIP.*—*The following officials are mem-*  
2 *bers of the Information Requirements Board:*

3               “(1) *The Secretary of Homeland Security, who*  
4 *shall serve as the Chairman of the Information Re-*  
5 *quirements Board.*

6               “(2) *The Attorney General.*

7               “(3) *The Secretary of Commerce.*

8               “(4) *The Secretary of the Treasury.*

9               “(5) *The Secretary of Defense.*

10              “(6) *The Secretary of Energy.*

11              “(7) *The Secretary of State.*

12              “(8) *The Secretary of the Interior.*

13              “(9) *The Director of National Intelligence.*

14              “(10) *The Director of the Federal Bureau of In-*  
15 *vestigation.*

16              “(11) *The Director of the National*  
17 *Counterterrorism Center.*

18              “(12) *The Chief Privacy Officer of the Depart-*  
19 *ment of Homeland Security.*

20       “(e) *FUNCTIONS.*—

21              “(1) *OVERSIGHT OF HOMELAND SECURITY RE-*  
22 *QUIREMENTS.*—*The Information Requirements Board*  
23 *shall oversee the process for establishing homeland se-*  
24 *curity requirements and collection management for*  
25 *all terrorism-related information and all other home-*

1 *land security information (as defined in section*  
2 *892(f)(1)) collected within the United States.*

3 ~~“(2) DETERMINATION OF COLLECTION PRIOR-~~  
4 ~~ITIES.—The Information Requirements Board shall—~~

5 ~~“(A) determine the domestic information~~  
6 ~~collection requirements for information relevant~~  
7 ~~to the homeland security mission; and~~

8 ~~“(B) prioritize the collection and use of~~  
9 ~~such information.~~

10 ~~“(3) COORDINATION OF COLLECTION REQUIRE-~~  
11 ~~MENTS AND MANAGEMENT ACTIVITIES.—~~

12 ~~“(A) COORDINATION WITH COUNTERPART~~  
13 ~~AGENCIES.—The Chairman shall ensure that the~~  
14 ~~Information Requirements Board carries out its~~  
15 ~~activities in a manner that is fully coordinated~~  
16 ~~with the Board’s counterpart entities.~~

17 ~~“(B) PARTICIPATION OF COUNTERPART EN-~~  
18 ~~TITIES.—The Chairman and the Director of Na-~~  
19 ~~tional Intelligence shall ensure that each counter-~~  
20 ~~part entity—~~

21 ~~“(i) has at least one representative on~~  
22 ~~the Information Requirement Board and on~~  
23 ~~every subcomponent of the Board; and~~

24 ~~“(ii) meets jointly with the Informa-~~  
25 ~~tion Requirements Board (and, as appro-~~

1            *priate, with any subcomponent of the*  
 2            *Board) as often as the Chairman and the*  
 3            *Director of National Intelligence determine*  
 4            *appropriate.*

5            *“(C) COUNTERPART ENTITY DEFINED.—In*  
 6            *this section, the term ‘counterpart entity’ means*  
 7            *an entity of the Federal Government that is re-*  
 8            *sponsible for foreign intelligence collection re-*  
 9            *quirements and management.*

10          *“(d) MEETINGS.—*

11            *“(1) IN GENERAL.—The Information Require-*  
 12            *ments Board shall meet regularly at such times and*  
 13            *places as its Chairman may direct.*

14            *“(2) INVITED REPRESENTATIVES.—The Chair-*  
 15            *man may invite representatives of Federal agencies*  
 16            *not specified in subsection (b) to attend meetings of*  
 17            *the Information Requirements Board.”.*

18            *(2) CLERICAL AMENDMENT.—The table of con-*  
 19            *tents in section 1(b) of such Act is further amended*  
 20            *by inserting after the item relating to section 104 the*  
 21            *following new item:*

*“Sec. 105. Homeland Security Information Requirements Board.”.*

22          **SEC. 223. HOMELAND SECURITY ADVISORY SYSTEM.**

23            *(a) IN GENERAL.—Subtitle A of title II of the Home-*  
 24            *land Security Act of 2002 is further amended—*

1           (1) in section 201(d)(7) (6 U.S.C. 121(d)(7)) by  
2           inserting “under section 205” after “System”; and  
3           (2) by adding at the end the following:

4           **“SEC. 205. HOMELAND SECURITY ADVISORY SYSTEM.**

5           “*(a) REQUIREMENT.—The Under Secretary for Infor-*  
6 *mation Analysis and Infrastructure Protection shall imple-*  
7 *ment a Homeland Security Advisory System in accordance*  
8 *with this section to provide public advisories and alerts re-*  
9 *garding threats to homeland security, including national,*  
10 *regional, local, and economic sector advisories and alerts,*  
11 *as appropriate.*

12          “*(b) REQUIRED ELEMENTS.—The Under Secretary,*  
13 *under the System—*

14           “*(1) shall include, in each advisory and alert re-*  
15 *garding a threat, information on appropriate protec-*  
16 *tive measures and countermeasures that may be taken*  
17 *in response to the threat;*

18           “*(2) shall, whenever possible, limit the scope of*  
19 *each advisory and alert to a specific region, locality,*  
20 *or economic sector believed to be at risk; and*

21           “*(3) shall not, in issuing any advisory or alert,*  
22 *use color designations as the exclusive means of speci-*  
23 *fying the homeland security threat conditions that are*  
24 *the subject of the advisory or alert.”.*

1       **(b) CLERICAL AMENDMENT.**—*The table of contents in*  
2 *section 1(b) of such Act is further amended by adding at*  
3 *the end of the items relating to subtitle A of title II the*  
4 *following:*

*“Sec. 205. Homeland Security Advisory System.”.*

5 **SEC. 224. USE OF OPEN-SOURCE INFORMATION.**

6       *Section 201(d) of the Homeland Security Act of 2002*  
7 *(6 U.S.C. 121(d)) is further amended by adding at the end*  
8 *the following:*

9               ~~“(25) To ensure that, whenever possible—~~

10                       ~~“(A) the Assistant Secretary for Informa-~~  
11 ~~tion Analysis produces and disseminates reports~~  
12 ~~and analytic products based on open-source in-~~  
13 ~~formation that do not require a national security~~  
14 ~~classification under applicable law; and~~

15                       ~~“(B) such unclassified open-source reports~~  
16 ~~are produced and disseminated contempora-~~  
17 ~~neously with reports or analytic products con-~~  
18 ~~cerning the same or similar information that the~~  
19 ~~Assistant Secretary for Information Analysis~~  
20 ~~produces and disseminates in a classified for-~~  
21 ~~mat.”.~~

1 **SEC. 225. FULL AND EFFICIENT USE OF OPEN-SOURCE IN-**  
 2 **FORMATION.**

3 (a) *REQUIREMENT.*—*Subtitle A of title II of the Home-*  
 4 *land Security Act of 2002 (6 U.S.C. 121 et seq.) is further*  
 5 *amended by adding at the end the following:*

6 **“SEC. 206. FULL AND EFFICIENT USE OF OPEN-SOURCE IN-**  
 7 **FORMATION.**

8 *“The Under Secretary shall ensure that, in meeting*  
 9 *their analytic responsibilities under section 201(d) and in*  
 10 *formulating requirements for collection of additional infor-*  
 11 *mation, the Assistant Secretary for Information Analysis*  
 12 *and the Assistant Secretary for Infrastructure Protection*  
 13 *make full and efficient use of open-source information wher-*  
 14 *ever possible.”.*

15 (b) *CLERICAL AMENDMENT.*—*The table of contents in*  
 16 *section 1(b) of such Act is further amended by inserting*  
 17 *after the item relating to section 205 the following:*

*“Sec. 206. Full and efficient use of open-source information.”.*

18 **TITLE III—DOMESTIC PRE-**  
 19 **PAREDNESS AND PROTEC-**  
 20 **TION**

21 **Subtitle A—Preparedness and**  
 22 **Protection**

23 **SEC. 301. NATIONAL TERRORISM EXERCISE PROGRAM.**

24 (a) *IN GENERAL.*—*Section 430(e) of the Homeland Se-*  
 25 *curity Act of 2002 (6 U.S.C. 238) is amended by striking*

1 “and” after the semicolon at the end of paragraph (8), by  
 2 striking the period at the end of paragraph (9) and insert-  
 3 ing “; and”, and by adding at the end the following:

4 “(10) designing, developing, performing, and  
 5 evaluating exercises at the national, State, territorial,  
 6 regional, local, and tribal levels of government that  
 7 incorporate government officials, emergency response  
 8 providers, public safety agencies, the private sector,  
 9 international governments and organizations, and  
 10 other appropriate entities to test the Nation’s capa-  
 11 bility to prevent, prepare for, respond to, and recover  
 12 from threatened or actual acts of terrorism.”.

13 (b) NATIONAL TERRORISM EXERCISE PROGRAM.—

14 (1) ESTABLISHMENT OF PROGRAM.—Title VIII  
 15 of the Homeland Security Act of 2002 (Public Law  
 16 107–296) is amended by adding at the end the fol-  
 17 lowing new subtitle:

18 **“Subtitle J—Terrorism**  
 19 **Preparedness Exercises**

20 **“SEC. 899A. NATIONAL TERRORISM EXERCISE PROGRAM.**

21 “(a) IN GENERAL.—The Secretary, through the Office  
 22 for Domestic Preparedness, shall establish a National Ter-  
 23 rorism Exercise Program for the purpose of testing and  
 24 evaluating the Nation’s capabilities to prevent, prepare for,

1 *respond to, and recover from threatened or actual acts of*  
2 *terrorism that—*

3       *“(1) enhances coordination for terrorism pre-*  
4 *paredness between all levels of government, emergency*  
5 *response providers, international governments and or-*  
6 *ganizations, and the private sector;*

7       *“(2) is—*

8           *“(A) multidisciplinary in nature, includ-*  
9 *ing, as appropriate, information analysis and*  
10 *cybersecurity components;*

11           *“(B) as realistic as practicable and based*  
12 *on current risk assessments, including credible*  
13 *threats, vulnerabilities, and consequences;*

14           *“(C) carried out with the minimum degree*  
15 *of notice to involved parties regarding the timing*  
16 *and details of such exercises, consistent with safe-*  
17 *ty considerations;*

18           *“(D) evaluated against performance meas-*  
19 *ures and followed by corrective action to solve*  
20 *identified deficiencies; and*

21           *“(E) assessed to learn best practices, which*  
22 *shall be shared with appropriate Federal, State,*  
23 *territorial, regional, local, and tribal personnel,*  
24 *authorities, and training institutions for emer-*  
25 *gency response providers; and*

1           ~~“(3) assists State, territorial, local, and tribal~~  
2           ~~governments with the design, implementation, and~~  
3           ~~evaluation of exercises that—~~

4                     ~~“(A) conform to the requirements of para-~~  
5                     ~~graph (2); and~~

6                     ~~“(B) are consistent with any applicable~~  
7                     ~~State homeland security strategy or plan.~~

8           ~~“(b) NATIONAL LEVEL EXERCISES.—The Secretary,~~  
9           ~~through the National Terrorism Exercise Program, shall~~  
10           ~~perform on a periodic basis national terrorism prepared-~~  
11           ~~ness exercises for the purposes of—~~

12                    ~~“(1) involving top officials from Federal, State,~~  
13                    ~~territorial, local, tribal, and international govern-~~  
14                    ~~ments, as the Secretary considers appropriate;~~

15                    ~~“(2) testing and evaluating the Nation’s capa-~~  
16                    ~~bility to detect, disrupt, and prevent threatened or ac-~~  
17                    ~~tual catastrophic acts of terrorism, especially those~~  
18                    ~~involving weapons of mass destruction; and~~

19                    ~~“(3) testing and evaluating the Nation’s readi-~~  
20                    ~~ness to respond to and recover from catastrophic acts~~  
21                    ~~of terrorism, especially those involving weapons of~~  
22                    ~~mass destruction.~~

23           ~~“(e) CONSULTATION WITH FIRST RESPONDERS.—In~~  
24           ~~implementing the responsibilities described in subsections~~  
25           ~~(a) and (b), the Secretary shall consult with a geographic~~

1 *(including urban and rural) and substantive cross section*  
2 *of governmental and nongovernmental first responder dis-*  
3 *ciplines, including as appropriate—*

4 *“(1) Federal, State, and local first responder*  
5 *training institutions;*

6 *“(2) representatives of emergency response pro-*  
7 *viders; and*

8 *“(3) State and local officials with an expertise*  
9 *in terrorism preparedness.”*

10 *(2) CLERICAL AMENDMENT.—The table of con-*  
11 *tents in section 1(b) of such Act is amended by add-*  
12 *ing at the end of the items relating to title VIII the*  
13 *following:*

*“Subtitle J—Terrorism Preparedness Exercises*

*“Sec. 899a. National terrorism exercise program.”*

14 *(c) TOPOFF PREVENTION EXERCISE.—No later than*  
15 *one year after the date of enactment of this Act, the Sec-*  
16 *retary of Homeland Security shall design and carry out*  
17 *a national terrorism prevention exercise for the purposes*  
18 *of—*

19 *(1) involving top officials from Federal, State,*  
20 *territorial, local, tribal, and international govern-*  
21 *ments; and*

22 *(2) testing and evaluating the Nation’s capa-*  
23 *bility to detect, disrupt, and prevent threatened or ac-*

1 *tual catastrophic acts of terrorism, especially those*  
2 *involving weapons of mass destruction.*

3 **SEC. 302. TECHNOLOGY DEVELOPMENT AND TRANSFER.**

4 *(a) ESTABLISHMENT OF TECHNOLOGY CLEARING-*  
5 *HOUSE.—Not later than 90 days after the date of enactment*  
6 *of this Act, the Secretary shall complete the establishment*  
7 *of the Technology Clearinghouse under section 313 of the*  
8 *Homeland Security Act of 2002.*

9 *(b) TRANSFER PROGRAM.—Section 313 of the Home-*  
10 *land Security Act of 2002 (6 U.S.C. 193) is amended—*

11 *(1) by adding at the end of subsection (b) the fol-*  
12 *lowing new paragraph:*

13 *“(6) The establishment of a homeland security*  
14 *technology transfer program to facilitate the identi-*  
15 *fication, modification, and commercialization of tech-*  
16 *nology and equipment for use by Federal, State, and*  
17 *local governmental agencies, emergency response pro-*  
18 *viders, and the private sector to prevent, prepare for,*  
19 *or respond to acts of terrorism.”;*

20 *(2) by redesignating subsection (e) as subsection*  
21 *(d); and*

22 *(3) by inserting after subsection (b) the following*  
23 *new subsection:*

24 *“(e) TECHNOLOGY TRANSFER PROGRAM.—In devel-*  
25 *oping the program described in subsection (b)(6), the Sec-*

1 *retary, acting through the Under Secretary for Science and*  
2 *Technology, shall—*

3 *“(1) in consultation with the other Under Secre-*  
4 *taries of the Department and the Director of the Of-*  
5 *fice for Domestic Preparedness, on an ongoing basis—*

6 *“(A) conduct surveys and reviews of avail-*  
7 *able appropriate technologies that have been, or*  
8 *are in the process of being developed, tested, eval-*  
9 *uated, or demonstrated by the Department, other*  
10 *Federal agencies, or the private sector or foreign*  
11 *governments and international organizations*  
12 *and that may be useful in assisting Federal,*  
13 *State, and local governmental agencies, emer-*  
14 *gency response providers, or the private sector to*  
15 *prevent, prepare for, or respond to acts of ter-*  
16 *rorism;*

17 *“(B) conduct or support research, develop-*  
18 *ment, tests, and evaluations, as appropriate of*  
19 *technologies identified under subparagraph (A),*  
20 *including any necessary modifications to such*  
21 *technologies for antiterrorism use;*

22 *“(C) communicate to Federal, State, and*  
23 *local governmental agencies, emergency response*  
24 *providers, or the private sector the availability of*  
25 *such technologies for antiterrorism use, as well as*

1           *the technology’s specifications, satisfaction of ap-*  
2           *propriate standards, and the appropriate grants*  
3           *available from the Department to purchase such*  
4           *technologies;*

5           *“(D) coordinate the selection and adminis-*  
6           *tration of all technology transfer activities of the*  
7           *Science and Technology Directorate, including*  
8           *projects and grants awarded to the private sector*  
9           *and academia; and*

10           *“(E) identify priorities based on current*  
11           *risk assessments within the Department of*  
12           *Homeland Security for identifying, researching,*  
13           *developing, testing, evaluating, modifying, and*  
14           *fielding existing technologies for antiterrorism*  
15           *purposes;*

16           *“(2) in support of the activities described in*  
17           *paragraph (1)—*

18           *“(A) consult with Federal, State, and local*  
19           *emergency response providers;*

20           *“(B) consult with government agencies and*  
21           *nationally recognized standards development or-*  
22           *ganizations as appropriate;*

23           *“(C) enter into agreements and coordinate*  
24           *with other Federal agencies, foreign governments,*  
25           *and national and international organizations as*

1           *the Secretary determines appropriate, in order to*  
2           *maximize the effectiveness of such technologies or*  
3           *to facilitate commercialization of such tech-*  
4           *nologies; and*

5           *“(D) consult with existing technology trans-*  
6           *fer programs and Federal and State training*  
7           *centers that research, develop, test, evaluate, and*  
8           *transfer military and other technologies for use*  
9           *by emergency response providers; and*

10          ~~“(E) establish a working group in coordination~~  
11          *with the Secretary of Defense to advise and assist the*  
12          *technology clearinghouse in the identification of mili-*  
13          *tary technologies that are in the process of being de-*  
14          *veloped, or are developed, by the Department of De-*  
15          *fense or the private sector, which may include—*

16                 *“(A) representatives from the Department of*  
17                 *Defense or retired military officers;*

18                 *“(B) nongovernmental organizations or pri-*  
19                 *vate companies that are engaged in the research,*  
20                 *development, testing, or evaluation of related*  
21                 *technologies or that have demonstrated prior ex-*  
22                 *perience and success in searching for and identi-*  
23                 *fying technologies for Federal agencies;*

24                 *“(C) Federal, State, and local emergency re-*  
25                 *sponse providers; and*

1           “(D) to the extent the Secretary considers  
2           appropriate, other organizations, other interested  
3           Federal, State, and local agencies, and other in-  
4           terested persons.”.

5           (e) *REPORT*.—Not later than 1 year after the date of  
6           enactment of this Act, the Under Secretary for Science and  
7           Technology shall transmit to the Congress a description of  
8           the progress the Department has made in implementing the  
9           provisions of section 313 of the Homeland Security Act of  
10          2002, as amended by this Act, including a description of  
11          the process used to review unsolicited proposals received as  
12          described in subsection (b)(3) of such section.

13          (d) *SAVINGS CLAUSE*.—Nothing in this section (in-  
14          cluding the amendments made by this section) shall be con-  
15          strued to alter or diminish the effect of the limitation on  
16          the authority of the Secretary of Homeland Security under  
17          section 302(4) of the Homeland Security Act of 2002 (6  
18          U.S.C. 182(4)) with respect to human health-related re-  
19          search and development activities.

20        **SEC. 303. REVIEW OF ANTITERRORISM ACQUISITIONS.**

21          (a) *STUDY*.—The Secretary of Homeland Security  
22          shall conduct a study of all Department of Homeland Secu-  
23          rity procurements, including ongoing procurements and an-  
24          ticipated procurements, to—

1           (1) identify those that involve any product,  
2           equipment, service (including support services), de-  
3           vice, or technology (including information technology)  
4           that is being designed, developed, modified, or pro-  
5           cured for the specific purpose of preventing, detecting,  
6           identifying, or deterring acts of terrorism or limiting  
7           the harm such acts might otherwise cause; and

8           (2) assess whether such product, equipment, serv-  
9           ice (including support services), device, or technology  
10          is an appropriate candidate for the litigation and  
11          risk management protections of subtitle G of title VIII  
12          of the *Homeland Security Act of 2002*.

13          (b) *SUMMARY AND CLASSIFICATION REPORT*.—Not  
14          later than 180 days after the date of enactment of this Act,  
15          the Secretary shall transmit to the Congress a report—

16                 (1) describing each product, equipment, service  
17                 (including support services), device, and technology  
18                 identified under subsection (a) that the Secretary be-  
19                 lieves would be an appropriate candidate for the liti-  
20                 gation and risk management protections of subtitle G  
21                 of title VIII of the *Homeland Security Act of 2002*;

22                 (2) listing each such product, equipment, service  
23                 (including support services), device, and technology in  
24                 order of priority for deployment in accordance with  
25                 current terrorism risk assessment information; and

1           ~~(3) setting forth specific actions taken, or to be~~  
2           ~~taken, to encourage or require persons or entities that~~  
3           ~~sell or otherwise provide such products, equipment,~~  
4           ~~services (including support services), devices, and~~  
5           ~~technologies to apply for the litigation and risk man-~~  
6           ~~agement protections of subtitle G of title VIII of the~~  
7           ~~Homeland Security Act of 2002, and to ensure~~  
8           ~~prioritization of the Department's review of such~~  
9           ~~products, equipment, services, devices, and tech-~~  
10          ~~nologies under such Act in accordance with the~~  
11          ~~prioritization set forth in paragraph (2) of this sub-~~  
12          ~~section.~~

13 **SEC. 304. CENTER OF EXCELLENCE FOR BORDER SECURITY.**

14           *The Secretary of Homeland Security shall establish a*  
15           *university-based Center for Excellence for Border Security*  
16           *following the merit-review processes and procedures that*  
17           *have been established for selecting University Programs*  
18           *Centers of Excellence. The Center shall prioritize its activi-*  
19           *ties on the basis of risk to address the most significant*  
20           *threats, vulnerabilities, and consequences posed by the Na-*  
21           *tion's borders and border control systems, including the con-*  
22           *duct of research, the examination of existing and emerging*  
23           *border security technology and systems, and the provision*  
24           *of education, technical, and analytical assistance for the*

1 *Department of Homeland Security to effectively secure the*  
2 *Nation's borders.*

3 **SEC. 305. REQUIREMENTS RELATING TO THE CONTAINER**  
4 **SECURITY INITIATIVE (CSI).**

5 *(a) RISK ASSESSMENT AND DESIGNATION OF NEW*  
6 *FOREIGN SEAPORTS.—*

7 *(1) RISK ASSESSMENT.—The Secretary of Home-*  
8 *land Security shall conduct a risk assessment of each*  
9 *foreign seaport that the Secretary is considering des-*  
10 *ignating as a port under the Container Security Ini-*  
11 *tiative (CSI) on or after the date of the enactment of*  
12 *this Act. Each such assessment shall evaluate the level*  
13 *of risk for the potential compromise of cargo con-*  
14 *tainers by terrorists or terrorist weapons.*

15 *(2) DESIGNATION.—The Secretary is authorized*  
16 *to designate a foreign seaport as a port under CSI on*  
17 *or after the date of the enactment of this Act only if*  
18 *the Secretary determines, based on a risk assessment*  
19 *under paragraph (1) and a cost-benefit analysis, that*  
20 *the benefits of designating such port outweigh the cost*  
21 *of expanding the program to such port.*

22 *(b) DEPLOYMENT OF INSPECTION EQUIPMENT TO NEW*  
23 *CSI PORTS.—*

24 *(1) DEPLOYMENT.—The Secretary is authorized*  
25 *to assist in the loaning of nonintrusive inspection*

1       *equipment for cargo containers, on a nonreimbursable*  
2       *basis, at each CSI port designated under subsection*  
3       *(a)(2) and provide training for personnel at the CSI*  
4       *port to operate the nonintrusive inspection equip-*  
5       *ment.*

6               *(2) ADDITIONAL REQUIREMENTS.—The Secretary*  
7       *shall establish technical capability requirements and*  
8       *standard operating procedures for nonintrusive in-*  
9       *spection equipment described in paragraph (1) and*  
10       *shall require each CSI port to agree to operate such*  
11       *equipment in accordance with such requirements and*  
12       *procedures as a condition for receiving the equipment*  
13       *and training under such paragraph.*

14       *(c) DEPLOYMENT OF PERSONNEL TO NEW CSI PORTS;*  
15       *REEVALUATION OF PERSONNEL AT ALL CSI PORTS.—*

16               *(1) DEPLOYMENT.—The Secretary shall deploy*  
17       *Department of Homeland Security personnel to each*  
18       *CSI port designated under subsection (a)(1) with re-*  
19       *spect to which the Secretary determines that the de-*  
20       *ployment is necessary to successfully implement the*  
21       *requirements of CSI at the port.*

22               *(2) REEVALUATION.—The Secretary shall peri-*  
23       *odically review relevant risk assessment information*  
24       *with respect to all CSI ports at which Department of*  
25       *Homeland Security personnel are deployed to assess*

1        *whether or not continued deployment of such per-*  
2        *sonnel, in whole or in part, is necessary to success-*  
3        *fully implement the requirements of CSI at the port.*

4        *(d) INSPECTION AND SCREENING AT UNITED STATES*  
5        *PORTS OF ENTRY.—Cargo containers arriving at a United*  
6        *States port of entry from a CSI port shall undergo the same*  
7        *level of inspection and screening for potential compromise*  
8        *by terrorists or terrorist weapons as cargo containers arriv-*  
9        *ing at a United States port of entry from a foreign seaport*  
10       *that is not participating in CSI unless the containers were*  
11       *initially inspected at the CSI port at the request of CSI*  
12       *personnel and such personnel verify and electronically*  
13       *record that the inspection indicates that the containers have*  
14       *not been compromised by terrorists or terrorist weapons.*

15       *(e) DEFINITION.—In this section, the term “Container*  
16       *Security Initiative” or “CSI” means the program carried*  
17       *out by the Department of Homeland Security under which*  
18       *the Department enters into agreements with foreign sea-*  
19       *ports to—*

20                *(1) establish security criteria to identify high-*  
21                *risk maritime cargo containers bound for the United*  
22                *States based on advance information; and*

23                *(2) screen or inspect such maritime cargo con-*  
24                *tainers for potential compromise by terrorists or ter-*

1        *rorist weapons prior to shipment to the United*  
2        *States.*

3        **SEC. 306. SECURITY OF MARITIME CARGO CONTAINERS.**

4        *(a) REGULATIONS.—*

5                *(1) IN GENERAL.—Not later than 180 days after*  
6        *the date of the enactment of this Act, the Secretary of*  
7        *Homeland Security shall issue regulations for the se-*  
8        *curity of maritime cargo containers moving within*  
9        *the intermodal transportation system in accordance*  
10        *with the requirements of paragraph (2).*

11                *(2) REQUIREMENTS.—The regulations issued*  
12        *pursuant to paragraph (1) shall be in accordance*  
13        *with recommendations of the Maritime Transpor-*  
14        *tation Security Act Subcommittee of the Advisory*  
15        *Committee on Commercial Operations of the Depart-*  
16        *ment of Homeland Security, including recommenda-*  
17        *tions relating to obligation to seal, recording of seal*  
18        *changes, modal changes, seal placement, ocean carrier*  
19        *seal verification, and addressing seal anomalies.*

20                *(b) INTERNATIONAL AGREEMENTS.—The Secretary*  
21        *shall seek to enter into agreements with foreign countries*  
22        *and international organizations to establish standards for*  
23        *the security of maritime cargo containers moving within*  
24        *the intermodal transportation system that, to the maximum*

1 *extent practicable, meet the requirements of subsection*  
2 *(a)(2).*

3 *(c) CONTAINER TARGETING STRATEGY.—*

4 *(1) STRATEGY.—The Secretary shall develop a*  
5 *strategy to improve the ability of the Department of*  
6 *Homeland Security to use information contained in*  
7 *shipping bills of lading to identify and provide addi-*  
8 *tional review of anomalies in such bills of lading. The*  
9 *strategy shall include a method of contacting shippers*  
10 *in a timely fashion to verify or explain any anoma-*  
11 *lies in shipping bills of lading.*

12 *(2) REPORT.—Not later than 90 days after the*  
13 *date of the enactment of this Act, the Secretary shall*  
14 *submit to the appropriate congressional committees a*  
15 *report on the implementation of this subsection, in-*  
16 *cluding information on any data searching tech-*  
17 *nologies that will be used to implement the strategy.*

18 *(d) CONTAINER SECURITY DEMONSTRATION PRO-*  
19 *GRAM.—*

20 *(1) PROGRAM.—The Secretary is authorized to*  
21 *establish and carry out a demonstration program that*  
22 *integrates nonintrusive inspection equipment, includ-*  
23 *ing radiation detection equipment and gamma ray*  
24 *inspection equipment, at an appropriate United*  
25 *States seaport, as determined by the Secretary.*



1 **SEC. 308. INTEROPERABLE COMMUNICATIONS ASSISTANCE.**

2 *(a) FINDINGS.—The Congress finds the following:*

3 *(1) The 9/11 Commission determined that the in-*  
4 *ability of first responders to communicate effectively*  
5 *on September 11, 2001 was a critical obstacle to an*  
6 *effective multi-jurisdictional response.*

7 *(2) Many jurisdictions across the country still*  
8 *experience difficulties communicating that may con-*  
9 *tribute to confusion, delays, or added risks when re-*  
10 *sponding to an emergency.*

11 *(3) During fiscal year 2004, the Office for Do-*  
12 *mestic Preparedness awarded over \$834,000,000 for*  
13 *2,912 projects through Department of Homeland Se-*  
14 *curity grant programs for the purposes of improving*  
15 *communications interoperability.*

16 *(4) Interoperable communications systems are*  
17 *most effective when designed to comprehensively ad-*  
18 *dress, on a regional basis, the communications of all*  
19 *types of public safety agencies, first responder dis-*  
20 *ciplines, and State and local government facilities.*

21 *(5) Achieving communications interoperability is*  
22 *complex due to the extensive training, system modi-*  
23 *fications, and agreements among the different juris-*  
24 *dictions that are necessary to implement effective*  
25 *communications systems.*

1           (6) *The Congress authorized the Department of*  
2 *Homeland Security to create an Office for Interoper-*  
3 *ability and Compatibility in the Intelligence Reform*  
4 *and Terrorism Prevention Act of 2004 to, among*  
5 *other things, establish a comprehensive national ap-*  
6 *proach, coordinate federal activities, accelerate the*  
7 *adoption of standards, and encourage research and*  
8 *development to achieve interoperable communications*  
9 *for first responders.*

10           (7) *The Office for Interoperability and Compat-*  
11 *ibility includes the SAFECOM Program that serves*  
12 *as the umbrella program within the Federal govern-*  
13 *ment to improve public safety communications inter-*  
14 *operability, and has developed the RAPIDCOM pro-*  
15 *gram, the Statewide Communications Interoperability*  
16 *Planning Methodology, and a Statement of Require-*  
17 *ments to provide technical, planning, and purchasing*  
18 *assistance for Federal departments and agencies,*  
19 *State and local governments, and first responders.*

20           (b) *SENSE OF CONGRESS.—It is the sense of the Con-*  
21 *gress that the Department of Homeland Security should im-*  
22 *plement as expeditiously as possible the initiatives assigned*  
23 *to the Office for Interoperability and Compatibility under*  
24 *section 7303 of the Intelligence Reform and Terrorism Pre-*

1 *vention Act of 2004 (6 U.S.C. 194), including specifically*  
2 *the following:*

3           (1) *Establishing a comprehensive national ap-*  
4 *proach to achieving public safety interoperable com-*  
5 *munications.*

6           (2) *Issuing letters of intent to commit future*  
7 *funds for jurisdictions through existing homeland se-*  
8 *curity grant programs to applicants as appropriate*  
9 *to encourage long-term investments that may signifi-*  
10 *cantly improve communications interoperability.*

11           (3) *Providing technical assistance to additional*  
12 *urban and other high-risk areas to support the estab-*  
13 *lishment of consistent, secure, and effective interoper-*  
14 *able communications capabilities.*

15           (4) *Completing the report to the Congress on the*  
16 *Department's plans for accelerating the development*  
17 *of national voluntary consensus standards for public*  
18 *safety interoperable communications, a schedule of*  
19 *milestones for such development, and achievements of*  
20 *such development, by no later than 30 days after the*  
21 *date of enactment of this Act.*

1 **SEC. 309. REPORT TO CONGRESS ON IMPLEMENTATION OF**  
2 **RECOMMENDATIONS REGARDING PROTEC-**  
3 **TION OF AGRICULTURE.**

4 *The Secretary of Homeland Security shall report to*  
5 *the Committee on Homeland Security of the House of Rep-*  
6 *resentatives and the Committee on Homeland Security and*  
7 *Governmental Affairs of the Senate by no later than 120*  
8 *days after the date of the enactment of this Act regarding*  
9 *how the Department of Homeland Security will implement*  
10 *the applicable recommendations from the Government Ac-*  
11 *countability Office report entitled “Homeland Security:*  
12 *Much is Being Done to Protect Agriculture from a Terrorist*  
13 *Attack, but Important Challenges Remain” (GAO–05–214).*

14 **Subtitle B—Department of Home-**  
15 **land Security Cybersecurity En-**  
16 **hancement**

17 **SEC. 311. SHORT TITLE.**

18 *This subtitle may be cited as the “Department of*  
19 *Homeland Security Cybersecurity Enhancement Act of*  
20 *2005”.*

21 **SEC. 312. ASSISTANT SECRETARY FOR CYBERSECURITY.**

22 *(a) IN GENERAL.—Subtitle A of title II of the Home-*  
23 *land Security Act of 2002 (6 U.S.C. 121 et seq.) is further*  
24 *amended by adding at the end the following:*

1 **“SEC. 207. ASSISTANT SECRETARY FOR CYBERSECURITY.**

2       “(a) *IN GENERAL.*—*There shall be in the Directorate*  
3 *for Information Analysis and Infrastructure Protection a*  
4 *National Cybersecurity Office headed by an Assistant Sec-*  
5 *retary for Cybersecurity (in this section referred to as the*  
6 *‘Assistant Secretary’), who shall assist the Secretary in pro-*  
7 *moting cybersecurity for the Nation.*

8       “(b) *GENERAL AUTHORITY.*—*The Assistant Secretary,*  
9 *subject to the direction and control of the Secretary, shall*  
10 *have primary authority within the Department for all*  
11 *cybersecurity-related critical infrastructure protection pro-*  
12 *grams of the Department, including with respect to policy*  
13 *formulation and program management.*

14       “(c) *RESPONSIBILITIES.*—*The responsibilities of the*  
15 *Assistant Secretary shall include the following:*

16               “(1) *To establish and manage—*

17                       “(A) *a national cybersecurity response sys-*  
18 *tem that includes the ability to—*

19                               “(i) *analyze the effect of cybersecurity*  
20 *threat information on national critical in-*  
21 *frastructure; and*

22                               “(ii) *aid in the detection and warning*  
23 *of attacks on, and in the restoration of,*  
24 *cybersecurity infrastructure in the after-*  
25 *math of such attacks;*

1           “(B) a national cybersecurity threat and  
2           vulnerability reduction program that identifies  
3           cybersecurity vulnerabilities that would have a  
4           national effect on critical infrastructure, per-  
5           forms vulnerability assessments on information  
6           technologies, and coordinates the mitigation of  
7           such vulnerabilities;

8           “(C) a national cybersecurity awareness  
9           and training program that promotes  
10          cybersecurity awareness among the public and  
11          the private sectors and promotes cybersecurity  
12          training and education programs;

13          “(D) a government cybersecurity program  
14          to coordinate and consult with Federal, State,  
15          and local governments to enhance their  
16          cybersecurity programs; and

17          “(E) a national security and international  
18          cybersecurity cooperation program to help foster  
19          Federal efforts to enhance international  
20          cybersecurity awareness and cooperation.

