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110TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 110–122

DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2008

MAY 4, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted the following

R E P O R T

together with

MINORITY AND DISSENTING VIEWS

[To accompany H.R. 1684]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1684) to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Homeland Security Authorization Act for Fiscal Year 2008".

SEC. 2. TABLE OF CONTENTS.

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.

TITLE II—POLICY AND MANAGEMENT IMPROVEMENTS

Sec. 201. Establishment of Directorate for Policy.
Sec. 202. Direct line authority for Chief Operating Officers.
Sec. 203. Comprehensive Homeland Security Review.
Sec. 204. Qualifications for the Under Secretary for Management.
Sec. 205. Sense of Congress regarding consolidation of Department headquarters.
Sec. 206. Required budget line item for office of counternarcotics enforcement.
Sec. 207. Designation of Office of Counternarcotics Enforcement as primary Department counternarcotics enforcement representative.
Sec. 208. Granting line authority to the Assistant Secretary for Legislative Affairs.

TITLE III—OVERSIGHT IMPROVEMENTS

Sec. 301. Secure border initiative financial accountability.
Sec. 302. Authorization Liaison Officer.
Sec. 303. Office of the Inspector General.
Sec. 304. Congressional notification requirement.
Sec. 305. Sense of Congress regarding oversight of homeland security.

TITLE IV—PROCUREMENT POLICY AND RESOURCES IMPROVEMENTS

Sec. 401. Homeland security procurement training.
Sec. 402. Authority to appoint and maintain a cadre of Federal annuitants for procurement offices.
Sec. 403. Additional requirement to review past performance of contractors.
Sec. 404. Requirement to disclose foreign ownership or control of contractors and subcontractors.
Sec. 405. Integrity in contracting.
Sec. 406. Small business utilization report.
Sec. 407. Requirement that uniforms, protective gear, badges, and identification cards of Homeland Security personnel be manufactured in the United States.
Sec. 408. Department of Homeland Security Mentor-Protégé Program.
Sec. 409. Prohibition on award of contracts and grants to educational institutions not supporting Coast Guard efforts.
Sec. 410. Report on source of shortfalls at Federal Protective Service.

TITLE V—WORKFORCE AND TRAINING IMPROVEMENTS

Sec. 501. Customs and Border Protection Officer pay equity.
Sec. 502. Plan to improve representation of minorities in various categories of employment.
Sec. 503. Continuation of authority for Federal law enforcement training center to appoint and maintain a cadre of Federal annuitants.
Sec. 504. Authority to appoint and maintain a cadre of Federal annuitants for Customs and Border Protection.
Sec. 505. Strengthening Border Patrol recruitment and retention.
Sec. 506. Limitation on reimbursements relating to certain detailees.
Sec. 507. Integrity in post-employment.
Sec. 508. Increased security screening of Homeland Security Officials.
Sec. 509. Authorities of Chief Security Officer.
Sec. 510. Departmental culture improvement.
Sec. 511. Homeland security education program enhancements.
Sec. 512. Repeal of chapter 97 of title 5, United States Code.
Sec. 513. Utilization of non-law enforcement Federal employees as instructors for non-law enforcement classes at the Border Patrol Training Academy.

TITLE VI—BIOPREPAREDNESS IMPROVEMENTS

Sec. 601. Chief Medical Officer and Office of Health Affairs.
Sec. 602. Improving the material threats process.
Sec. 603. Study on national biodefense training.
Sec. 604. National Biosurveillance Integration Center.
Sec. 605. Risk analysis process and integrated CBRN risk assessment.
Sec. 606. National Bio and Agro-defense Facility.

TITLE VII—HOMELAND SECURITY CYBERSECURITY IMPROVEMENTS

Sec. 701. Cybersecurity and Communications.
Sec. 702. Cybersecurity research and development.

TITLE VIII—SCIENCE AND TECHNOLOGY IMPROVEMENTS

Sec. 801. Report to Congress on strategic plan.
Sec. 802. Centers of Excellence Program.
Sec. 803. National research council study of university programs.
Sec. 804. Streamlining of SAFETY Act and antiterrorism technology procurement processes.
Sec. 805. Promoting antiterrorism through International Cooperation Act.

TITLE IX—BORDER SECURITY IMPROVEMENTS

Sec. 901. US–VISIT.
Sec. 902. Shadow Wolves program.
Sec. 903. Cost-effective training for border patrol agents.
Sec. 904. Student and Exchange Visitor Program.
Sec. 905. Assessment of resources necessary to reduce crossing times at land ports of entry.
Sec. 906. Biometric identification of unauthorized aliens.
Sec. 907. Report by Government Accountability Office regarding policies and procedures of the Border Patrol.

TITLE X—INFORMATION SHARING IMPROVEMENTS

Sec. 1001. State and local fusion center program.
Sec. 1002. Fusion Center Privacy and Civil Liberties Training Program.
Sec. 1003. Authority to appoint and maintain a cadre of Federal annuitants for the Office of Information Analysis.

TITLE XI—MISCELLANEOUS PROVISIONS

Sec. 1101. Eligible uses for interoperability grants.
Sec. 1102. Rural homeland security training initiative.
Sec. 1103. Critical infrastructure study.
Sec. 1104. Terrorist watch list and immigration status review at high-risk critical infrastructure.
Sec. 1105. Authorized use of surplus military vehicles.
Sec. 1106. Computer capabilities to support real-time incident management.
Sec. 1107. Expenditure reports as a condition of homeland security grants.
Sec. 1108. Encouraging use of computerized training aids.
Sec. 1109. Protection of name, initials, insignia, and departmental seal.
Sec. 1110. Report on United States Secret Service approach to sharing unclassified, law enforcement sensitive information with Federal, State, and local partners.
Sec. 1111. Report on United States Secret Service James J. Rowley Training Center.
Sec. 1112. Metropolitan Medical Response System Program.
Sec. 1113. Identity fraud prevention grant program.
Sec. 1114. Technical corrections.
Sec. 1115. Citizen Corps.
Sec. 1116. Report regarding Department of Homeland Security implementation of Comptroller General and Inspector General recommendations regarding protection of agriculture.
Sec. 1117. Report regarding levee system.
Sec. 1118. Report on Force Multiplier Program.
Sec. 1119. Eligibility of State judicial facilities for State homeland security grants.
Sec. 1120. Authorization of Homeland Security Functions of the United States Secret Service.
Sec. 1121. Data sharing.

TITLE XII—MARITIME ALIEN SMUGGLING

Sec. 1201. Short title.
Sec. 1202. Congressional declaration of findings.
Sec. 1203. Definitions.
Sec. 1204. Maritime alien smuggling.
Sec. 1205. Seizure or forfeiture of property.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. DEPARTMENT OF HOMELAND SECURITY.

There is authorized to be appropriated to the Secretary of Homeland Security for the necessary expenses of the Department of Homeland Security for fiscal year 2008, $39,863,000,000.

TITLE II—POLICY AND MANAGEMENT IMPROVEMENTS

SEC. 201. ESTABLISHMENT OF DIRECTORATE FOR POLICY.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by striking sections 401 through 403 and inserting the following:

"SEC. 401. DIRECTORATE FOR POLICY.

"(a) ESTABLISHMENT.—There is in the Department a Directorate for Policy. The Directorate for Policy shall contain each of the following:

"(1) The Office of the Private Sector, which shall be administered by an Assistant Secretary for the Private Sector.

"(2) The Victim Assistance Officer.

"(3) The Tribal Security Officer.

"(4) The Border Community Liaison Officer.

"(5) Such other offices as considered necessary by the Under Secretary for Policy.

"(b) UNDER SECRETARY FOR POLICY.—

"(1) IN GENERAL.—The head of the Directorate is the Under Secretary for Policy, who shall be appointed by the President, with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—No individual shall be appointed to the position of Under Secretary for Policy under paragraph (1) unless the individual has, by education and experience, demonstrated knowledge, ability, and skill in the fields of policy and strategic planning.

"(3) RESPONSIBILITIES.—Subject to the direction and control of the Secretary, the responsibilities of the Under Secretary for Policy shall be as follows:

"(A) To serve as the principal policy advisor to the Secretary.

"(B) To provide overall direction and supervision of policy development for the programs, offices, and activities of the Department.

"(C) To ensure that the budget of the Department (including the development of future year budgets and interaction with the Office of Management and Budget and with Congress) is compatible with the statutory and regulatory responsibilities of the Department and with the Secretary's priorities, strategic plans, and policies.

"(D) To conduct long-range, strategic planning for the Department, including overseeing the Comprehensive Homeland Security Review established in section 203.

"(E) To carry out such other responsibilities as the Secretary may determine are appropriate.".

(b) ENSURING CONSIDERATION OF THE NEEDS OF CHILDREN.—

(1) IN GENERAL.—The Under Secretary for Policy of the Department of Homeland Security, acting through the Assistant Secretary for the Office of Policy and Development, shall ensure that all departmental policies, programs, and activities appropriately consider the needs of and impact upon children.

(2) SPECIFIC FUNCTIONS.—The Under Secretary for Policy shall—

(A) coordinate with other Federal Departments and agencies to ensure that the needs of children, schools, and other child-centered facilities are sufficiently understood and incorporated into Federal, State, local, and tribal preparedness, response, and recovery plans and activities for terrorist attacks, major disasters, and other emergencies (including those involving chemical, biological, radiological, nuclear, or other explosive weapons), or other manmade disasters;

(B) coordinate with the Office of Grants within the Federal Emergency Management Agency to monitor the use of homeland securtity grants by State, local, or tribal agencies to support emergency preparedness activities for children, schools, and other child-centered facilities, and make recommendations to improve the effectiveness of such funding;

(C) review public awareness programs and screening policies by departmental entities, including security screening at airports, and ensure that such policies consider the needs and well-being of children; and

(D) ensure that all other departmental activities that affect children include consideration of the needs of children and that relevant agencies of the Department coordinate on this matter where appropriate.

(3) REPORT TO CONGRESS.—One year after the date of the enactment of this subsection and on an annual basis thereafter, the Under Secretary for Policy shall report to the Committee on Homeland Security of the House of Representatives and to the Committee on Homeland Security and Governmental Affairs of the Senate on activities undertaken pursuant to this subsection and the resulting improvement in security for children, schools, and other child-centered facilities.

(c) CONFORMING AMENDMENTS.—Such Act is further amended—

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

"TITLE IV—DIRECTORATE FOR POLICY";

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

"Subtitle A—Under Secretary for Policy";

(3) in section 103(a)(3), by striking "for Border and Transportation Security" and inserting "for Policy";

(4) in section 102(f)(9), by striking "the Directorate of Border and Transportation Security" and inserting "United States Customs and Border Protection";

(5) in section 411(a), by striking "under the authority of the Under Secretary for Border and Transportation Security,";

(6) in section 430—

(A) in subsection (a)—

(i) by striking "The" and inserting "There is in the Department an"; and

(ii) by striking "shall be" and all that follows through "Security";

(B) in subsection (b), by striking the second sentence; and

(C) by striking subsection (d).

(7) in section 441, by striking "Under Secretary for Border and Transportation Security" and inserting "Secretary";

(8) in section 442(a)—

(A) in paragraph (2), by striking "who—" and all that follows through "(B) shall" and inserting "who shall"; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "Under Secretary for Border and Transportation Security" each place it appears and inserting "Secretary"; and

(ii) in subparagraph (C), by striking "Border and Transportation Security" and inserting "Policy";

(9) in section 443, by striking "The Under Secretary for Border and Transportation Security" and inserting "Subject to the direction and control of the Secretary, the Deputy Secretary";

(10) in section 444, by striking "The Under Secretary for Border and Transportation Security" and inserting "Subject to the direction and control of the Secretary, the Deputy Secretary";

(11) in section 472(e), by striking "or the Under Secretary for Border and Transportation Security"; and

(12) in section 878(e), by striking "the Directorate of Border and Transportation Security" and inserting "United States Customs and Border Protection, Immigration and Customs Enforcement".

(d) CLERICAL AMENDMENTS.—The table of contents in section 1(b) of such Act is amended—

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

"TITLE IV—DIRECTORATE FOR POLICY";

and

(2) by striking the items relating to subtitle A of title IV and inserting the following:

"Subtitle A—Under Secretary for Policy

"Sec. 401. Directorate for Policy.".

SEC. 202. DIRECT LINE AUTHORITY FOR CHIEF OPERATING OFFICERS.

(a) IN GENERAL.—Title VII of the Homeland Security Act of 2002 (6 U.S.C. 341 et seq.) is amended by adding at the end the following new section:

"SEC. 707. CHIEF OPERATING OFFICERS.

"(a) IN GENERAL.—The Chief Operating Officers of the Department include the following officials of the Department:

"(1) The Chief Financial Officer.

"(2) The Chief Procurement Officer.

"(3) The Chief Information Officer.

"(4) The Chief Human Capital Officer.

"(5) The Chief Administrative Officer.

"(6) The Chief Security Officer.

"(b) DELEGATION.—The Secretary shall delegate to each Chief Operating Officer direct authority over that Officer's counterparts in component agencies to ensure that the component agencies adhere to the laws, rules, regulations, and departmental policies for which such Officer is responsible for implementing. In coordination with the head of the relevant component agency, such authorities shall include, with respect to the Officer's counterparts within component agencies of the Department, the following:

"(1) The authority to direct the activities of personnel.

"(2) The authority to direct planning, operations, and training.

"(3) The authority to direct the budget and other financial resources.

"(c) COORDINATION WITH HEADS OF COMPONENT AGENCIES.—In reporting to a Chief Operating Officer of the Department as required under subsection (b), a Chief Operating Officer of a component agency shall coordinate with the head of that component agency.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 706 the following:

"Sec. 707. Chief Operating Officers.".

SEC. 203. COMPREHENSIVE HOMELAND SECURITY REVIEW.

(a) COMPREHENSIVE HOMELAND SECURITY REVIEW.—Subtitle A of title IV of the Homeland Security Act of 2002 is further amended by adding at the end the following:

"SEC. 402. COMPREHENSIVE HOMELAND SECURITY REVIEW.

"(a) REQUIREMENT TO CONDUCT REVIEWS.—The Secretary, acting through the Under Secretary for Policy, shall conduct a comprehensive examination of the Department, to be known as the Comprehensive Homeland Security Review. The Secretary shall conduct the first such review in fiscal year 2009, and shall conduct a subsequent review in the first fiscal year in which there begins the first presidential term of a new presidential administration.

"(b) PURPOSE OF REVIEW.—In each Comprehensive Homeland Security Review, the Secretary shall—

"(1) include a Department of Homeland Security Strategy that is consistent with the most recent National Strategy for Homeland Security prescribed by the President;

"(2) define sufficient personnel and appropriate organizational structure and other requirements necessary for the successful execution of the full range of missions called for in the Department of Homeland Security Strategy; and

"(3) identify a budget plan, acquisition strategy, procurement process, and any other resources, that are necessary to provide sufficient resources for the successful execution of the full range of missions called for in the Department of Homeland Security Strategy.

"(c) CONDUCT OF REVIEW.—

"(1) CONSULTATION REQUIRED.—The Secretary shall conduct each review required under subsection (a) in consultation with key officials of the Department, including the Assistant Secretary of the Transportation Security Administration, the Commissioner of United States Customs and Border Protection, the Director of United States Citizenship and Immigration Services, the Assistant Secretary for Immigration and Customs Enforcement, the Director of the United States Secret Service, the Administrator of the Federal Emergency Management Agency, the Director of the Federal Law Enforcement Training Center, and the Commandant of the Coast Guard.

"(2) RELATIONSHIP WITH FUTURE YEARS HOMELAND SECURITY PROGRAM.—The Secretary shall ensure that each review conducted under this section is consistent with the Future Years Homeland Security Program required under section 874.

"(d) REPORT TO CONGRESS AND THE PRESIDENT.—

"(1) REPORT.—The Secretary shall submit to the Committee on Homeland Security of the House of Representatives, to the Committee on Homeland Security and Governmental Affairs of the Senate, and to the President a report on each Comprehensive Homeland Security Review. Each such report shall be submitted during the fiscal year following the fiscal year in which the review is conducted, but not later than the date on which the President submits to Congress the budget under section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the report is to be submitted.

"(2) CONTENTS.—Each such report shall include the following, with a focus on reducing and managing risk and in preparing for, mitigating against, responding to, and recovering from terrorist attacks, major disasters, and other emergencies:

"(A) A comprehensive assessment of the level of alignment between the Department of Homeland Security Strategy and the human resources, infrastructure, assets, and organizational structure of the Department.

"(B) An explanation of any and all underlying assumptions used in conducting the Review.

"(C) The human resources requirements and response capabilities of the Department as they relate to the risks of terrorist attacks, major disasters, and other emergencies.

"(D) The strategic and tactical air, border sea, and land capabilities and requirements to support the Department of Homeland Security Strategy.

"(E) The nature and appropriateness of homeland security operational capabilities, including operational scientific and technical resources and capabilities and the anticipated effects on the human resources capabilities, costs, efficiencies, resources, and planning of the Department of any tech-

nology or operational capabilities anticipated to be available during the years subsequent to the Review.

"(F) Any other matter the Secretary considers appropriate to include in the Review.

"(3) DEADLINE FOR INITIAL REPORT.—Notwithstanding paragraph (1), the Secretary shall submit the first Report required under subsection (a) not later than September 30, 2010.