21          “(2) To coordinate with the private sector on the  
22          program under paragraph (1) as appropriate, and to  
23          promote cybersecurity information sharing, vulner-  
24          ability assessment, and threat warning regarding  
25          critical infrastructure.

1           “(3) To coordinate with other directorates and  
2 offices within the Department on the cybersecurity as-  
3 pects of their missions.

4           “(4) To coordinate with the Under Secretary for  
5 Emergency Preparedness and Response to ensure that  
6 the National Response Plan developed pursuant to  
7 section 502(6) of the Homeland Security Act of 2002  
8 (6 U.S.C. 312(6)) includes appropriate measures for  
9 the recovery of the cybersecurity elements of critical  
10 infrastructure.

11           “(5) To develop processes for information shar-  
12 ing with the private sector, consistent with section  
13 214, that—

14           “(A) promote voluntary cybersecurity best  
15 practices, standards, and benchmarks that are  
16 responsive to rapid technology changes and to  
17 the security needs of critical infrastructure; and

18           “(B) consider roles of Federal, State, local,  
19 and foreign governments and the private sector,  
20 including the insurance industry and auditors.

21           “(6) To coordinate with the Chief Information  
22 Officer of the Department in establishing a secure in-  
23 formation sharing architecture and information shar-  
24 ing processes, including with respect to the Depart-  
25 ment’s operation centers.

1           ~~“(7) To consult with the Electronic Crimes Task~~  
2           ~~Force of the United States Secret Service on private~~  
3           ~~sector outreach and information activities.~~

4           ~~“(8) To consult with the Office for Domestic Pre-~~  
5           ~~paredness to ensure that realistic cybersecurity sce-~~  
6           ~~narios are incorporated into tabletop and recovery ex-~~  
7           ~~ercises.~~

8           ~~“(9) To consult and coordinate, as appropriate,~~  
9           ~~with other Federal agencies on cybersecurity-related~~  
10          ~~programs, policies, and operations.~~

11          ~~“(10) To consult and coordinate within the De-~~  
12          ~~partment and, where appropriate, with other relevant~~  
13          ~~Federal agencies, on security of digital control sys-~~  
14          ~~tems, such as Supervisory Control and Data Acquisi-~~  
15          ~~tion (SCADA) systems.~~

16          ~~“(d) AUTHORITY OVER THE NATIONAL COMMUNICA-~~  
17          ~~TIONS SYSTEM.—The Assistant Secretary shall have pri-~~  
18          ~~mary authority within the Department over the National~~  
19          ~~Communications System.”.~~

20          ~~(b) CLERICAL AMENDMENT.—The table of contents in~~  
21          ~~section 1(b) of such Act is amended by adding at the end~~  
22          ~~of the items relating to subtitle A of title II the following:~~

~~“Sec. 207. Assistant Secretary for Cybersecurity.”.~~

23          ~~**SEC. 313. CYBERSECURITY DEFINED.**~~

24          ~~Section 2 of the Homeland Security Act of 2002 (6~~  
25          ~~U.S.C. 101) is amended by adding at the end the following:~~

1           “(17)(A) *The term ‘cybersecurity’ means the pre-*  
2           *vention of damage to, the protection of, and the res-*  
3           *toration of computers, electronic communications sys-*  
4           *tems, electronic communication services, wire commu-*  
5           *nication, and electronic communication, including in-*  
6           *formation contained therein, to ensure its avail-*  
7           *ability, integrity, authentication, confidentiality, and*  
8           *nonrepudiation.*”

9           “(B) *In this paragraph—*

10           “(i) *each of the terms ‘damage’ and ‘com-*  
11           *puter’ has the meaning that term has in section*  
12           *1030 of title 18, United States Code; and*

13           “(ii) *each of the terms ‘electronic commu-*  
14           *nications system’, ‘electronic communication*  
15           *service’, ‘wire communication’, and ‘electronic*  
16           *communication’ has the meaning that term has*  
17           *in section 2510 of title 18, United States Code.”.*

18 **SEC. 314. CYBERSECURITY TRAINING PROGRAMS AND**  
19 **EQUIPMENT.**

20           *(a) IN GENERAL.—The Secretary of Homeland Secu-*  
21           *rity, acting through the Assistant Secretary for*  
22           *Cybersecurity, may establish, in conjunction with the Na-*  
23           *tional Science Foundation, a program to award grants to*  
24           *institutions of higher education (and consortia thereof)*  
25           *for—*

1           (1) *the establishment or expansion of*  
2 *cybersecurity professional development programs;*

3           (2) *the establishment or expansion of associate*  
4 *degree programs in cybersecurity; and*

5           (3) *the purchase of equipment to provide train-*  
6 *ing in cybersecurity for either professional develop-*  
7 *ment programs or degree programs.*

8       (b) *ROLES.—*

9           (1) *DEPARTMENT OF HOMELAND SECURITY.—*

10 *The Secretary, acting through the Assistant Secretary*  
11 *for Cybersecurity and in consultation with the Direc-*  
12 *tor of the National Science Foundation, shall establish*  
13 *the goals for the program established under this sec-*  
14 *tion and the criteria for awarding grants under the*  
15 *program.*

16           (2) *NATIONAL SCIENCE FOUNDATION.—The Di-*

17 *rector of the National Science Foundation shall oper-*  
18 *ate the program established under this section con-*  
19 *sistent with the goals and criteria established under*  
20 *paragraph (1), including soliciting applicants, re-*  
21 *viewing applications, and making and administering*  
22 *grant awards. The Director may consult with the As-*  
23 *stant Secretary for Cybersecurity in selecting*  
24 *awardees.*

1           (3) *FUNDING.*—*The Secretary shall transfer to*  
2           *the National Science Foundation the funds necessary*  
3           *to carry out this section.*

4           (i) *GRANT AWARDS.*—

5           (1) *PEER REVIEW.*—*All grant awards under this*  
6           *section shall be made on a competitive, merit-reviewed*  
7           *basis.*

8           (2) *FOCUS.*—*In making grant awards under this*  
9           *section, the Director shall, to the extent practicable,*  
10          *ensure geographic diversity and the participation of*  
11          *women and underrepresented minorities.*

12          (3) *PREFERENCE.*—*In making grant awards*  
13          *under this section, the Director shall give preference*  
14          *to applications submitted by consortia of institutions*  
15          *to encourage as many students and professionals as*  
16          *possible to benefit from this program.*

17          (d) *AUTHORIZATION OF APPROPRIATIONS.*—*Of the*  
18          *amount authorized under section 101, there is authorized*  
19          *to be appropriated to the Secretary for carrying out this*  
20          *section \$3,700,000 for fiscal year 2006.*

21          (e) *DEFINITIONS.*—*In this section, the term “institu-*  
22          *tion of higher education” has the meaning given that term*  
23          *in section 101(a) of the Higher Education Act of 1965 (20*  
24          *U.S.C. 1001(a)).*

1 **SEC. 315. INFORMATION SECURITY REQUIREMENTS AND**  
 2 **OMB RESPONSIBILITIES NOT AFFECTED.**

3 *(a) IN GENERAL.—This subtitle does not affect—*

4 *(1) any information security requirement under*  
 5 *any other Federal law; or*

6 *(2) the responsibilities of the Director of the Of-*  
 7 *fice of Management and Budget under any other Fed-*  
 8 *eral law.*

9 *(b) LAWS INCLUDED.—The laws referred to in sub-*  
 10 *section (a) include the following:*

11 *(1) Chapter 35 of title 44, United States Code,*  
 12 *popularly known as the Paperwork Reduction Act.*

13 *(2) The Clinger-Cohen Act of 1996 (divisions D*  
 14 *and E of Public Law 104–106), including the provi-*  
 15 *sions of law enacted by amendments made by that*  
 16 *Act.*

17 *(3) The Federal Information Security Manage-*  
 18 *ment Act of 2002 (title III of Public Law 107–347),*  
 19 *including the provisions of law enacted by amend-*  
 20 *ments made by that Act.*

21 ***Subtitle C—Security of Public***  
 22 ***Transportation Systems***

23 **SEC. 321. SECURITY BEST PRACTICES.**

24 *Not later than 120 days after the date of enactment*  
 25 *of this Act, the Secretary of Homeland Security shall de-*  
 26 *velop, disseminate to appropriate owners, operators, and*

1 *providers of public transportation systems, public transpor-*  
2 *tation employees and employee representatives, and Fed-*  
3 *eral, State, and local officials, and transmit to Congress,*  
4 *a report containing best practices for the security of public*  
5 *transportation systems. In developing best practices, the*  
6 *Secretary shall be responsible for consulting with and col-*  
7 *lecting input from owners, operators, and providers of pub-*  
8 *lic transportation systems, public transportation employee*  
9 *representatives, first responders, industry associations, pri-*  
10 *vate sector experts, academic experts, and appropriate Fed-*  
11 *eral, State, and local officials.*

12 **SEC. 322. PUBLIC AWARENESS.**

13 *Not later than 90 days after the date of enactment of*  
14 *this Act, the Secretary of Homeland Security shall develop*  
15 *a national plan for public outreach and awareness. Such*  
16 *plan shall be designed to increase awareness of measures*  
17 *that the general public, public transportation passengers,*  
18 *and public transportation employees can take to increase*  
19 *public transportation system security. Such plan shall also*  
20 *provide outreach to owners, operators, providers, and em-*  
21 *ployees of public transportation systems to improve their*  
22 *awareness of available technologies, ongoing research and*  
23 *development efforts, and available Federal funding sources*  
24 *to improve public transportation security. Not later than*  
25 *9 months after the date of enactment of this Act, the Sec-*

1 *retary shall implement the plan developed under this sec-*  
2 *tion.*

3 ***Subtitle D—Critical Infrastructure***  
4 ***Prioritization***

5 ***SEC. 331. CRITICAL INFRASTRUCTURE.***

6 *(a) COMPLETION OF PRIORITIZATION.—Not later than*  
7 *90 days after the date of the enactment of this Act, the Sec-*  
8 *retary of Homeland Security shall complete the*  
9 *prioritization of the Nation’s critical infrastructure accord-*  
10 *ing to all of the following criteria:*

11 *(1) The threat of terrorist attack, based on threat*  
12 *information received and analyzed by the Office of*  
13 *Information Analysis of the Department regarding*  
14 *the intentions and capabilities of terrorist groups and*  
15 *other potential threats to the Nation’s critical infra-*  
16 *structure.*

17 *(2) The likelihood that an attack would cause the*  
18 *destruction or significant disruption of such infra-*  
19 *structure.*

20 *(3) The likelihood that an attack would result in*  
21 *substantial numbers of deaths and serious bodily in-*  
22 *juries, a substantial adverse impact on the national*  
23 *economy, or a substantial adverse impact on national*  
24 *security.*

1        *(b) COOPERATION.—Such prioritization shall be devel-*  
2 *oped in cooperation with other relevant Federal agencies,*  
3 *State, local, and tribal governments, and the private sector,*  
4 *as appropriate.*

5 **SEC. 332. SECURITY REVIEW.**

6        *(a) REQUIREMENT.—Not later than 9 months after the*  
7 *date of the enactment of this Act, the Secretary, in coordina-*  
8 *tion with other relevant Federal agencies, State, local, and*  
9 *tribal governments, and the private sector, as appropriate,*  
10 *shall—*

11            *(1) review existing Federal, State, local, tribal,*  
12 *and private sector plans for securing the critical in-*  
13 *frastructure included in the prioritization developed*  
14 *under section 331;*

15            *(2) recommend changes to existing plans for se-*  
16 *curing such infrastructure, as the Secretary deter-*  
17 *mines necessary; and*

18            *(3) coordinate and contribute to protective efforts*  
19 *of other Federal, State, local, and tribal agencies and*  
20 *the private sector, as appropriate, as directed in*  
21 *Homeland Security Presidential Directive 7.*

22        *(b) CONTENTS OF PLANS.—The recommendations*  
23 *made under subsection (a)(2) shall include—*

1           (1) *necessary protective measures to secure such*  
2           *infrastructure, including milestones and timeframes*  
3           *for implementation; and*

4           (2) *to the extent practicable, performance metrics*  
5           *to evaluate the benefits to both national security and*  
6           *the Nation's economy from the implementation of*  
7           *such protective measures.*

8 **SEC. 333. IMPLEMENTATION REPORT.**

9           (a) *IN GENERAL.*—*Not later than 15 months after the*  
10 *date of the enactment of this Act, the Secretary shall submit*  
11 *a report to the Committee on Homeland Security of the*  
12 *House of Representatives and the Committee on Homeland*  
13 *Security and Governmental Affairs of the Senate on the im-*  
14 *plementation of section 332. Such report shall detail—*

15           (1) *the Secretary's review and coordination of se-*  
16 *curity plans under section 332; and*

17           (2) *the Secretary's oversight of the execution and*  
18 *effectiveness of such plans.*

19           (b) *UPDATE.*—*Not later than 1 year after the submis-*  
20 *sion of the report under subsection (a), the Secretary shall*  
21 *provide an update of such report to the congressional com-*  
22 *mittees described in subsection (a).*

1 **SEC. 334. PROTECTION OF INFORMATION.**

2 *Information that is generated, compiled, or dissemi-*  
3 *nated by the Department of Homeland Security in carrying*  
4 *out this section—*

5 *(1) is exempt from disclosure under section 552*  
6 *of title 5, United States Code; and*

7 *(2) shall not, if provided by the Department to*  
8 *a State or local government or government agency—*

9 *(A) be made available pursuant to any*  
10 *State or local law requiring disclosure of infor-*  
11 *mation or records;*

12 *(B) otherwise be disclosed or distributed to*  
13 *any person by such State or local government or*  
14 *government agency without the written consent*  
15 *of the Secretary; or*

16 *(C) be used other than for the purpose of*  
17 *protecting critical infrastructure or protected*  
18 *systems; or in furtherance of an investigation or*  
19 *the prosecution of a criminal act.*

20 **TITLE IV—MISCELLANEOUS**

21 **SEC. 401. BORDER SECURITY AND ENFORCEMENT COORDI-**  
22 **NATION AND OPERATIONS.**

23 *(a) FINDINGS.—The Congress makes the following*  
24 *findings:*

25 *(1) In creating the Department of Homeland Se-*  
26 *curity, the Congress sought to enhance the Nation's*

1 *capabilities to prevent, protect against, and respond*  
2 *to terrorist acts by consolidating existing Federal*  
3 *agencies with homeland security functions into a sin-*  
4 *gle new Department, and by realigning the missions*  
5 *of those legacy agencies to more directly support our*  
6 *national homeland security efforts.*

7 *(2) As part of this massive government reorga-*  
8 *nization, section 442 of the Homeland Security Act of*  
9 *2002 (Public Law 107-273) established a Bureau of*  
10 *Border Security and transferred into it all of the*  
11 *functions, programs, personnel, assets, and liabilities*  
12 *pertaining to the following programs: the Border Pa-*  
13 *trol; alien detention and removal; immigration-re-*  
14 *lated intelligence, investigations, and enforcement ac-*  
15 *tivities; and immigration inspections at ports of*  
16 *entry.*

17 *(3) Title IV of the Homeland Security Act of*  
18 *2002 (Public Law 107-273) also transferred to the*  
19 *new Department the United States Customs Service,*  
20 *as a distinct entity within the new Department, to*  
21 *further the Department's border integrity mission.*

22 *(4) Utilizing its reorganization authority pro-*  
23 *vided in the Homeland Security Act of 2002, the*  
24 *President submitted a reorganization plan for the De-*  
25 *partment on January 30, 2003.*

1           (5) *This plan merged the customs and immigra-*  
2 *tion border inspection and patrol functions, along*  
3 *with agricultural inspections functions, into a new*  
4 *entity called United States Customs and Border Pro-*  
5 *tection.*

6           (6) *The plan also combined the customs and im-*  
7 *migration enforcement agents, as well as the Office of*  
8 *Detention and Removal Operations, the Office of Fed-*  
9 *eral Protective Service, the Office of Federal Air Mar-*  
10 *shal Service, and the Office of Intelligence, into an-*  
11 *other new entity called United States Immigration*  
12 *and Customs Enforcement.*

13           (7) *The President's January 30, 2003, reorga-*  
14 *nization plan did not explain the reasons for sepa-*  
15 *rating immigration inspection and border patrol*  
16 *functions from other immigration-related enforcement*  
17 *activities, which was contrary to the single Bureau of*  
18 *Border Security as prescribed by the Congress in the*  
19 *section 441 of the Homeland Security Act of 2002.*

20           (8) *Two years after this structure has been in ef-*  
21 *fect, questions remain about whether the Department*  
22 *has organized itself properly, and is managing its*  
23 *customs and immigration enforcement and border se-*  
24 *curity resources in the most efficient, sensible, and ef-*  
25 *fective manner.*

1           (9) *The current structure has resulted in less co-*  
2 *operation and information sharing between these two*  
3 *critical functions than is desirable, and has caused*  
4 *operational and administrative difficulties that are*  
5 *hampering efforts to secure our borders and ensure the*  
6 *integrity of our border control system.*

7           (10) *United States Immigration and Customs*  
8 *Enforcement has faced major budgetary challenges*  
9 *that are, in part, attributable to the inexact division*  
10 *of resources upon the separation of immigration func-*  
11 *tions. These budget shortfalls have forced United*  
12 *States Immigration and Customs Enforcement to im-*  
13 *pose hiring freezes and to release aliens that otherwise*  
14 *should be detained.*

15           (11) *The current structure also has resulted in*  
16 *unnecessary overlap and duplication between United*  
17 *States Immigration and Customs Enforcement and*  
18 *United States Customs and Border Protection, both*  
19 *in the field and at the headquarters level. There are*  
20 *intelligence, legislative affairs, public affairs, and*  
21 *international affairs offices in both agencies.*

22           (12) *Border security and customs and immigra-*  
23 *tion enforcement should be one seamless mission.*

24           ***(b) REPORT.—***

1           (1) *IN GENERAL.*—Not later than 30 days after  
2           the date of the enactment of this Act, the Secretary of  
3           Homeland Security shall review and evaluate the cur-  
4           rent organizational structure of the Department of  
5           Homeland Security established by the President’s  
6           January 30, 2003, reorganization plan and submit a  
7           report of findings and recommendations to the Con-  
8           gress.

9           (2) *CONTENTS OF REPORT.*—The report shall in-  
10          clude—

11                 (A) a description of the rationale for, and  
12                 any benefits of, the current organizational divi-  
13                 sion of United States Immigration and Customs  
14                 Enforcement and United States Customs and  
15                 Border Protection, with respect to the Depart-  
16                 ment’s immigration and customs missions;

17                 (B) a description of the organization, mis-  
18                 sions, operations, and policies of United States  
19                 Customs and Border Protection and United  
20                 States Immigration and Customs Enforcement,  
21                 and areas of unnecessary overlap or operational  
22                 gaps among and between these missions;

23                 (C) an analysis of alternative organiza-  
24                 tional structures that could provide a more effec-

1           *tive way to deliver maximum efficiencies and*  
2           *mission success;*

3           *(D) a description of the current role of the*  
4           *Directorate of Border and Transportation Secu-*  
5           *rity with respect to providing adequate direction*  
6           *and oversight of the two agencies, and whether*  
7           *this management structure is still necessary;*

8           *(E) an analysis of whether the Federal Air*  
9           *Marshals and the Federal Protective Service are*  
10          *properly located within the Department within*  
11          *United States Immigration and Customs En-*  
12          *forcement;*

13          *(F) the proper placement and functions of*  
14          *a specialized investigative and patrol unit oper-*  
15          *ating at the southwest border on the Tohono*  
16          *O'odham Nation, known as the Shadow Wolves;*

17          *(G) the potential costs of reorganization, in-*  
18          *cluding financial, programmatic, and other*  
19          *costs, to the Department; and*

20          *(H) recommendations for correcting the*  
21          *operational and administrative problems that*  
22          *have been caused by the division of United States*  
23          *Customs and Border Protection and United*  
24          *States Immigration and Customs Enforcement,*  
25          *including any appropriate reorganization plans.*

1 **SEC. 402. GAO REPORT TO CONGRESS.**

2 *Not later than 6 months after the date of the enactment*  
3 *of this Act, the Comptroller General of the United States*  
4 *shall submit to the Congress a report that sets forth—*

5 *(1) an assessment of the effectiveness of the orga-*  
6 *nizational and management structure of the Depart-*  
7 *ment of Homeland Security in meeting the Depart-*  
8 *ment's missions; and*

9 *(2) recommendations to facilitate and improve*  
10 *the organization and management of the Department*  
11 *to best meet those missions.*

12 **SEC. 403. PLAN FOR ESTABLISHING CONSOLIDATED AND**  
13 **COLOCATED REGIONAL OFFICES.**

14 *Not later than 60 days after the date of the enactment*  
15 *of this Act, the Secretary of Homeland Security shall de-*  
16 *velop and submit to the Congress a plan for establishing*  
17 *consolidated and colocated regional offices for the Depart-*  
18 *ment of Homeland Security in accordance with section 706*  
19 *of the Homeland Security Act of 2002 (6 U.S.C. 346).*

20 **SEC. 404. PLAN TO REDUCE WAIT TIMES.**

21 *Not later than 180 days after the date of enactment*  
22 *of this Act, the Secretary of Homeland Security shall de-*  
23 *velop a plan—*

24 *(1) to improve the operational efficiency of secu-*  
25 *rity screening checkpoints at commercial service air-*

1       ports so that average peak waiting periods at such  
2       checkpoints do not exceed 20 minutes; and

3               (2) to ensure that there are no significant dis-  
4       parities in immigration and customs processing times  
5       among airports that serve as international gateways.

6 **SEC. 405. DENIAL OF TRANSPORTATION SECURITY CARD.**

7       Section 70105(e) of title 46, United States Code, is  
8       amended—

9               (1) in paragraph (3) by inserting before the pe-  
10       riod “before an administrative law judge”; and

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

12       “(5) In making a determination under paragraph  
13       (1)(D), the Secretary shall not consider a felony conviction  
14       if—

15              “(A) that felony occurred more than 7 years  
16       prior to the date of the Secretary’s determination;  
17       and

18              “(B) the felony was not related to terrorism (as  
19       that term is defined in section 2 of the Homeland Se-  
20       curity Act of 2002 (6 U.S.C. 101)).”.

1 **SEC. 406. TRANSFER OF EXISTING CUSTOMS PATROL OFFI-**  
2 **CERS UNIT AND ESTABLISHMENT OF NEW**  
3 **CPO UNITS IN THE BUREAU OF IMMIGRATION**  
4 **AND CUSTOMS ENFORCEMENT.**

5 (a) *TRANSFER OF EXISTING UNIT.*—Not later than  
6 180 days after the date of the enactment of this Act, the  
7 Secretary of Homeland Security shall transfer to the Bu-  
8 reau of Immigration and Customs Enforcement all func-  
9 tions (including the personnel, assets, and obligations held  
10 by or available in connection with such functions) of the  
11 Customs Patrol Officers unit of the Bureau of Customs and  
12 Border Protection operating on the Tohono O’odham In-  
13 dian reservation (commonly known as the ‘Shadow Wolves’  
14 unit).

15 (b) *ESTABLISHMENT OF NEW UNITS.*—The Secretary  
16 is authorized to establish within the Bureau of Immigration  
17 and Customs Enforcement additional units of Customs Pa-  
18 trol Officers in accordance with this section.

19 (c) *DUTIES.*—The Secretary is authorized to establish  
20 within the Bureau of Immigration and Customs Enforce-  
21 ment additional units of Customs Patrol Officers in accord-  
22 ance with this section.

23 (d) *BASIC PAY FOR JOURNEYMAN OFFICERS.*—The  
24 rate of basic pay for a journeyman Customs Patrol Officer  
25 in a unit described in this section shall be not less than  
26 the rate of basic pay for GS-13 of the General Schedule.

1        *(e) SUPERVISORS.—Each unit described under this*  
 2 *section shall be supervised by a Chief Customs Patrol Offi-*  
 3 *cer, who shall have the same rank as a resident agent in-*  
 4 *charge of the Office of Investigations.*

5 **SECTION 1. SHORT TITLE.**

6        **This Act may be cited as the “Department**  
 7 **of Homeland Security Authorization Act for**  
 8 **Fiscal Year 2006”.**

9 **SEC. 2. TABLE OF CONTENTS.**

10        **The table of contents for this Act is as fol-**  
 11 **lows:**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—AUTHORIZATION OF APPROPRIATIONS**

Sec. 101. Department of Homeland Security.

Sec. 102. Border patrol agents.

Sec. 103. Departmental management and operations.

Sec. 104. Critical infrastructure grants.

Sec. 105. Research and development.

Sec. 106. Border and transportation security.

Sec. 107. State and local terrorism preparedness.

Sec. 108. Authorization of appropriations for training of State  
and local personnel in border States performing  
immigration functions.

Sec. 109. Metropolitan medical response system.

**TITLE II—TERRORISM PREVENTION, INFORMATION  
SHARING, AND RISK ASSESSMENT**

**Subtitle A—Terrorism Prevention**

Sec. 201. Terrorism Prevention Plan and related budget sub-  
mission.

Sec. 202. Consolidated background check process.

**Subtitle B—Homeland Security Information Sharing and  
Analysis Enhancement**

Sec. 211. Short title.

Sec. 212. Provision of terrorism-related information to private  
sector officials.

- Sec. 213. Analytic expertise on the threats from biological agents and nuclear weapons.**
- Sec. 214. Alternative analysis of homeland security information.**
- Sec. 215. Assignment of information analysis and infrastructure protection functions.**
- Sec. 216. Authority for disseminating homeland security information.**
- Sec. 217. 9/11 Memorial Homeland Security Fellows Program.**
- Sec. 218. Access to nuclear terrorism-related information.**
- Sec. 219. Access of Assistant Secretary for Information Analysis to terrorism information.**
- Sec. 220. Administration of the Homeland Security Information Network.**
- Sec. 221. IAIP personnel recruitment.**
- Sec. 222. Information collection requirements and priorities.**
- Sec. 223. Homeland Security Advisory System.**
- Sec. 224. Use of open-source information.**
- Sec. 225. Full and efficient use of open-source information.**

### **TITLE III—DOMESTIC PREPAREDNESS AND PROTECTION**

#### **Subtitle A—Preparedness and Protection**

- Sec. 301. National terrorism exercise program.**
- Sec. 302. Technology development and transfer.**
- Sec. 303. Review of antiterrorism acquisitions.**
- Sec. 304. Center of Excellence for Border Security.**
- Sec. 305. Requirements relating to the Container Security Initiative (CSI).**
- Sec. 306. Security of maritime cargo containers.**
- Sec. 307. Security plan for general aviation at Ronald Reagan Washington National Airport.**
- Sec. 308. Interoperable communications assistance.**
- Sec. 309. Report to Congress on implementation of recommendations regarding protection of agriculture.**

#### **Subtitle B—Department of Homeland Security Cybersecurity Enhancement**

- Sec. 311. Short title.**
- Sec. 312. Assistant secretary for cybersecurity.**
- Sec. 313. Cybersecurity defined.**
- Sec. 314. Cybersecurity training programs and equipment.**

#### **Subtitle C—Security of public transportation systems**

- Sec. 321. Security best practices.**
- Sec. 322. Public awareness.**

#### **Subtitle D—Critical infrastructure prioritization**

- Sec. 331. Critical infrastructure.**
- Sec. 332. Security review.**
- Sec. 333. Implementation report.**
- Sec. 334. Protection of information.**

## TITLE IV—MISCELLANEOUS

Sec. 401. Border security and enforcement coordination and operations.

Sec. 402. GAO report to Congress.

Sec. 403. Plan for establishing consolidated and colocated regional offices.

Sec. 404. Plan to reduce wait times.

Sec. 405. Denial of transportation security card.

Sec. 406. Transfer of existing Customs Patrol Officers unit and establishment of new CPO units in the Bureau of Immigration and Customs Enforcement.

1       **TITLE I—AUTHORIZATION OF**  
2                   **APPROPRIATIONS**

3       **SEC. 101. DEPARTMENT OF HOMELAND SECURITY.**

4           **There is authorized to be appropriated to**  
5 **the Secretary of Homeland Security for the**  
6 **necessary expenses of the Department of**  
7 **Homeland Security for fiscal year 2006,**  
8 **\$34,152,143,000.**

9       **SEC. 102. BORDER PATROL AGENTS.**

10           **Of the amount authorized under section**  
11 **101, there is authorized to be appropriated for**  
12 **fiscal year 2006 for border security and con-**  
13 **trol between ports of entry, including for the**  
14 **hiring of 2,000 border patrol agents in addi-**  
15 **tion to the number employed on the date of**  
16 **enactment of this Act, and related training**  
17 **and support costs, \$1,916,427,000.**

1 **SEC. 103. DEPARTMENTAL MANAGEMENT AND OPER-**  
2 **ATIONS.**

3 **Of the amount authorized under section**  
4 **101, there is authorized to be appropriated for**  
5 **fiscal year 2006 for departmental manage-**  
6 **ment and operations, \$634,687,000, of which—**

7 **(1) \$44,895,000 is authorized for the**  
8 **Department of Homeland Security Re-**  
9 **gions Initiative;**

10 **(2) \$4,459,000 is authorized for Oper-**  
11 **ation Integration Staff; and**

12 **(3) \$56,278,000 is authorized for Office**  
13 **of Security initiatives.**

14 **SEC. 104. CRITICAL INFRASTRUCTURE GRANTS.**

15 **Of the amount authorized under section**  
16 **101, there is authorized to be appropriated for**  
17 **fiscal year 2006 for grants and other assist-**  
18 **ance to improve critical infrastructure pro-**  
19 **tection, \$500,000,000.**

20 **SEC. 105. RESEARCH AND DEVELOPMENT.**

21 **Of the amount authorized under section**  
22 **101, there are authorized to be appropriated**  
23 **for fiscal year 2006—**

24 **(1) \$76,573,000 to support chemical**  
25 **countermeasure development activities of**

1       **the Directorate of Science and Tech-**  
2       **nology;**

3               **(2) \$197,314,000 to support a nuclear**  
4       **detection office and related activities of**  
5       **such directorate;**

6               **(3) \$10,000,000 for research and devel-**  
7       **opment of technologies capable of coun-**  
8       **tering threats posed by man-portable air**  
9       **defense systems, including location-based**  
10       **technologies and noncommercial aircraft-**  
11       **based technologies; and**

12               **(4) \$10,600,000 for the activities of**  
13       **such directorate conducted pursuant to**  
14       **subtitle G of title VIII of the Homeland**  
15       **Security Act of 2002 (6 U.S.C. 441 et seq.).**

16 **SEC. 106. BORDER AND TRANSPORTATION SECURITY.**

17       **Of the amount authorized under section**  
18       **101, there are authorized to be appropriated**  
19       **for fiscal year 2006—**

20               **(1) \$826,913,000 for expenses related**  
21       **to Screening Coordination and Oper-**  
22       **ations of the Directorate of Border and**  
23       **Transportation Security;**

1           **(2) \$100,000,000 for weapons of mass**  
2           **destruction detection technology of such**  
3           **directorate; and**

4           **(3) \$133,800,000 for the Container Se-**  
5           **curity Initiative of such directorate.**

6 **SEC. 107. STATE AND LOCAL TERRORISM PREPAREDNESS.**

7           **Of the amount authorized under section**  
8           **101, there is authorized to be appropriated for**  
9           **fiscal year 2006—**

10           **(1) \$40,500,000 for the activities of the**  
11           **Office for Interoperability and Compat-**  
12           **ibility within the Directorate of Science**  
13           **and Technology pursuant to section 7303**  
14           **of the Intelligence Reform and Terrorism**  
15           **Prevention Act of 2004 (6 U.S.C 194); and**

16           **(2) \$1,000,000,000 for discretionary**  
17           **grants for high-threat, high-density**  
18           **urban areas awarded by the Office of**  
19           **State and Local Government Coordina-**  
20           **tion and Preparedness.**

1 SEC. 108. AUTHORIZATION OF APPROPRIATIONS FOR  
2 TRAINING OF STATE AND LOCAL PERSONNEL  
3 IN BORDER STATES PERFORMING IMMIGRA-  
4 TION FUNCTIONS.