"(e) PREPARATIONS FOR FISCAL YEAR 2008 REVIEW.—In fiscal year 2008, the Under Secretary for Policy shall make all preparations for the conduct of the first Comprehensive Homeland Security Review in fiscal year 2009, including—

"(1) determining the tasks to be performed;

"(2) estimating the human, financial, and other resources required to perform each task;

"(3) establishing the schedule for the execution of all project tasks;

"(4) ensuring that these resources will be available as needed; and

"(5) all other preparations considered necessary by the Under Secretary.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 401 the following:

"Sec. 402. Comprehensive Homeland Security Review.".

SEC. 204. QUALIFICATIONS FOR THE UNDER SECRETARY FOR MANAGEMENT.

(a) QUALIFICATIONS.—Section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341) is amended by adding at the end the following:

"(c) QUALIFICATIONS.—The Under Secretary for Management shall have all of the following qualifications:

"(1) Extensive executive level leadership and management experience in the public or private sector.

"(2) Strong leadership skills.

"(3) A demonstrated ability to manage large and complex organizations.

"(4) A proven record of achieving positive operational results.".

(b) DEADLINE FOR APPOINTMENT; INCUMBENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall name an individual who meets the qualifications of section 701 of the Homeland Security Act (6 U.S.C. 341), as amended by subsection (a), to serve as the Under Secretary for Management. The Secretary may submit the name of the individual who serves in the position of Under Secretary for Management of the Department of Homeland Security on the date of enactment of this Act together with a statement the informs the Congress that the individual meets the qualifications of such section as so amended.

SEC. 205. SENSE OF CONGRESS REGARDING CONSOLIDATION OF DEPARTMENT HEADQUARTERS.

(a) FINDINGS.—Congress finds that—

(1) the Department of Homeland Security and its component headquarters facilities are currently scattered widely throughout the National Capital Region (NCR);

(2) this geographic dispersal disrupts the Department's ability to operate in an efficient manner, and could impair its ability to prevent, deter, prepare for, and respond to a terrorist attack, major disaster, or other emergencies;

(3) the Government Accountability Office continues to list "Implementing and Transforming the Department of Homeland Security" on its "High Risk list";

(4) consolidating the Department's headquarters and component facilities, to the greatest extent practicable, would be an important step in facilitating the transformation and integration of the Department; and

(5) the President has provided funding for Department consolidation in the fiscal year 2008 budget, and has determined that the only site under the control of the Federal Government and in the NCR with the size, capacity, and security features to meet the Department of Homeland Security's minimum consolidation needs as identified in the Department of Homeland Security NCR Housing Master Plan submitted to Congress on October 24, 2006, is the West Campus of St. Elizabeths Hospital in the District of Columbia.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the consolidation of the Department and its key component headquarters on the West Campus of St. Elizabeths Hospital, to the maximum extent practicable consistent with the Department's Housing Plan as submitted to Congress in October 2006, should move forward as expeditiously as possible with all the agencies involved in this effort bearing those costs for which they are responsible.

SEC. 206. REQUIRED BUDGET LINE ITEM FOR OFFICE OF COUNTERNARCOTICS ENFORCEMENT.

In each fiscal year budget request for the Department of Homeland Security, the Secretary of Homeland Security shall include a separate line item for the fiscal year for expenditures by the Office of Counternarcotics Enforcement of the Department of Homeland Security.

SEC. 207. DESIGNATION OF OFFICE OF COUNTERNARCOTICS ENFORCEMENT AS PRIMARY DEPARTMENT COUNTERNARCOTICS ENFORCEMENT REPRESENTATIVE.

Section 878(d)(5) of the Homeland Security Act of 2002 (6 U.S.C. 458(d)(5)) is amended by striking "to be a representative" and inserting "to be the primary representative".

SEC. 208. GRANTING LINE AUTHORITY TO THE ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS.

Section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341) is further amended by adding at the end the following:

"(d) AUTHORITY OF THE ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS OVER DEPARTMENTAL COUNTERPARTS.—

"(1) IN GENERAL.—The Secretary for the Department shall ensure that the Assistant Secretary for Legislative Affairs has adequate authority over his or her respective counterparts in component agencies of the Department to ensure that such component agencies adhere to the laws, rules, regulations, and departmental policies that the Assistant Secretary for Legislative Affairs is responsible for implementing.

"(2) INCLUDED AUTHORITIES.—The authorities of the Assistant Secretary for Legislative Affairs shall include, with respect to the counterparts in component agencies of the Department, the following:

"(A) The authority to direct the activities of personnel responsible for any of the following:

"(i) Making recommendations regarding the hiring, termination, and reassignment of individuals.

"(ii) Developing performance measures.

"(iii) Submitting written performance evaluations during the performance evaluation process that shall be considered in performance reviews, including recommendations for bonuses, pay raises, and promotions.

"(iv) Withholding funds from the relevant component agency that would otherwise be available for a particular purpose until the relevant component agency complies with the directions of the Assistant Secretary for Legislative Affairs or makes substantial progress towards meeting the specified goal.

"(B) The authority to direct planning, operations, and training.

"(C) The authority to direct the budget and other financial resources.".

TITLE III—OVERSIGHT IMPROVEMENTS

SEC. 301. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department of Homeland Security shall review each contract action related to the Department's Secure Border Initiative having a value greater than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and timelines. The Inspector General shall complete a review under this subsection with respect to a contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) REPORT BY INSPECTOR GENERAL.—Upon completion of each review required under subsection (a), the Inspector General shall submit to the Secretary of Homeland Security a report containing the findings of the review, including findings regarding any cost overruns, significant delays in contract execution, lack of rigorous departmental contract management, insufficient departmental financial oversight, bundling that limits the ability of small business to compete, or other high risk business practices.

(c) REPORT BY SECRETARY.—Not later than 30 days after the receipt of each report required under subsection (b), the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on

the findings of the report by the Inspector General and the steps the Secretary has taken, or plans to take, to address the findings in such report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Office of the Inspector General of the Department of Homeland Security to carry out enhanced oversight of the Secure Border Initiative—

(1) for fiscal year 2008, of the amount authorized by section 101 and in addition to the amount authorized by section 303, $5,500,000;

(2) for fiscal year 2009, at least 6 percent of the overall budget of the Office for that fiscal year; and

(3) for fiscal year 2010, at least 7 percent of the overall budget of the Office for that fiscal year.

(e) ACTION BY INSPECTOR GENERAL.—In the event the Inspector General becomes aware of any improper conduct or wrongdoing in accordance with the contract review required under subsection (a), the Inspector General shall, as expeditiously as practicable, refer to the Secretary of Homeland Security or other appropriate official in the Department of Homeland Security information related to such improper conduct or wrongdoing for purposes of evaluating whether to suspend or debar the contractor.

SEC. 302. AUTHORIZATION LIAISON OFFICER.

Section 702 of the Homeland Security Act of 2002 (6 U.S.C. 342) is amended by adding at the end the following:

"(d) AUTHORIZATION LIAISON OFFICER.—

"(1) IN GENERAL.—The Chief Financial Officer shall establish the position of Authorization Liaison Officer to provide timely budget and other financial information to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate. The Authorization Liaison Officer shall report directly to the Chief Financial Officer.

"(2) SUBMISSION OF REPORTS TO CONGRESS.—The Authorization Liaison Officer shall coordinate with the Appropriations Liaison Officer within the Office of the Chief Financial Officer to ensure, to the greatest extent possible, that all reports prepared for the Committees on Appropriations of the House of Representatives and the Senate are submitted concurrently to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.".

SEC. 303. OFFICE OF THE INSPECTOR GENERAL.

Of the amount authorized by section 101, there is authorized to be appropriated to the Secretary of Homeland Security $108,500,000 for fiscal year 2008 for operations of the Office of the Inspector General of the Department of Homeland Security.

SEC. 304. CONGRESSIONAL NOTIFICATION REQUIREMENT.

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

"SEC. 104. CONGRESSIONAL NOTIFICATION.

"(a) IN GENERAL.—The Secretary shall actively consult with the congressional homeland security committees, and shall keep such committees fully and currently informed with respect to all activities and responsibilities within the jurisdictions of these committees.

"(b) RELATIONSHIP TO OTHER LAW.—Nothing in this section affects the requirements of section 872. The requirements of this section supplement, and do not replace, the requirements of that section.

"(c) CLASSIFIED NOTIFICATION.—The Secretary may submit any information required by this section in classified form if the information is classified pursuant to applicable national security standards.

"(d) SAVINGS CLAUSE.—This section shall not be construed to limit or otherwise affect the congressional notification requirements of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), insofar as they apply to the Department.

"(e) DEFINITION.—As used in this section, the term 'congressional homeland security committees' means the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to such title the following:

"Sec. 104. Congressional notification.".

(c) COAST GUARD MISSION REVIEW REPORT.—Section 888(f)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(f)(2)) is amended—

(1) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F) respectively; and

(2) by striking subparagraph (A) and inserting the following:

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

"(B) the Committee on Homeland Security of the House of Representatives;".

SEC. 305. SENSE OF CONGRESS REGARDING OVERSIGHT OF HOMELAND SECURITY.

It is the sense of the Congress that the House of Representatives and the Senate should implement the recommendation of the National Commission on Terrorist Attacks Upon the United States to designate a committee in each body to serve as the single, principal point of oversight and review for homeland security and to authorize the activities of the Department of Homeland Security.

TITLE IV—PROCUREMENT POLICY AND RESOURCES IMPROVEMENTS

SEC. 401. HOMELAND SECURITY PROCUREMENT TRAINING.

(a) IN GENERAL.—Subtitle D of title VIII of the Homeland Security Act of 2002 is amended by adding at the end the following new section:

"SEC. 836. HOMELAND SECURITY PROCUREMENT TRAINING.

"(a) PROVISION OF TRAINING.—The Chief Procurement Officer shall provide homeland security procurement training to acquisition employees.

"(b) RESPONSIBILITIES OF CHIEF PROCUREMENT OFFICER.—The Chief Procurement Officer shall carry out the following responsibilities:

"(1) Establish objectives to achieve the efficient and effective use of available acquisition resources by coordinating the acquisition education and training programs of the Department and tailoring them to support the careers of acquisition employees.

"(2) Develop, in consultation with the Council on Procurement Training established under subsection (d), the curriculum of the homeland security procurement training to be provided.

"(3) Establish, in consultation with the Council on Procurement Training, training standards, requirements, and courses to be required for acquisition employees.

"(4) Establish an appropriate centralized mechanism to control the allocation of resources for conducting such required courses and other training and education.

"(5) Select course providers and certify courses to ensure that the procurement training curriculum supports a coherent framework for the educational development of acquisition employees, including the provision of basic, intermediate, and advanced courses.

"(6) Publish an annual catalog that includes a list of the acquisition education and training courses.

"(7) Develop a system of maintaining records of student enrollment, and other data related to students and courses conducted pursuant to this section.

"(c) ELIGIBILITY FOR TRAINING.—An acquisition employee of any entity under subsection (d)(3) may receive training provided under this section. The appropriate member of the Council on Procurement Training may direct such an employee to receive procurement training.

"(d) COUNCIL ON PROCUREMENT TRAINING.—

"(1) ESTABLISHMENT.—The Secretary shall establish a Council on Procurement Training to advise and make policy and curriculum recommendations to the Chief Procurement Officer.

"(2) CHAIR OF COUNCIL.—The chair of the Council on Procurement Training shall be the Deputy Chief Procurement Officer.

"(3) MEMBERS.—The members of the Council on Procurement Training are the chief procurement officers of each of the following:

"(A) United States Customs and Border Protection.

"(B) The Transportation Security Administration.

"(C) The Office of Procurement Operations.

"(D) The Bureau of Immigration and Customs Enforcement.

"(E) The Federal Emergency Management Agency.

"(F) The Coast Guard.

"(G) The Federal Law Enforcement Training Center.

"(H) The United States Secret Service.

"(I) Such other entity as the Secretary determines appropriate.

"(e) ACQUISITION EMPLOYEE DEFINED.—For purposes of this section, the term 'acquisition employee' means an employee serving under a career or career-conditional appointment in the competitive service or appointment of equivalent tenure in the excepted service of the Federal Government, at least 50 percent of whose assigned duties include acquisitions, procurement-related program management, or procurement-related oversight functions.

"(f) REPORT REQUIRED.—Not later than March 1 of each year, the Chief Procurement Officer shall submit to the Secretary a report on the procurement training provided under this section, which shall include information about student enrollment, students who enroll but do not attend courses, graduates, certifications, and other relevant information.".

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

"Sec. 836. Homeland security procurement training.".

SEC. 402. AUTHORITY TO APPOINT AND MAINTAIN A CADRE OF FEDERAL ANNUITANTS FOR PROCUREMENT OFFICES.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "procurement office" means the Office of Procurement Operations and any other procurement office within any agency or other component of the Department;

(2) the term "annuitant" means an annuitant under a Government retirement system;

(3) the term "Government retirement system" has the meaning given such term by section 501(a); and

(4) the term "employee" has the meaning given such term by section 2105 of title 5, United States Code.

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Chief Procurement Officer) may, for the purpose of supporting the Department's acquisition capabilities and enhancing contract management throughout the Department, appoint annuitants to positions in procurement offices in accordance with succeeding provisions of this section.

(c) NONCOMPETITIVE PROCEDURES; EXEMPTION FROM OFFSET.—An appointment made under subsection (b) shall not be subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and any annuitant serving pursuant to such an appointment shall be exempt from sections 8344 and 8468 of such title 5 (relating to annuities and pay on reemployment) and any other similar provision of law under a Government retirement system.

(d) LIMITATIONS.—No appointment under subsection (b) may be made if such appointment would result in the displacement of any employee or would cause the total number of positions filled by annuitants appointed under such subsection to exceed 250 as of any time (determined on a full-time equivalent basis).

(e) RULE OF CONSTRUCTION.—An annuitant as to whom an exemption under subsection (c) is in effect shall not be considered an employee for purposes of any Government retirement system.

(f) TERMINATION.—Upon the expiration of the 5-year period beginning on the date of the enactment of this Act—

(1) any authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

SEC. 403. ADDITIONAL REQUIREMENT TO REVIEW PAST PERFORMANCE OF CONTRACTORS.

(a) IN GENERAL.—Such subtitle is further amended by adding at the end the following new section:

"SEC. 837. REVIEW OF CONTRACTOR PAST PERFORMANCE.

"(a) CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.—In awarding a contract to a contractor, the Secretary shall consider the past performance of that contractor based on the review conducted under subsection (b).

"(b) REVIEW REQUIRED.—Before awarding to a contractor (including a contractor that has previously provided goods or services to the Department) a contract to provide goods or services to the Department, the Secretary, acting through the appropriate contracting officer of the Department, shall require the contractor to submit information regarding the contractor's performance of Federal, State, and local government and private sector contracts.

"(c) CONTACT OF RELEVANT OFFICIALS.—As part of any review of a contractor conducted under subsection (b), the Secretary, acting through an appropriate con-

tracting officer of the Department, shall contact the relevant official who administered or oversaw each contract performed by that contractor during the five-year period preceding the date on which the review begins.".

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

"Sec. 837. Review of contractor past performance.".

SEC. 404. REQUIREMENT TO DISCLOSE FOREIGN OWNERSHIP OR CONTROL OF CONTRACTORS AND SUBCONTRACTORS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—With respect to any procurement of goods or services by the Department of Homeland Security, the Chief Procurement Officer of the Department shall conduct an independent review of the procurement to ensure that it complies with all relevant provisions of the Buy American Act (41 U.S.C. 10a et seq.).

(b) FOREIGN OWNERSHIP OR CONTROL OF CONTRACTORS AND SUBCONTRACTORS.—

(1) DISCLOSURE OF INFORMATION.—With respect to any procurement of goods or services by the Department of Homeland Security, the Secretary of Homeland Security shall require an offeror or prospective offeror to disclose whether the offeror or any prospective subcontractor (at any tier) is owned or controlled by a foreign person. The Secretary shall require all offerors, prospective offerors, and contractors to update the disclosure at any time before award of the contract or during performance of the contract, if the information provided becomes incorrect because of a change of ownership, a change in subcontractors, or for any other reason.

(2) FOREIGN OWNERSHIP OR CONTROL.—In this subsection:

(A) The term "owned or controlled by a foreign person", with respect to an offeror, contractor, or subcontractor, means that a foreign person owns or controls, directly or indirectly, 50 percent or more of the voting stock or other ownership interest in the offeror, contractor, or subcontractor.

(B) The term "foreign person" means any of the following:

(i) A foreign government.

(ii) A corporation organized under the laws of a foreign country.

(iii) An individual who is not a citizen of the United States.

(3) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall promulgate regulations to carry out this subsection.

SEC. 405. INTEGRITY IN CONTRACTING.

(a) IN GENERAL.—Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is further amended by adding at the end the following:

"SEC. 838. INTEGRITY IN CONTRACTING.

"(a) ATTESTATION REQUIRED.—The Secretary shall require any offeror for any contract to provide goods or services to the Department to submit as part of the offeror's bid for such contract an attestation that affirmatively discloses any substantial role the offeror, the employees of the offeror, or any corporate parent or subsidiary of the offeror may have played in creating a solicitation, request for proposal, statement of work, or statement of objectives (as those terms are defined in the Federal Acquisition Regulation) for the Department.

"(b) ADDITIONAL REQUIREMENTS FOR CERTAIN OFFERORS.—If an offeror submits an attestation under subsection (a) that discloses that the offeror, an employee of the offeror, or any corporate parent or subsidiary of the offeror played a substantial role in creating a solicitation, request for proposal, statement of work, or statement of objectives for the Department, the Secretary shall require the offeror to submit to the Secretary a description of the safeguards used to ensure that precautions were in place to prevent the offeror from receiving information through such role that could be used to provide the offeror an undue advantage in submitting an offer for a contract.