5 (a) IN GENERAL.—To carry out subsection  
6 (b), subject to such limitations as may be pro-  
7 vided in Acts making appropriations for Man-  
8 agement and Administration for U.S. Immi-  
9 gration and Customs Enforcement, there are  
10 authorized to be appropriated from such  
11 amounts \$40,000,000 for fiscal year 2006, to re-  
12 main available until September 30, 2007, for  
13 the purpose of enhancing the integrity of the  
14 border security system of the United States  
15 against the threat of terrorism.

16 (b) USE OF FUNDS.—From amounts made  
17 available under subsection (a), the Secretary  
18 of Homeland Security may reimburse a State  
19 or political subdivision described in sub-  
20 section (c) for the expenses described in sub-  
21 section (d).

22 (c) ELIGIBLE RECIPIENTS.—A State, or a po-  
23 litical subdivision of a State, is eligible for re-  
24 imbursement under subsection (b) if the State  
25 or political subdivision—

1           **(1) contains a location that is 30 miles**  
2           **or less from a border or coastline of the**  
3           **United States;**

4           **(2) has entered into a written agree-**  
5           **ment described in section 287(g) of the**  
6           **Immigration and Nationality Act (8 U.S.C.**  
7           **1357(g)) under which certain officers or**  
8           **employees of the State or subdivision**  
9           **may be authorized to perform certain**  
10          **functions of an immigration officer; and**

11          **(3) desires such officers or employees**  
12          **to receive training from the Department**  
13          **of Homeland Security in relation to such**  
14          **functions.**

15          **(d) EXPENSES.—The expenses described in**  
16          **this subsection are actual and necessary ex-**  
17          **penses incurred by the State or political sub-**  
18          **division in order to permit the training de-**  
19          **scribed in subsection (c)(3) to take place, in-**  
20          **cluding expenses such as the following:**

21               **(1) Costs of travel and transportation**  
22               **to locations where training is provided,**  
23               **including mileage and related allowances**  
24               **for the use of a privately owned auto-**  
25               **mobile.**

1           **(2) Subsistence consisting of lodging,**  
2           **meals, and other necessary expenses for**  
3           **the personal sustenance and comfort of a**  
4           **person required to travel away from the**  
5           **person's regular post of duty in order to**  
6           **participate in the training.**

7           **(3) A per diem allowance paid instead**  
8           **of actual expenses for subsistence and**  
9           **fees or tips to porters and stewards.**

10           **(4) Costs of securing temporary re-**  
11           **placements for personnel traveling to,**  
12           **and participating in, the training.**

13 **SEC. 109. METROPOLITAN MEDICAL RESPONSE SYSTEM.**

14           **Of the amount authorized under section**  
15 **101, there is authorized to be appropriated**  
16 **\$75,000,000 for fiscal year 2006 for the Metro-**  
17 **politan Medical Response System.**

18 **TITLE II—TERRORISM PREVEN-**  
19 **TION, INFORMATION SHAR-**  
20 **ING, AND RISK ASSESSMENT**

21 **Subtitle A—Terrorism Prevention**

22 **SEC. 201. TERRORISM PREVENTION PLAN AND RELATED**  
23 **BUDGET SUBMISSION.**

24           **(a) DEPARTMENT OF HOMELAND SECURITY**  
25 **TERRORISM PREVENTION PLAN.—**

1           **(1) REQUIREMENTS.—**Not later than 1  
2           year after the date of enactment of the  
3           **Act, and on a regular basis thereafter, the**  
4           **Secretary of Homeland Security shall**  
5           **prepare and submit to the Committee on**  
6           **Homeland Security of the House of Rep-**  
7           **resentatives and the Committee on Home-**  
8           **land Security and Governmental Affairs**  
9           **of the Senate a Department of Homeland**  
10          **Security Terrorism Prevention Plan. The**  
11          **Plan shall be a comprehensive and inte-**  
12          **grated plan that includes the goals, objec-**  
13          **tives, milestones, and key initiatives of**  
14          **the Department of Homeland Security to**  
15          **prevent acts of terrorism on the United**  
16          **States, including its territories and inter-**  
17          **ests.**

18           **(2) CONTENTS.—**The Secretary shall in-  
19          **clude in the Plan the following elements:**

20                   **(A)           Identification           and**  
21                   **prioritization of groups and sub-**  
22                   **groups that pose the most significant**  
23                   **threat of committing acts of terrorism**  
24                   **on the United States and its interests.**

1           **(B) Identification of the most sig-**  
2 **nificant current, evolving, and long-**  
3 **term terrorist threats to the United**  
4 **States and its interests, including an**  
5 **evaluation of—**

6                   **(i) the materials that may be**  
7 **used to carry out a potential at-**  
8 **tack;**

9                   **(ii) the methods that may be**  
10 **used to carry out a potential at-**  
11 **tack; and**

12                   **(iii) the outcome the perpetra-**  
13 **tors of acts of terrorism aim to**  
14 **achieve.**

15           **(C) A prioritization of the threats**  
16 **identified under subparagraph (B),**  
17 **based on an assessment of probability**  
18 **and consequence of such attacks.**

19           **(D) A description of processes and**  
20 **procedures that the Secretary shall**  
21 **establish to institutionalize close co-**  
22 **ordination between the Department**  
23 **of Homeland Security and the Na-**  
24 **tional Counter Terrorism Center and**

1           **other appropriate United States intel-**  
2           **ligence agencies.**

3           **(E) The policies and procedures**  
4           **the Secretary shall establish to en-**  
5           **sure the Department gathers real-**  
6           **time information from the National**  
7           **Counter Terrorism Center; dissemi-**  
8           **nates this information throughout the**  
9           **Department, as appropriate; utilizes**  
10          **this information to support the De-**  
11          **partment's counterterrorism respon-**  
12          **sibilities; integrates the Department's**  
13          **information collection and analysis**  
14          **functions; and disseminates this in-**  
15          **formation to its operational units, as**  
16          **appropriate.**

17          **(F) A description of the specific**  
18          **actions the Secretary shall take to**  
19          **identify threats of terrorism on the**  
20          **United States and its interests, and to**  
21          **coordinate activities within the De-**  
22          **partment to prevent acts of terrorism,**  
23          **with special emphasis on prevention**  
24          **of terrorist access to and use of weap-**  
25          **ons of mass destruction.**

1           **(G) A description of initiatives the**  
2           **Secretary shall take to share critical**  
3           **terrorism prevention information**  
4           **with, and provide terrorism preven-**  
5           **tion support to, State and local gov-**  
6           **ernments and the private sector.**

7           **(H) A timeline, with goals and**  
8           **milestones, for implementing the**  
9           **Homeland Security Information Net-**  
10          **work, the Homeland Security Secure**  
11          **Data Network, and other depart-**  
12          **mental information initiatives to pre-**  
13          **vent acts of terrorism on the United**  
14          **States and its interests, including in-**  
15          **tegration of these initiatives in the**  
16          **operations of the Homeland Security**  
17          **Operations Center.**

18          **(I) Such other terrorism preven-**  
19          **tion-related elements as the Secretary**  
20          **considers appropriate.**

21          **(3) CONSULTATION.—In formulating the**  
22          **Plan the Secretary shall consult with—**

23                 **(A) the Director of National Intel-**  
24                 **ligence;**

1           **(B) the Director of the National**  
2           **Counter Terrorism Center;**

3           **(C) the Attorney General;**

4           **(D) the Director of the Federal**  
5           **Bureau of Investigation;**

6           **(E) the Secretary of Defense;**

7           **(F) the Secretary of State;**

8           **(G) the Secretary of Energy;**

9           **(H) the Secretary of the Treasury;**

10          **and**

11          **(I) the heads of other Federal**  
12          **agencies and State, county, and local**  
13          **law enforcement agencies as the Sec-**  
14          **retary considers appropriate.**

15          **(4) CLASSIFICATION.—The Secretary**  
16          **shall prepare the Plan in both classified**  
17          **and nonclassified forms.**

18          **(b) ANNUAL CROSSCUTTING ANALYSIS OF**  
19          **PROPOSED FUNDING FOR DEPARTMENT OF HOME-**  
20          **LAND SECURITY PROGRAMS.—**

21                 **(1) REQUIREMENT TO SUBMIT ANAL-**  
22                 **YSIS.—The Secretary of Homeland Secu-**  
23                 **rity shall submit to the Congress, concu-**  
24                 **rently with the submission of the Presi-**  
25                 **dent’s budget for each fiscal year, a de-**

1       **tailed, crosscutting analysis of the budget**  
2       **proposed for the Department of Home-**  
3       **land Security, by budget function, by**  
4       **agency, and by initiative area, identifying**  
5       **the requested amounts of gross and net**  
6       **appropriations or obligational authority**  
7       **and outlays for programs and activities**  
8       **of the Department for each of the fol-**  
9       **lowing mission areas:**

10               **(A) To prevent terrorist attacks**  
11               **within the United States.**

12               **(B) To reduce the vulnerability of**  
13               **the United States to terrorism.**

14               **(C) To minimize the damage, and**  
15               **assist in the recovery, from terrorist**  
16               **attacks that do occur within the**  
17               **United States.**

18               **(D) To carry out all functions of**  
19               **the agencies and subdivisions within**  
20               **the Department that are not related**  
21               **directly to homeland security.**

22               **(2) FUNDING ANALYSIS OF MULTIPUR-**  
23       **POSE FUNCTIONS.—The analysis required**  
24       **under paragraph (1) for functions that**  
25       **are both related directly and not related**

1 directly to homeland security shall in-  
2 clude a detailed allocation of funding for  
3 each specific mission area within those  
4 functions, including an allocation of  
5 funding among mission support func-  
6 tions, such as agency overhead, capital  
7 assets, and human capital.

8 (3) INCLUDED TERRORISM PREVENTION  
9 ACTIVITIES.—The analysis required under  
10 paragraph (1)(A) shall include the fol-  
11 lowing activities (among others) of the  
12 Department:

13 (A) Collection and effective use of  
14 intelligence and law enforcement op-  
15 erations that screen for and target in-  
16 dividuals who plan or intend to carry  
17 out acts of terrorism.

18 (B) Investigative, intelligence,  
19 and law enforcement operations that  
20 identify and disrupt plans for acts of  
21 terrorism or reduce the ability of  
22 groups or individuals to commit acts  
23 of terrorism.

24 (C) Investigative activities and in-  
25 telligence operations to detect and

1           **prevent the introduction of weapons**  
2           **of mass destruction into the United**  
3           **States.**

4           **(D) Initiatives to detect potential,**  
5           **or the early stages of actual, biologi-**  
6           **cal, chemical, radiological, or nuclear**  
7           **attacks.**

8           **(E) Screening individuals against**  
9           **terrorist watch lists.**

10          **(F) Screening cargo to identify**  
11          **and segregate high-risk shipments.**

12          **(G) Specific utilization of infor-**  
13          **mation sharing and intelligence, both**  
14          **horizontally (within the Federal Gov-**  
15          **ernment) and vertically (among Fed-**  
16          **eral, State, and local governments), to**  
17          **detect or prevent acts of terrorism.**

18          **(H) Initiatives, including law en-**  
19          **forcement and intelligence oper-**  
20          **ations, to preempt, disrupt, and deter**  
21          **acts of terrorism overseas intended to**  
22          **strike the United States.**

23          **(I) Investments in technology, re-**  
24          **search and development, training,**  
25          **and communications systems that are**

1           **designed to improve the performance**  
2           **of the Department and its agencies**  
3           **with respect to each of the activities**  
4           **listed in subparagraphs (A) through**  
5           **(H).**

6           **(4) SEPARATE DISPLAYS FOR MANDATORY**  
7           **AND DISCRETIONARY AMOUNTS.—Each anal-**  
8           **ysis under paragraph (1) shall include**  
9           **separate displays for proposed manda-**  
10          **tory appropriations and proposed discre-**  
11          **tionary appropriations.**

12 **SEC. 202. CONSOLIDATED BACKGROUND CHECK PROCESS.**

13          **(a) REQUIREMENT.—The Secretary shall es-**  
14          **tablish a single process for conducting the se-**  
15          **curity screening and background checks on**  
16          **individuals participating in any voluntary or**  
17          **mandatory departmental credentialing or**  
18          **registered traveler program.**

19          **(b) INCLUDED PROGRAMS.—The process es-**  
20          **tablished under subsection (a) shall be suffi-**  
21          **cient to meet the security requirements of all**  
22          **applicable Departmental programs, includ-**  
23          **ing—**

24                  **(1) the Transportation Worker Identifi-**  
25                  **cation Credential;**

1           **(2) the Hazmat Endorsement Creden-**  
2           **tial;**

3           **(3) the Free and Secure Trade pro-**  
4           **gram;**

5           **(4) the NEXUS and SENTRI border**  
6           **crossing programs;**

7           **(5) the Registered Traveler program**  
8           **of the Transportation Security Adminis-**  
9           **tration; and**

10           **(6) any other similar program or cre-**  
11           **dential considered appropriate for inclu-**  
12           **sion by the Secretary.**

13           **(c) FEATURES OF PROCESS.—The process es-**  
14           **tablished under subsection (a) shall include**  
15           **the following:**

16           **(1) A single submission of security**  
17           **screening information, including per-**  
18           **sonal data and biometric information as**  
19           **appropriate, necessary to meet the secu-**  
20           **rity requirements of all applicable de-**  
21           **partmental programs.**

22           **(2) An ability to submit such security**  
23           **screening information at any location or**  
24           **through any process approved by the**

1       **Secretary with respect to any of the ap-**  
2       **licable departmental programs.**

3               **(3) Acceptance by the Department of**  
4       **a security clearance issued by a Federal**  
5       **agency, to the extent that the security**  
6       **clearance process of the agency satisfies**  
7       **requirements that are at least as strin-**  
8       **gent as those of the applicable depart-**  
9       **mental programs under this section.**

10              **(4) Standards and procedures for pro-**  
11       **tecting individual privacy, confiden-**  
12       **tiality, record retention, and addressing**  
13       **other concerns relating to information se-**  
14       **curity.**

15       **(d) DEADLINES.—The Secretary of Home-**  
16       **land Security shall—**

17              **(1) submit a description of the proc-**  
18       **ess developed under subsection (a) to the**  
19       **Committee on Homeland Security of the**  
20       **House of Representatives and the Com-**  
21       **mittee on Homeland Security and Gov-**  
22       **ernmental Affairs of the Senate by not**  
23       **later than 6 months after the date of the**  
24       **enactment of this Act; and**

1           **(2) begin implementing such process**  
2           **by not later than 12 months after the**  
3           **date of the enactment of this Act.**

4           **(e) RELATIONSHIP TO OTHER LAWS.—(1)**  
5           **Nothing in this section affects any statutory**  
6           **requirement relating to the operation of the**  
7           **programs described in subsection (b).**

8           **(2) Nothing in this section affects any stat-**  
9           **utory requirement relating to title III of the**  
10           **Intelligence Reform and Terrorism Preven-**  
11           **tion Act of 2004 (50 U.S.C. 435b et seq.).**

12           **Subtitle B—Homeland Security In-**  
13           **formation Sharing and Analysis**  
14           **Enhancement**

15           **SEC. 211. SHORT TITLE.**

16           **This subtitle may be cited as the “Home-**  
17           **land Security Information Sharing and Anal-**  
18           **ysis Enhancement Act of 2005”.**

19           **SEC. 212. PROVISION OF TERRORISM-RELATED INFORMA-**  
20           **TION TO PRIVATE SECTOR OFFICIALS.**

21           **Section 201(d) of the Homeland Security**  
22           **Act of 2002 (6 U.S.C. 121(d)) is amended by**  
23           **adding at the end the following:**

24                   **“(20) To require, in consultation with**  
25           **the Assistant Secretary for Infrastructure**

1       **Protection, the creation and routine dis-**  
2       **semination of analytic reports and prod-**  
3       **ucts designed to provide timely and accu-**  
4       **rate information that has specific rel-**  
5       **evance to each of the Nation’s critical in-**  
6       **frastructure sectors (as identified in the**  
7       **national infrastructure protection plan**  
8       **issued under paragraph (5)), to private**  
9       **sector officials in each such sector who**  
10      **are responsible for protecting institu-**  
11      **tions within that sector from potential**  
12      **acts of terrorism and for mitigating the**  
13      **potential consequences of any such act.”.**

14   **SEC. 213. ANALYTIC EXPERTISE ON THE THREATS FROM BI-**  
15                                   **OLOGICAL AGENTS AND NUCLEAR WEAPONS.**

16       **Section 201(d) of the Homeland Security**  
17   **Act of 2002 (6 U.S.C. 121(d)) is further amend-**  
18   **ed by adding at the end the following:**

19                   **“(21) To ensure sufficient analytic ex-**  
20                   **pertise within the Office of Information**  
21                   **Analysis to create and disseminate, on an**  
22                   **ongoing basis, products based on the**  
23                   **analysis of homeland security informa-**  
24                   **tion, as defined in section 892(f)(1), with**  
25                   **specific reference to the threat of ter-**

1 **rorism involving the use of nuclear weap-**  
2 **ons and biological agents to inflict mass**  
3 **casualties or other catastrophic con-**  
4 **sequences on the population or territory**  
5 **of the United States.”.**

6 **SEC. 214. ALTERNATIVE ANALYSIS OF HOMELAND SECU-**  
7 **RITY INFORMATION.**

8 **(a) REQUIREMENT.—**Subtitle A of title II of  
9 **the Homeland Security Act of 2002 (6 U.S.C.**  
10 **121 et seq.) is amended by adding at the end**  
11 **the following:**

12 **“SEC. 203. ALTERNATIVE ANALYSIS OF HOMELAND SECU-**  
13 **RITY INFORMATION.**

14 **“The Secretary shall establish a process**  
15 **and assign an individual or entity the respon-**  
16 **sibility to ensure that, as appropriate, ele-**  
17 **ments of the Department conduct alternative**  
18 **analysis (commonly referred to as ‘red-team**  
19 **analysis’) of homeland security information,**  
20 **as that term is defined in section 892(f)(1),**  
21 **that relates to potential acts of terrorism in-**  
22 **volving the use of nuclear weapons or biologi-**  
23 **cal agents to inflict mass casualties or other**  
24 **catastrophic consequences on the population**  
25 **or territory of the United States.”.**

1       **(b) CLERICAL AMENDMENT.—The table of**  
2 **contents in section 1(b) of such Act is amend-**  
3 **ed by inserting after the item relating to sec-**  
4 **tion 202 the following:**

      “Sec. 203. Alternative analysis of homeland security informa-  
          tion.”.

5 **SEC. 215. ASSIGNMENT OF INFORMATION ANALYSIS AND**  
6 **INFRASTRUCTURE PROTECTION FUNCTIONS.**

7       **Section 201(b) of the Homeland Security**  
8 **Act of 2002 (6 U.S.C. 121(b)) is amended by**  
9 **adding at the end the following:**

10       **“(4) ASSIGNMENT OF SPECIFIC FUNC-**  
11 **TIONS.—The Under Secretary for Informa-**  
12 **tion Analysis and Infrastructure Protec-**  
13 **tion—**

14           **“(A) shall assign to the Assistant**  
15 **Secretary for Information Analysis**  
16 **the responsibility for performing the**  
17 **functions described in paragraphs (1),**  
18 **(4), (7) through (14), (16), and (18) of**  
19 **subsection (d);**

20           **“(B) shall assign to the Assistant**  
21 **Secretary for Infrastructure Protec-**  
22 **tion the responsibility for performing**  
23 **the functions described in para-**

1           **graphs (2), (5), and (6) of subsection**  
2           **(d);**

3           **“(C) shall ensure that the Assist-**  
4           **ant Secretary for Information Anal-**  
5           **ysis and the Assistant Secretary for**  
6           **Infrastructure Protection both per-**  
7           **form the functions described in para-**  
8           **graphs (3), (15), (17), and (19) of sub-**  
9           **section (d);**

10           **“(D) may assign to each such As-**  
11           **stant Secretary such other duties**  
12           **relating to such responsibilities as**  
13           **the Under Secretary may provide;**

14           **“(E) shall direct each such Assist-**  
15           **ant Secretary to coordinate with Fed-**  
16           **eral, State, and local law enforcement**  
17           **agencies, and with tribal and private**  
18           **sector entities, as appropriate; and**

19           **“(F) shall direct the Assistant Sec-**  
20           **retary for Information Analysis to co-**  
21           **ordinate with elements of the intel-**  
22           **ligence community, as appropriate.”.**

1 SEC. 216. AUTHORITY FOR DISSEMINATING HOMELAND SE-  
2 CURITY INFORMATION.

3 (a) IN GENERAL.—Title I of the Homeland  
4 Security Act of 2002 (6 U.S.C. 111 et seq.) is  
5 amended by adding at the end the following:

6 “SEC. 104. AUTHORITY FOR DISSEMINATING HOMELAND SE-  
7 CURITY INFORMATION.

8 “(a) PRIMARY AUTHORITY.—Except as pro-  
9 vided in subsection (b), the Secretary shall be  
10 the executive branch official responsible for  
11 disseminating homeland security information  
12 to State and local government and tribal offi-  
13 cials and the private sector.

14 “(b) PRIOR APPROVAL REQUIRED.—No Fed-  
15 eral official may disseminate any homeland  
16 security information, as defined in section  
17 892(f)(1), to State, local, tribal, or private sec-  
18 tor officials without the Secretary’s prior ap-  
19 proval, except—

20 “(1) in exigent circumstances under  
21 which it is essential that the information  
22 be communicated immediately; or

23 “(2) when such information is issued  
24 to State, local, or tribal law enforcement  
25 officials for the purpose of assisting them

1 in any aspect of the administration of  
2 criminal justice.”.

3 (b) CLERICAL AMENDMENT.—The table of  
4 contents in section 1(b) of such Act is amend-  
5 ed by inserting after the item relating to sec-  
6 tion 103 the following:

“Sec. 104. Authority for disseminating homeland security infor-  
mation.”.

7 SEC. 217. 9/11 MEMORIAL HOMELAND SECURITY FELLOWS  
8 PROGRAM.

9 (a) ESTABLISHMENT OF PROGRAM.—Subtitle  
10 A of title II of the Homeland Security Act of  
11 2002 (6 U.S.C. 121 et seq.) is further amended  
12 by adding at the end the following:

13 “SEC. 204. 9/11 MEMORIAL HOMELAND SECURITY FELLOWS  
14 PROGRAM.

15 “(a) ESTABLISHMENT.—

16 “(1) IN GENERAL.—The Secretary shall  
17 establish a fellowship program in accord-  
18 ance with this section for the purpose of  
19 bringing State, local, tribal, and private  
20 sector officials to participate in the work  
21 of the Homeland Security Operations  
22 Center in order to become familiar with—

23 “(A) the mission and capabilities  
24 of that Center; and

1           **“(B) the role, programs, products,**  
2           **and personnel of the Office of Infor-**  
3           **mation Analysis, the Office of Infra-**  
4           **structure Protection, and other ele-**  
5           **ments of the Department responsible**  
6           **for the integration, analysis, and dis-**  
7           **semination of homeland security in-**  
8           **formation, as defined in section**  
9           **892(f)(1).**

10           **“(2) PROGRAM NAME.—The program**  
11           **under this section shall be known as the**  
12           **9/11 Memorial Homeland Security Fel-**  
13           **lows Program.**

14           **“(b) ELIGIBILITY.—In order to be eligible**  
15           **for selection as a fellow under the program,**  
16           **an individual must—**

17           **“(1) have homeland security-related**  
18           **responsibilities; and**

19           **“(2) possess an appropriate national**  
20           **security clearance.**

21           **“(c) LIMITATIONS.—The Secretary—**

22           **“(1) may conduct up to 4 iterations of**  
23           **the program each year, each of which**  
24           **shall be 90 days in duration; and**

1           “(2) shall ensure that the number of  
2           fellows selected for each iteration does  
3           not impede the activities of the Center.

4           “(d) **CONDITION.**—As a condition of select-  
5           ing an individual as a fellow under the pro-  
6           gram, the Secretary shall require that the in-  
7           dividual’s employer agree to continue to pay  
8           the individual’s salary and benefits during  
9           the period of the fellowship.

10          “(e) **STIPEND.**—During the period of the  
11          fellowship of an individual under the pro-  
12          gram, the Secretary shall, subject to the avail-  
13          ability of appropriations—

14                 “(1) provide to the individual a sti-  
15                 pend to cover the individual’s reasonable  
16                 living expenses during the period of the  
17                 fellowship; and

18                 “(2) reimburse the individual for  
19                 round-trip, economy fare travel to and  
20                 from the individual’s place of residence  
21                 twice each month.”.

22          “(b) **CLERICAL AMENDMENT.**—The table of  
23          contents in section 1(b) of such Act is further  
24          amended by adding at the end of the items re-  
25          lating to such subtitle the following:

**“Sec. 204. 9/11 Memorial Homeland Security Fellows Program.”.**

1 **SEC. 218. ACCESS TO NUCLEAR TERRORISM-RELATED IN-**  
2 **FORMATION.**

3 **Section 201(d) of the Homeland Security**  
4 **Act of 2002 (6 U.S.C. 121(d)) is further amend-**  
5 **ed by adding at the end the following:**

6 **“(22) To ensure that—**

7 **“(A) the Assistant Secretary for**  
8 **Information Analysis receives**  
9 **promptly and without request all in-**  
10 **formation obtained by any compo-**  
11 **nent of the Department if that infor-**  
12 **mation relates, directly or indirectly,**  
13 **to a threat of terrorism involving the**  
14 **potential use of nuclear weapons;**

15 **“(B) such information is—**

16 **“(i) integrated and analyzed**  
17 **comprehensively; and**

18 **“(ii) disseminated in a timely**  
19 **manner, including to appro-**  
20 **priately cleared State, local, trib-**  
21 **al, and private sector officials;**  
22 **and**

23 **“(C) such information is used to**  
24 **determine what requests the Depart-**

1           **ment should submit for collection of**  
2           **additional information relating to**  
3           **that threat.”.**

4 **SEC. 219. ACCESS OF ASSISTANT SECRETARY FOR INFOR-**  
5           **MATION ANALYSIS TO TERRORISM INFORMA-**  
6           **TION.**

7           **Section 201(d) of the Homeland Security**  
8 **Act of 2002 (6 U.S.C. 121(d)) is further amend-**  
9 **ed by adding at the end the following:**

10           **“(23) To ensure that the Assistant Sec-**  
11           **retary for Information Analysis—**

12                   **“(A) is routinely and without re-**  
13                   **quest given prompt access to all ter-**  
14                   **rorism-related information collected**  
15                   **by or otherwise in the possession of**  
16                   **any component of the Department, in-**  
17                   **cluding all homeland security infor-**  
18                   **mation (as that term is defined in sec-**  
19                   **tion 892(f)(1)); and**

20                   **“(B) to the extent technologically**  
21                   **feasible has direct access to all data-**  
22                   **bases of any component of the De-**  
23                   **partment that may contain such in-**  
24                   **formation.”.**

1 SEC. 220. ADMINISTRATION OF THE HOMELAND SECURITY  
2 INFORMATION NETWORK.

3 Section 201(d) of the Homeland Security  
4 Act of 2002 (6 U.S.C. 121(d)) is further amend-  
5 ed by adding at the end the following:

6 “(24) To administer the homeland se-  
7 curity information network, including—

8 “(A) exercising primary responsi-  
9 bility for establishing a secure na-  
10 tionwide real-time homeland security  
11 information sharing network for Fed-  
12 eral, State, and local government  
13 agencies and authorities, tribal offi-  
14 cials, the private sector, and other  
15 governmental and private entities in-  
16 volved in receiving, analyzing, and  
17 distributing information related to  
18 threats to homeland security;

19 “(B) ensuring that the informa-  
20 tion sharing systems, developed in  
21 connection with the network estab-  
22 lished under subparagraph (A), are  
23 utilized and are compatible with, to  
24 the greatest extent practicable, Fed-  
25 eral, State, and local government,  
26 tribal, and private sector

1           **antiterrorism systems and protocols**  
2           **that have been or are being devel-**  
3           **oped; and**

4           **“(C) ensuring, to the greatest ex-**  
5           **tent possible, that the homeland secu-**  
6           **rity information network and infor-**  
7           **mation systems are integrated and**  
8           **interoperable with existing private**  
9           **sector technologies.”.**

10 **SEC. 221. IAIP PERSONNEL RECRUITMENT.**

11           **(a) IN GENERAL.—Chapter 97 of title 5,**  
12 **United States Code, is amended by adding**  
13 **after section 9701 the following:**

14 **“§ 9702. Recruitment bonuses**

15           **“(a) IN GENERAL.—Notwithstanding any**  
16 **provision of chapter 57, the Secretary of**  
17 **Homeland Security, acting through the Under**  
18 **Secretary for Information Analysis and Infra-**  
19 **structure Protection, may pay a bonus to an**  
20 **individual in order to recruit such individual**  
21 **for a position that is primarily responsible for**  
22 **discharging the analytic responsibilities spec-**  
23 **ified in section 201(d) of the Homeland Secu-**  
24 **rity Act of 2002 (6 U.S.C. 121(d)) and that—**

1           “(1) is within the Directorate for In-  
2           formation Analysis and Infrastructure  
3           Protection; and

4           “(2) would be difficult to fill in the ab-  
5           sence of such a bonus.

6           In determining which individuals are to re-  
7           ceive bonuses under this section, appropriate  
8           consideration shall be given to the Direc-  
9           torate’s critical need for linguists.

10          “(b) BONUS AMOUNT, FORM, ETC.—

11           “(1) IN GENERAL.—The amount of a  
12           bonus under this section shall be deter-  
13           mined under regulations of the Secretary  
14           of Homeland Security, but may not ex-  
15           ceed 50 percent of the annual rate of  
16           basic pay of the position involved.

17           “(2) FORM OF PAYMENT.—A bonus  
18           under this section shall be paid in the  
19           form of a lump-sum payment and shall  
20           not be considered to be part of basic pay.

21           “(3) COMPUTATION RULE.—For pur-  
22           poses of paragraph (1), the annual rate of  
23           basic pay of a position does not include  
24           any comparability payment under section  
25           5304 or any similar authority.

1       **“(c) SERVICE AGREEMENTS.—Payment of a**  
2 **bonus under this section shall be contingent**  
3 **upon the employee entering into a written**  
4 **service agreement with the Department of**  
5 **Homeland Security. The agreement shall in-**  
6 **clude—**

7               **“(1) the period of service the indi-**  
8 **vidual shall be required to complete in**  
9 **return for the bonus; and**

10              **“(2) the conditions under which the**  
11 **agreement may be terminated before the**  
12 **agreed-upon service period has been**  
13 **completed, and the effect of any such ter-**  
14 **mination.**

15       **“(d) ELIGIBILITY.—A bonus under this sec-**  
16 **tion may not be paid to recruit an individual**  
17 **for—**

18              **“(1) a position to which an individual**  
19 **is appointed by the President, by and**  
20 **with the advice and consent of the Sen-**  
21 **ate;**

22              **“(2) a position in the Senior Executive**  
23 **Service as a noncareer appointee (as de-**  
24 **finned under section 3132(a)); or**

1           **“(3) a position which has been ex-**  
2           **cepted from the competitive service by**  
3           **reason of its confidential, policy-deter-**  
4           **mining, policy-making, or policy-advo-**  
5           **cating character.**

6           **“(e) TERMINATION.—The authority to pay**  
7           **bonuses under this section shall terminate on**  
8           **September 30, 2008.**

9           **“§ 9703. Reemployed annuitants**

10          **“(a) IN GENERAL.—If an annuitant receiv-**  
11          **ing an annuity from the Civil Service Retire-**  
12          **ment and Disability Fund becomes employed**  
13          **in a position within the Directorate for Infor-**  
14          **mation Analysis and Infrastructure Protec-**  
15          **tion of the Department of Homeland Security,**  
16          **the annuitant’s annuity shall continue. An an-**  
17          **nuitant so reemployed shall not be considered**  
18          **an employee for the purposes of chapter 83 or**  
19          **84.**

20          **“(b) TERMINATION.—The exclusion pursu-**  
21          **ant to this section of the Directorate for Infor-**  
22          **mation Analysis and Infrastructure Protec-**  
23          **tion from the reemployed annuitant provi-**  
24          **sions of chapters 83 and 84 shall terminate 3**  
25          **years after the date of the enactment of this**

1 section, unless extended by the Secretary of  
2 Homeland Security. Any such extension shall  
3 be for a period of 1 year and shall be renew-  
4 able.

5 “(c) **ANNUITANT DEFINED.**—For purposes of  
6 this section, the term ‘annuitant’ has the  
7 meaning given such term under section 8331  
8 or 8401, whichever is appropriate.

9 “§ 9704. **Regulations**

10 “The Secretary of Homeland Security, in  
11 consultation with the Director of the Office of  
12 Personnel Management, may prescribe any  
13 regulations necessary to carry out section  
14 9702 or 9703.”.

15 (b) **CLERICAL AMENDMENT.**—The analysis  
16 for chapter 97 of title 5, United States Code,  
17 is amended by adding after the item relating  
18 to section 9701 the following:

“9702. Recruitment bonuses.  
“9703. Reemployed annuitants.  
“9704. Regulations.”.

19 **SEC. 222. INFORMATION COLLECTION REQUIREMENTS AND**  
20 **PRIORITIES.**

21 (a) **IN GENERAL.**—Section 102 of the Home-  
22 land Security Act of 2002 (6 U.S.C. 112) is  
23 amended—

1           **(1) by redesignating subsections (e),**  
2           **(f), and (g), as subsections (f), (g), and (h),**  
3           **respectively; and**

4           **(2) by inserting after subsection (d)**  
5           **the following new subsection (e):**

6           **“(e) PARTICIPATION IN FOREIGN COLLECTION**  
7           **REQUIREMENTS AND MANAGEMENT PROCESSES.—**  
8           **The Secretary shall be a member of any Fed-**  
9           **eral Government interagency board, estab-**  
10           **lished by Executive order or any other bind-**  
11           **ing interagency directive, that is responsible**  
12           **for establishing foreign collection informa-**  
13           **tion requirements and priorities for esti-**  
14           **mative analysis.”.**

15           **(b) HOMELAND SECURITY INFORMATION RE-**  
16           **QUIREMENTS BOARD.—**

17           **(1) IN GENERAL.—Title I of such Act (6**  
18           **U.S.C. 111 et seq.) is further amended by**  
19           **adding at the end the following new sec-**  
20           **tion:**

21           **“SEC. 105. HOMELAND SECURITY INFORMATION REQUIRE-**  
22           **MENTS BOARD.**

23           **“(a) ESTABLISHMENT OF BOARD.—There is**  
24           **established an interagency Homeland Secu-**  
25           **rity Information Requirements Board (herein-**

1 after in this section referred to as the ‘Infor-  
2 mation Requirements Board’).

3 “(b) MEMBERSHIP.—The following officials  
4 are members of the Information Require-  
5 ments Board:

6 “(1) The Secretary of Homeland Secu-  
7 rity, who shall serve as the Chairman of  
8 the Information Requirements Board.

9 “(2) The Attorney General.

10 “(3) The Secretary of Commerce.

11 “(4) The Secretary of the Treasury.

12 “(5) The Secretary of Defense.

13 “(6) The Secretary of Energy.

14 “(7) The Secretary of State.

15 “(8) The Secretary of the Interior.

16 “(9) The Director of National Intel-  
17 ligence.

18 “(10) The Director of the Federal Bu-  
19 reau of Investigation.

20 “(11) The Director of the National  
21 Counterterrorism Center.

22 “(12) The Chief Privacy Officer of the  
23 Department of Homeland Security.

24 “(c) FUNCTIONS.—

1           **“(1) OVERSIGHT OF HOMELAND SECURITY**  
2 **REQUIREMENTS.—The Information Re-**  
3 **quirements Board shall oversee the proc-**  
4 **ess for establishing homeland security re-**  
5 **quirements and collection management**  
6 **for all terrorism-related information and**  
7 **all other homeland security information**  
8 **(as defined in section 892(f)(1)) collected**  
9 **within the United States.**

10           **“(2) DETERMINATION OF COLLECTION**  
11 **PRIORITIES.—The Information Require-**  
12 **ments Board shall—**

13                   **“(A) determine the domestic infor-**  
14 **mation collection requirements for**  
15 **information relevant to the homeland**  
16 **security mission; and**

17                   **“(B) prioritize the collection and**  
18 **use of such information.**

19           **“(3) COORDINATION OF COLLECTION RE-**  
20 **QUIREMENTS AND MANAGEMENT ACTIVI-**  
21 **TIES.—**

22                   **“(A) COORDINATION WITH COUNTER-**  
23 **PART AGENCIES.—The Chairman shall**  
24 **ensure that the Information Require-**  
25 **ments Board carries out its activities**

1 in a manner that is fully coordinated  
2 with the Board's counterpart entities.

3 **“(B) PARTICIPATION OF COUNTER-**  
4 **PART ENTITIES.—The Chairman and**  
5 **the Director of National Intelligence**  
6 **shall ensure that each counterpart**  
7 **entity—**

8 **“(i) has at least one represent-**  
9 **ative on the Information Require-**  
10 **ment Board and on every sub-**  
11 **component of the Board; and**

12 **“(ii) meets jointly with the In-**  
13 **formation Requirements Board**  
14 **(and, as appropriate, with any**  
15 **subcomponent of the Board) as**  
16 **often as the Chairman and the Di-**  
17 **rector of National Intelligence de-**  
18 **termine appropriate.**

19 **“(C) COUNTERPART ENTITY DE-**  
20 **FINED.—In this section, the term**  
21 **‘counterpart entity’ means an entity**  
22 **of the Federal Government that is re-**  
23 **sponsible for foreign intelligence col-**  
24 **lection requirements and manage-**  
25 **ment.**

1       **“(d) MEETINGS.—**

2               **“(1) IN GENERAL.—The Information Re-**  
3       **quirements Board shall meet regularly at**  
4       **such times and places as its Chairman**  
5       **may direct.**

6               **“(2) INVITED REPRESENTATIVES.—The**  
7       **Chairman may invite representatives of**  
8       **Federal agencies not specified in sub-**  
9       **section (b) to attend meetings of the In-**  
10       **formation Requirements Board.”.**

11               **(2) CLERICAL AMENDMENT.—The table**  
12       **of contents in section 1(b) of such Act is**  
13       **further amended by inserting after the**  
14       **item relating to section 104 the following**  
15       **new item:**

**“Sec. 105. Homeland Security Information Requirements**  
      **Board.”.**

16       **SEC. 223. HOMELAND SECURITY ADVISORY SYSTEM.**

17       **(a) IN GENERAL.—Subtitle A of title II of**  
18       **the Homeland Security Act of 2002 is further**  
19       **amended—**

20               **(1) in section 201(d)(7) (6 U.S.C.**  
21       **121(d)(7)) by inserting “under section**  
22       **205” after “System”; and**

23               **(2) by adding at the end the fol-**  
24       **lowing:**

1 **“SEC. 205. HOMELAND SECURITY ADVISORY SYSTEM.**

2 **“(a) REQUIREMENT.—The Under Secretary**  
3 **for Information Analysis and Infrastructure**  
4 **Protection shall implement a Homeland Secu-**  
5 **rity Advisory System in accordance with this**  
6 **section to provide public advisories and alerts**  
7 **regarding threats to homeland security, in-**  
8 **cluding national, regional, local, and eco-**  
9 **nomic sector advisories and alerts, as appro-**  
10 **priate.**

11 **“(b) REQUIRED ELEMENTS.—The Under Sec-**  
12 **retary, under the System—**

13 **“(1) shall include, in each advisory**  
14 **and alert regarding a threat, information**  
15 **on appropriate protective measures and**  
16 **countermeasures that may be taken in re-**  
17 **sponse to the threat;**

18 **“(2) shall, whenever possible, limit**  
19 **the scope of each advisory and alert to a**  
20 **specific region, locality, or economic sec-**  
21 **tor believed to be at risk; and**

22 **“(3) shall not, in issuing any advisory**  
23 **or alert, use color designations as the ex-**  
24 **clusive means of specifying the homeland**  
25 **security threat conditions that are the**  
26 **subject of the advisory or alert.”.**

1       **(b) CLERICAL AMENDMENT.—The table of**  
2 **contents in section 1(b) of such Act is further**  
3 **amended by adding at the end of the items re-**  
4 **lating to subtitle A of title II the following:**

      “Sec. 205. Homeland Security Advisory System.”.

5 **SEC. 224. USE OF OPEN-SOURCE INFORMATION.**

6       **Section 201(d) of the Homeland Security**  
7 **Act of 2002 (6 U.S.C. 121(d)) is further amend-**  
8 **ed by adding at the end the following:**

9           **“(25) To ensure that, whenever pos-**  
10 **sible—**

11               **“(A) the Assistant Secretary for**  
12 **Information Analysis produces and**  
13 **disseminates reports and analytic**  
14 **products based on open-source infor-**  
15 **mation that do not require a national**  
16 **security classification under applica-**  
17 **ble law; and**

18               **“(B) such unclassified open-**  
19 **source reports are produced and dis-**  
20 **seminated contemporaneously with**  
21 **reports or analytic products con-**  
22 **cerning the same or similar informa-**  
23 **tion that the Assistant Secretary for**  
24 **Information Analysis produces and**  
25 **disseminates in a classified format.”.**

1 SEC. 225. FULL AND EFFICIENT USE OF OPEN-SOURCE IN-  
2 FORMATION.

3 (a) REQUIREMENT.—Subtitle A of title II of  
4 the Homeland Security Act of 2002 (6 U.S.C.  
5 121 et seq.) is further amended by adding at  
6 the end the following:

7 “SEC. 206. FULL AND EFFICIENT USE OF OPEN-SOURCE IN-  
8 FORMATION.

9 “The Under Secretary shall ensure that, in  
10 meeting their analytic responsibilities under  
11 section 201(d) and in formulating require-  
12 ments for collection of additional informa-  
13 tion, the Assistant Secretary for Information  
14 Analysis and the Assistant Secretary for In-  
15 frastructure Protection make full and effi-  
16 cient use of open-source information wher-  
17 ever possible.”.

18 (b) CLERICAL AMENDMENT.—The table of  
19 contents in section 1(b) of such Act is further  
20 amended by inserting after the item relating  
21 to section 205 the following:

“Sec. 206. Full and efficient use of open-source information.”.

1 **TITLE III—DOMESTIC PRE-**  
2 **PAREDNESS AND PROTEC-**  
3 **TION**

4 **Subtitle A—Preparedness and**  
5 **Protection**

6 **SEC. 301. NATIONAL TERRORISM EXERCISE PROGRAM.**

7 **(a) IN GENERAL.—Section 430(c) of the**  
8 **Homeland Security Act of 2002 (6 U.S.C. 238)**  
9 **is amended by striking “and” after the semi-**  
10 **colon at the end of paragraph (8), by striking**  
11 **the period at the end of paragraph (9) and in-**  
12 **serting “; and”, and by adding at the end the**  
13 **following:**

14 **“(10) designing, developing, per-**  
15 **forming, and evaluating exercises at the**  
16 **national, State, territorial, regional, local,**  
17 **and tribal levels of government that in-**  
18 **corporate government officials, emer-**  
19 **gency response providers, public safety**  
20 **agencies, the private sector, international**  
21 **governments and organizations, and**  
22 **other appropriate entities to test the Na-**  
23 **tion’s capability to prevent, prepare for,**  
24 **respond to, and recover from threatened**  
25 **or actual acts of terrorism.”.**

1       **(b) NATIONAL TERRORISM EXERCISE PRO-**  
2 **GRAM.—**

3           **(1) ESTABLISHMENT OF PROGRAM.—Title**  
4 **VIII of the Homeland Security Act of 2002**  
5 **(Public Law 107-296) is amended by add-**  
6 **ing at the end the following new subtitle:**

7                   **“Subtitle J—Terrorism**  
8                   **Preparedness Exercises**

9 **“SEC. 899a. NATIONAL TERRORISM EXERCISE PROGRAM.**

10       **“(a) IN GENERAL.—The Secretary, through**  
11 **the Office for Domestic Preparedness, shall**  
12 **establish a National Terrorism Exercise Pro-**  
13 **gram for the purpose of testing and evalu-**  
14 **ating the Nation’s capabilities to prevent, pre-**  
15 **pare for, respond to, and recover from threat-**  
16 **ened or actual acts of terrorism that—**

17           **“(1) enhances coordination for ter-**  
18 **rorism preparedness between all levels of**  
19 **government, emergency response pro-**  
20 **viders, international governments and or-**  
21 **ganizations, and the private sector;**

22           **“(2) is—**

23                   **“(A) multidisciplinary in nature,**  
24 **including, as appropriate, informa-**

1           **tion analysis and cybersecurity com-**  
2           **ponents;**

3           **“(B) as realistic as practicable**  
4           **and based on current risk assess-**  
5           **ments, including credible threats,**  
6           **vulnerabilities, and consequences;**

7           **“(C) carried out with the min-**  
8           **imum degree of notice to involved**  
9           **parties regarding the timing and de-**  
10          **tails of such exercises, consistent**  
11          **with safety considerations;**

12          **“(D) evaluated against perform-**  
13          **ance measures and followed by cor-**  
14          **rective action to solve identified defi-**  
15          **ciencies; and**

16          **“(E) assessed to learn best prac-**  
17          **tices, which shall be shared with ap-**  
18          **propriate Federal, State, territorial,**  
19          **regional, local, and tribal personnel,**  
20          **authorities, and training institutions**  
21          **for emergency response providers;**  
22          **and**

23          **“(3) assists State, territorial, local,**  
24          **and tribal governments with the design,**

1       **implementation, and evaluation of exer-**  
2       **cises that—**

3               **“(A) conform to the requirements**  
4               **of paragraph (2); and**

5               **“(B) are consistent with any appli-**  
6               **cable State homeland security strat-**  
7               **egy or plan.**

8       **“(b) NATIONAL LEVEL EXERCISES.—The Sec-**  
9       **retary, through the National Terrorism Exer-**  
10       **cise Program, shall perform on a periodic**  
11       **basis national terrorism preparedness exer-**  
12       **cises for the purposes of—**

13               **“(1) involving top officials from Fed-**  
14               **eral, State, territorial, local, tribal, and**  
15               **international governments, as the Sec-**  
16               **retary considers appropriate;**

17               **“(2) testing and evaluating the Na-**  
18               **tion’s capability to detect, disrupt, and**  
19               **prevent threatened or actual cata-**  
20               **strophic acts of terrorism, especially**  
21               **those involving weapons of mass destruc-**  
22               **tion; and**

23               **“(3) testing and evaluating the Na-**  
24               **tion’s readiness to respond to and re-**  
25               **cover from catastrophic acts of terrorism,**

1 especially those involving weapons of  
2 mass destruction.

3 **“(c) CONSULTATION WITH FIRST RESPOND-**  
4 **ERS.—In implementing the responsibilities de-**  
5 **scribed in subsections (a) and (b), the Sec-**  
6 **retary shall consult with a geographic (in-**  
7 **cluding urban and rural) and substantive**  
8 **cross section of governmental and nongovern-**  
9 **mental first responder disciplines, including**  
10 **as appropriate—**

11 **“(1) Federal, State, and local first re-**  
12 **sponder training institutions;**

13 **“(2) representatives of emergency re-**  
14 **sponse providers; and**

15 **“(3) State and local officials with an**  
16 **expertise in terrorism preparedness.”.**

17 **(2) CLERICAL AMENDMENT.—The table**  
18 **of contents in section 1(b) of such Act is**  
19 **amended by adding at the end of the**  
20 **items relating to title VIII the following:**

**“Subtitle J—Terrorism Preparedness Exercises**

**“Sec. 899a. National terrorism exercise program.”.**

21 **(c) TOPOFF PREVENTION EXERCISE.—No**  
22 **later than one year after the date of enact-**  
23 **ment of this Act, the Secretary of Homeland**

1 **Security shall design and carry out a national**  
2 **terrorism prevention exercise for the pur-**  
3 **poses of—**

4           **(1) involving top officials from Fed-**  
5 **eral, State, territorial, local, tribal, and**  
6 **international governments; and**

7           **(2) testing and evaluating the Na-**  
8 **tion’s capability to detect, disrupt, and**  
9 **prevent threatened or actual cata-**  
10 **strophic acts of terrorism, especially**  
11 **those involving weapons of mass destruc-**  
12 **tion.**

13 **SEC. 302. TECHNOLOGY DEVELOPMENT AND TRANSFER.**

14           **(a) ESTABLISHMENT OF TECHNOLOGY CLEAR-**  
15 **INGHOUSE.—Not later than 90 days after the**  
16 **date of enactment of this Act, the Secretary**  
17 **shall complete the establishment of the Tech-**  
18 **nology Clearinghouse under section 313 of the**  
19 **Homeland Security Act of 2002.**

20           **(b) TRANSFER PROGRAM.—Section 313 of**  
21 **the Homeland Security Act of 2002 (6 U.S.C.**  
22 **193) is amended—**

23                   **(1) by adding at the end of subsection**  
24           **(b) the following new paragraph:**

1           **“(6) The establishment of a homeland**  
2           **security technology transfer program to**  
3           **facilitate the identification, modification,**  
4           **and commercialization of technology and**  
5           **equipment for use by Federal, State, and**  
6           **local governmental agencies, emergency**  
7           **response providers, and the private sec-**  
8           **tor to prevent, prepare for, or respond to**  
9           **acts of terrorism.”;**

10           **(2) by redesignating subsection (c) as**  
11           **subsection (d); and**

12           **(3) by inserting after subsection (b)**  
13           **the following new subsection:**

14           **“(c) TECHNOLOGY TRANSFER PROGRAM.—In**  
15           **developing the program described in sub-**  
16           **section (b)(6), the Secretary, acting through**  
17           **the Under Secretary for Science and Tech-**  
18           **nology, shall—**

19           **“(1) in consultation with the other**  
20           **Under Secretaries of the Department and**  
21           **the Director of the Office for Domestic**  
22           **Preparedness, on an ongoing basis—**

23                   **“(A) conduct surveys and reviews**  
24                   **of available appropriate technologies**  
25                   **that have been, or are in the process**

1 of being developed, tested, evaluated,  
2 or demonstrated by the Department,  
3 other Federal agencies, or the private  
4 sector or foreign governments and  
5 international organizations and that  
6 may be useful in assisting Federal,  
7 State, and local governmental agen-  
8 cies, emergency response providers,  
9 or the private sector to prevent, pre-  
10 pare for, or respond to acts of ter-  
11 rorism;

12 “(B) conduct or support research,  
13 development, tests, and evaluations,  
14 as appropriate of technologies identi-  
15 fied under subparagraph (A), includ-  
16 ing any necessary modifications to  
17 such technologies for antiterrorism  
18 use;

19 “(C) communicate to Federal,  
20 State, and local governmental agen-  
21 cies, emergency response providers,  
22 or the private sector the availability  
23 of such technologies for antiterrorism  
24 use, as well as the technology’s speci-  
25 fications, satisfaction of appropriate

1 standards, and the appropriate  
2 grants available from the Department  
3 to purchase such technologies;

4 “(D) coordinate the selection and  
5 administration of all technology  
6 transfer activities of the Science and  
7 Technology Directorate, including  
8 projects and grants awarded to the  
9 private sector and academia; and

10 “(E) identify priorities based on  
11 current risk assessments within the  
12 Department of Homeland Security for  
13 identifying, researching, developing,  
14 testing, evaluating, modifying, and  
15 fielding existing technologies for  
16 antiterrorism purposes;

17 “(2) in support of the activities de-  
18 scribed in paragraph (1)—

19 “(A) consult with Federal, State,  
20 and local emergency response pro-  
21 viders;

22 “(B) consult with government  
23 agencies and nationally recognized  
24 standards development organizations  
25 as appropriate;

1           “(C) enter into agreements and  
2           coordinate with other Federal agen-  
3           cies, foreign governments, and na-  
4           tional and international organiza-  
5           tions as the Secretary determines ap-  
6           propriate, in order to maximize the  
7           effectiveness of such technologies or  
8           to facilitate commercialization of  
9           such technologies; and

10           “(D) consult with existing tech-  
11           nology transfer programs and Fed-  
12           eral and State training centers that  
13           research, develop, test, evaluate, and  
14           transfer military and other tech-  
15           nologies for use by emergency re-  
16           sponse providers; and

17           “(3) establish a working group in co-  
18           ordination with the Secretary of Defense  
19           to advise and assist the technology clear-  
20           inghouse in the identification of military  
21           technologies that are in the process of  
22           being developed, or are developed, by the  
23           Department of Defense or the private sec-  
24           tor, which may include—

1           “(A) representatives from the De-  
2           partment of Defense or retired mili-  
3           tary officers;

4           “(B) nongovernmental organiza-  
5           tions or private companies that are  
6           engaged in the research, develop-  
7           ment, testing, or evaluation of related  
8           technologies or that have dem-  
9           onstrated prior experience and suc-  
10          cess in searching for and identifying  
11          technologies for Federal agencies;

12          “(C) Federal, State, and local  
13          emergency response providers; and

14          “(D) to the extent the Secretary  
15          considers appropriate, other organi-  
16          zations, other interested Federal,  
17          State, and local agencies, and other  
18          interested persons.”.

19          (c) **REPORT.**—Not later than 1 year after  
20          the date of enactment of this Act, the Under  
21          Secretary for Science and Technology shall  
22          transmit to the Committees on Homeland Se-  
23          curity and Energy and Commerce of the  
24          House of Representatives and the Committees  
25          on Homeland Security and Governmental Af-

1 **fairs and Commerce, Science, and Transpor-**  
2 **tation of the Senate a description of the**  
3 **progress the Department has made in imple-**  
4 **menting the provisions of section 313 of the**  
5 **Homeland Security Act of 2002, as amended**  
6 **by this Act, including a description of the**  
7 **process used to review unsolicited proposals**  
8 **received as described in subsection (b)(3) of**  
9 **such section.**

10 **(d) SAVINGS CLAUSE.—Nothing in this sec-**  
11 **tion (including the amendments made by this**  
12 **section) shall be construed to alter or dimin-**  
13 **ish the effect of the limitation on the author-**  
14 **ity of the Secretary of Homeland Security**  
15 **under section 302(4) of the Homeland Security**  
16 **Act of 2002 (6 U.S.C. 182(4)) with respect to**  
17 **human health-related research and develop-**  
18 **ment activities.**

19 **SEC. 303. REVIEW OF ANTITERRORISM ACQUISITIONS.**

20 **(a) STUDY.—The Secretary of Homeland**  
21 **Security shall conduct a study of all Depart-**  
22 **ment of Homeland Security procurements, in-**  
23 **cluding ongoing procurements and antici-**  
24 **pated procurements, to—**

1           **(1) identify those that involve any**  
2           **product, equipment, service (including**  
3           **support services), device, or technology**  
4           **(including information technology) that**  
5           **is being designed, developed, modified, or**  
6           **procured for the specific purpose of pre-**  
7           **venting, detecting, identifying, or deter-**  
8           **ring acts of terrorism or limiting the**  
9           **harm such acts might otherwise cause;**  
10          **and**

11          **(2) assess whether such product,**  
12          **equipment, service (including support**  
13          **services), device, or technology is an ap-**  
14          **propriate candidate for the litigation and**  
15          **risk management protections of subtitle**  
16          **G of title VIII of the Homeland Security**  
17          **Act of 2002.**

18          **(b) SUMMARY AND CLASSIFICATION RE-**  
19          **PORT.—Not later than 180 days after the date**  
20          **of enactment of this Act, the Secretary shall**  
21          **transmit to the Congress a report—**

22                 **(1) describing each product, equip-**  
23                 **ment, service (including support serv-**  
24                 **ices), device, and technology identified**  
25                 **under subsection (a) that the Secretary**

1 believes would be an appropriate can-  
2 didate for the litigation and risk manage-  
3 ment protections of subtitle G of title VIII  
4 of the Homeland Security Act of 2002;

5 (2) listing each such product, equip-  
6 ment, service (including support serv-  
7 ices), device, and technology in order of  
8 priority for deployment in accordance  
9 with current terrorism risk assessment  
10 information; and

11 (3) setting forth specific actions  
12 taken, or to be taken, to encourage or re-  
13 quire persons or entities that sell or oth-  
14 erwise provide such products, equipment,  
15 services (including support services), de-  
16 vices, and technologies to apply for the  
17 litigation and risk management protec-  
18 tions of subtitle G of title VIII of the  
19 Homeland Security Act of 2002, and to en-  
20 sure prioritization of the Department's  
21 review of such products, equipment, serv-  
22 ices, devices, and technologies under  
23 such Act in accordance with the  
24 prioritization set forth in paragraph (2)  
25 of this subsection.

1 SEC. 304. CENTER OF EXCELLENCE FOR BORDER SECUR-  
2 RITY.

3       **The Secretary of Homeland Security shall**  
4 **establish a university-based Center for Excel-**  
5 **lence for Border Security following the merit-**  
6 **review processes and procedures that have**  
7 **been established for selecting University Pro-**  
8 **grams Centers of Excellence. The Center shall**  
9 **prioritize its activities on the basis of risk to**  
10 **address the most significant threats,**  
11 **vulnerabilities, and consequences posed by**  
12 **the Nation’s borders and border control sys-**  
13 **tems, including the conduct of research, the**  
14 **examination of existing and emerging border**  
15 **security technology and systems, and the pro-**  
16 **vision of education, technical, and analytical**  
17 **assistance for the Department of Homeland**  
18 **Security to effectively secure the Nation’s bor-**  
19 **ders.**

20 SEC. 305. REQUIREMENTS RELATING TO THE CONTAINER  
21 SECURITY INITIATIVE (CSI).

22       **(a) RISK ASSESSMENT AND DESIGNATION OF**  
23 **NEW FOREIGN SEAPORTS.—**

24               **(1) RISK ASSESSMENT.—The Secretary**  
25               **of Homeland Security shall conduct a**  
26               **risk assessment of each foreign seaport**

1 that the Secretary is considering desig-  
2 nating as a port under the Container Se-  
3 curity Initiative (CSI) on or after the date  
4 of the enactment of this Act. Each such  
5 assessment shall evaluate the level of risk  
6 for the potential compromise of cargo  
7 containers by terrorists or terrorist  
8 weapons.

9 (2) DESIGNATION.—The Secretary is  
10 authorized to designate a foreign seaport  
11 as a port under CSI on or after the date  
12 of the enactment of this Act only if the  
13 Secretary determines, based on a risk as-  
14 sessment under paragraph (1) and a cost-  
15 benefit analysis, that the benefits of des-  
16 ignating such port outweigh the cost of  
17 expanding the program to such port.

18 (b) DEPLOYMENT OF INSPECTION EQUIPMENT  
19 TO NEW CSI PORTS.—

20 (1) DEPLOYMENT.—The Secretary is au-  
21 thorized to assist in the loaning of non-  
22 intrusive inspection equipment for cargo  
23 containers, on a nonreimbursable basis,  
24 at each CSI port designated under sub-  
25 section (a)(2) and provide training for

1 personnel at the CSI port to operate the  
2 nonintrusive inspection equipment.

3 (2) **ADDITIONAL REQUIREMENTS.—**The  
4 Secretary shall establish technical capa-  
5 bility requirements and standard oper-  
6 ating procedures for nonintrusive inspec-  
7 tion equipment described in paragraph  
8 (1) and shall require each CSI port to  
9 agree to operate such equipment in ac-  
10 cordance with such requirements and  
11 procedures as a condition for receiving  
12 the equipment and training under such  
13 paragraph.

14 (c) **DEPLOYMENT OF PERSONNEL TO NEW CSI**  
15 **PORTS; REEVALUATION OF PERSONNEL AT ALL**  
16 **CSI PORTS.—**

17 (1) **DEPLOYMENT.—**The Secretary shall  
18 deploy Department of Homeland Security  
19 personnel to each CSI port designated  
20 under subsection (a)(1) with respect to  
21 which the Secretary determines that the  
22 deployment is necessary to successfully  
23 implement the requirements of CSI at the  
24 port.

1           **(2) REEVALUATION.—The Secretary**  
2           **shall periodically review relevant risk as-**  
3           **essment information with respect to all**  
4           **CSI ports at which Department of Home-**  
5           **land Security personnel are deployed to**  
6           **assess whether or not continued deploy-**  
7           **ment of such personnel, in whole or in**  
8           **part, is necessary to successfully imple-**  
9           **ment the requirements of CSI at the port.**

10          **(d) INSPECTION AND SCREENING AT UNITED**  
11          **STATES PORTS OF ENTRY.—Cargo containers**  
12          **arriving at a United States port of entry from**  
13          **a CSI port shall undergo the same level of in-**  
14          **spection and screening for potential com-**  
15          **promise by terrorists or terrorist weapons as**  
16          **cargo containers arriving at a United States**  
17          **port of entry from a foreign seaport that is**  
18          **not participating in CSI unless the containers**  
19          **were initially inspected at the CSI port at the**  
20          **request of CSI personnel and such personnel**  
21          **verify and electronically record that the in-**  
22          **spection indicates that the containers have**  
23          **not been compromised by terrorists or ter-**  
24          **rorist weapons.**

1       **(e) DEFINITION.—**In this section, the term  
2 **“Container Security Initiative”** or **“CSI”**  
3 **means the program carried out by the Depart-**  
4 **ment of Homeland Security under which the**  
5 **Department enters into agreements with for-**  
6 **ign seaports to—**

7           **(1) establish security criteria to iden-**  
8 **tify high-risk maritime cargo containers**  
9 **bound for the United States based on ad-**  
10 **vance information; and**

11           **(2) screen or inspect such maritime**  
12 **cargo containers for potential com-**  
13 **promise by terrorists or terrorist weap-**  
14 **ons prior to shipment to the United**  
15 **States.**

16 **SEC. 306. SECURITY OF MARITIME CARGO CONTAINERS.**

17       **(a) REGULATIONS.—**

18           **(1) IN GENERAL.—**Not later than 180  
19 **days after the date of the enactment of**  
20 **this Act, the Secretary of Homeland Secu-**  
21 **urity shall issue regulations for the secu-**  
22 **urity of maritime cargo containers moving**  
23 **within the intermodal transportation sys-**  
24 **tem in accordance with the requirements**  
25 **of paragraph (2).**

1           **(2) REQUIREMENTS.—**The regulations  
2           issued pursuant to paragraph (1) shall be  
3           in accordance with recommendations of  
4           the Maritime Transportation Security Act  
5           Subcommittee of the Advisory Committee  
6           on Commercial Operations of the Depart-  
7           ment of Homeland Security, including  
8           recommendations relating to obligation  
9           to seal, recording of seal changes, modal  
10          changes, seal placement, ocean carrier  
11          seal verification, and addressing seal  
12          anomalies.

13          **(b) INTERNATIONAL AGREEMENTS.—**The Sec-  
14          retary shall seek to enter into agreements  
15          with foreign countries and international orga-  
16          nizations to establish standards for the secu-  
17          rity of maritime cargo containers moving  
18          within the intermodal transportation system  
19          that, to the maximum extent practicable, meet  
20          the requirements of subsection (a)(2).

21          **(c) CONTAINER TARGETING STRATEGY.—**

22                 **(1) STRATEGY.—**The Secretary shall de-  
23                 velop a strategy to improve the ability of  
24                 the Department of Homeland Security to  
25                 use information contained in shipping

1 bills of lading to identify and provide ad-  
2 ditional review of anomalies in such bills  
3 of lading. The strategy shall include a  
4 method of contacting shippers in a timely  
5 fashion to verify or explain any anoma-  
6 lies in shipping bills of lading.

7 (2) REPORT.—Not later than 90 days  
8 after the date of the enactment of this  
9 Act, the Secretary shall submit to the  
10 Committees on Homeland Security and  
11 Energy and Commerce of the House of  
12 Representatives and the Committees on  
13 Homeland Security and Governmental Af-  
14 fairs and Commerce, Science, and Trans-  
15 portation of the Senate a report on the  
16 implementation of this subsection, in-  
17 cluding information on any data search-  
18 ing technologies that will be used to im-  
19 plement the strategy.