"(c) CERTIFICATION REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall require any offeror for any contract to provide goods or services to the Department to submit to the Secretary as part of the offeror's bid for such contract a certification in writing whether, as of the date on which the certification is submitted, the offeror—

"(A) is in default on any payment of any tax to the Federal Government; or

"(B) owes the Federal Government for any payment of any delinquent tax.

"(2) FAILURE OF CERTIFICATION.—Nothing in this section shall prevent the Department from awarding a contract to an offeror based solely on the offeror's certification.".

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

"Sec. 838. Integrity in contracting.".

SEC. 406. SMALL BUSINESS UTILIZATION REPORT.

(a) REPORT.—Not later than 360 days after the date of the enactment of this Act, the Chief Procurement Officer of the Department of Homeland Security shall submit to the Secretary of Homeland Security, the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report that—

(1) identifies each component of the Department for which the aggregate value of contracts awarded in fiscal year 2006 by the component to qualified HUBZone small business concerns and small business concerns owned and controlled by service-disabled veterans was less than 3 percent of the total value of all contracts awarded under the component for that fiscal year; and

(2) identifies each component of the Department for which the aggregate value of contracts awarded in fiscal year 2006 by the component to socially or economically disadvantaged small business concerns, including 8(a) small business concerns, and small business concerns owned and controlled by women was less than 5 percent of the total value of all contracts awarded by the component for that fiscal year.

(b) ACTION PLAN.—

(1) ACTION PLAN REQUIRED.—Not later than 90 days after the date of the submission of the report required under subsection (a), the Chief Procurement Officer, in consultation with Office of Small and Disadvantaged Businesses Utilization of the Department, shall for each component identified under subsection (a)(1) and (a)(2), develop, submit to the Committees referred to in subsection (a), and begin implementing an action plan for achieving the objective described in subsection (b)(2). An action plan is not required if the component meets or exceeds the objective described in subsection (b)(2).

(2) IDENTIFICATION OF BARRIERS.—Each action plan shall identify and describe any barriers to achieving the objectives of awarding by the component, for a fiscal year, contracts having an aggregate value of at least 3 percent of the total value of all contracts awarded by the component for the fiscal year to small business concerns identified under subsection (a)(1) and 5 percent of the total value of all contracts awarded by the component for the fiscal year to small business concerns identified under subsection (a)(2).

(3) PERFORMANCE MEASURES AND TIMETABLE.—Each action plan submitted under paragraph (1) shall include performance measures and a timetable for compliance and achievement of the objectives described in paragraph (2).

(c) PRIORITY CONSIDERATION.—

(1) IN GENERAL.—The Chief Procurement Officer may give priority consideration to small business concerns for all open market procurements exceeding the simplified acquisition threshold prior to initiating full and open, or unrestricted, competition.

(2) ORDER OF PRIORITY.—In proceeding with priority consideration under paragraph (1), the Chief Procurement Officer shall consider contracting proposals in the following order:

(A) Proposals submitted by 8(a) small business concerns or HUBZone small business concerns; service-disabled veteran owned small business concerns; or women owned small business concerns.

(B) Proposals submitted by other small business concerns.

(C) Proposals submitted under full and open competition.

(3) For purposes of carrying out paragraph (2) with respect to proposals submitted by small business concerns described in the same subparagraph of paragraph (2), the Chief Procurement Officer shall select the appropriate category of concern based on market research, historical data, and progress toward achieving the objective described in subsection (b)(2).

(d) DEFINITIONS.—For purposes of this section, the terms "small business concern", "socially or economically disadvantaged small business concern", "women owned small business concern", "small business concern owned and controlled by service-disabled veterans", "8(a) small business concerns", and "qualified HUBZone small business concern" have the meanings given such terms under the Small Business Act (15 U.S.C. 631 et seq.).

SEC. 407. REQUIREMENT THAT UNIFORMS, PROTECTIVE GEAR, BADGES, AND IDENTIFICATION CARDS OF HOMELAND SECURITY PERSONNEL BE MANUFACTURED IN THE UNITED STATES.

(a) IN GENERAL.—Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is further amended by adding at the end the following new section:

"SEC. 839. REQUIREMENT THAT CERTAIN ARTICLES PROCURED FOR DEPARTMENT PERSONNEL BE MANUFACTURED IN THE UNITED STATES.

"(a) REQUIREMENT.—Except as provided in section (c), funds appropriated or otherwise available to the Department may not be used for the procurement of an article described in section (b) if the item is not manufactured in the United States.

"(b) COVERED ARTICLES.—An article referred to in subsection (a) is any of the following articles procured for personnel of the Department:

"(1) Uniforms.

"(2) Protective gear.

"(3) Badges or other insignia indicating the rank, office, or position of personnel.

"(4) Identification cards.

"(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary determines that satisfactory quality and sufficient quantity of the article cannot be procured as and when needed at United States market prices. If such a determination is made with respect to an article, the Secretary shall—

"(1) notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate within 7 days after making the determination; and

"(2) include in that notification a certification that manufacturing the article outside the United States does not pose a risk to the national security of the United States, as well as a detailed explanation of the steps any facility outside the United States that is manufacturing the article will be required to take to ensure that the materials, patterns, logos, designs, or any other element used in or for the article are not misappropriated.

"(d) OTHER EXCEPTIONS.—Subsection (a) does not apply—

"(1) to acquisitions at or below the micro-purchase threshold (as defined in section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428)); and

"(2) to acquisitions outside the United States for use outside of the United States.

"(e) USE OF DOMESTIC TEXTILES.—For fiscal year 2008 and each subsequent fiscal year, the Secretary shall take all available steps to ensure that, to the maximum extent practicable, the items described in subsection (b) procured by the Department are manufactured using domestic textiles.

"(f) RELATIONSHIP TO WAIVER UNDER TRADE AGREEMENTS ACT OF 1979.—Subsection (a) shall apply notwithstanding any waiver under section 301 of the Trade Agreements Act of 1979 (19 U.S.C. 2511).".

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by adding at the end of the items relating to such subtitle the following new item:

"Sec. 839. Requirement that certain articles procured for Department personnel be manufactured in the United States.".

(c) APPLICABILITY.—The amendments made by this section take effect 120 days after the date of the enactment of this Act and apply to any contract entered into on or after that date for the procurement of items to which such amendments apply.

SEC. 408. DEPARTMENT OF HOMELAND SECURITY MENTOR-PROTÉGÉ PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Homeland Security shall establish within the Department of Homeland Security's Office of Small and Disadvantaged Business Utilization a Mentor-Protégé Program, which shall motivate and encourage prime contractors that are large businesses to provide developmental assistance to small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, HUBZone small business concerns, small business concerns owned by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.

(b) PARTICIPATION BY CONTRACTORS AND OFFERORS.—The Secretary shall take affirmative steps to publicize and to ensure that Department contractors and offerors are fully aware of and are participating in the Mentor-Protégé Program, including that their efforts to seek and develop a formal Mentor-Protégé relationship will be a factor in the evaluation of bids or offers for Department contracts.

(c) FACTOR IN EVALUATION OF OFFERS.—When evaluating the offer of a contractor, the Department of Homeland Security shall consider that offeror's efforts to seek

and develop a formal Mentor-Protégé relationship under the Mentor-Protégé Program.

(d) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of Homeland Security shall conduct a review of the Mentor-Protégé Program. Such review shall include—

(1) an assessment of the program's effectiveness;

(2) identification of any barriers that restrict contractors from participating in the program;

(3) a comparison of the program with the Department of Defense Mentor-Protégé Program; and

(4) development of recommendations to strengthen the program to include the maximum number of contractors as possible.

SEC. 409. PROHIBITION ON AWARD OF CONTRACTS AND GRANTS TO EDUCATIONAL INSTITUTIONS NOT SUPPORTING COAST GUARD EFFORTS.

(a) PROHIBITION.—The Secretary of Homeland Security may not award a contract or grant to an institution of higher education (including any subelement of that institution) if that institution (or any subelement of that institution) has a policy or practice (regardless of when implemented) that prohibits, or in effect prevents, the Commandant of the Coast Guard from gaining access to campuses of the institution, or access to students (who are 17 years of age or older) on such campuses, for purposes of recruiting, in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer.

(b) INSTITUTION OF HIGHER EDUCATION DEFINED.—For purposes of this section, the term "institution of higher education" has the meaning provided in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(c) LIMITATION ON APPLICATION.—The prohibition in this section shall not apply to an institution of higher education (or any subelement of that institution) if the Secretary of Homeland Security determines that the institution of higher education has a longstanding policy of pacifism based on historical religious affiliation.