20 (d) CONTAINER SECURITY DEMONSTRATION  
21 PROGRAM.—

22 (1) PROGRAM.—The Secretary is au-  
23 thorized to establish and carry out a  
24 demonstration program that integrates  
25 nonintrusive inspection equipment, in-

1 **cluding radiation detection equipment**  
2 **and gamma ray inspection equipment, at**  
3 **an appropriate United States seaport, as**  
4 **determined by the Secretary.**

5 **(2) REQUIREMENT.—The demonstration**  
6 **program shall also evaluate automatic**  
7 **identification methods for containers and**  
8 **vehicles and a data sharing network ca-**  
9 **pable of transmitting inspection data be-**  
10 **tween ports and appropriate entities**  
11 **within the Department of Homeland Se-**  
12 **curity.**

13 **(3) REPORT.—Upon completion of the**  
14 **demonstration program, the Secretary**  
15 **shall submit to the Committees on Home-**  
16 **land Security and Energy and Commerce**  
17 **of the House of Representatives and the**  
18 **Committees on Homeland Security and**  
19 **Governmental Affairs and Commerce,**  
20 **Science, and Transportation of the Sen-**  
21 **ate a report on the implementation of**  
22 **this subsection.**

23 **(e) CONSOLIDATION OF CONTAINER SECURITY**  
24 **PROGRAMS.—The Secretary shall consolidate**  
25 **all programs of the Department of Homeland**

1 **Security relating to the security of maritime**  
2 **cargo containers, including the demonstra-**  
3 **tion program established pursuant to sub-**  
4 **section (d), to achieve enhanced coordination**  
5 **and efficiency.**

6 **SEC. 307. SECURITY PLAN FOR GENERAL AVIATION AT**  
7 **RONALD REAGAN WASHINGTON NATIONAL**  
8 **AIRPORT.**

9 **Not later than 180 days after the date of**  
10 **enactment of this Act, the Secretary of Home-**  
11 **land Security shall implement section 823(a)**  
12 **of the Vision 100—Century of Aviation Reau-**  
13 **thorization Act (49 U.S.C. 41718 note; 117 Stat.**  
14 **2595).**

15 **SEC. 308. INTEROPERABLE COMMUNICATIONS ASSIST-**  
16 **ANCE.**

17 **(a) FINDINGS.—The Congress finds the fol-**  
18 **lowing:**

19 **(1) The 9/11 Commission determined**  
20 **that the inability of first responders to**  
21 **communicate effectively on September**  
22 **11, 2001 was a critical obstacle to an ef-**  
23 **fective multi-jurisdictional response.**

24 **(2) Many jurisdictions across the**  
25 **country still experience difficulties com-**

1       **communicating that may contribute to confu-**  
2       **sion, delays, or added risks when re-**  
3       **sponding to an emergency.**

4               **(3) During fiscal year 2004, the Office**  
5       **for Domestic Preparedness awarded over**  
6       **\$834,000,000 for 2,912 projects through**  
7       **Department of Homeland Security grant**  
8       **programs for the purposes of improving**  
9       **communications interoperability.**

10              **(4) Interoperable communications**  
11       **systems are most effective when designed**  
12       **to comprehensively address, on a re-**  
13       **gional basis, the communications of all**  
14       **types of public safety agencies, first re-**  
15       **sponder disciplines, and State and local**  
16       **government facilities.**

17              **(5) Achieving communications inter-**  
18       **operability is complex due to the exten-**  
19       **sive training, system modifications, and**  
20       **agreements among the different jurisdic-**  
21       **tions that are necessary to implement ef-**  
22       **fective communications systems.**

23              **(6) The Congress authorized the De-**  
24       **partment of Homeland Security to create**  
25       **an Office for Interoperability and Com-**

1        **patibility in the Intelligence Reform and**  
2        **Terrorism Prevention Act of 2004 to,**  
3        **among other things, establish a com-**  
4        **prehensive national approach, coordinate**  
5        **federal activities, accelerate the adoption**  
6        **of standards, and encourage research**  
7        **and development to achieve interoper-**  
8        **able communications for first responders.**

9            **(7) The Office for Interoperability and**  
10        **Compatibility includes the SAFECOM**  
11        **Program that serves as the umbrella pro-**  
12        **gram within the Federal government to**  
13        **improve public safety communications**  
14        **interoperability, and has developed the**  
15        **RAPIDCOM program, the Statewide Com-**  
16        **munications Interoperability Planning**  
17        **Methodology, and a Statement of Re-**  
18        **quirements to provide technical, plan-**  
19        **ning, and purchasing assistance for Fed-**  
20        **eral departments and agencies, State and**  
21        **local governments, and first responders.**

22        **(b) SENSE OF CONGRESS.—It is the sense of**  
23        **the Congress that the Department of Home-**  
24        **land Security should implement as expedi-**  
25        **tiously as possible the initiatives assigned to**

1 **the Office for Interoperability and Compat-**  
2 **ibility under section 7303 of the Intelligence**  
3 **Reform and Terrorism Prevention Act of 2004**  
4 **(6 U.S.C. 194), including specifically the fol-**  
5 **lowing:**

6           **(1) Establishing a comprehensive na-**  
7 **tional approach to achieving public safe-**  
8 **ty interoperable communications.**

9           **(2) Issuing letters of intent to commit**  
10 **future funds for jurisdictions through ex-**  
11 **isting homeland security grant programs**  
12 **to applicants as appropriate to encourage**  
13 **long-term investments that may signifi-**  
14 **cantly improve communications inter-**  
15 **operability.**

16           **(3) Providing technical assistance to**  
17 **additional urban and other high-risk**  
18 **areas to support the establishment of**  
19 **consistent, secure, and effective inter-**  
20 **operable communications capabilities.**

21           **(4) Completing the report to the Con-**  
22 **gress on the Department's plans for accel-**  
23 **erating the development of national vol-**  
24 **untary consensus standards for public**  
25 **safety interoperable communications, a**

1       **schedule of milestones for such develop-**  
2       **ment, and achievements of such develop-**  
3       **ment, by no later than 30 days after the**  
4       **date of enactment of this Act.**

5       **SEC. 309. REPORT TO CONGRESS ON IMPLEMENTATION OF**  
6                       **RECOMMENDATIONS REGARDING PROTEC-**  
7                       **TION OF AGRICULTURE.**

8       **The Secretary of Homeland Security shall**  
9       **report to the Committee on Homeland Secu-**  
10      **rity of the House of Representatives and the**  
11      **Committee on Homeland Security and Gov-**  
12      **ernmental Affairs of the Senate by no later**  
13      **than 120 days after the date of the enactment**  
14      **of this Act regarding how the Department of**  
15      **Homeland Security will implement the appli-**  
16      **cable recommendations from the Government**  
17      **Accountability Office report entitled “Home-**  
18      **land Security: Much is Being Done to Protect**  
19      **Agriculture from a Terrorist Attack, but Im-**  
20      **portant Challenges Remain” (GAO-05-214).**

1 **Subtitle B—Department of Home-**  
2 **land Security Cybersecurity En-**  
3 **hancement**

4 **SEC. 311. SHORT TITLE.**

5 **This subtitle may be cited as the “Depart-**  
6 **ment of Homeland Security Cybersecurity En-**  
7 **hancement Act of 2005”.**

8 **SEC. 312. ASSISTANT SECRETARY FOR CYBERSECURITY.**

9 **(a) ESTABLISHMENT.—Section 201(b) of the**  
10 **Homeland Security Act of 2002 (6 U.S.C.**  
11 **121(b)) is amended—**

12 **(1) by redesignating paragraph (3) as**  
13 **paragraph (4); and**

14 **(2) by inserting after paragraph (2)**  
15 **the following new paragraph:**

16 **“(3) ASSISTANT SECRETARY FOR**  
17 **CYBERSECURITY.—There shall be in the De-**  
18 **partment an Assistant Secretary for**  
19 **Cybersecurity, who shall be appointed by**  
20 **the President.”; and**

21 **(3) in paragraph (4), as redesignated**  
22 **by subparagraph (A) of this paragraph—**

23 **(A) by striking “Analysis and the”**  
24 **and inserting “Analysis, the” and**

1           **(B) by striking “Protection shall”**  
2           **and inserting “Protection, and the As-**  
3           **stant Secretary for Cybersecurity**  
4           **shall”.**

5           **(b) RESPONSIBILITIES.—The Under Sec-**  
6           **retary of Information Analysis and Infrastruc-**  
7           **ture Protection shall assign to the Assistant**  
8           **Secretary for Cybersecurity responsibility**  
9           **for—**

10           **(1) the National Cyber Security Divi-**  
11           **sion and the National Communications**  
12           **System within the Department of Home-**  
13           **land Security;**

14           **(2) the cybersecurity-related aspects**  
15           **of paragraphs (2), (3), (5), (6), (15), and**  
16           **(17) of subsection (d) of section 201 of the**  
17           **Homeland Security Act of 2002; and**

18           **(3) such other duties as the Under**  
19           **Secretary may provide pursuant to sec-**  
20           **tion 201 of such Act.**

21           **(c) COORDINATION.—The Assistant Sec-**  
22           **retary of Cybersecurity shall coordinate all**  
23           **activities under this subtitle with other Fed-**  
24           **eral agencies, including the Department of**  
25           **Commerce, the Department of Energy, the De-**

1 **partment of Transportation, the Federal Com-**  
2 **munications Commission, the Nuclear Regu-**  
3 **latory Commission, the Federal Energy Regu-**  
4 **latory Commission, the Environmental Pro-**  
5 **tection Agency, the Federal Trade Commis-**  
6 **sion, and the National Telecommunications**  
7 **and Information Administration.**

8 **SEC. 313. CYBERSECURITY DEFINED.**

9 **For the purposes of this subtitle, the term**  
10 **“cybersecurity” means the protection and res-**  
11 **toration of networked electronic equipment**  
12 **and facilities, including hardware and soft-**  
13 **ware and the information contained therein,**  
14 **from intrusion, interference, and incapacita-**  
15 **tion.**

16 **SEC. 314. CYBERSECURITY TRAINING PROGRAMS AND**  
17 **EQUIPMENT.**

18 **(a) IN GENERAL.—The Secretary of Home-**  
19 **land Security, acting through the Assistant**  
20 **Secretary for Cybersecurity, may establish, in**  
21 **conjunction with the National Science Foun-**  
22 **dation, a program to award grants to institu-**  
23 **tions of higher education (and consortia**  
24 **thereof) for—**

1           **(1) the establishment or expansion of**  
2           **cybersecurity professional development**  
3           **programs;**

4           **(2) the establishment or expansion of**  
5           **associate degree programs in**  
6           **cybersecurity; and**

7           **(3) the purchase of equipment to pro-**  
8           **vide training in cybersecurity for either**  
9           **professional development programs or**  
10          **degree programs.**

11          **(b) ROLES.—**

12           **(1) DEPARTMENT OF HOMELAND SECU-**  
13           **RITY.—The Secretary, acting through the**  
14           **Assistant Secretary for Cybersecurity**  
15           **and in consultation with the Director of**  
16           **the National Science Foundation, shall**  
17           **establish the goals for the program estab-**  
18           **lished under this section and the criteria**  
19           **for awarding grants under the program.**

20           **(2) NATIONAL SCIENCE FOUNDATION.—**  
21           **The Director of the National Science**  
22           **Foundation shall operate the program es-**  
23           **tablished under this section consistent**  
24           **with the goals and criteria established**  
25           **under paragraph (1), including soliciting**

1       **applicants, reviewing applications, and**  
2       **making and administering grant awards.**  
3       **The Director may consult with the Assist-**  
4       **ant Secretary for Cybersecurity in select-**  
5       **ing awardees.**

6           **(3) FUNDING.—The Secretary shall**  
7       **transfer to the National Science Founda-**  
8       **tion the funds necessary to carry out this**  
9       **section.**

10       **(c) GRANT AWARDS.—**

11           **(1) PEER REVIEW.—All grant awards**  
12       **under this section shall be made on a**  
13       **competitive, merit-reviewed basis.**

14           **(2) FOCUS.—In making grant awards**  
15       **under this section, the Director shall, to**  
16       **the extent practicable, ensure geographic**  
17       **diversity and the participation of women**  
18       **and underrepresented minorities.**

19           **(3) PREFERENCE.—In making grant**  
20       **awards under this section, the Director**  
21       **shall give preference to applications sub-**  
22       **mitted by consortia of institutions to en-**  
23       **courage as many students and profes-**  
24       **sionals as possible to benefit from this**  
25       **program.**

1       **(d) AUTHORIZATION OF APPROPRIATIONS.—**  
2 **Of the amount authorized under section 101,**  
3 **there is authorized to be appropriated to the**  
4 **Secretary for carrying out this section**  
5 **\$3,700,000 for fiscal year 2006.**

6       **(e) DEFINITIONS.—In this section, the term**  
7 **“institution of higher education” has the**  
8 **meaning given that term in section 101(a) of**  
9 **the Higher Education Act of 1965 (20 U.S.C.**  
10 **1001(a)).**

11       **Subtitle C—Security of Public**  
12               **Transportation Systems**

13 **SEC. 321. SECURITY BEST PRACTICES.**

14       **Not later than 120 days after the date of**  
15 **enactment of this Act, the Secretary of Home-**  
16 **land Security shall develop, disseminate to**  
17 **appropriate owners, operators, and providers**  
18 **of public transportation systems, public**  
19 **transportation employees and employee rep-**  
20 **resentatives, and Federal, State, and local of-**  
21 **ficials, and transmit to Congress, a report**  
22 **containing best practices for the security of**  
23 **public transportation systems. In developing**  
24 **best practices, the Secretary shall be respon-**  
25 **sible for consulting with and collecting input**

1 from owners, operators, and providers of pub-  
2 lic transportation systems, public transpor-  
3 tation employee representatives, first re-  
4 sponders, industry associations, private sec-  
5 tor experts, academic experts, and appro-  
6 priate Federal, State, and local officials.

7 SEC. 322. PUBLIC AWARENESS.

8 Not later than 90 days after the date of en-  
9 actment of this Act, the Secretary of Home-  
10 land Security shall develop a national plan for  
11 public outreach and awareness. Such plan  
12 shall be designed to increase awareness of  
13 measures that the general public, public  
14 transportation passengers, and public trans-  
15 portation employees can take to increase pub-  
16 lic transportation system security. Such plan  
17 shall also provide outreach to owners, opera-  
18 tors, providers, and employees of public  
19 transportation systems to improve their  
20 awareness of available technologies, ongoing  
21 research and development efforts, and avail-  
22 able Federal funding sources to improve pub-  
23 lic transportation security. Not later than 9  
24 months after the date of enactment of this

1 Act, the Secretary shall implement the plan  
2 developed under this section.

3 **Subtitle D—Critical Infrastructure**  
4 **Prioritization**

5 SEC. 331. CRITICAL INFRASTRUCTURE.

6 (a) **COMPLETION OF PRIORITIZATION.**—Not  
7 later than 90 days after the date of the enact-  
8 ment of this Act, the Secretary of Homeland  
9 Security shall complete the prioritization of  
10 the Nation’s critical infrastructure according  
11 to all of the following criteria:

12 (1) **The threat of terrorist attack,**  
13 **based on threat information received and**  
14 **analyzed by the Office of Information**  
15 **Analysis of the Department regarding the**  
16 **intentions and capabilities of terrorist**  
17 **groups and other potential threats to the**  
18 **Nation’s critical infrastructure.**

19 (2) **The likelihood that an attack**  
20 **would cause the destruction or signifi-**  
21 **cant disruption of such infrastructure.**

22 (3) **The likelihood that an attack**  
23 **would result in substantial numbers of**  
24 **deaths and serious bodily injuries, a sub-**  
25 **stantial adverse impact on the national**

1        **economy, or a substantial adverse impact**  
2        **on national security.**

3        **(b) COOPERATION.—Such prioritization**  
4        **shall be developed in cooperation with other**  
5        **relevant Federal agencies, State, local, and**  
6        **tribal governments, and the private sector, as**  
7        **appropriate. The Secretary shall coordinate**  
8        **the prioritization under this section with**  
9        **other Federal agencies, including the Depart-**  
10       **ment of Commerce, the Department of En-**  
11       **ergy, the Department of Transportation, the**  
12       **Federal Communications Commission, the**  
13       **Nuclear Regulatory Commission, the Federal**  
14       **Energy Regulatory Commission, the Environ-**  
15       **mental Protection Agency, the Federal Trade**  
16       **Commission, and the National Telecommuni-**  
17       **cations and Information Administration.**

18       **SEC. 332. SECURITY REVIEW.**

19       **(a) REQUIREMENT.—Not later than 9**  
20       **months after the date of the enactment of this**  
21       **Act, the Secretary, in coordination with other**  
22       **relevant Federal agencies, State, local, and**  
23       **tribal governments, and the private sector, as**  
24       **appropriate, shall—**

1           **(1) review existing Federal, State,**  
2           **local, tribal, and private sector plans for**  
3           **securing the critical infrastructure in-**  
4           **cluded in the prioritization developed**  
5           **under section 331;**

6           **(2) recommend changes to existing**  
7           **plans for securing such infrastructure, as**  
8           **the Secretary determines necessary; and**

9           **(3) coordinate and contribute to pro-**  
10          **TECTIVE efforts of other Federal, State,**  
11          **local, and tribal agencies and the private**  
12          **sector, as appropriate, as directed in**  
13          **Homeland Security Presidential Directive**  
14          **7.**

15          **(b) CONTENTS OF PLANS.—The rec-**  
16          **ommendations made under subsection (a)(2)**  
17          **shall include—**

18               **(1) necessary protective measures to**  
19               **secure such infrastructure, including**  
20               **milestones and timeframes for implemen-**  
21               **tation; and**

22               **(2) to the extent practicable, perform-**  
23               **ance metrics to evaluate the benefits to**  
24               **both national security and the Nation's**

1        **economy from the implementation of**  
2        **such protective measures.**

3        **(c) COORDINATION.—The Secretary shall**  
4        **coordinate the security review and rec-**  
5        **ommendations required by subsection (a)**  
6        **with other Federal agencies, including the**  
7        **Department of Commerce, the Department of**  
8        **Energy, the Department of Transportation,**  
9        **the Federal Communications Commission, the**  
10       **Nuclear Regulatory Commission, the Federal**  
11       **Energy Regulatory Commission, the Environ-**  
12       **mental Protection Agency, the Federal Trade**  
13       **Commission, and the National Telecommuni-**  
14       **cations and Information Administration.**

15       **SEC. 333. IMPLEMENTATION REPORT.**

16       **(a) IN GENERAL.—Not later than 15 months**  
17       **after the date of the enactment of this Act, the**  
18       **Secretary shall submit a report to the Com-**  
19       **mittees on Homeland Security and Energy**  
20       **and Commerce of the House of Representa-**  
21       **tives and the Committees on Homeland Secu-**  
22       **rity and Governmental Affairs and Com-**  
23       **merce, Science, and Transportation of the**  
24       **Senate on the implementation of section 332.**  
25       **Such report shall detail—**

1           **(1) the Secretary’s review and coordi-**  
2           **nation of security plans under section**  
3           **332; and**

4           **(2) the Secretary’s oversight of the**  
5           **execution and effectiveness of such plans.**

6           **(b) UPDATE.—Not later than 1 year after**  
7           **the submission of the report under subsection**  
8           **(a), the Secretary, following the coordination**  
9           **required by section 332(c), shall provide an**  
10          **update of such report to the congressional**  
11          **committees described in subsection (a).**

12          **SEC. 334. PROTECTION OF INFORMATION.**

13          **Information that is generated, compiled,**  
14          **or disseminated by the Department of Home-**  
15          **land Security in carrying out this section—**

16               **(1) is exempt from disclosure under**  
17               **section 552 of title 5, United States Code;**  
18               **and**

19               **(2) shall not, if provided by the De-**  
20               **partment to a State or local government**  
21               **or government agency—**

22                       **(A) be made available pursuant to**  
23                       **any State or local law requiring dis-**  
24                       **closure of information or records;**

1           **(B) otherwise be disclosed or dis-**  
2           **tributed to any person by such State**  
3           **or local government or government**  
4           **agency without the written consent of**  
5           **the Secretary; or**

6           **(C) be used other than for the**  
7           **purpose of protecting critical infra-**  
8           **structure or protected systems, or in**  
9           **furtherance of an investigation or the**  
10          **prosecution of a criminal act.**

## 11           **TITLE IV—MISCELLANEOUS**

### 12           **SEC. 401. BORDER SECURITY AND ENFORCEMENT COORDI-** 13           **NATION AND OPERATIONS.**

14           **(a) FINDINGS.—The Congress makes the**  
15           **following findings:**

16           **(1) In creating the Department of**  
17           **Homeland Security, the Congress sought**  
18           **to enhance the Nation’s capabilities to**  
19           **prevent, protect against, and respond to**  
20           **terrorist acts by consolidating existing**  
21           **Federal agencies with homeland security**  
22           **functions into a single new Department,**  
23           **and by realigning the missions of those**  
24           **legacy agencies to more directly support**  
25           **our national homeland security efforts.**

1           **(2) As part of this massive govern-**  
2           **ment reorganization, section 442 of the**  
3           **Homeland Security Act of 2002 (Public**  
4           **Law 107-273) established a Bureau of**  
5           **Border Security and transferred into it**  
6           **all of the functions, programs, personnel,**  
7           **assets, and liabilities pertaining to the**  
8           **following programs: the Border Patrol;**  
9           **alien detention and removal; immigra-**  
10          **tion-related intelligence, investigations,**  
11          **and enforcement activities; and immigra-**  
12          **tion inspections at ports of entry.**

13           **(3) Title IV of the Homeland Security**  
14          **Act of 2002 (Public Law 107-273) also**  
15          **transferred to the new Department the**  
16          **United States Customs Service, as a dis-**  
17          **tinguish entity within the new Department,**  
18          **to further the Department's border integ-**  
19          **riety mission.**

20           **(4) Utilizing its reorganization au-**  
21          **thority provided in the Homeland Secu-**  
22          **rity Act of 2002, the President submitted**  
23          **a reorganization plan for the Department**  
24          **on January 30, 2003.**

1           **(5) This plan merged the customs and**  
2 **immigration border inspection and patrol**  
3 **functions, along with agricultural inspec-**  
4 **tions functions, into a new entity called**  
5 **United States Customs and Border Pro-**  
6 **tection.**

7           **(6) The plan also combined the cus-**  
8 **toms and immigration enforcement**  
9 **agents, as well as the Office of Detention**  
10 **and Removal Operations, the Office of**  
11 **Federal Protective Service, the Office of**  
12 **Federal Air Marshal Service, and the Of-**  
13 **fice of Intelligence, into another new en-**  
14 **tity called United States Immigration and**  
15 **Customs Enforcement.**

16           **(7) The President's January 30, 2003,**  
17 **reorganization plan did not explain the**  
18 **reasons for separating immigration in-**  
19 **spection and border patrol functions**  
20 **from other immigration-related enforce-**  
21 **ment activities, which was contrary to**  
22 **the single Bureau of Border Security as**  
23 **prescribed by the Congress in the section**  
24 **441 of the Homeland Security Act of 2002.**

1           **(8) Two years after this structure has**  
2 **been in effect, questions remain about**  
3 **whether the Department has organized**  
4 **itself properly, and is managing its cus-**  
5 **oms and immigration enforcement and**  
6 **border security resources in the most ef-**  
7 **ficient, sensible, and effective manner.**

8           **(9) The current structure has resulted**  
9 **in less cooperation and information shar-**  
10 **ing between these two critical functions**  
11 **than is desirable, and has caused oper-**  
12 **ational and administrative difficulties**  
13 **that are hampering efforts to secure our**  
14 **borders and ensure the integrity of our**  
15 **border control system.**

16           **(10) United States Immigration and**  
17 **Customs Enforcement has faced major**  
18 **budgetary challenges that are, in part, at-**  
19 **tributable to the inexact division of re-**  
20 **sources upon the separation of immigra-**  
21 **tion functions. These budget shortfalls**  
22 **have forced United States Immigration**  
23 **and Customs Enforcement to impose hir-**  
24 **ing freezes and to release aliens that oth-**  
25 **erwise should be detained.**

1           **(11) The current structure also has**  
2 **resulted in unnecessary overlap and du-**  
3 **plication between United States Immigra-**  
4 **tion and Customs Enforcement and**  
5 **United States Customs and Border Pro-**  
6 **tection, both in the field and at the head-**  
7 **quarters level. There are intelligence, leg-**  
8 **islative affairs, public affairs, and inter-**  
9 **national affairs offices in both agencies.**

10           **(12) Border security and customs and**  
11 **immigration enforcement should be one**  
12 **seamless mission.**

13           **(b) REPORT.—**

14           **(1) IN GENERAL.—Not later than 30**  
15 **days after the date of the enactment of**  
16 **this Act, the Secretary of Homeland Secu-**  
17 **rity shall review and evaluate the current**  
18 **organizational structure of the Depart-**  
19 **ment of Homeland Security established**  
20 **by the President’s January 30, 2003, reor-**  
21 **ganization plan and submit a report of**  
22 **findings and recommendations to the**  
23 **Congress.**

24           **(2) CONTENTS OF REPORT.—The report**  
25 **shall include—**

1           **(A) a description of the rationale**  
2 **for, and any benefits of, the current**  
3 **organizational division of United**  
4 **States Immigration and Customs En-**  
5 **forcement and United States Customs**  
6 **and Border Protection, with respect**  
7 **to the Department's immigration and**  
8 **customs missions;**

9           **(B) a description of the organiza-**  
10 **tion, missions, operations, and poli-**  
11 **cies of United States Customs and**  
12 **Border Protection and United States**  
13 **Immigration and Customs Enforce-**  
14 **ment, and areas of unnecessary over-**  
15 **lap or operational gaps among and**  
16 **between these missions;**

17           **(C) an analysis of alternative or-**  
18 **ganizational structures that could**  
19 **provide a more effective way to de-**  
20 **liver maximum efficiencies and mis-**  
21 **sion success;**

22           **(D) a description of the current**  
23 **role of the Directorate of Border and**  
24 **Transportation Security with respect**  
25 **to providing adequate direction and**

1 oversight of the two agencies, and  
2 whether this management structure  
3 is still necessary;

4 (E) an analysis of whether the  
5 Federal Air Marshals and the Federal  
6 Protective Service are properly lo-  
7 cated within the Department within  
8 United States Immigration and Cus-  
9 toms Enforcement;

10 (F) the proper placement and  
11 functions of a specialized investiga-  
12 tive and patrol unit operating at the  
13 southwest border on the Tohono  
14 O'odham Nation, known as the Shad-  
15 ow Wolves;

16 (G) the potential costs of reorga-  
17 nization, including financial, pro-  
18 grammatic, and other costs, to the De-  
19 partment; and

20 (H) recommendations for cor-  
21 recting the operational and adminis-  
22 trative problems that have been  
23 caused by the division of United  
24 States Customs and Border Protec-  
25 tion and United States Immigration

1           **and Customs Enforcement, including**  
2           **any appropriate reorganization plans.**

3 **SEC. 402. GAO REPORTS TO CONGRESS.**

4           **(a) IN GENERAL.— Not later than 6 months**  
5 **after the date of the enactment of this Act, the**  
6 **Comptroller General of the United States**  
7 **shall submit to the Congress a report that sets**  
8 **forth—**

9           **(1) an assessment of the effectiveness**  
10 **of the organizational and management**  
11 **structure of the Department of Homeland**  
12 **Security in meeting the Department’s**  
13 **missions; and**

14           **(2) recommendations to facilitate and**  
15 **improve the organization and manage-**  
16 **ment of the Department to best meet**  
17 **those missions.**

18           **(b) CYBERSECURITY ASSESSMENT.—Not later**  
19 **than 6 months after the date of enactment of**  
20 **this Act, the Comptroller General shall submit**  
21 **a report to the Committees on Homeland Se-**  
22 **curity and Energy and Commerce of the**  
23 **House of Representatives and the Committees**  
24 **on Homeland Security and Governmental Af-**  
25 **fairs and Commerce, Science, and Transpor-**

1 **tation of the Senate that sets forth an assess-**  
2 **ment of the effectiveness of the efforts of the**  
3 **Assistant Secretary for Cybersecurity to ful-**  
4 **fill the statutory responsibilities of that office.**

5 **SEC. 403. PLAN FOR ESTABLISHING CONSOLIDATED AND**  
6 **COLOCATED REGIONAL OFFICES.**

7 **Not later than 60 days after the date of the**  
8 **enactment of this Act, the Secretary of Home-**  
9 **land Security shall develop and submit to the**  
10 **Congress a plan for establishing consolidated**  
11 **and colocated regional offices for the Depart-**  
12 **ment of Homeland Security in accordance**  
13 **with section 706 of the Homeland Security Act**  
14 **of 2002 (6 U.S.C. 346).**

15 **SEC. 404. PLAN TO REDUCE WAIT TIMES.**

16 **Not later than 180 days after the date of**  
17 **enactment of this Act, the Secretary of Home-**  
18 **land Security shall develop a plan—**

19 **(1) to improve the operational effi-**  
20 **ciency of security screening checkpoints**  
21 **at commercial service airports so that av-**  
22 **erage peak waiting periods at such**  
23 **checkpoints do not exceed 20 minutes;**  
24 **and**

1           **(2) to ensure that there are no signifi-**  
2           **cant disparities in immigration and cus-**  
3           **toms processing times among airports**  
4           **that serve as international gateways.**

5 **SEC. 405. DENIAL OF TRANSPORTATION SECURITY CARD.**

6           **Section 70105(c) of title 46, United States**  
7           **Code, is amended—**

8           **(1) in paragraph (3) by inserting be-**  
9           **fore the period “before an administrative**  
10          **law judge”; and**

11          **(2) by adding at the end the fol-**  
12          **lowing:**

13          **“(5) In making a determination under**  
14          **paragraph (1)(D), the Secretary shall not con-**  
15          **sider a felony conviction if—**

16                **“(A) that felony occurred more than 7**  
17                **years prior to the date of the Secretary’s**  
18                **determination; and**

19                **“(B) the felony was not related to ter-**  
20                **rorism (as that term is defined in section**  
21                **2 of the Homeland Security Act of 2002 (6**  
22                **U.S.C. 101)).”.**

1 SEC. 406. TRANSFER OF EXISTING CUSTOMS PATROL OFFI-  
2 CERS UNIT AND ESTABLISHMENT OF NEW  
3 CPO UNITS IN THE BUREAU OF IMMIGRATION  
4 AND CUSTOMS ENFORCEMENT.

5 (a) **TRANSFER OF EXISTING UNIT.**—Not later  
6 than 180 days after the date of the enactment  
7 of this Act, the Secretary of Homeland Secu-  
8 rity shall transfer to the Bureau of Immigra-  
9 tion and Customs Enforcement all functions  
10 (including the personnel, assets, and obliga-  
11 tions held by or available in connection with  
12 such functions) of the Customs Patrol Officers  
13 unit of the Bureau of Customs and Border  
14 Protection operating on the Tohono O’odham  
15 Indian reservation (commonly known as the  
16 ‘Shadow Wolves’ unit).

17 (b) **ESTABLISHMENT OF NEW UNITS.**—The  
18 Secretary is authorized to establish within  
19 the Bureau of Immigration and Customs En-  
20 forcement additional units of Customs Patrol  
21 Officers in accordance with this section.

22 (c) **DUTIES.**—The Secretary is authorized  
23 to establish within the Bureau of Immigration  
24 and Customs Enforcement additional units of  
25 Customs Patrol Officers in accordance with  
26 this section.

1       **(d) BASIC PAY FOR JOURNEYMAN OFFI-**  
2 **CERS.—The rate of basic pay for a journeyman**  
3 **Customs Patrol Officer in a unit described in**  
4 **this section shall be not less than the rate of**  
5 **basic pay for GS-13 of the General Schedule.**

6       **(e) SUPERVISORS.—Each unit described**  
7 **under this section shall be supervised by a**  
8 **Chief Customs Patrol Officer, who shall have**  
9 **the same rank as a resident agent-in-charge of**  
10 **the Office of Investigations.**

11 **SEC. 407. AUTHORITY AND RESPONSIBILITY OF OTHER**  
12 **FEDERAL AGENCIES.**

13       **Nothing in this Act shall diminish or oth-**  
14 **erwise affect the authority or responsibility**  
15 **under statute, regulation, or Executive order**  
16 **of other Federal agencies than the Depart-**  
17 **ment of Homeland Security, including the De-**  
18 **partment of Commerce, the Department of**  
19 **Energy, the Department of Transportation,**  
20 **the Federal Communications Commission, the**  
21 **Nuclear Regulatory Commission, the Federal**  
22 **Energy Regulatory Commission, the Environ-**  
23 **mental Protection Agency, the Federal Trade**  
24 **Commission, and the National Telecommuni-**  
25 **cations and Information Administration.**

1 **SECTION 1. SHORT TITLE.**

2 ***This Act may be cited as the “Department***  
 3 ***of Homeland Security Authorization Act for***  
 4 ***Fiscal Year 2006”.***

5 **SEC. 2. TABLE OF CONTENTS.**

6 ***The table of contents for this Act is as fol-***  
 7 ***lows:***

***Sec. 1. Short title.***

***Sec. 2. Table of contents.***

***Sec. 3. Definitions.***

**TITLE I—AUTHORIZATION OF APPROPRIATIONS**

***Sec. 101. Department of Homeland Security.***

***Sec. 102. Immigration resources.***

***Sec. 103. Departmental management and operations.***

***Sec. 104. Critical infrastructure grants.***

***Sec. 105. Research and development.***

***Sec. 106. Border and transportation security.***

***Sec. 107. State and local terrorism preparedness.***

**TITLE II—TERRORISM PREVENTION, INFORMATION  
SHARING, AND RISK ASSESSMENT**

***Subtitle A—Terrorism Prevention***

***Sec. 201. Terrorism Prevention Plan and related budget submis-***  
***sion.***

***Sec. 202. Consolidated background check process.***

***Subtitle B—Homeland Security Information Sharing and***  
***Analysis Enhancement***

***Sec. 211. Short title.***

***Sec. 212. Provision of terrorism-related information to private***  
***sector officials.***

***Sec. 213. Analytic expertise on the threats from biological***  
***agents and nuclear weapons.***

***Sec. 214. Alternative analysis of homeland security information.***

***Sec. 215. Assignment of information analysis and infrastruc-***  
***ture protection functions.***

***Sec. 216. Authority for disseminating homeland security infor-***  
***mation.***

***Sec. 217. 9/11 Memorial Homeland Security Fellows Program.***

***Sec. 218. Access to nuclear terrorism-related information.***

***Sec. 219. Access of Assistant Secretary for Information Analysis***  
***to terrorism information.***

***Sec. 220. Administration of the Homeland Security Information***  
***Network.***

- Sec. 221. IAIP personnel recruitment.*
- Sec. 222. Homeland Security Advisory System.*
- Sec. 223. Use of open-source information.*
- Sec. 224. Full and efficient use of open-source information.*

### **TITLE III—DOMESTIC PREPAREDNESS AND PROTECTION**

#### ***Subtitle A—Preparedness and Protection***

- Sec. 301. National terrorism exercise program.*
- Sec. 302. Technology development and transfer.*
- Sec. 303. Review of antiterrorism acquisitions.*
- Sec. 304. Center of Excellence for Border Security.*
- Sec. 305. Requirements relating to the Container Security Initiative (CSI).*
- Sec. 306. Security of maritime cargo containers.*
- Sec. 307. Security plan for general aviation at Ronald Reagan Washington National Airport.*
- Sec. 308. Interoperable communications assistance.*
- Sec. 309. Report to Congress on implementation of recommendations regarding protection of agriculture.*

#### ***Subtitle B—Department of Homeland Security Cybersecurity Enhancement***

- Sec. 311. Short title.*
- Sec. 312. Assistant Secretary for Cybersecurity.*
- Sec. 313. Cybersecurity defined.*
- Sec. 314. Cybersecurity training programs and equipment.*
- Sec. 315. Information security requirements and OMB responsibilities not affected.*

#### ***Subtitle C—Security of public transportation systems***

- Sec. 321. Security best practices.*
- Sec. 322. Public awareness.*

#### ***Subtitle D—Critical infrastructure prioritization***

- Sec. 331. Critical infrastructure.*
- Sec. 332. Security review.*
- Sec. 333. Implementation report.*
- Sec. 334. Protection of information.*

### **TITLE IV—MISCELLANEOUS**

- Sec. 401. Border security and enforcement coordination and operations.*
- Sec. 402. GAO report to Congress.*
- Sec. 403. Plan for establishing consolidated and colocated regional offices.*
- Sec. 404. Plan to reduce wait times.*
- Sec. 405. Denial of transportation security card.*
- Sec. 406. Transfer of existing Customs Patrol Officers unit and establishment of new CPO units in the U.S. Immigration and Customs Enforcement.*
- Sec. 407. Data collection on use of immigration consultants.*

1 *SEC. 3. DEFINITIONS.*

2 *For purposes of this Act, the terms “pre-*  
3 *vent terrorist attacks” and “terrorism preven-*  
4 *tion” are intended to encompass securing our*  
5 *borders, securing our critical infrastructure,*  
6 *disseminating homeland security information*  
7 *to Federal, State, and local government agen-*  
8 *cies, and preparing first responders for a ter-*  
9 *rorist attack.*

10 **TITLE I—AUTHORIZATION OF**  
11 **APPROPRIATIONS**

12 *SEC. 101. DEPARTMENT OF HOMELAND SECURITY.*

13 *There is authorized to be appropriated to*  
14 *the Secretary of Homeland Security for the*  
15 *necessary expenses of the Department of Home-*  
16 *land Security for fiscal year 2006,*  
17 *\$34,152,143,000.*

18 *SEC. 102. IMMIGRATION RESOURCES.*

19 *(a) Of the amount authorized under sec-*  
20 *tion 101, there is authorized to be appro-*  
21 *priated for fiscal year 2006 for border security*  
22 *and control between ports of entry, including*  
23 *for the hiring of 2,000 border patrol agents in*  
24 *addition to the number employed on the date*  
25 *of enactment of this Act, and related training*  
26 *and support costs, \$1,916,427,000.*

1       ***(b) Of the amount authorized under sec-***  
2 ***tion 101, there is authorized to be appro-***  
3 ***priated for fiscal year 2006 for the U.S. Immi-***  
4 ***gration and Customs Enforcement Legal Pro-***  
5 ***gram sufficient sums for the hiring of an addi-***  
6 ***tional 300 attorneys in addition to the number***  
7 ***employed on the date of this Act, and related***  
8 ***training and support costs.***

9       ***(c) Of the amount authorized under sec-***  
10 ***tion 101, there is authorized to be appro-***  
11 ***priated for fiscal year 2006 for U.S. Citizen-***  
12 ***ship and Immigration Services sufficient sums***  
13 ***for the hiring of an additional 300 adjudica-***  
14 ***tors to carry out the functions stated in section***  
15 ***451(b) of the Homeland Security Act of 2002 in***  
16 ***addition to the number employed on the date***  
17 ***of this Act, and related training and support***  
18 ***costs.***

19 ***SEC. 103. DEPARTMENTAL MANAGEMENT AND OPERATIONS.***

20       ***Of the amount authorized under section***  
21 ***101, there is authorized to be appropriated for***  
22 ***fiscal year 2006 for departmental management***  
23 ***and operations, \$634,687,000, of which—***

1           **(1) \$44,895,000 is authorized for the**  
2           **Department of Homeland Security Re-**  
3           **gions Initiative;**

4           **(2) \$4,459,000 is authorized for Oper-**  
5           **ation Integration Staff; and**

6           **(3) \$56,278,000 is authorized for Office**  
7           **of Security initiatives.**

8 **SEC. 104. CRITICAL INFRASTRUCTURE GRANTS.**

9           **Of the amount authorized under section**  
10          **101, there is authorized to be appropriated for**  
11          **fiscal year 2006 for grants and other assist-**  
12          **ance to improve critical infrastructure protec-**  
13          **tion, \$500,000,000.**

14 **SEC. 105. RESEARCH AND DEVELOPMENT.**

15          **Of the amount authorized under section**  
16          **101, there are authorized to be appropriated**  
17          **for fiscal year 2006—**

18               **(1) \$76,573,000 to support chemical**  
19               **countermeasure development activities of**  
20               **the Directorate of Science and Tech-**  
21               **nology;**

22               **(2) \$197,314,000 to support a nuclear**  
23               **detection office and related activities of**  
24               **such directorate;**

1           **(3) \$10,000,000 for research and devel-**  
2           **opment of technologies capable of coun-**  
3           **tering threats posed by man-portable air**  
4           **defense systems, including location-based**  
5           **technologies and noncommercial aircraft-**  
6           **based technologies; and**

7           **(4) \$10,600,000 for the activities of**  
8           **such directorate conducted pursuant to**  
9           **subtitle G of title VIII of the Homeland Se-**  
10          **curity Act of 2002 (6 U.S.C. 441 et seq.).**

11 **SEC. 106. BORDER AND TRANSPORTATION SECURITY.**

12          **Of the amount authorized under section**  
13 **101, there are authorized to be appropriated**  
14 **for fiscal year 2006—**

15           **(1) \$826,913,000 for expenses related to**  
16           **Screening Coordination and Operations**  
17           **of the Directorate of Border and Trans-**  
18           **portation Security;**

19           **(2) \$100,000,000 for weapons of mass**  
20           **destruction detection technology of such**  
21           **directorate; and**

22           **(3) \$133,800,000 for the Container Se-**  
23           **curity Initiative of such directorate.**

1 *SEC. 107. STATE AND LOCAL TERRORISM PREPAREDNESS.*

2 *(a) FISCAL YEAR 2006.—Of the amount au-*  
3 *thorized under section 101, there is authorized*  
4 *to be appropriated for fiscal year 2006—*

5 *(1) \$40,500,000 for the activities of the*  
6 *Office for Interoperability and Compat-*  
7 *ibility within the Directorate of Science*  
8 *and Technology pursuant to section 7303*  
9 *of the Intelligence Reform and Terrorism*  
10 *Prevention Act of 2004 (6 U.S.C 194);*

11 *(2) \$1,000,000,000 for discretionary*  
12 *grants for high-threat, high-density urban*  
13 *areas awarded by the Office of State and*  
14 *Local Government Coordination and Pre-*  
15 *paredness; and*

16 *(3) subsequent to the completion of a*  
17 *feasibility study by the Federal Govern-*  
18 *ment finding conclusively the need for a*  
19 *regional homeland security center which*  
20 *enhances coordination for terrorism pre-*  
21 *paredness between all levels of govern-*  
22 *ment, sufficient sums as may be necessary*  
23 *for the development of a center for train-*  
24 *ing for Federal, State, and local law en-*  
25 *forcement officials with an expertise in*  
26 *terrorism preparedness.*

1       **(b) USE OF GRANTS FOR “TERRORISM**  
2 **COPS”.—**

3           **(1) IN GENERAL.—Notwithstanding any**  
4 **other provision of law, a covered grant**  
5 **may be used to pay the salaries of law en-**  
6 **forcement officers hired exclusively for**  
7 **terrorism and homeland security matters.**

8           **(2) COVERED GRANT.—In this sub-**  
9 **section, the term “covered grant” applies**  
10 **to—**

11                   **(A) the State Homeland Security**  
12 **Grant Program of the Department, or**  
13 **any successor to such grant program;**

14                   **(B) the Urban Area Security Ini-**  
15 **tiative of the Department, or any suc-**  
16 **cessor to such grant program; and**

17                   **(C) the Law Enforcement Ter-**  
18 **rorism Prevention Program of the De-**  
19 **partment, or any successor to such**  
20 **grant program.**

1 **TITLE II—TERRORISM PREVEN-**  
2 **TION, INFORMATION SHAR-**  
3 **ING, AND RISK ASSESSMENT**

4 **Subtitle A—Terrorism Prevention**

5 **SEC. 201. TERRORISM PREVENTION PLAN AND RELATED**  
6 **BUDGET SUBMISSION.**

7 **(a) DEPARTMENT OF HOMELAND SECURITY**  
8 **TERRORISM PREVENTION PLAN.—**

9 **(1) REQUIREMENTS.—***Not later than 1*  
10 *year after the date of enactment of the*  
11 *Act, and on a regular basis thereafter, the*  
12 *Secretary of Homeland Security shall pre-*  
13 *pare and submit to the Committee on*  
14 *Homeland Security and the Committee on*  
15 *the Judiciary of the House of Representa-*  
16 *tives and the Committee on Homeland Se-*  
17 *curity and Governmental Affairs and the*  
18 *Committee on the Judiciary of the Senate*  
19 *a Department of Homeland Security Ter-*  
20 *rorism Prevention Plan. The Plan shall be*  
21 *a comprehensive and integrated plan that*  
22 *includes the goals, objectives, milestones,*  
23 *and key initiatives of the Department of*  
24 *Homeland Security to prevent acts of ter-*

1 *rorism on the United States, including its*  
2 *territories and interests.*

3 (2) **CONTENTS.**—*The Secretary shall in-*  
4 *clude in the Plan the following elements:*

5 (A) *Identification of the*  
6 *vulnerabilities in relation to current,*  
7 *evolving, and long-term terrorist*  
8 *threats to the United States and its in-*  
9 *terests, including an evaluation of—*

10 (i) *the materials that may be*  
11 *used to carry out a potential at-*  
12 *tack;*

13 (ii) *the methods that may be*  
14 *used to carry out a potential at-*  
15 *tack; and*

16 (iii) *the outcome the perpetra-*  
17 *tors of acts of terrorism aim to*  
18 *achieve.*

19 (B) *A prioritization of the threats*  
20 *identified under subparagraph (B),*  
21 *based on an assessment of probability*  
22 *and consequence of such attacks.*

23 (C) *A description of processes and*  
24 *procedures that the Secretary shall es-*  
25 *tablish to institutionalize close co-*

1           *ordination between the Department of*  
2           *Homeland Security and the National*  
3           *Counter Terrorism Center and other*  
4           *appropriate United States intelligence*  
5           *agencies.*

6           *(D) The policies and procedures*  
7           *the Secretary shall establish to ensure*  
8           *the Department disseminates this in-*  
9           *formation received from the National*  
10          *Counter Terrorism Center throughout*  
11          *the Department, as appropriate; uti-*  
12          *lizes this information to support the*  
13          *Department's mission to reduce vul-*  
14          *nerability to terrorism; integrates the*  
15          *Department's information collection*  
16          *and analysis functions; and dissemi-*  
17          *nates this information to its oper-*  
18          *ational units, as appropriate.*

19          *(E) A description of the specific*  
20          *actions the Secretary shall take to*  
21          *identify vulnerabilities to terrorist at-*  
22          *tacks of the United States and its in-*  
23          *terests, and to coordinate activities*  
24          *within the Department to prevent acts*

1           *of terrorism, with special emphasis on*  
2           *weapons of mass destruction.*

3           *(F) A description of initiatives the*  
4           *Secretary shall take to share home-*  
5           *land security information with, and*  
6           *provide homeland security support to,*  
7           *State and local governments and the*  
8           *private sector.*

9           *(G) A timeline, with goals and*  
10          *milestones, for implementing the*  
11          *Homeland Security Information Net-*  
12          *work, the Homeland Security Secure*  
13          *Data Network, and other depart-*  
14          *mental information initiatives to pre-*  
15          *vent acts of terrorism on the United*  
16          *States and its interests, including in-*  
17          *tegration of these initiatives in the op-*  
18          *erations of the Homeland Security Op-*  
19          *erations Center.*

20          *(H) Such other elements as the*  
21          *Secretary considers appropriate con-*  
22          *sistent with this plan.*

23          **(3) CONSULTATION.**—*In formulating the*  
24          *Plan to reduce the vulnerability of the*

1 *United States to terrorist attacks, the Sec-*  
2 *retary shall consult with—*

3 *(A) the Director of National Intel-*  
4 *ligence;*

5 *(B) the Director of the National*  
6 *Counter Terrorism Center;*

7 *(C) the Attorney General;*

8 *(D) the Director of the Federal Bu-*  
9 *reau of Investigation;*

10 *(E) the Secretary of Defense;*

11 *(F) the Secretary of State;*

12 *(G) the Secretary of Energy;*

13 *(H) the Secretary of the Treasury;*

14 *and*

15 *(I) the heads of other Federal*  
16 *agencies and State, county, and local*  
17 *law enforcement agencies as the Sec-*  
18 *retary considers appropriate.*

19 *(4) CLASSIFICATION.—The Secretary*  
20 *shall prepare the Plan in both classified*  
21 *and nonclassified forms.*

22 *(b) ANNUAL CROSSCUTTING ANALYSIS OF*  
23 *PROPOSED FUNDING FOR DEPARTMENT OF HOME-*  
24 *LAND SECURITY PROGRAMS.—*

1           **(1) REQUIREMENT TO SUBMIT ANAL-**  
2           **YSIS.—The Secretary of Homeland Security**  
3           **shall submit to the Congress, concurrently**  
4           **with the submission of the President’s**  
5           **budget for each fiscal year, a detailed,**  
6           **crosscutting analysis of the budget pro-**  
7           **posed for the Department of Homeland Se-**  
8           **curity, by budget function, by agency, and**  
9           **by initiative area, identifying the re-**  
10           **quested amounts of gross and net appro-**  
11           **priations or obligational authority and**  
12           **outlays for programs and activities of the**  
13           **Department for each of the following mis-**  
14           **sion areas:**

15                   **(A) To prevent terrorist attacks**  
16                   **within the United States.**

17                   **(B) To reduce the vulnerability of**  
18                   **the United States to terrorism.**

19                   **(C) To minimize the damage, and**  
20                   **assist in the recovery, from terrorist**  
21                   **attacks that do occur within the**  
22                   **United States.**

23                   **(D) To carry out all functions of**  
24                   **the agencies and subdivisions within**

1           *the Department that are not related*  
2           *directly to homeland security.*

3           **(2) FUNDING ANALYSIS OF MULTIPURPOSE**  
4           **FUNCTIONS.—***The analysis required under*  
5           *paragraph (1) for functions that are both*  
6           *related directly and not related directly to*  
7           *homeland security shall include a de-*  
8           *tailed allocation of funding for each spe-*  
9           *cific mission area within those functions,*  
10           *including an allocation of funding among*  
11           *mission support functions, such as agency*  
12           *overhead, capital assets, and human cap-*  
13           *ital.*

14           **(3) INCLUDED TERRORISM PREVENTION**  
15           **ACTIVITIES.—***The analysis required under*  
16           *paragraph (1)(A) shall include the fol-*  
17           *lowing activities (among others) of the De-*  
18           *partment:*

19                   **(A) Intelligence and law enforce-**  
20                   *ment operations that screen for indi-*  
21                   *viduals who plan or intend to carry*  
22                   *out acts of terrorism.*

23                   **(B) Intelligence and law enforce-**  
24                   *ment operations that identify and re-*

1           ***spond to vulnerabilities of the United***  
2           ***States to terrorism.***

3           ***(C) Operations to detect and pre-***  
4           ***vent terrorist attacks within the***  
5           ***United States, including the introduc-***  
6           ***tion of weapons of mass destruction***  
7           ***into the United States.***

8           ***(D) Initiatives to detect potential,***  
9           ***or the early stages of actual, biologi-***  
10           ***cal, chemical, radiological, or nuclear***  
11           ***attacks.***

12           ***(E) Screening individuals against***  
13           ***terrorist watch lists.***

14           ***(F) Screening cargo to identify***  
15           ***and segregate high-risk shipments.***

16           ***(G) Utilization by the Department***  
17           ***of Homeland Security of information***  
18           ***and intelligence received from other***  
19           ***Federal agencies, and foreign, State,***  
20           ***local, tribal and private sector offi-***  
21           ***cial, to detect or prevent acts of ter-***  
22           ***rorism.***

23           ***(H) Dissemination by the Depart-***  
24           ***ment of Homeland Security of infor-***  
25           ***mation to other Federal agencies, and***

1           ***State, local, tribal and private sector***  
2           ***officials.***

3           ***(I) Investments in technology, re-***  
4           ***search and development, training,***  
5           ***and communications systems that are***  
6           ***designed to improve the performance***  
7           ***of the Department and its agencies***  
8           ***with respect to each of the activities***  
9           ***listed in subparagraphs (A) through***  
10           ***(H).***

11           ***(4) SEPARATE DISPLAYS FOR MANDATORY***  
12           ***AND DISCRETIONARY AMOUNTS.—Each anal-***  
13           ***ysis under paragraph (1) shall include***  
14           ***separate displays for proposed mandatory***  
15           ***appropriations and proposed discre-***  
16           ***tionary appropriations.***

17 ***SEC. 202. CONSOLIDATED BACKGROUND CHECK PROCESS.***

18           ***(a) REQUIREMENT.—The Secretary shall***  
19           ***consult with the Attorney General, to establish***  
20           ***a single process for conducting the security***  
21           ***screening and background checks on individ-***  
22           ***uals participating in any voluntary or manda-***  
23           ***tory departmental credentialing or registered***  
24           ***traveler program.***

1       ***(b) INCLUDED PROGRAMS.—The process es-***  
2 ***tablished under subsection (a) shall be suffi-***  
3 ***cient to meet the security requirements of all***  
4 ***applicable Departmental programs, includ-***  
5 ***ing—***

6           ***(1) the Transportation Worker Identi-***  
7 ***fication Credential;***

8           ***(2) the Hazmat Endorsement Creden-***  
9 ***tial;***

10          ***(3) the Free and Secure Trade pro-***  
11 ***gram;***

12          ***(4) the NEXUS and SENTRI border***  
13 ***crossing programs;***

14          ***(5) the Registered Traveler program of***  
15 ***the Transportation Security Administra-***  
16 ***tion; and***

17          ***(6) any other similar program or cre-***  
18 ***dential considered appropriate for inclu-***  
19 ***sion by the Secretary.***

20       ***(c) FEATURES OF PROCESS.—The process es-***  
21 ***tablished under subsection (a) shall include***  
22 ***the following:***

23           ***(1) A single submission of security***  
24 ***screening information, including personal***  
25 ***data and biometric information as appro-***

1 *prate, necessary to meet the security re-*  
2 *quirements of all applicable depart-*  
3 *mental programs.*

4 (2) *An ability to submit such security*  
5 *screening information at any location or*  
6 *through any process approved by the Sec-*  
7 *retary with respect to any of the applica-*  
8 *ble departmental programs.*

9 (3) *Acceptance by the Department of a*  
10 *security clearance issued by a Federal*  
11 *agency, to the extent that the security*  
12 *clearance process of the agency satisfies*  
13 *requirements that are at least as strin-*  
14 *gent as those of the applicable depart-*  
15 *mental programs under this section.*

16 (4) *Standards and procedures for pro-*  
17 *tecting individual privacy, confiden-*  
18 *tiality, record retention, and addressing*  
19 *other concerns relating to information se-*  
20 *curity.*

21 (d) *DEADLINES.—The Secretary of Home-*  
22 *land Security shall—*

23 (1) *submit a description of the process*  
24 *developed under subsection (a) to the*  
25 *Committee on Homeland Security of the*

1 *House of Representatives and the Com-*  
2 *mittee on Homeland Security and Govern-*  
3 *mental Affairs of the Senate by not later*  
4 *than 6 months after the date of the enact-*  
5 *ment of this Act; and*

6 (2) *begin implementing such process*  
7 *by not later than 12 months after the date*  
8 *of the enactment of this Act.*

9 (e) *RELATIONSHIP TO OTHER LAWS.—(1)*  
10 *Nothing in this section affects any statutory*  
11 *requirement relating to the operation of the*  
12 *programs described in subsection (b).*

13 (2) *Nothing in this section affects any stat-*  
14 *utory requirement relating to title III of the In-*  
15 *telligence Reform and Terrorism Prevention*  
16 *Act of 2004 (50 U.S.C. 435b et seq.).*

17 ***Subtitle B—Homeland Security In-***  
18 ***formation Sharing and Analysis***  
19 ***Enhancement***

20 *SEC. 211. SHORT TITLE.*

21 *This subtitle may be cited as the “Home-*  
22 *land Security Information Sharing and Anal-*  
23 *ysis Enhancement Act of 2005”.*

1 **SEC. 212. PROVISION OF TERRORISM-RELATED INFORMA-**  
2 **TION TO PRIVATE SECTOR OFFICIALS.**

3 ***Section 201(d) of the Homeland Security***  
4 ***Act of 2002 (6 U.S.C. 121(d)) is amended by***  
5 ***adding at the end the following:***

6 ***“(20) To require, in consultation with***  
7 ***the Assistant Secretary for Infrastructure***  
8 ***Protection, the creation and routine dis-***  
9 ***semination of analytic reports and prod-***  
10 ***ucts designed to provide timely and accu-***  
11 ***rate information that has specific rel-***  
12 ***evance to each of the Nation’s critical in-***  
13 ***frastructure sectors (as identified in the***  
14 ***national infrastructure protection plan***  
15 ***issued under paragraph (5)), to private***  
16 ***sector officials in each such sector who***  
17 ***are responsible for protecting institutions***  
18 ***within that sector from potential acts of***  
19 ***terrorism and for mitigating the potential***  
20 ***consequences of any such act.”.***

21 **SEC. 213. ANALYTIC EXPERTISE ON THE THREATS FROM BI-**  
22 **OLOGICAL AGENTS AND NUCLEAR WEAPONS.**

23 ***Section 201(d) of the Homeland Security***  
24 ***Act of 2002 (6 U.S.C. 121(d)) is further amend-***  
25 ***ed by adding at the end the following:***

1           **“(21) To ensure sufficient analytic ex-**  
2           **pertise within the Office of Information**  
3           **Analysis to create and disseminate, on an**  
4           **ongoing basis, products based on the**  
5           **analysis of homeland security informa-**  
6           **tion, as defined in section 892(f)(1), with**  
7           **specific reference to the threat of ter-**  
8           **rorism involving the use of nuclear weap-**  
9           **ons and biological agents to inflict mass**  
10           **casualties or other catastrophic con-**  
11           **sequences on the population or territory of**  
12           **the United States.”.**

13 **SEC. 214. ALTERNATIVE ANALYSIS OF HOMELAND SECU-**  
14           **RITY INFORMATION.**

15           **(a) REQUIREMENT.—Subtitle A of title II of**  
16           **the Homeland Security Act of 2002 (6 U.S.C.**  
17           **121 et seq.) is amended by adding at the end**  
18           **the following:**

19 **“SEC. 203. ALTERNATIVE ANALYSIS OF HOMELAND SECU-**  
20           **RITY INFORMATION.**

21           **“The Secretary shall establish a process**  
22           **and assign an individual or entity the respon-**  
23           **sibility to ensure that, as appropriate, ele-**  
24           **ments of the Department conduct alternative**  
25           **analysis (commonly referred to as ‘red-team**

1 *analysis*) of homeland security information,  
2 *as that term is defined in section 892(f)(1),*  
3 *that relates to potential acts of terrorism in-*  
4 *volving the use of nuclear weapons or biologi-*  
5 *cal agents to inflict mass casualties or other*  
6 *catastrophic consequences on the population*  
7 *or territory of the United States.”.*

8 (b) *CLERICAL AMENDMENT.—The table of*  
9 *contents in section 1(b) of such Act is amended*  
10 *by inserting after the item relating to section*  
11 *202 the following:*

*“Sec. 203. Alternative analysis of homeland security informa-*  
*tion.”.*

12 *SEC. 215. ASSIGNMENT OF INFORMATION ANALYSIS AND IN-*  
13 *FRASTRUCTURE PROTECTION FUNCTIONS.*

14 *Section 201(b) of the Homeland Security*  
15 *Act of 2002 (6 U.S.C. 121(b)) is amended by*  
16 *adding at the end the following:*

17 *“(4) ASSIGNMENT OF SPECIFIC FUNC-*  
18 *TIONS.—The Under Secretary for Informa-*  
19 *tion Analysis and Infrastructure Protec-*  
20 *tion—*

21 *“(A) shall assign to the Assistant*  
22 *Secretary for Information Analysis the*  
23 *responsibility for performing the func-*  
24 *tions described in paragraphs (1), (4),*

1           ***(7) through (14), (16), and (18) of sub-***  
2           ***section (d);***

3           ***“(B) shall assign to the Assistant***  
4           ***Secretary for Infrastructure Protec-***  
5           ***tion the responsibility for performing***  
6           ***the functions described in paragraphs***  
7           ***(2), (5), and (6) of subsection (d);***

8           ***“(C) shall ensure that the Assist-***  
9           ***ant Secretary for Information Anal-***  
10           ***ysis and the Assistant Secretary for***  
11           ***Infrastructure Protection both per-***  
12           ***form the functions described in para-***  
13           ***graphs (3), (15), (17), and (19) of sub-***  
14           ***section (d);***

15           ***“(D) may assign to each such As-***  
16           ***stant Secretary such other duties re-***  
17           ***lating to such responsibilities as the***  
18           ***Under Secretary may provide;***

19           ***“(E) shall direct each such Assist-***  
20           ***ant Secretary to coordinate with Fed-***  
21           ***eral, State, and local law enforcement***  
22           ***agencies, and with tribal and private***  
23           ***sector entities, as appropriate; and***

24           ***“(F) shall direct the Assistant Sec-***  
25           ***retary for Information Analysis to co-***

1           *ordinate with elements of the intel-*  
2           *ligence community, as appropriate.”.*

3 **SEC. 216. AUTHORITY FOR DISSEMINATING HOMELAND SE-**  
4           **CURITY INFORMATION.**

5           **(a) IN GENERAL.—Title I of the Homeland**  
6 **Security Act of 2002 (6 U.S.C. 111 et seq.) is**  
7 **amended by adding at the end the following:**

8 **“SEC. 104. AUTHORITY FOR DISSEMINATING HOMELAND SE-**  
9           **CURITY INFORMATION.**

10           **“The Secretary shall be the principal exec-**  
11 **utive branch official responsible for dissemi-**  
12 **nating homeland security information to State**  
13 **and local government and tribal officials and**  
14 **the private sector. ”.**

15           **(b) CLERICAL AMENDMENT.—The table of**  
16 **contents in section 1(b) of such Act is amended**  
17 **by inserting after the item relating to section**  
18 **103 the following:**

**“Sec. 104. Authority for disseminating homeland security infor-**  
          **mation.”.**

19 **SEC. 217. 9/11 MEMORIAL HOMELAND SECURITY FELLOWS**  
20           **PROGRAM.**

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

1 **“SEC. 204. 9/11 MEMORIAL HOMELAND SECURITY FELLOWS**  
2 **PROGRAM.**

3 **“(a) ESTABLISHMENT.—**

4 **“(1) IN GENERAL.—***The Secretary shall*  
5 *establish a fellowship program in accord-*  
6 *ance with this section for the purpose of*  
7 *bringing State, local, tribal, and private*  
8 *sector officials to participate in the work*  
9 *of the Homeland Security Operations Cen-*  
10 *ter in order to become familiar with—*

11 **“(A) the mission and capabilities**  
12 **of that Center; and**

13 **“(B) the role, programs, products,**  
14 **and personnel of the Office of Infor-**  
15 **mation Analysis, the Office of Infra-**  
16 **structure Protection, and other ele-**  
17 **ments of the Department responsible**  
18 **for the integration, analysis, and dis-**  
19 **semination of homeland security in-**  
20 **formation, as defined in section**  
21 **892(f)(1).**

22 **“(2) PROGRAM NAME.—***The program*  
23 *under this section shall be known as the*  
24 *9/11 Memorial Homeland Security Fellows*  
25 *Program.*

1       **“(b) ELIGIBILITY.—In order to be eligible for**  
2 **selection as a fellow under the program, an in-**  
3 **dividual must—**

4           **“(1) have homeland security-related**  
5 **responsibilities; and**

6           **“(2) possess an appropriate national**  
7 **security clearance.**

8       **“(c) LIMITATIONS.—The Secretary—**

9           **“(1) may conduct up to 4 iterations of**  
10 **the program each year, each of which**  
11 **shall be 90 days in duration; and**

12           **“(2) shall ensure that the number of**  
13 **fellows selected for each iteration does not**  
14 **impede the activities of the Center.**

15       **“(d) CONDITION.—As a condition of select-**  
16 **ing an individual as a fellow under the pro-**  
17 **gram, the Secretary shall require that the in-**  
18 **dividual’s employer agree to continue to pay**  
19 **the individual’s salary and benefits during the**  
20 **period of the fellowship.**

21       **“(e) STIPEND.—During the period of the fel-**  
22 **lowship of an individual under the program,**  
23 **the Secretary shall, subject to the availability**  
24 **of appropriations—**

1           “(1) *provide to the individual a sti-*  
2           *pend to cover the individual’s reasonable*  
3           *living expenses during the period of the*  
4           *fellowship; and*

5           “(2) *reimburse the individual for*  
6           *round-trip, economy fare travel to and*  
7           *from the individual’s place of residence*  
8           *twice each month.”.*

9           **(b) CLERICAL AMENDMENT.**—*The table of*  
10          *contents in section 1(b) of such Act is further*  
11          *amended by adding at the end of the items re-*  
12          *lating to such subtitle the following:*

*“Sec. 204. 9/11 Memorial Homeland Security Fellows Program.”.*

13          **SEC. 218. ACCESS TO NUCLEAR TERRORISM-RELATED IN-**  
14          **FORMATION.**

15          *Section 201(d) of the Homeland Security*  
16          *Act of 2002 (6 U.S.C. 121(d)) is further amend-*  
17          *ed by adding at the end the following:*

18                 “(22) *To ensure that—*

19                         “(A) *the Assistant Secretary for In-*  
20                         *formation Analysis receives promptly*  
21                         *and without request all information*  
22                         *obtained by any component of the De-*  
23                         *partment if that information relates,*  
24                         *directly or indirectly, to a threat of*

1 *terrorism involving the potential use*  
2 *of nuclear weapons;*

3 *“(B) such information is—*

4 *“(i) integrated and analyzed*  
5 *comprehensively; and*

6 *“(ii) disseminated in a timely*  
7 *manner, including to appro-*  
8 *priately cleared Federal, State,*  
9 *local, tribal, and private sector of-*  
10 *ficials; and*

11 *“(C) such information is used to*  
12 *determine what requests the Depart-*  
13 *ment should submit for collection of*  
14 *additional information relating to*  
15 *that threat.”.*

16 *SEC. 219. ACCESS OF ASSISTANT SECRETARY FOR INFOR-*  
17 *MATION ANALYSIS TO TERRORISM INFORMA-*  
18 *TION.*

19 *Section 201(d) of the Homeland Security*  
20 *Act of 2002 (6 U.S.C. 121(d)) is further amend-*  
21 *ed by adding at the end the following:*

22 *“(23) To ensure that the Assistant Sec-*  
23 *retary for Information Analysis—*

24 *“(A) is routinely and without re-*  
25 *quest given prompt access to all ter-*

1 *rorism-related information collected*  
2 *by or otherwise in the possession of*  
3 *any component of the Department, in-*  
4 *cluding all homeland security infor-*  
5 *mation (as that term is defined in sec-*  
6 *tion 892(f)(1)); and*

7 *“(B) to the extent technologically*  
8 *feasible has direct access to all data-*  
9 *bases of any component of the Depart-*  
10 *ment that may contain such informa-*  
11 *tion.”.*

12 *SEC. 220. ADMINISTRATION OF THE HOMELAND SECURITY*  
13 *INFORMATION NETWORK.*

14 *Section 201(d) of the Homeland Security*  
15 *Act of 2002 (6 U.S.C. 121(d)) is further amend-*  
16 *ed by adding at the end the following:*

17 *“(24) To administer the homeland se-*  
18 *curity information network, including—*

19 *“(A) exercising primary responsi-*  
20 *bility for establishing a secure nation-*  
21 *wide real-time homeland security in-*  
22 *formation sharing network for Fed-*  
23 *eral, State, and local government*  
24 *agencies and authorities, tribal offi-*  
25 *cials, the private sector, and other*

1 *governmental and private entities in-*  
2 *olved in receiving, analyzing, and*  
3 *distributing information related to*  
4 *threats to homeland security;*

5 *“(B) ensuring that the information*  
6 *sharing systems, developed in connec-*  
7 *tion with the network established*  
8 *under subparagraph (A), are utilized*  
9 *and are compatible with, to the great-*  
10 *est extent practicable, Federal, State,*  
11 *and local government, tribal, and pri-*  
12 *vate sector antiterrorism systems and*  
13 *protocols that have been or are being*  
14 *developed; and*

15 *“(C) ensuring, to the greatest ex-*  
16 *tent possible, that the homeland secu-*  
17 *rity information network and infor-*  
18 *mation systems are integrated and*  
19 *interoperable with existing private*  
20 *sector technologies.”.*