SEC. 410. REPORT ON SOURCE OF SHORTFALLS AT FEDERAL PROTECTIVE SERVICE.

The Secretary of Homeland Security may not conduct a reduction in force or furlough of the workforce of the Federal Protective Service until—

(1) the Comptroller General of the United States submits to the Committees on Homeland Security and Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate the report on the source of shortfalls at the Federal Protective Service that was requested by the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Homeland Security and Governmental Affairs of the Senate and the Committees on Homeland Security and Transportation and Infrastructure of the House of Representatives have conducted hearings on such report.

TITLE V—WORKFORCE AND TRAINING IMPROVEMENTS

SEC. 501. CUSTOMS AND BORDER PROTECTION OFFICER PAY EQUITY.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "Government retirement system" means a retirement system established by law for employees of the Government of the United States.

(2) The term "Customs and Border Protection Officer position" refers to any Customs and Border Protection Officer position—

(A) which is within the Department of Homeland Security, and

(B) the primary duties of which consist of enforcing the border, customs, or agriculture laws of the United States;

such term includes a supervisory or administrative position within the Department of Homeland Security to which an individual transfers directly from a position described in the preceding provisions of this paragraph in which such individual served for at least three years.

(3) The term "law enforcement officer" has the meaning given such term under the Government retirement system involved.

(4) The term "Executive agency" or "agency" has the meaning given under section 105 of title 5, United States Code.

(5) The term "prior qualified service" means service as a Customs and Border Protection Officer within the Department of Homeland Security, since its establishment in March 2003.

(b) TREATMENT AS A LAW ENFORCEMENT OFFICER.—In the administration of any Government retirement system, service in a Customs and Border Protection Officer position shall be treated in the same way as service performed in a law enforcement officer position, subject to succeeding provisions of this section.

(c) APPLICABILITY.—Subsection (b) shall apply in the case of—

(1) any individual first appointed to a Customs and Border Protection Officer position on or after the date of the enactment of this Act; and

(2) any individual who—

(A) holds a Customs and Border Protection Officer position on the date of the enactment of this Act pursuant to an appointment made before such date; and

(B) who submits to the agency administering the retirement system involved an appropriate election under this section, not later than five years after the date of the enactment of this Act or before separation from Government service, whichever is earlier.

(d) INDIVIDUAL CONTRIBUTIONS FOR PRIOR QUALIFIED SERVICE.—

(1) IN GENERAL.—An individual described in subsection (c)(2)(B) may, with respect to prior qualified service performed by such individual, contribute to the Government retirement system by which such individual is covered (for deposit in the appropriate fund within the Treasury) the difference between the individual contributions that were actually made for such service and the individual contributions that should have been made for such service if subsection (b) had then been in effect (with interest).

(2) EFFECT OF NOT CONTRIBUTING.—If less than the full contribution under paragraph (1) is made, all prior qualified service of the individual shall remain fully creditable as law enforcement officer service, but the resulting annuity (before cost-of-living adjustments) shall be reduced in a manner such that, when combined with the unpaid amount, would result in the present value of the total being actuarially equivalent to the present value of the annuity that would otherwise have been payable if the full contribution had been made.

(e) GOVERNMENT CONTRIBUTIONS FOR PRIOR QUALIFIED SERVICE.—

(1) IN GENERAL.—If an individual makes an election under subsection (c)(2)(B), the Department of Homeland Security shall remit, with respect to any prior qualified service, the total amount of additional Government contributions that would have been required for such service under the retirement system involved if subsection (b) had then been in effect (with interest).

(2) CONTRIBUTIONS TO BE MADE RATABLY.—Government contributions under this subsection on behalf of an individual shall be made ratably (on at least an annual basis) over the ten-year period beginning on the date an individual's retirement deductions begin to be made.

(f) EXEMPTION FROM MANDATORY SEPARATION.—Effective during the three-year period beginning on the date of the enactment of this Act, nothing in this section shall result in any individual being involuntarily separated on account of the provisions of any retirement system relating to the mandatory separation of a law enforcement officer on account of age or age and service combined.

(g) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to apply in the case of a reemployed annuitant.

(h) REGULATIONS.—Any regulations necessary to carry out this section shall be prescribed in consultation with the Secretary of Homeland Security.

SEC. 502. PLAN TO IMPROVE REPRESENTATION OF MINORITIES IN VARIOUS CATEGORIES OF EMPLOYMENT.

(a) PLAN FOR IMPROVING REPRESENTATION OF MINORITIES.—Not later than 90 days after the date of the enactment of this Act, the Chief Human Capital Officer of the Department of Homeland Security shall prepare and transmit to the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Comptroller General of the United States a plan to achieve the objective of addressing any under representation of minorities in the various categories of civil service employment within such Department. Such plan shall identify and describe any barriers to achieving the objective described in the preceding sentence and the strategies and measures included in the plan to overcome them.

(b) ASSESSMENTS.—Not later than 1 year after receiving the plan, the Comptroller General of the United States shall assess—

(1) any programs and other measures currently being implemented to achieve the objective described in the first sentence of subsection (a); and

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

(c) DEFINITIONS.—For purposes of this section—

(1) the term "under representation" means when the members of a minority group within a category of Federal civil service employment constitute a lower percentage of the total number of employees within the employment category than the percentage that the minority constitutes within the labor force of the Federal Government, according to statistics issued by the Office of Personnel Management;

(2) the term "minority groups" or "minorities" means—

(A) racial and ethnic minorities;

(B) women; and

(C) individuals with disabilities; and

(3) the term "category of civil service employment" means—

(A) each pay grade, pay band, or other classification of every pay schedule and all other levels of pay applicable to the Department of Homeland Security; and

(B) such occupational, professional, or other groupings (including occupational series) as the Chief Human Capital Officer of the Department of Homeland Security may specify, in the plan described in subsection (a), in order to carry out the purposes of this section.

SEC. 503. CONTINUATION OF AUTHORITY FOR FEDERAL LAW ENFORCEMENT TRAINING CENTER TO APPOINT AND MAINTAIN A CADRE OF FEDERAL ANNUITANTS.

Section 1202(a) of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (42 U.S.C. 3771 note) is amended in the first sentence by striking "December 31, 2007" and inserting "December 31, 2008".

SEC. 504. AUTHORITY TO APPOINT AND MAINTAIN A CADRE OF FEDERAL ANNUITANTS FOR CUSTOMS AND BORDER PROTECTION.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "CBP" means the United States Customs and Border Protection;

(2) the term "annuitant" means an annuitant under a Government retirement system;

(3) the term "Government retirement system" has the meaning given such term by section 501(a); and

(4) the term "employee" has the meaning given such term by section 2105 of title 5, United States Code.

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Commissioner of the United States Customs and Border Protection) may, for the purpose of accelerating the ability of the CBP to secure the borders of the United States, appoint annuitants to positions in the CBP in accordance with succeeding provisions of this section.

(c) NONCOMPETITIVE PROCEDURES; EXEMPTION FROM OFFSET.—An appointment made under subsection (b) shall not be subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and any annuitant serving pursuant to such an appointment shall be exempt from sections 8344 and 8468 of such title 5 (relating to annuities and pay on reemployment) and any other similar provision of law under a Government retirement system.

(d) LIMITATIONS.—No appointment under subsection (b) may be made if such appointment would result in the displacement of any employee or would cause the total number of positions filled by annuitants appointed under such subsection to exceed 500 as of any time (determined on a full-time equivalent basis).

(e) RULE OF CONSTRUCTION.—An annuitant as to whom an exemption under subsection (c) is in effect shall not be considered an employee for purposes of any Government retirement system.

(f) TERMINATION.—Upon the expiration of the 5-year period beginning on the date of the enactment of this Act—

(1) any authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

SEC. 505. STRENGTHENING BORDER PATROL RECRUITMENT AND RETENTION.

(a) IN GENERAL.—In order to address the recruitment and retention challenges faced by United States Customs and Border Protection, the Secretary of Homeland Security shall establish a plan, consistent with existing Federal statutes applicable to pay, recruitment, relocation, and retention of Federal law enforcement officers. Such plan shall include the following components:

(1) The establishment of a recruitment incentive for Border Patrol agents, including the establishment of a foreign language incentive award.

(2) The establishment of a retention plan, including the payment of bonuses to Border Patrol agents for every year of service after the first two years of service.

(3) An increase in the pay percentage differentials to Border Patrol agents in certain high-cost areas, as determined by the Secretary, consistent with entry-level pay to other Federal, State, and local law enforcement agencies.

(4) The establishment of a mechanism whereby Border Patrol agents can transfer from one location to another after the first two years of service in their initial duty location.

(5) The establishment of quarterly goals for the recruitment of new Border Patrol agents, including goals for the number of recruits entering Border Patrol training, and the number of recruits who successfully complete such training and become Border Patrol agents.