21 *SEC. 221. IAIP PERSONNEL RECRUITMENT.*

22 *(a) IN GENERAL.—Chapter 97 of title 5,*  
23 *United States Code, is amended by adding*  
24 *after section 9701 the following:*

1 **“§ 9702. Recruitment bonuses**

2 **“(a) IN GENERAL.—Notwithstanding any**  
3 **provision of chapter 57, the Secretary of Home-**  
4 **land Security, acting through the Under Sec-**  
5 **retary for Information Analysis and Infra-**  
6 **structure Protection, may pay a bonus to an in-**  
7 **dividual in order to recruit such individual**  
8 **for a position that is primarily responsible for**  
9 **discharging the analytic responsibilities speci-**  
10 **fied in section 201(d) of the Homeland Security**  
11 **Act of 2002 (6 U.S.C. 121(d)) and that—**

12 **“(1) is within the Directorate for In-**  
13 **formation Analysis and Infrastructure**  
14 **Protection; and**

15 **“(2) would be difficult to fill in the ab-**  
16 **sence of such a bonus.**

17 **In determining which individuals are to re-**  
18 **ceive bonuses under this section, appropriate**  
19 **consideration shall be given to the Direc-**  
20 **torate’s critical need for linguists.**

21 **“(b) BONUS AMOUNT, FORM, ETC.—**

22 **“(1) IN GENERAL.—The amount of a**  
23 **bonus under this section shall be deter-**  
24 **mined under regulations of the Secretary**  
25 **of Homeland Security, but may not exceed**

1       ***50 percent of the annual rate of basic pay***  
2       ***of the position involved.***

3           ***“(2) FORM OF PAYMENT.—A bonus***  
4       ***under this section shall be paid in the***  
5       ***form of a lump-sum payment and shall***  
6       ***not be considered to be part of basic pay.***

7           ***“(3) COMPUTATION RULE.—For purposes***  
8       ***of paragraph (1), the annual rate of basic***  
9       ***pay of a position does not include any***  
10       ***comparability payment under section 5304***  
11       ***or any similar authority.***

12           ***“(c) SERVICE AGREEMENTS.—Payment of a***  
13       ***bonus under this section shall be contingent***  
14       ***upon the employee entering into a written serv-***  
15       ***ice agreement with the Department of Home-***  
16       ***land Security. The agreement shall include—***

17           ***“(1) the period of service the indi-***  
18       ***vidual shall be required to complete in re-***  
19       ***turn for the bonus; and***

20           ***“(2) the conditions under which the***  
21       ***agreement may be terminated before the***  
22       ***agreed-upon service period has been com-***  
23       ***pleted, and the effect of any such termi-***  
24       ***nation.***

1       “(d) *ELIGIBILITY.*—A bonus under this sec-  
2 *tion may not be paid to recruit an individual*  
3 *for—*

4               “(1) *a position to which an individual*  
5 *is appointed by the President, by and with*  
6 *the advice and consent of the Senate;*

7               “(2) *a position in the Senior Executive*  
8 *Service as a noncareer appointee (as de-*  
9 *fin ed under section 3132(a)); or*

10              “(3) *a position which has been ex-*  
11 *cepted from the competitive service by rea-*  
12 *son of its confidential, policy-determining,*  
13 *policy-making, or policy-advocating char-*  
14 *acter.*

15       “(e) *TERMINATION.*—*The authority to pay*  
16 *bonuses under this section shall terminate on*  
17 *September 30, 2008.*

18       “§9703. *Reemployed annuitants*

19              “(a) *IN GENERAL.*—*If an annuitant receiv-*  
20 *ing an annuity from the Civil Service Retire-*  
21 *ment and Disability Fund becomes employed*  
22 *in a position within the Directorate for Infor-*  
23 *mation Analysis and Infrastructure Protection*  
24 *of the Department of Homeland Security, the*  
25 *annuitant’s annuity shall continue. An annu-*

1 *itant so reemployed shall not be considered an*  
2 *employee for the purposes of chapter 83 or 84.*

3       “(b) **TERMINATION.**—*The exclusion pursu-*  
4 *ant to this section of the Directorate for Infor-*  
5 *mation Analysis and Infrastructure Protection*  
6 *from the reemployed annuitant provisions of*  
7 *chapters 83 and 84 shall terminate 3 years*  
8 *after the date of the enactment of this section,*  
9 *unless extended by the Secretary of Homeland*  
10 *Security. Any such extension shall be for a pe-*  
11 *riod of 1 year and shall be renewable.*

12       “(c) **ANNUITANT DEFINED.**—*For purposes of*  
13 *this section, the term ‘annuitant’ has the*  
14 *meaning given such term under section 8331*  
15 *or 8401, whichever is appropriate.*

16 “§9704. *Regulations*

17       *“The Secretary of Homeland Security, in*  
18 *consultation with the Director of the Office of*  
19 *Personnel Management, may prescribe any*  
20 *regulations necessary to carry out section 9702*  
21 *or 9703.”.*

22       “(b) **CLERICAL AMENDMENT.**—*The analysis*  
23 *for chapter 97 of title 5, United States Code, is*  
24 *amended by adding after the item relating to*  
25 *section 9701 the following:*

*“9702. Recruitment bonuses.*

*“9703. Reemployed annuitants.  
“9704. Regulations.”.*

1 *SEC. 222. HOMELAND SECURITY ADVISORY SYSTEM.*

2 *(a) IN GENERAL.—Subtitle A of title II of the*  
3 *Homeland Security Act of 2002 is further*  
4 *amended—*

5 *(1) in section 201(d)(7) (6 U.S.C.*  
6 *121(d)(7)) by inserting “under section 205”*  
7 *after “System”; and*

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

9 *“SEC. 205. HOMELAND SECURITY ADVISORY SYSTEM.*

10 *“(a) REQUIREMENT.—The Under Secretary*  
11 *for Information Analysis and Infrastructure*  
12 *Protection shall implement a Homeland Secu-*  
13 *rity Advisory System in accordance with this*  
14 *section to provide public advisories and alerts*  
15 *regarding threats to homeland security, in-*  
16 *cluding national, regional, local, and eco-*  
17 *nomic sector advisories and alerts, as appro-*  
18 *priate.*

19 *“(b) REQUIRED ELEMENTS.—The Under Sec-*  
20 *retary, under the System—*

21 *“(1) shall include, in each advisory*  
22 *and alert regarding a threat, information*  
23 *on appropriate protective measures and*

1 *countermeasures that may be taken in re-*  
2 *sponse to the threat;*

3 *“(2) shall, whenever possible, limit the*  
4 *scope of each advisory and alert to a spe-*  
5 *cific region, locality, or economic sector*  
6 *believed to be at risk; and*

7 *“(3) shall not, in issuing any advisory*  
8 *or alert, use color designations as the ex-*  
9 *clusive means of specifying the homeland*  
10 *security threat conditions that are the*  
11 *subject of the advisory or alert.”.*

12 *(b) CLERICAL AMENDMENT.—The table of*  
13 *contents in section 1(b) of such Act is further*  
14 *amended by adding at the end of the items re-*  
15 *lating to subtitle A of title II the following:*

*“Sec. 205. Homeland Security Advisory System.”.*

16 *SEC. 223. USE OF OPEN-SOURCE INFORMATION.*

17 *Section 201(d) of the Homeland Security*  
18 *Act of 2002 (6 U.S.C. 121(d)) is further amend-*  
19 *ed by adding at the end the following:*

20 *“(25) To ensure that, whenever pos-*  
21 *sible—*

22 *“(A) the Assistant Secretary for In-*  
23 *formation Analysis produces and dis-*  
24 *seminates reports and analytic prod-*  
25 *ucts based on open-source information*

1           *that do not require a national secu-*  
2           *rity classification under applicable*  
3           *law; and*

4           *“(B) such unclassified open-source*  
5           *reports are produced and dissemi-*  
6           *nated contemporaneously with reports*  
7           *or analytic products concerning the*  
8           *same or similar information that the*  
9           *Assistant Secretary for Information*  
10           *Analysis produces and disseminates*  
11           *in a classified format.”.*

12 *SEC. 224. FULL AND EFFICIENT USE OF OPEN-SOURCE IN-*  
13           *FORMATION.*

14           *(a) REQUIREMENT.—Subtitle A of title II of*  
15           *the Homeland Security Act of 2002 (6 U.S.C.*  
16           *121 et seq.) is further amended by adding at*  
17           *the end the following:*

18 *“SEC. 206. FULL AND EFFICIENT USE OF OPEN-SOURCE IN-*  
19           *FORMATION.*

20           *“The Under Secretary shall ensure that, in*  
21           *meeting their analytic responsibilities under*  
22           *section 201(d) and in formulating require-*  
23           *ments for collection of additional information,*  
24           *the Assistant Secretary for Information Anal-*  
25           *ysis and the Assistant Secretary for Infrastruc-*

1 *ture Protection make full and efficient use of*  
2 *open-source information wherever possible.”.*

3 (b) *CLERICAL AMENDMENT.—The table of*  
4 *contents in section 1(b) of such Act is further*  
5 *amended by inserting after the item relating*  
6 *to section 205 the following:*

*“Sec. 206. Full and efficient use of open-source information.”.*

7 **TITLE III—DOMESTIC PRE-**  
8 **PAREDNESS AND PROTEC-**  
9 **TION**

10 **Subtitle A—Preparedness and**  
11 **Protection**

12 **SEC. 301. NATIONAL TERRORISM EXERCISE PROGRAM.**

13 (a) *IN GENERAL.—Section 430(c) of the*  
14 *Homeland Security Act of 2002 (6 U.S.C.*  
15 *238(c)) is amended by striking “and” after the*  
16 *semicolon at the end of paragraph (8), by*  
17 *striking the period at the end of paragraph (9)*  
18 *and inserting “; and”, and by adding at the*  
19 *end the following:*

20 (10) *designing, developing, per-*  
21 *forming, and evaluating exercises at the*  
22 *national, State, territorial, regional,*  
23 *local, and tribal levels of government that*  
24 *incorporate government officials, emer-*  
25 *gency response providers, public safety*

1        *agencies, the private sector, international*  
2        *governments and organizations, and*  
3        *other appropriate entities to test the Na-*  
4        *tion’s capability to prevent, prepare for,*  
5        *respond to, and recover from threatened*  
6        *or actual acts of terrorism.”.*

7        *(b) NATIONAL TERRORISM EXERCISE PRO-*  
8        *GRAM.—*

9                *(1) ESTABLISHMENT OF PROGRAM.—Title*  
10        *VIII of the Homeland Security Act of 2002*  
11        *(Public Law 107–296) is amended by add-*  
12        *ing at the end the following new subtitle:*

13                        *“Subtitle J—Terrorism*  
14                        *Preparedness Exercises*

15        *“SEC. 899a. NATIONAL TERRORISM EXERCISE PROGRAM.*

16                *“(a) IN GENERAL.—The Secretary, through*  
17        *the Office for Domestic Preparedness, shall es-*  
18        *tablish a National Terrorism Exercise Pro-*  
19        *gram for the purpose of testing and evaluating*  
20        *the Nation’s capabilities to prevent, prepare*  
21        *for, respond to, and recover from threatened or*  
22        *actual acts of terrorism that—*

23                        *“(1) enhances coordination for ter-*  
24        *rorism preparedness between all levels of*  
25        *government, emergency response pro-*

1 *viders, international governments and or-*  
2 *ganizations, and the private sector;*

3 *“(2) is—*

4 *“(A) multidisciplinary in nature,*  
5 *including, as appropriate, informa-*  
6 *tion analysis and cybersecurity com-*  
7 *ponents;*

8 *“(B) as realistic as practicable*  
9 *and based on current risk assess-*  
10 *ments, including credible threats,*  
11 *vulnerabilities, and consequences;*

12 *“(C) carried out with the min-*  
13 *imum degree of notice to involved par-*  
14 *ties regarding the timing and details*  
15 *of such exercises, consistent with safe-*  
16 *ty considerations;*

17 *“(D) evaluated against perform-*  
18 *ance measures and followed by correc-*  
19 *tive action to solve identified defi-*  
20 *ciencies; and*

21 *“(E) assessed to learn best prac-*  
22 *tices, which shall be shared with ap-*  
23 *propriate Federal, State, territorial,*  
24 *regional, local, and tribal personnel,*

1 *authorities, and training institutions*  
2 *for emergency response providers; and*

3 *“(3) assists State, territorial, local,*  
4 *and tribal governments with the design,*  
5 *implementation, and evaluation of exer-*  
6 *cises that—*

7 *“(A) conform to the requirements*  
8 *of paragraph (2); and*

9 *“(B) are consistent with any appli-*  
10 *cable State homeland security strat-*  
11 *egy or plan.*

12 *“(b) NATIONAL LEVEL EXERCISES.—The Sec-*  
13 *retary, in concurrence with the Attorney Gen-*  
14 *eral and the National Director of Intelligence,*  
15 *through the National Terrorism Exercise Pro-*  
16 *gram, shall perform on a periodic basis na-*  
17 *tional terrorism preparedness exercises for the*  
18 *purposes of—*

19 *“(1) involving top officials from Fed-*  
20 *eral, State, territorial, local, tribal, and*  
21 *international governments;*

22 *“(2) testing and evaluating the Na-*  
23 *tion’s capability to detect, disrupt, and*  
24 *prevent threatened or actual catastrophic*

1 *acts of terrorism, especially those involv-*  
2 *ing weapons of mass destruction; and*

3 *“(3) testing and evaluating the Na-*  
4 *tion’s readiness to respond to and recover*  
5 *from catastrophic acts of terrorism, espe-*  
6 *cially those involving weapons of mass de-*  
7 *struction.*

8 *“(c) CONSULTATION WITH FIRST RESPOND-*  
9 *ERS.—In implementing the responsibilities de-*  
10 *scribed in subsections (a) and (b), the Sec-*  
11 *retary shall consult with a geographic (includ-*  
12 *ing urban and rural) and substantive cross*  
13 *section of governmental and nongovernmental*  
14 *first responder disciplines, including as ap-*  
15 *propriate—*

16 *“(1) Federal, State, and local first re-*  
17 *sponder training institutions;*

18 *“(2) representatives of emergency re-*  
19 *sponse providers; and*

20 *“(3) State and local officials with an*  
21 *expertise in terrorism preparedness.”.*

22 *(2) CLERICAL AMENDMENT.—The table*  
23 *of contents in section 1(b) of such Act is*  
24 *amended by adding at the end of the items*  
25 *relating to title VIII the following:*

*“Subtitle J—Terrorism Preparedness Exercises**“Sec. 899a. National terrorism exercise program.”.*

1       **(c) TOPOFF PREVENTION EXERCISE.**—*No*  
2 *later than one year after the date of enactment*  
3 *of this Act, the Secretary of Homeland Security*  
4 *in concurrence with the Attorney General and*  
5 *the National Director of Intelligence shall de-*  
6 *sign and carry out a national terrorism pre-*  
7 *vention exercise for the purposes of—*

8               **(1) involving top officials from Fed-**  
9               *eral, State, territorial, local, tribal, and*  
10              *international governments; and*

11              **(2) testing and evaluating the Na-**  
12              *tion’s capability to detect, disrupt, and*  
13              *prevent threatened or actual catastrophic*  
14              *acts of terrorism, especially those involv-*  
15              *ing weapons of mass destruction.*

16 *SEC. 302. TECHNOLOGY DEVELOPMENT AND TRANSFER.*

17       **(a) ESTABLISHMENT OF TECHNOLOGY CLEAR-**  
18 *INGHOUSE.*—*Not later than 90 days after the*  
19 *date of enactment of this Act, the Secretary*  
20 *shall complete the establishment of the Tech-*  
21 *nology Clearinghouse under section 313 of the*  
22 *Homeland Security Act of 2002.*

1       ***(b) TRANSFER PROGRAM.—Section 313 of the***  
2 ***Homeland Security Act of 2002 (6 U.S.C. 193)***  
3 ***is amended—***

4           ***(1) by adding at the end of subsection***  
5 ***(b) the following new paragraph:***

6           ***“(6) The establishment of a homeland***  
7 ***security technology transfer program to***  
8 ***facilitate the identification, modification,***  
9 ***and commercialization of technology and***  
10 ***equipment for use by Federal, State, and***  
11 ***local governmental agencies, emergency***  
12 ***response providers, and the private sector***  
13 ***to prevent, prepare for, or respond to acts***  
14 ***of terrorism.”;***

15           ***(2) by redesignating subsection (c) as***  
16 ***subsection (d); and***

17           ***(3) by inserting after subsection (b)***  
18 ***the following new subsection:***

19           ***“(c) TECHNOLOGY TRANSFER PROGRAM.—In***  
20 ***developing the program described in sub-***  
21 ***section (b)(6), the Secretary, acting through***  
22 ***the Under Secretary for Science and Tech-***  
23 ***nology, shall—***

24           ***“(1) in consultation with the other***  
25 ***Under Secretaries of the Department and***

1 *the Director of the Office for Domestic*  
2 *Preparedness, on an ongoing basis—*

3 *“(A) conduct surveys and reviews*  
4 *of available appropriate technologies*  
5 *that have been, or are in the process*  
6 *of being developed, tested, evaluated,*  
7 *or demonstrated by the Department,*  
8 *other Federal agencies, or the private*  
9 *sector or foreign governments and*  
10 *international organizations and that*  
11 *may be useful in assisting Federal,*  
12 *State, and local governmental agen-*  
13 *cies, emergency response providers, or*  
14 *the private sector to prevent, prepare*  
15 *for, or respond to acts of terrorism;*

16 *“(B) conduct or support research,*  
17 *development, tests, and evaluations,*  
18 *as appropriate of technologies identi-*  
19 *fied under subparagraph (A), includ-*  
20 *ing any necessary modifications to*  
21 *such technologies for antiterrorism*  
22 *use;*

23 *“(C) communicate to Federal,*  
24 *State, and local governmental agen-*  
25 *cies, emergency response providers, or*

1        *the private sector the availability of*  
2        *such technologies for antiterrorism*  
3        *use, as well as the technology’s speci-*  
4        *fications, satisfaction of appropriate*  
5        *standards, and the appropriate*  
6        *grants available from the Department*  
7        *to purchase such technologies;*

8            *“(D) coordinate the selection and*  
9            *administration of all technology*  
10           *transfer activities of the Science and*  
11           *Technology Directorate, including*  
12           *projects and grants awarded to the*  
13           *private sector and academia; and*

14           *“(E) identify priorities based on*  
15           *current risk assessments within the*  
16           *Department of Homeland Security for*  
17           *identifying, researching, developing,*  
18           *testing, evaluating, modifying, and*  
19           *fielding existing technologies for*  
20           *antiterrorism purposes;*

21           *“(2) in support of the activities de-*  
22           *scribed in paragraph (1)—*

23           *“(A) consult with Federal, State,*  
24           *and local emergency response pro-*  
25           *viders;*

1           ***“(B) consult with government***  
2           ***agencies and nationally recognized***  
3           ***standards development organizations***  
4           ***as appropriate;***

5           ***“(C) enter into agreements and co-***  
6           ***ordinate with other Federal agencies,***  
7           ***foreign governments, and national***  
8           ***and international organizations as***  
9           ***the Secretary determines appropriate,***  
10          ***in order to maximize the effectiveness***  
11          ***of such technologies or to facilitate***  
12          ***commercialization of such tech-***  
13          ***nologies; and***

14          ***“(D) consult with existing tech-***  
15          ***nology transfer programs and Federal***  
16          ***and State training centers that re-***  
17          ***search, develop, test, evaluate, and***  
18          ***transfer military and other tech-***  
19          ***nologies for use by emergency response***  
20          ***providers; and***

21          ***“(3) establish a working group in co-***  
22          ***ordination with the Secretary of Defense***  
23          ***to advise and assist the technology clear-***  
24          ***inghouse in the identification of military***  
25          ***technologies that are in the process of***

1 *being developed, or are developed, by the*  
2 *Department of Defense or the private sec-*  
3 *tor, which may include—*

4 *“(A) representatives from the De-*  
5 *partment of Defense or retired mili-*  
6 *tary officers;*

7 *“(B) nongovernmental organiza-*  
8 *tions or private companies that are*  
9 *engaged in the research, development,*  
10 *testing, or evaluation of related tech-*  
11 *nologies or that have demonstrated*  
12 *prior experience and success in*  
13 *searching for and identifying tech-*  
14 *nologies for Federal agencies;*

15 *“(C) Federal, State, and local*  
16 *emergency response providers; and*

17 *“(D) to the extent the Secretary*  
18 *considers appropriate, other organiza-*  
19 *tions, other interested Federal, State,*  
20 *and local agencies, and other inter-*  
21 *ested persons.”.*

22 *(c) REPORT.—Not later than 1 year after*  
23 *the date of enactment of this Act, the Under*  
24 *Secretary for Science and Technology shall*  
25 *transmit to the Congress a description of the*

1 *progress the Department has made in imple-*  
2 *menting the provisions of section 313 of the*  
3 *Homeland Security Act of 2002, as amended by*  
4 *this Act, including a description of the process*  
5 *used to review unsolicited proposals received*  
6 *as described in subsection (b)(3) of such sec-*  
7 *tion.*

8       **(d) SAVINGS CLAUSE.**—*Nothing in this sec-*  
9 *tion (including the amendments made by this*  
10 *section) shall be construed to alter or diminish*  
11 *the effect of the limitation on the authority of*  
12 *the Secretary of Homeland Security under sec-*  
13 *tion 302(4) of the Homeland Security Act of*  
14 *2002 (6 U.S.C. 182(4)) with respect to human*  
15 *health-related research and development ac-*  
16 *tivities.*

17 **SEC. 303. REVIEW OF ANTITERRORISM ACQUISITIONS.**

18       **(a) STUDY.**—*The Secretary of Homeland Se-*  
19 *curity shall conduct a study of all Department*  
20 *of Homeland Security procurements, including*  
21 *ongoing procurements and anticipated pro-*  
22 *urements, to—*

23               **(1)** *identify those that involve any*  
24 *product, equipment, service (including*  
25 *support services), device, or technology*

1       *(including information technology) that is*  
2       *being designed, developed, modified, or*  
3       *procured for the specific purpose of pre-*  
4       *venting, detecting, identifying, or deter-*  
5       *ring acts of terrorism or limiting the*  
6       *harm such acts might otherwise cause;*  
7       *and*

8           (2) *assess whether such product,*  
9       *equipment, service (including support*  
10       *services), device, or technology is an ap-*  
11       *propriate candidate for the litigation and*  
12       *risk management protections of subtitle G*  
13       *of title VIII of the Homeland Security Act*  
14       *of 2002.*

15       **(b) SUMMARY AND CLASSIFICATION RE-**  
16       **PORT.—Not later than 180 days after the date**  
17       **of enactment of this Act, the Secretary shall**  
18       **transmit to the Congress a report—**

19           (1) *describing each product, equip-*  
20       *ment, service (including support services),*  
21       *device, and technology identified under*  
22       *subsection (a) that the Secretary believes*  
23       *would be an appropriate candidate for*  
24       *the litigation and risk management pro-*

1 *tections of subtitle G of title VIII of the*  
2 *Homeland Security Act of 2002;*

3 *(2) listing each such product, equip-*  
4 *ment, service (including support services),*  
5 *device, and technology in order of priority*  
6 *for deployment in accordance with cur-*  
7 *rent terrorism risk assessment informa-*  
8 *tion; and*

9 *(3) setting forth specific actions taken,*  
10 *or to be taken, to encourage or require*  
11 *persons or entities that sell or otherwise*  
12 *provide such products, equipment, serv-*  
13 *ices (including support services), devices,*  
14 *and technologies to apply for the litiga-*  
15 *tion and risk management protections of*  
16 *subtitle G of title VIII of the Homeland Se-*  
17 *curity Act of 2002, and to ensure*  
18 *prioritization of the Department's review*  
19 *of such products, equipment, services, de-*  
20 *VICES, and technologies under such Act in*  
21 *accordance with the prioritization set*  
22 *forth in paragraph (2) of this subsection.*

23 *SEC. 304. CENTER OF EXCELLENCE FOR BORDER SECURITY.*

24 *The Secretary of Homeland Security shall*  
25 *establish a university-based Center for Excel-*

1 *lence for Border Security following the merit-*  
2 *review processes and procedures that have*  
3 *been established for selecting University Pro-*  
4 *grams Centers of Excellence. The Center shall*  
5 *prioritize its activities on the basis of risk to*  
6 *address the most significant threats,*  
7 *vulnerabilities, and consequences posed by the*  
8 *Nation's borders and border control systems,*  
9 *including the conduct of research, the exam-*  
10 *ination of existing and emerging border secu-*  
11 *rity technology and systems, and the provision*  
12 *of education, technical, and analytical assist-*  
13 *ance for the Department of Homeland Security*  
14 *to effectively secure the Nation's borders.*

15 **SEC. 305. REQUIREMENTS RELATING TO THE CONTAINER**  
16 **SECURITY INITIATIVE (CSI).**

17 **(a) RISK ASSESSMENT AND DESIGNATION OF**  
18 **NEW FOREIGN SEAPORTS.—**

19 **(1) RISK ASSESSMENT.—***The Secretary*  
20 *of Homeland Security shall conduct a risk*  
21 *assessment of each foreign seaport that*  
22 *the Secretary is considering designating*  
23 *as a port under the Container Security*  
24 *Initiative (CSI) on or after the date of the*  
25 *enactment of this Act. Each such assess-*

1 *ment shall evaluate the level of risk for*  
2 *the potential compromise of cargo con-*  
3 *tainers by terrorists or terrorist weapons.*

4 (2) *DESIGNATION.—The Secretary is au-*  
5 *thorized to designate a foreign seaport as*  
6 *a port under CSI on or after the date of*  
7 *the enactment of this Act only if the Sec-*  
8 *retary determines, based on a risk assess-*  
9 *ment under paragraph (1) and a cost-ben-*  
10 *efit analysis, that the benefits of desig-*  
11 *nating such port outweigh the cost of ex-*  
12 *panding the program to such port.*

13 (b) *DEPLOYMENT OF INSPECTION EQUIPMENT*  
14 *TO NEW CSI PORTS.—*

15 (1) *DEPLOYMENT.—The Secretary is au-*  
16 *thorized to assist in the loaning of non-*  
17 *intrusive inspection equipment for cargo*  
18 *containers, on a nonreimbursable basis,*  
19 *at each CSI port designated under sub-*  
20 *section (a)(2) and provide training for*  
21 *personnel at the CSI port to operate the*  
22 *nonintrusive inspection equipment.*

23 (2) *ADDITIONAL REQUIREMENTS.—The*  
24 *Secretary shall establish technical capa-*  
25 *bility requirements and standard oper-*

1 *ating procedures for nonintrusive inspec-*  
2 *tion equipment described in paragraph*  
3 *(1) and shall require each CSI port to*  
4 *agree to operate such equipment in ac-*  
5 *cordance with such requirements and pro-*  
6 *cedures as a condition for receiving the*  
7 *equipment and training under such para-*  
8 *graph.*

9 **(c) DEPLOYMENT OF PERSONNEL TO NEW CSI**  
10 **PORTS; REEVALUATION OF PERSONNEL AT ALL**  
11 **CSI PORTS.—**

12 **(1) DEPLOYMENT.—***The Secretary shall*  
13 *deploy Department of Homeland Security*  
14 *personnel to each CSI port designated*  
15 *under subsection (a)(1) with respect to*  
16 *which the Secretary determines that the*  
17 *deployment is necessary to successfully*  
18 *implement the requirements of CSI at the*  
19 *port.*

20 **(2) REEVALUATION.—***The Secretary*  
21 *shall periodically review relevant risk as-*  
22 *essment information with respect to all*  
23 *CSI ports at which Department of Home-*  
24 *land Security personnel are deployed to*  
25 *assess whether or not continued deploy-*

1 *ment of such personnel, in whole or in*  
2 *part, is necessary to successfully imple-*  
3 *ment the requirements of CSI at the port.*

4 *(d) INSPECTION AND SCREENING AT UNITED*  
5 *STATES PORTS OF ENTRY.—Cargo containers ar-*  
6 *iving at a United States port of entry from a*  
7 *CSI port shall undergo the same level of in-*  
8 *spection and screening for potential com-*  
9 *promise by terrorists or terrorist weapons as*  
10 *cargo containers arriving at a United States*  
11 *port of entry from a foreign seaport that is not*  
12 *participating in CSI unless the containers*  
13 *were initially inspected at the CSI port at the*  
14 *request of CSI personnel and such personnel*  
15 *verify and electronically record that the in-*  
16 *spection indicates that the containers have not*  
17 *been compromised by terrorists or terrorist*  
18 *weapons.*

19 *(e) DEFINITION.—In this section, the term*  
20 *“Container Security Initiative” or “CSI”*  
21 *means the program carried out by the Depart-*  
22 *ment of Homeland Security under which the*  
23 *Department enters into agreements with for-*  
24 *eign seaports to—*

1           ***(1) establish security criteria to identify high-risk maritime cargo containers bound for the United States based on advance information; and***

2  
3  
4  
5           ***(2) screen or inspect such maritime cargo containers for potential compromise by terrorists or terrorist weapons prior to shipment to the United States.***

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7  
8  
9 **SEC. 306. SECURITY OF MARITIME CARGO CONTAINERS.**

10 ***(a) REGULATIONS.—***

11           ***(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall issue regulations for the security of maritime cargo containers moving within the intermodal transportation system in accordance with the requirements of paragraph (2).***

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19           ***(2) REQUIREMENTS.—The regulations issued pursuant to paragraph (1) shall be in accordance with recommendations of the Maritime Transportation Security Act Subcommittee of the Advisory Committee on Commercial Operations of the Department of Homeland Security, including rec-***

1 *ommendations relating to obligation to*  
2 *seal, recording of seal changes, modal*  
3 *changes, seal placement, ocean carrier*  
4 *seal verification, and addressing seal*  
5 *anomalies.*

6 **(b) INTERNATIONAL AGREEMENTS.—***The Sec-*  
7 *retary shall seek to enter into agreements with*  
8 *foreign countries and international organiza-*  
9 *tions to establish standards for the security of*  
10 *maritime cargo containers moving within the*  
11 *intermodal transportation system that, to the*  
12 *maximum extent practicable, meet the require-*  
13 *ments of subsection (a)(2).*

14 **(c) CONTAINER TARGETING STRATEGY.—**

15 **(1) STRATEGY.—***The Secretary shall de-*  
16 *velop a strategy to improve the ability of*  
17 *the Department of Homeland Security to*  
18 *use information contained in shipping*  
19 *bills of lading to identify and provide ad-*  
20 *ditional review of anomalies in such bills*  
21 *of lading. The strategy shall include a*  
22 *method of contacting shippers in a timely*  
23 *fashion to verify or explain any anomalies*  
24 *in shipping bills of lading.*

1           **(2) REPORT.**—*Not later than 90 days*  
2 *after the date of the enactment of this Act,*  
3 *the Secretary shall submit to the appro-*  
4 *priate congressional committees a report*  
5 *on the implementation of this subsection,*  
6 *including information on any data*  
7 *searching technologies that will be used*  
8 *to implement the strategy.*

9           **(d) CONTAINER SECURITY DEMONSTRATION**  
10 **PROGRAM.**—

11           **(1) PROGRAM.**—*The Secretary is au-*  
12 *thorized to establish and carry out a dem-*  
13 *onstration program that integrates non-*  
14 *intrusive inspection equipment, including*  
15 *radiation detection equipment and*  
16 *gamma ray inspection equipment, at an*  
17 *appropriate United States seaport, as de-*  
18 *termined by the Secretary.*

19           **(2) REQUIREMENT.**—*The demonstration*  
20 *program shall also evaluate automatic*  
21 *identification methods for containers and*  
22 *vehicles and a data sharing network ca-*  
23 *pable of transmitting inspection data be-*  
24 *tween ports and appropriate entities with-*  
25 *in the Department of Homeland Security.*



1           ***(1) The 9/11 Commission determined***  
2           ***that the inability of first responders to***  
3           ***communicate effectively on September 11,***  
4           ***2001 was a critical obstacle to an effective***  
5           ***multi-jurisdictional response.***

6           ***(2) Many jurisdictions across the***  
7           ***country still experience difficulties com-***  
8           ***municating that may contribute to confu-***  
9           ***sion, delays, or added risks when respond-***  
10           ***ing to an emergency.***

11           ***(3) During fiscal year 2004, the Office***  
12           ***for Domestic Preparedness awarded over***  
13           ***\$834,000,000 for 2,912 projects through De-***  
14           ***partment of Homeland Security grant pro-***  
15           ***grams for the purposes of improving com-***  
16           ***munications interoperability.***

17           ***(4) Interoperable communications sys-***  
18           ***tems are most effective when designed to***  
19           ***comprehensively address, on a regional***  
20           ***basis, the communications of all types of***  
21           ***public safety agencies, first responder dis-***  
22           ***ciplines, and State and local government***  
23           ***facilities.***

24           ***(5) Achieving communications inter-***  
25           ***operability is complex due to the extensive***

1 *training, system modifications, and agree-*  
2 *ments among the different jurisdictions*  
3 *that are necessary to implement effective*  
4 *communications systems.*