(b) REPORT.—

(1) IN GENERAL.—Not later than the first calendar quarter after the date of the enactment of this Act and every calendar quarter thereafter, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report identifying whether the quarterly goals for the recruitment of new Border Patrol agents established under subsection (a)(5) were met, and an update on the status of recruitment efforts and attrition rates among Border Patrol agents.

(2) CONTENTS OF REPORT.—The report required under paragraph (1) shall contain, at a minimum, the following with respect to each calendar quarter:

(A) The number of recruits who enter Border Patrol training.

(B) The number of recruits who successfully complete such training and become Border Patrol agents.

(C) The number of Border Patrol agents who are lost to attrition.

SEC. 506. LIMITATION ON REIMBURSEMENTS RELATING TO CERTAIN DETAILEES.

In the case of an individual assigned to the Department of Homeland Security as a detailee under an arrangement described in subchapter VI of chapter 33 of title 5, United States Code, the maximum reimbursement by the Department of Homeland Security which may be made under section 3374(c) of such title with respect to such individual for the period of the assignment (including for any employee benefits) may not exceed the total amount of basic pay that would have been payable for such period if such individual had been paid, at the highest rate allowable under section 5382 of such title, as a member of the Senior Executive Service.

SEC. 507. INTEGRITY IN POST-EMPLOYMENT.

(a) DESIGNATIONS AS SEPARATE AGENCIES AND BUREAUS BARRED.—No agency, bureau, or other entity of the Department of Homeland Security may be designated under section 207(h)(1) of title 18, United States Code, as a separate agency or bureau.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section takes effect on the later of—

(A) June 6, 2007; or

(B) the date of the enactment of this Act.

(2) APPLICABILITY TO DESIGNATIONS.—The following shall cease to be effective on the date this section takes effect under paragraph (1):

(A) Any waiver of restrictions made under section 207(c)(2)(C) of title 18, United States Code, before the enactment of this Act, with respect to any position, or category of positions, in the Department of Homeland Security.

(B) Any designation of an agency, bureau, or other entity in the Department of Homeland Security, before the enactment of this Act, under section 207(h)(1) of title 18, United States Code, as a separate agency or bureau.

SEC. 508. INCREASED SECURITY SCREENING OF HOMELAND SECURITY OFFICIALS.

(a) REVIEW REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall conduct a Department-wide review of the Department of Homeland Security security clearance and suitability review procedures for Department employees and contractors, as well as individuals in State and local government agencies and private sector entities with a need to receive classified information.

(b) STRENGTHENING OF SECURITY SCREENING POLICIES.—

(1) IN GENERAL.—Based on the findings of the review conducted under subsection (a), the Secretary shall, as appropriate, take all necessary steps to strengthen the Department's security screening policies, including consolidating the security clearance investigative authority at the headquarters of the Department.

(2) ELEMENTS.—In strengthening security screening policies under paragraph (1), the Secretary shall consider whether and where appropriate ensure that—

(A) all components of the Department of Homeland Security meet or exceed Federal and Departmental standards for security clearance investigations, adjudications, and suitability reviews;

(B) the Department has a cadre of well-trained adjudicators and the Department has in place a program to train and oversee adjudicators; and

(C) suitability reviews are conducted for all Department of Homeland Security employees who transfer from a component of the Department to the headquarters of the Departmental.

SEC. 509. AUTHORITIES OF CHIEF SECURITY OFFICER.

(a) ESTABLISHMENT.—Title VII of the Homeland Security Act of 2002 (6 U.S.C. 341 et seq.) is further amended by adding at the end the following:

"SEC. 708. CHIEF SECURITY OFFICER.

"(a) ESTABLISHMENT.—There is in the Department a Chief Security Officer.

"(b) RESPONSIBILITIES.—The Chief Security Officer shall—

"(1) have responsibility for personnel security, facility access, security awareness, and related training;

"(2) ensure that each component of the Department complies with Federal standards for security clearances and background investigations;

"(3) ensure, to the greatest extent practicable, that individuals in State and local government agencies and private sector entities with a need to receive classified information, receive the appropriate clearances in a timely fashion; and

"(4) perform all other functions as determined by the Secretary.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the items relating to such title the following new item:

"Sec. 708. Chief Security Officer.".

SEC. 510. DEPARTMENTAL CULTURE IMPROVEMENT.

(a) CONSIDERATION REQUIRED.—The Secretary of Homeland Security, acting through the Chief Human Capital Officer, shall consider implementing recommendations set forth in the Homeland Security Advisory Council Culture Task Force Report of January 2007.

(b) IDENTIFICATION OF TERMS.—As part of this consideration, the Secretary, acting through the Chief Human Capital Officer, shall identify an appropriate term, as among "workforce", "personnel", and "employee", to replace "human capital" and integrate its use throughout the operations, policies, and programs of the Department of Homeland Security.

SEC. 511. HOMELAND SECURITY EDUCATION PROGRAM ENHANCEMENTS.

Section 845(b) of the Homeland Security Act of 2002 (6 U.S.C. 415(b)) is amended to read as follows:

"(b) LEVERAGING OF EXISTING RESOURCES.—To maximize efficiency and effectiveness in carrying out the Program, the Administrator shall use curricula modeled on existing Department-reviewed Master's Degree curricula in homeland security, including curricula pending accreditation, together with associated learning materials, quality assessment tools, digital libraries, asynchronous distance learning, video conferencing, exercise systems, and other educational facilities, including the National Domestic Preparedness Consortium, the National Fire Academy, and the Emergency Management Institute. The Administrator may develop additional educational programs, as appropriate.".

SEC. 512. REPEAL OF CHAPTER 97 OF TITLE 5, UNITED STATES CODE.

(a) REPEAL.—

(1) IN GENERAL.—Effective as of the date specified in section 4 of the Homeland Security Act of 2002 (6 U.S.C. 101 note), chapter 97 of title 5, United States Code (as added by section 841(a)(2) of such Act), section 841(b)(3) of such Act, and subsections (c) and (e) of section 842 of such Act are repealed.

(2) REGULATIONS.—Any regulations prescribed under authority of chapter 97 of title 5, United States Code, are void ab initio.

(b) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by striking the item relating to chapter 97.

SEC. 513. UTILIZATION OF NON-LAW ENFORCEMENT FEDERAL EMPLOYEES AS INSTRUCTORS FOR NON-LAW ENFORCEMENT CLASSES AT THE BORDER PATROL TRAINING ACADEMY.

The Director of the Federal Law Enforcement Training Center (FLETC) of the Department of Homeland Security, in consultation with the Chief of the Border Patrol,

is authorized to select appropriate employees of the Federal Government other than law enforcement officers (as defined in section 8401(17) of title 5, United States Code) to serve as instructors of non-law enforcement classes.

TITLE VI—BIOPREPAREDNESS IMPROVEMENTS

SEC. 601. CHIEF MEDICAL OFFICER AND OFFICE OF HEALTH AFFAIRS.

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

"SEC. 516. CHIEF MEDICAL OFFICER.

"(a) IN GENERAL.—There is in the Department a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall have the rank and title of Assistant Secretary for Health Affairs and Chief Medical Officer (in this section referred to as the 'Chief Medical Officer').

"(b) OFFICE OF HEALTH AFFAIRS.—There is in the Department an Office of Health Affairs, which shall be headed by the Chief Medical Officer.

"(c) QUALIFICATIONS.—The individual appointed as the Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine, public health, and the treatment of illnesses caused by chemical, biological, nuclear, and radiological agents.

"(d) RESPONSIBILITIES.—The Chief Medical Officer shall have the primary responsibility within the Department for medical and health issues related to the general roles, responsibilities, and operations of the Department, and terrorist attacks, major disasters, and other emergencies, including—

"(1) serving as the principal advisor to the Secretary and leading the Department's medical care, public health, food, water, veterinary care, and agro- security and defense responsibilities;

"(2) providing oversight for all medically-related actions and protocols of the Department's medical personnel;

"(3) administering the Department's responsibilities for medical readiness, including—

"(A) planning and guidance to support improvements in local training, equipment, and exercises funded by the Department; and

"(B) consistent with the National Response Plan established pursuant to Homeland Security Presidential Directive 8, assisting in fulfilling the Department's roles in related emergency support functions;

"(4) serving as the Department's primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments and agencies, on all matters of medical and public health to ensure coordination consistent with the National Response Plan;

"(5) serving as the Department's primary point of contact for State, local, tribal, and territorial governments, the medical community, and the private sector, to ensure that medical readiness and response activities are coordinated and consistent with the National Response Plan and the Secretary's incident management requirements;

"(6) managing the Department's biodefense and biosurveillance activities including the National Biosurveillance Integration System, and the Departments responsibilities under Project BioShield in coordination with the Under Secretary of Science and Technology as appropriate;

"(7) assuring that the Department's workforce has science-based policy, standards, requirements, and metrics for occupational safety and health;

"(8) supporting the operational requirements of the Department's components with respect to protective medicine and tactical medical support;

"(9) developing, in coordination with appropriate Department entities and other appropriate Federal agencies, end-to-end plans for prevention, readiness, protection, response, and recovery from catastrophic events with human, animal, agricultural, or environmental health consequences;

"(10) integrating into the end-to-end plans developed under paragraph (9), Department of Health and Human Services' efforts to identify and deploy medical assets (including human, fixed, and material assets) used in preparation for or response to national disasters and catastrophes, and to enable access to patient electronic medical records by medical personnel to aid treatment of displaced persons in such circumstance, in order to assure that actions of both Depart-

ments are combined for maximum effectiveness during an emergency consistent with the National Response Plan and applicable emergency support functions;

"(11) performing other duties relating to such responsibilities as the Secretary may require; and

"(12) directing and maintaining a coordinated system for medical support of the Department's operational activities.".