5 (6) *The Congress authorized the De-*  
6 *partment of Homeland Security to create*  
7 *an Office for Interoperability and Com-*  
8 *patibility in the Intelligence Reform and*  
9 *Terrorism Prevention Act of 2004 to,*  
10 *among other things, establish a com-*  
11 *prehensive national approach, coordinate*  
12 *federal activities, accelerate the adoption*  
13 *of standards, and encourage research and*  
14 *development to achieve interoperable com-*  
15 *munications for first responders.*

16 (7) *The Office for Interoperability and*  
17 *Compatibility includes the SAFECOM Pro-*  
18 *gram that serves as the umbrella program*  
19 *within the Federal government to improve*  
20 *public safety communications interoper-*  
21 *ability, and has developed the RAPIDCOM*  
22 *program, the Statewide Communications*  
23 *Interoperability Planning Methodology,*  
24 *and a Statement of Requirements to pro-*  
25 *vide technical, planning, and purchasing*

1        *assistance for Federal departments and*  
2        *agencies, State and local governments,*  
3        *and first responders.*

4        *(b) SENSE OF CONGRESS.—It is the sense of*  
5        *the Congress that the Department of Home-*  
6        *land Security should implement as expedi-*  
7        *tiously as possible the initiatives assigned to*  
8        *the Office for Interoperability and Compat-*  
9        *ibility under section 7303 of the Intelligence*  
10       *Reform and Terrorism Prevention Act of 2004*  
11       *(6 U.S.C. 194), including specifically the fol-*  
12       *lowing:*

13                *(1) Establishing a comprehensive na-*  
14                *tional approach to achieving public safety*  
15                *interoperable communications.*

16                *(2) Issuing letters of intent to commit*  
17                *future funds for jurisdictions through ex-*  
18                *isting homeland security grant programs*  
19                *to applicants as appropriate to encourage*  
20                *long-term investments that may signifi-*  
21                *cantly improve communications interoper-*  
22                *ability.*

23                *(3) Providing technical assistance to*  
24                *additional urban and other high-risk*  
25                *areas to support the establishment of con-*

1 *sistent, secure, and effective interoperable*  
2 *communications capabilities.*

3 *(4) Completing the report to the Con-*  
4 *gress on the Department's plans for accel-*  
5 *erating the development of national vol-*  
6 *untary consensus standards for public*  
7 *safety interoperable communications, a*  
8 *schedule of milestones for such develop-*  
9 *ment, and achievements of such develop-*  
10 *ment, by no later than 30 days after the*  
11 *date of enactment of this Act.*

12 *SEC. 309. REPORT TO CONGRESS ON IMPLEMENTATION OF*  
13 *RECOMMENDATIONS REGARDING PROTEC-*  
14 *TION OF AGRICULTURE.*

15 *The Secretary of Homeland Security shall*  
16 *report to the Committee on Homeland Security*  
17 *and the Committee on the Judiciary of the*  
18 *House of Representatives and the Committee*  
19 *on Homeland Security and Governmental Af-*  
20 *airs and the Committee on the Judiciary of*  
21 *the Senate by no later than 120 days after the*  
22 *date of the enactment of this Act regarding*  
23 *how the Department of Homeland Security*  
24 *will implement the applicable recommenda-*  
25 *tions from the Government Accountability Of-*

1 *rice report entitled “Homeland Security: Much*  
2 *is Being Done to Protect Agriculture from a*  
3 *Terrorist Attack, but Important Challenges*  
4 *Remain” (GAO-05-214).*

5 ***Subtitle B—Department of Home-***  
6 ***land Security Cybersecurity En-***  
7 ***hancement***

8 *SEC. 311. SHORT TITLE.*

9 *This subtitle may be cited as the “Depart-*  
10 *ment of Homeland Security Cybersecurity En-*  
11 *hancement Act of 2005”.*

12 *SEC. 312. ASSISTANT SECRETARY FOR CYBERSECURITY.*

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

17 *“SEC. 207. ASSISTANT SECRETARY FOR CYBERSECURITY.*

18 *“(a) IN GENERAL.—There shall be in the Di-*  
19 *rectorate for Information Analysis and Infra-*  
20 *structure Protection a National Cybersecurity*  
21 *Office headed by an Assistant Secretary for*  
22 *Cybersecurity (in this section referred to as the*  
23 *‘Assistant Secretary’), who shall assist the Sec-*  
24 *retary in promoting cybersecurity for the Na-*  
25 *tion.*

1       “(b) **GENERAL AUTHORITY.**—*The Assistant*  
2 *Secretary, subject to the direction and control*  
3 *of the Secretary, shall have primary authority*  
4 *within the Department for all cybersecurity-re-*  
5 *lated critical infrastructure protection pro-*  
6 *grams of the Department, including with re-*  
7 *spect to policy formulation and program man-*  
8 *agement.*

9       “(c) **RESPONSIBILITIES.**—*The responsibil-*  
10 *ities of the Assistant Secretary shall include*  
11 *the following:*

12               “(1) *To establish and manage—*

13                       “(A) *a national cybersecurity re-*  
14 *sponse system that includes the ability*  
15 *to—*

16                               “(i) *analyze the effect of*  
17 *cybersecurity threat information*  
18 *on national critical infrastruc-*  
19 *ture; and*

20                               “(ii) *aid in the detection and*  
21 *warning of attacks on, and in the*  
22 *restoration of, cybersecurity infra-*  
23 *structure in the aftermath of such*  
24 *attacks;*

1           “(B) a national cybersecurity  
2           *threat and vulnerability reduction*  
3           *program that identifies cybersecurity*  
4           *vulnerabilities that would have a na-*  
5           *tional effect on critical infrastructure,*  
6           *performs vulnerability assessments on*  
7           *information technologies, and coordi-*  
8           *nates the mitigation of such*  
9           *vulnerabilities;*

10           “(C) a national cybersecurity  
11           *awareness and training program that*  
12           *promotes cybersecurity awareness*  
13           *among the public and the private sec-*  
14           *tors and promotes cybersecurity train-*  
15           *ing and education programs;*

16           “(D) a government cybersecurity  
17           *program to coordinate and consult*  
18           *with Federal, State, and local govern-*  
19           *ments to enhance their cybersecurity*  
20           *programs; and*

21           “(E) a national security and inter-  
22           *national cybersecurity cooperation*  
23           *program to help foster Federal efforts*  
24           *to enhance international*

1           *cybersecurity awareness and coopera-*  
2           *tion.*

3           “(2) *To coordinate with the private*  
4           *sector on the program under paragraph*  
5           *(1) as appropriate, and to promote*  
6           *cybersecurity information sharing, vulner-*  
7           *ability assessment, and threat warning re-*  
8           *garding critical infrastructure.*

9           “(3) *To coordinate with other direc-*  
10          *torates and offices within the Department*  
11          *on the cybersecurity aspects of their mis-*  
12          *sions.*

13          “(4) *To coordinate with the Under Sec-*  
14          *retary for Emergency Preparedness and*  
15          *Response to ensure that the National Re-*  
16          *sponse Plan developed pursuant to section*  
17          *502(6) of the Homeland Security Act of*  
18          *2002 (6 U.S.C. 312(6)) includes appro-*  
19          *priate measures for the recovery of the*  
20          *cybersecurity elements of critical infra-*  
21          *structure.*

22          “(5) *To develop processes for informa-*  
23          *tion sharing with the private sector, con-*  
24          *sistent with section 214, that—*

1           “(A)       *promote       voluntary*  
2           *cybersecurity best practices, stand-*  
3           *ards, and benchmarks that are re-*  
4           *sponsive to rapid technology changes*  
5           *and to the security needs of critical*  
6           *infrastructure; and*

7           “(B)   *consider roles of Federal,*  
8           *State, local, and foreign governments*  
9           *and the private sector, including the*  
10          *insurance industry and auditors.*

11          “(6) *To coordinate with the Chief In-*  
12          *formation Officer of the Department in es-*  
13          *tablishing a secure information sharing*  
14          *architecture and information sharing*  
15          *processes, including with respect to the*  
16          *Department’s operation centers.*

17          “(7) *To consult with the Electronic*  
18          *Crimes Task Force of the United States*  
19          *Secret Service on private sector outreach*  
20          *and information activities.*

21          “(8) *To consult with the Office for Do-*  
22          *mestic Preparedness to ensure that real-*  
23          *istic cybersecurity scenarios are incor-*  
24          *porated into tabletop and recovery exer-*  
25          *cises.*

1           “(9) *To consult and coordinate, as ap-*  
2           *propriate, with other Federal agencies on*  
3           *cybersecurity-related programs, policies,*  
4           *and operations.*

5           “(10) *To consult and coordinate with-*  
6           *in the Department and, where appro-*  
7           *priate, with other relevant Federal agen-*  
8           *cies, on security of digital control systems,*  
9           *such as Supervisory Control and Data Ac-*  
10          *quisition (SCADA) systems.*

11          “(d) *AUTHORITY OVER THE NATIONAL COM-*  
12          *MUNICATIONS SYSTEM.—The Assistant Secretary*  
13          *shall have primary authority within the De-*  
14          *partment over the National Communications*  
15          *System.”.*

16          “(b) *CLERICAL AMENDMENT.—The table of*  
17          *contents in section 1(b) of such Act is amended*  
18          *by adding at the end of the items relating to*  
19          *subtitle A of title II the following:*

          “*Sec. 207. Assistant Secretary for Cybersecurity.”.*

20          *SEC. 313. CYBERSECURITY DEFINED.*

21          *Section 2 of the Homeland Security Act of*  
22          *2002 (6 U.S.C. 101) is amended by adding at*  
23          *the end the following:*

24                 “(17)(A) *The term ‘cybersecurity’*  
25                 *means the prevention of damage to, the*

1 *protection of, and the restoration of com-*  
2 *puters, electronic communications sys-*  
3 *tems, electronic communication services,*  
4 *wire communication, and electronic com-*  
5 *munication, including information con-*  
6 *tained therein, to ensure its availability,*  
7 *integrity, authentication, confidentiality,*  
8 *and nonrepudiation.*

9 *“(B) In this paragraph—*

10 *“(i) each of the terms ‘damage’*  
11 *and ‘computer’ has the meaning that*  
12 *term has in section 1030 of title 18,*  
13 *United States Code; and*

14 *“(ii) each of the terms ‘electronic*  
15 *communications system’, ‘electronic*  
16 *communication service’, ‘wire commu-*  
17 *nication’, and ‘electronic communica-*  
18 *tion’ has the meaning that term has*  
19 *in section 2510 of title 18, United*  
20 *States Code.”.*

21 **SEC. 314. CYBERSECURITY TRAINING PROGRAMS AND**  
22 **EQUIPMENT.**

23 **(a) IN GENERAL.—***The Secretary of Home-*  
24 *land Security, acting through the Assistant*  
25 *Secretary for Cybersecurity, may establish, in*

1 *conjunction with the National Science Foun-*  
2 *dation, a program to award grants to institu-*  
3 *tions of higher education (and consortia there-*  
4 *of) for—*

5 *(1) the establishment or expansion of*  
6 *cybersecurity professional development*  
7 *programs;*

8 *(2) the establishment or expansion of*  
9 *associate degree programs in*  
10 *cybersecurity; and*

11 *(3) the purchase of equipment to pro-*  
12 *vide training in cybersecurity for either*  
13 *professional development programs or de-*  
14 *gree programs.*

15 **(b) ROLES.—**

16 *(1) DEPARTMENT OF HOMELAND SECUR-*  
17 *ITY.—The Secretary, acting through the*  
18 *Assistant Secretary for Cybersecurity and*  
19 *in consultation with the Director of the*  
20 *National Science Foundation, shall estab-*  
21 *lish the goals for the program established*  
22 *under this section and the criteria for*  
23 *awarding grants under the program.*

24 *(2) NATIONAL SCIENCE FOUNDATION.—*  
25 *The Director of the National Science*

1        *Foundation shall operate the program es-*  
2        *tablished under this section consistent*  
3        *with the goals and criteria established*  
4        *under paragraph (1), including soliciting*  
5        *applicants, reviewing applications, and*  
6        *making and administering grant awards.*  
7        *The Director may consult with the Assist-*  
8        *ant Secretary for Cybersecurity in select-*  
9        *ing awardees.*

10        (3) *FUNDING.—The Secretary shall*  
11        *transfer to the National Science Founda-*  
12        *tion the funds necessary to carry out this*  
13        *section.*

14        (c) *GRANT AWARDS.—*

15        (1) *PEER REVIEW.—All grant awards*  
16        *under this section shall be made on a*  
17        *competitive, merit-reviewed basis.*

18        (2) *FOCUS.—In making grant awards*  
19        *under this section, the Director shall, to*  
20        *the extent practicable, ensure geographic*  
21        *diversity and the participation of women*  
22        *and underrepresented minorities.*

23        (3) *PREFERENCE.—In making grant*  
24        *awards under this section, the Director*  
25        *shall give preference to applications sub-*

1 *mitted by consortia of institutions to en-*  
2 *courage as many students and profes-*  
3 *sionals as possible to benefit from this*  
4 *program.*

5 *(d) AUTHORIZATION OF APPROPRIATIONS.—*  
6 *Of the amount authorized under section 101,*  
7 *there is authorized to be appropriated to the*  
8 *Secretary for carrying out this section*  
9 *\$3,700,000 for fiscal year 2006.*

10 *(e) DEFINITIONS.—In this section, the term*  
11 *“institution of higher education” has the*  
12 *meaning given that term in section 101(a) of*  
13 *the Higher Education Act of 1965 (20 U.S.C.*  
14 *1001(a)).*

15 *SEC. 315. INFORMATION SECURITY REQUIREMENTS AND*  
16 *OMB RESPONSIBILITIES NOT AFFECTED.*

17 *(a) IN GENERAL.—This subtitle does not af-*  
18 *fect—*

19 *(1) any information security require-*  
20 *ment under any other Federal law; or*

21 *(2) the responsibilities of the Director*  
22 *of the Office of Management and Budget*  
23 *under any other Federal law.*

24 *(b) LAWS INCLUDED.—The laws referred to*  
25 *in subsection (a) include the following:*

1           ***(1) Chapter 35 of title 44, United***  
2           ***States Code, popularly known as the Pa-***  
3           ***perwork Reduction Act.***

4           ***(2) The Clinger-Cohen Act of 1996 (di-***  
5           ***visions D and E of Public Law 104–106),***  
6           ***including the provisions of law enacted by***  
7           ***amendments made by that Act.***

8           ***(3) The Federal Information Security***  
9           ***Management Act of 2002 (title III of Pub-***  
10           ***lic Law 107–347), including the provisions***  
11           ***of law enacted by amendments made by***  
12           ***that Act.***

13           ***Subtitle C—Security of Public***  
14           ***Transportation Systems***

15           ***SEC. 321. SECURITY BEST PRACTICES.***

16           ***Not later than 120 days after the date of***  
17           ***enactment of this Act, the Secretary of Home-***  
18           ***land Security shall develop, disseminate to ap-***  
19           ***propriate owners, operators, and providers of***  
20           ***public transportation systems, public trans-***  
21           ***portation employees and employee representa-***  
22           ***tives, and Federal, State, and local officials,***  
23           ***and transmit to Congress, a report containing***  
24           ***best practices for the security of public trans-***  
25           ***portation systems. In developing best prac-***

1 *tices, the Secretary shall be responsible for*  
2 *consulting with and collecting input from*  
3 *owners, operators, and providers of public*  
4 *transportation systems, public transportation*  
5 *employee representatives, first responders, in-*  
6 *dustry associations, private sector experts,*  
7 *academic experts, and appropriate Federal,*  
8 *State, and local officials.*

9 *SEC. 322. PUBLIC AWARENESS.*

10 *Not later than 90 days after the date of en-*  
11 *actment of this Act, the Secretary of Homeland*  
12 *Security shall develop a national plan for pub-*  
13 *lic outreach and awareness. Such plan shall*  
14 *be designed to increase awareness of measures*  
15 *that the general public, public transportation*  
16 *passengers, and public transportation employ-*  
17 *ees can take to increase public transportation*  
18 *system security. Such plan shall also provide*  
19 *outreach to owners, operators, providers, and*  
20 *employees of public transportation systems to*  
21 *improve their awareness of available tech-*  
22 *nologies, ongoing research and development*  
23 *efforts, and available Federal funding sources*  
24 *to improve public transportation security. Not*  
25 *later than 9 months after the date of enact-*

1 *ment of this Act, the Secretary shall implement*  
2 *the plan developed under this section.*

3 ***Subtitle D—Critical Infrastructure***  
4 ***Prioritization***

5 *SEC. 331. CRITICAL INFRASTRUCTURE.*

6 *(a) COMPLETION OF PRIORITIZATION.—Not*  
7 *later than 90 days after the date of the enact-*  
8 *ment of this Act, the Secretary of Homeland Se-*  
9 *curity, in concurrence with the Attorney Gen-*  
10 *eral and the National Director of Intelligence*  
11 *shall complete the prioritization of the Na-*  
12 *tion’s critical infrastructure according to all*  
13 *of the following criteria:*

14 *(1) The threat of terrorist attack,*  
15 *based on threat information received and*  
16 *analyzed by the Office of Information*  
17 *Analysis of the Department regarding the*  
18 *intentions and capabilities of terrorist*  
19 *groups and other potential threats to the*  
20 *Nation’s critical infrastructure.*

21 *(2) The likelihood that an attack*  
22 *would cause the destruction or significant*  
23 *disruption of such infrastructure.*

24 *(3) The likelihood that an attack*  
25 *would result in substantial numbers of*

1 *deaths and serious bodily injuries, a sub-*  
2 *stantial adverse impact on the national*  
3 *economy, or a substantial adverse impact*  
4 *on national security.*

5 *(b) COOPERATION.—Such prioritization*  
6 *shall be developed in cooperation with other*  
7 *relevant Federal agencies, State, local, and*  
8 *tribal governments, and the private sector, as*  
9 *appropriate.*

10 *SEC. 332. SECURITY REVIEW.*

11 *(a) REQUIREMENT.—Not later than 9*  
12 *months after the date of the enactment of this*  
13 *Act, the Secretary, in coordination with other*  
14 *relevant Federal agencies, State, local, and*  
15 *tribal governments, and the private sector, as*  
16 *appropriate, shall—*

17 *(1) review existing Federal, State,*  
18 *local, tribal, and private sector plans for*  
19 *securing the critical infrastructure in-*  
20 *cluded in the prioritization developed*  
21 *under section 331;*

22 *(2) recommend changes to existing*  
23 *plans for securing such infrastructure, as*  
24 *the Secretary determines necessary; and*

1           ***(3) coordinate and contribute to pro-***  
2           ***TECTIVE EFFORTS OF OTHER FEDERAL, STATE,***  
3           ***LOCAL, AND TRIBAL AGENCIES AND THE PRIVATE***  
4           ***SECTOR, AS APPROPRIATE, AS DIRECTED IN***  
5           ***HOMELAND SECURITY PRESIDENTIAL DIRECTIVE***  
6           ***7.***

7           ***(b) CONTENTS OF PLANS.—The rec-***  
8           ***ommendations made under subsection (a)(2)***  
9           ***shall include—***

10           ***(1) necessary protective measures to***  
11           ***secure such infrastructure, including***  
12           ***milestones and timeframes for implemen-***  
13           ***tation; and***

14           ***(2) to the extent practicable, perform-***  
15           ***ance metrics to evaluate the benefits to***  
16           ***both national security and the Nation’s***  
17           ***economy from the implementation of such***  
18           ***protective measures.***

19           ***SEC. 333. IMPLEMENTATION REPORT.***

20           ***(a) IN GENERAL.—Not later than 15 months***  
21           ***after the date of the enactment of this Act, the***  
22           ***Secretary shall submit a report to the Com-***  
23           ***mittee on Homeland Security and the Com-***  
24           ***mittee on the Judiciary of the House of Rep-***  
25           ***resentatives and the Committee on Homeland***

1 *Security and Governmental Affairs and the*  
2 *Committee on the Judiciary of the Senate on*  
3 *the implementation of section 332. Such report*  
4 *shall detail—*

5 *(1) the Secretary’s review and coordi-*  
6 *nation of security plans under section 332;*  
7 *and*

8 *(2) the Secretary’s oversight of the exe-*  
9 *cution and effectiveness of such plans.*

10 *(b) UPDATE.—Not later than 1 year after*  
11 *the submission of the report under subsection*  
12 *(a), the Secretary shall provide an update of*  
13 *such report to the congressional committees*  
14 *described in subsection (a).*

15 *SEC. 334. PROTECTION OF INFORMATION.*

16 *Information that is generated, compiled,*  
17 *or disseminated by the Department of Home-*  
18 *land Security in carrying out this section—*

19 *(1) is exempt from disclosure under*  
20 *section 552 of title 5, United States Code;*  
21 *and*

22 *(2) shall not, if provided by the De-*  
23 *partment to a State or local government*  
24 *or government agency—*

1           (A) *be made available pursuant to*  
2           *any State or local law requiring dis-*  
3           *closure of information or records;*

4           (B) *otherwise be disclosed or dis-*  
5           *tributed to any person by such State*  
6           *or local government or government*  
7           *agency without the written consent of*  
8           *the Secretary; or*

9           (C) *be used other than for the pur-*  
10          *pose of protecting critical infrastruc-*  
11          *ture or protected systems, or in fur-*  
12          *therance of an investigation or the*  
13          *prosecution of a criminal act.*

#### 14           **TITLE IV—MISCELLANEOUS**

##### 15   **SEC. 401. BORDER SECURITY AND ENFORCEMENT COORDI-** 16           **NATION AND OPERATIONS.**

17          **(a) FINDINGS.—***The Congress makes the fol-*  
18          **lowing findings:**

19           **(1)** *In creating the Department of*  
20          *Homeland Security, the Congress sought*  
21          *to enhance the Nation’s capabilities to*  
22          *prevent, protect against, and respond to*  
23          *terrorist acts by consolidating existing*  
24          *Federal agencies with homeland security*  
25          *functions into a single new Department,*

1 *and by realigning the missions of those*  
2 *legacy agencies to more directly support*  
3 *our national homeland security efforts.*

4 (2) *As part of this massive government*  
5 *reorganization, section 442 of the Home-*  
6 *land Security Act of 2002 (Public Law*  
7 *107-273) established a Bureau of Border*  
8 *Security and transferred into it all of the*  
9 *functions, programs, personnel, assets,*  
10 *and liabilities pertaining to the following*  
11 *programs: the Border Patrol; alien deten-*  
12 *tion and removal; immigration-related in-*  
13 *telligence, investigations, and enforce-*  
14 *ment activities; and immigration inspec-*  
15 *tions at ports of entry.*

16 (3) *Title IV of the Homeland Security*  
17 *Act of 2002 (Public Law 107-273) also*  
18 *transferred to the new Department the*  
19 *United States Customs Service, as a dis-*  
20 *tinguish entity within the new Department, to*  
21 *further the Department's border integrity*  
22 *mission.*

23 (4) *Utilizing its reorganization au-*  
24 *thority provided in the Homeland Security*  
25 *Act of 2002, the President submitted a re-*

1        *organization plan for the Department on*  
2        *January 30, 2003.*

3            (5) *This plan merged the customs and*  
4        *immigration border inspection and patrol*  
5        *functions, along with agricultural inspec-*  
6        *tions functions, into a new entity called*  
7        *the Bureau of Customs and Border Protec-*  
8        *tion.*

9            (6) *The plan also combined the cus-*  
10       *toms and immigration enforcement*  
11       *agents, as well as the Office of Detention*  
12       *and Removal Operations, the Office of*  
13       *Federal Protective Service, the Office of*  
14       *Federal Air Marshal Service, and the Of-*  
15       *fice of Intelligence, into another new enti-*  
16       *ty called U.S. Immigration and Customs*  
17       *Enforcement.*

18           (7) *The President's January 30, 2003,*  
19       *reorganization plan did not explain the*  
20       *reasons for separating immigration in-*  
21       *spection and border patrol functions from*  
22       *other immigration-related enforcement*  
23       *functions, or to combine immigration-re-*  
24       *lated enforcement functions with customs*  
25       *and other functions, contrary to the de-*

1 *sign of the Bureau of Border Security as*  
2 *prescribed by the Congress in section 442*  
3 *of the Homeland Security Act of 2002.*

4 (8) *Two years after this structure has*  
5 *been in effect, questions remain about*  
6 *whether the Department has organized*  
7 *itself properly, and is managing its cus-*  
8 *tom and immigration enforcement and*  
9 *border security resources in the most effi-*  
10 *cient, sensible, and effective manner.*

11 (9) *U.S. Immigration and Customs En-*  
12 *forcement has faced major budgetary*  
13 *challenges that are, in part, attributable*  
14 *to the inexact division of resources upon*  
15 *the separation of immigration functions.*  
16 *These budget shortfalls have forced U.S.*  
17 *Immigration and Customs Enforcement to*  
18 *impose hiring freezes and to release*  
19 *aliens that otherwise should be detained.*

20 (b) *REPORT.—*

21 (1) *IN GENERAL.—Not later than 30*  
22 *days after the date of the enactment of*  
23 *this Act, the Secretary of Homeland Secu-*  
24 *rity shall review and evaluate the current*  
25 *organizational structure of the Depart-*

1 *ment of Homeland Security established by*  
2 *the President's January 30, 2003, reorga-*  
3 *nization plan and submit a report of find-*  
4 *ings and recommendations to the Con-*  
5 *gress.*

6 (2) *CONTENTS OF REPORT.—The report*  
7 *shall include—*

8 (A) *a description of the rationale*  
9 *for, and any benefits of, the current*  
10 *organizational division of U.S. Immigra-*  
11 *tion and Customs Enforcement*  
12 *and the Bureau of Customs and Bor-*  
13 *der Protection, with respect to the De-*  
14 *partment's immigration and customs*  
15 *missions;*

16 (B) *a description of the organiza-*  
17 *tion, missions, operations, and poli-*  
18 *cies of the Bureau of Customs and*  
19 *Border Protection and U.S. Immigra-*  
20 *tion and Customs Enforcement, and*  
21 *areas of unnecessary overlap or oper-*  
22 *ational gaps among and between*  
23 *these missions;*

24 (C) *a description of the rationale*  
25 *for, and any benefits of, the current*

1           ***organizational combination of immi-***  
2           ***gration-related enforcement functions***  
3           ***with customs and other functions;***

4           ***(D) an analysis of alternative or-***  
5           ***ganizational structures that could***  
6           ***provide a more effective way to deliver***  
7           ***maximum efficiencies and mission***  
8           ***success;***

9           ***(E) a description of the current***  
10           ***role of the Directorate of Border and***  
11           ***Transportation Security with respect***  
12           ***to providing adequate direction and***  
13           ***oversight of the two agencies, and***  
14           ***whether this management structure is***  
15           ***still necessary;***

16           ***(F) an analysis of whether the***  
17           ***Federal Air Marshals and the Federal***  
18           ***Protective Service are properly lo-***  
19           ***cated within the Department within***  
20           ***U.S. Immigration and Customs En-***  
21           ***forcement;***

22           ***(G) the proper placement and***  
23           ***functions of a specialized investiga-***  
24           ***tive and patrol unit operating at the***  
25           ***southwest border on the Tohono***

1           ***O’odham Nation, known as the Shad-***  
2           ***ow Wolves;***

3           ***(H) the potential costs of reorga-***  
4           ***nization, including financial, pro-***  
5           ***grammatic, and other costs, to the De-***  
6           ***partment; and***

7           ***(I) recommendations for cor-***  
8           ***recting the operational and adminis-***  
9           ***trative problems that have been***  
10           ***caused by the division of the Bureau***  
11           ***of Customs and Border Protection and***  
12           ***U.S. Immigration and Customs En-***  
13           ***forcement and by the combination of***  
14           ***immigration-related enforcement***  
15           ***functions with customs and other***  
16           ***functions in both entities, including***  
17           ***any appropriate reorganization plans.***

18   ***SEC. 402. GAO REPORT TO CONGRESS.***

19           ***Not later than 6 months after the date of***  
20           ***the enactment of this Act, the Comptroller Gen-***  
21           ***eral of the United States shall submit to the***  
22           ***Congress a report that sets forth—***

23           ***(1) an assessment of the effectiveness***  
24           ***of the organizational and management***  
25           ***structure of the Department of Homeland***

1       ***Security in meeting the Department's mis-***  
2       ***sions; and***

3               ***(2) recommendations to facilitate and***  
4       ***improve the organization and manage-***  
5       ***ment of the Department to best meet those***  
6       ***missions.***

7       ***SEC. 403. PLAN FOR ESTABLISHING CONSOLIDATED AND***  
8               ***COLOCATED REGIONAL OFFICES.***

9       ***Not later than 60 days after the date of the***  
10       ***enactment of this Act, the Secretary of Home-***  
11       ***land Security shall develop and submit to the***  
12       ***Congress a plan for establishing consolidated***  
13       ***and colocated regional offices for the Depart-***  
14       ***ment of Homeland Security in accordance***  
15       ***with section 706 of the Homeland Security Act***  
16       ***of 2002 (6 U.S.C. 346).***

17       ***SEC. 404. PLAN TO REDUCE WAIT TIMES.***

18       ***Not later than 180 days after the date of***  
19       ***enactment of this Act, the Secretary of Home-***  
20       ***land Security shall develop a plan—***

21               ***(1) to improve the operational effi-***  
22       ***ciency of security screening checkpoints at***  
23       ***commercial service airports so that aver-***  
24       ***age peak waiting periods at such check-***  
25       ***points do not exceed 20 minutes; and***

1           ***(2) to ensure that there are no signifi-***  
2           ***cant disparities in immigration and cus-***  
3           ***toms processing times among airports***  
4           ***that serve as international gateways.***

5 ***SEC. 405. DENIAL OF TRANSPORTATION SECURITY CARD.***

6           ***Section 70105(c) of title 46, United States***  
7           ***Code, is amended—***

8                   ***(1) in paragraph (3) by inserting be-***  
9                   ***fore the period “before an administrative***  
10                  ***law judge”; and***

11                  ***(2) by adding at the end the following:***

12                  ***“(5) In making a determination under***  
13                  ***paragraph (1)(D) that an individual poses a***  
14                  ***terrorism security risk, the Secretary shall not***  
15                  ***consider, as the sole reason, a felony convic-***  
16                  ***tion if—***

17                       ***“(A) that felony occurred more than 7***  
18                       ***years prior to the date of the Secretary’s***  
19                       ***determination; and***

20                       ***“(B) the felony was not an offense that***  
21                       ***is a violation of a provision specified in***  
22                       ***subparagraph (B) of section 2332b(g)(5) of***  
23                       ***title 18.”.***

1 **SEC. 406. TRANSFER OF EXISTING CUSTOMS PATROL OFFI-**  
2 **CERS UNIT AND ESTABLISHMENT OF NEW**  
3 **CPO UNITS IN THE U.S. IMMIGRATION AND**  
4 **CUSTOMS ENFORCEMENT.**

5 **(a) TRANSFER OF EXISTING UNIT.—Not later**  
6 **than 180 days after the date of the enactment**  
7 **of this Act, the Secretary of Homeland Security**  
8 **shall transfer to the U.S. Immigration and**  
9 **Customs Enforcement all functions (including**  
10 **the personnel, assets, and obligations held by**  
11 **or available in connection with such func-**  
12 **tions) of the Customs Patrol Officers unit of**  
13 **the Bureau of Customs and Border Protection**  
14 **operating on the Tohono O’odham Indian res-**  
15 **ervation (commonly known as the “Shadow**  
16 **Wolves” unit).**

17 **(b) ESTABLISHMENT OF NEW UNITS.—The**  
18 **Secretary is authorized to establish within the**  
19 **U.S. Immigration and Customs Enforcement**  
20 **additional units of Customs Patrol Officers in**  
21 **accordance with this section.**

22 **(c) DUTIES.—The Secretary is authorized to**  
23 **establish within the U.S. Immigration and**  
24 **Customs Enforcement additional units of Cus-**  
25 **toms Patrol Officers in accordance with this**  
26 **section.**

1       ***(d) BASIC PAY FOR JOURNEYMAN OFFICERS.—***  
2 *The rate of basic pay for a journeyman Cus-*  
3 *toms Patrol Officer in a unit described in this*  
4 *section shall be not less than the rate of basic*  
5 *pay for GS-13 of the General Schedule.*

6       ***(e) SUPERVISORS.—Each unit described***  
7 *under this section shall be supervised by a*  
8 *Chief Customs Patrol Officer, who shall have*  
9 *the same rank as a resident agent-in-charge of*  
10 *the Office of Investigations.*

11 **SEC. 407. DATA COLLECTION ON USE OF IMMIGRATION**  
12 **CONSULTANTS.**

13       ***The Secretary of Homeland Security shall***  
14 *establish procedures to record information on*  
15 *applications for an immigration benefit sub-*  
16 *mitted by an alien with respect to which—*

17               ***(1) the alien states that the alien used***  
18 *the services of an immigration consultant;*  
19 *or*

20               ***(2) a Department employee or official***  
21 *investigating facts alleged in the applica-*  
22 *tion, or adjudicating the application, sus-*  
23 *pects that the alien used the services of an*  
24 *immigration consultant.*

**Union Calendar No. 40**

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 1817**

**[Report No. 109-71, Parts I, II, and III]**

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**A BILL**

To authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes.

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MAY 13, 2005

Reported from the Committee on Energy and Commerce,  
with an amendment

Reported from the Committee on the Judiciary, with an  
amendment

The Committees on Government Reform, Science, Transportation and Infrastructure, Ways and Means, and the Permanent Select Committee on Intelligence discharge; committed to the Committee on the Whole House on the State of the Union and ordered to be printed