SEC. 602. IMPROVING THE MATERIAL THREATS PROCESS.

(a) IN GENERAL.—Section 319F–2(c)(2)(A) of the Public Health Service Act (42 U.S.C. 247d–6b(c)(2)(A)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by moving each of such subclauses two ems to the right;

(3) by striking "(A) MATERIAL THREAT.—The Homeland Security Secretary" and inserting the following:

"(A) MATERIAL THREAT.—

"(i) IN GENERAL.—The Secretary of Homeland Security"; and

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

"(ii) USE OF EXISTING RISK ASSESSMENTS.—For the purpose of satisfying the requirements of clause (i) as expeditiously as possible, the Secretary of Homeland Security shall, as practicable, utilize existing risk assessments that the Secretary of Homeland Security, in consultation with the Secretaries of Health and Human Services, Defense, and Agriculture, and the heads of other appropriate Federal agencies, considers credible.

"(iii) ORDER OF ASSESSMENTS.—

"(I) GROUPINGS TO FACILITATE ASSESSMENT OF COUNTERMEASURES.—In conducting threat assessments and determinations under clause (i) of chemical, biological, radiological, and nuclear agents, the Secretary of Homeland Security shall, to the extent practicable and appropriate, consider the completion of such assessments and determinations for groups of agents toward the goal of facilitating the assessment of countermeasures under paragraph (3) by the Secretary of Health and Human Services.

"(II) CATEGORIES OF COUNTERMEASURES.—The grouping of agents under subclause (I) by the Secretary of Homeland Security shall be designed to facilitate assessments under paragraph (3) by the Secretary of Health and Human Services regarding the following two categories of countermeasures:

"(aa) Countermeasures that may address more than one agent identified under clause (i)(II).

"(bb) Countermeasures that may address adverse health consequences that are common to exposure to different agents.

"(III) RULE OF CONSTRUCTION.—A particular grouping of agents pursuant to subclause (II) is not required under such subclause to facilitate assessments of both categories of countermeasures described in such subclause. A grouping may concern one category and not the other.

"(iv) DEADLINE FOR COMPLETION OF CERTAIN MATERIAL THREAT DETERMINATIONS.—With respect to chemical, biological, radiological, and nuclear agents known to the Secretary of Homeland Security as of the day before the date of the enactment of this clause, and which such Secretary considers to be capable of significantly affecting national security, such Secretary shall complete the determinations under clause (i)(II) not later than December 31, 2007.

"(v) REPORT TO CONGRESS.—Not later than 30 days after the date on which the Secretary of Homeland Security completes a material threat assessment under clause (i), the Secretary shall submit to Congress a report containing the results of such assessment.

"(vi) DEFINITION.—For purposes of this subparagraph, the term 'risk assessment' means a scientific, technically-based analysis of agents that incorporates threat, vulnerability, and consequence information.".

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

(1) in paragraph (1), by striking "2006," and inserting "2009,"; and

(2) by adding at the end the following:

"(3) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS REGARDING CERTAIN THREAT ASSESSMENTS.—For the purpose of providing an additional amount to the Secretary to assist the Secretary in meeting the requirements of clause (iv) of section 319F–2(c)(2)(A) of the Public Health Service Act (relating to time

frames), there are authorized to be appropriated such sums as may be necessary for fiscal year 2008, in addition to the authorization of appropriations established in paragraph (1). The purposes for which such additional amount may be expended include conducting risk assessments regarding clause (i)(II) of such section when there are no existing risk assessments that the Secretary considers credible.".

SEC. 603. STUDY ON NATIONAL BIODEFENSE TRAINING.

(a) STUDY REQUIRED.—The Secretary of Homeland Security shall, in consultation with the Secretary of Defense and the Secretary for Health and Human Services, conduct a joint study to determine the staffing and training requirements for pending capital programs to construct biodefense laboratories (including agriculture and animal laboratories) at Biosafety Level 3 and Biosafety Level 4 or to expand current biodefense laboratories to such biosafety levels.

(b) ELEMENTS.—In conducting the study, the Secretaries shall address the following:

(1) The number of trained personnel, by discipline and qualification level, required for existing biodefense laboratories at Biosafety Level 3 and Biosafety Level 4, including the number trained in Good Laboratory Practices (GLP).

(2) The number of research and support staff, including researchers, laboratory technicians, animal handlers, facility managers, facility or equipment maintainers, safety and security personnel (including biosafety, physical security, and cybersecurity personnel), and other safety personnel required to manage biodefense research efforts to combat bioterrorism at the planned biodefense laboratories described in subsection (a).

(3) The training required to provide the personnel described by paragraphs (1) and (2), including the type of training (whether classroom, laboratory, or field training) required, the length of training required by discipline, and the curriculum required to be developed for such training.

(4) Training schedules necessary to meet the scheduled openings of the biodefense laboratories described in subsection (a), including schedules for refresher training and continuing education that may be necessary for that purpose.

(c) REPORT.—Not later than December 31, 2007, the Secretaries shall submit to Congress a report setting forth the results of the study conducted under this section.

SEC. 604. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following new section:

"SEC. 316. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

"(a) ESTABLISHMENT.—The Secretary shall establish a National Biosurveillance Integration Center (referred to in this section as the 'NBIC') to enhance the capability of the Federal Government to rapidly identify, characterize, and localize a biological event by integrating and analyzing data related to human health, animals, plants, food, and the environment. The NBIC shall be headed by a Director.

"(b) INTEGRATED BIOSURVEILLANCE NETWORK.—As part of the NBIC, the Director shall develop, operate, and maintain an integrated network to detect, as early as possible, a biological event that presents a risk to the United States or the infrastructure or key assets of the United States. The network shall—

"(1) consolidate data from all relevant surveillance systems maintained by the Department and other governmental and private sources, both foreign and domestic, to the extent practicable; and

"(2) use an information technology system that uses the best available statistical and other analytical tools to identify and characterize biological events in as close to real-time as possible.

"(c) RESPONSIBILITIES.—

"(1) IN GENERAL.—The Director shall—

"(A) monitor on an ongoing basis the availability and appropriateness of candidate data feeds and solicit new surveillance systems with data that would enhance biological situational awareness or overall performance of the NBIC;

"(B) review and seek to improve on an ongoing basis the statistical and other analytical methods used by the NBIC;

"(C) establish a procedure to enable Federal, State and local government, and private sector entities to report suspicious events that could warrant further assessments by the NBIC;

"(D) receive and consider all relevant homeland security information; and

"(E) provide technical assistance, as appropriate, to all Federal, State, and local government entities and private sector entities that contribute data relevant to the operation of the NBIC.

"(2) ASSESSMENTS.—The Director shall—

"(A) continuously evaluate available data for evidence of a biological event; and

"(B) integrate homeland security information with NBIC data to provide overall biological situational awareness and determine whether a biological event has occurred.

"(3) INFORMATION SHARING.—The Director shall—

"(A) establish a mechanism for real-time communication with the National Operations Center;

"(B) provide integrated information to the heads of the departments and agencies with which the Director has entered into an agreement under subsection (d);

"(C) notify the Secretary, the head of the National Operations Center, and the heads of appropriate Federal, State, tribal, and local entities of any significant biological event identified by the NBIC;

"(D) provide reports on NBIC assessments to Federal, State, and local government entities, including departments and agencies with which the Director has entered into an agreement under subsection (d), and any private sector entities, as considered appropriate by the Director; and

"(E) use information sharing networks available to the Department for distributing NBIC incident or situational awareness reports.

"(d) INTERAGENCY AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall, where feasible, enter into agreements with the heads of appropriate Federal departments and agencies, including the Department of Health and Human Services, Department of Defense, the Department of Agriculture, the Department of State, the Department of Interior, and the Intelligence Community.

"(2) CONTENT OF AGREEMENTS.—Under an agreement entered into under paragraph (1), the head of a Federal department or agency shall agree to—

"(A) use the best efforts of the department or agency to integrate biosurveillance information capabilities through NBIC;

"(B) provide timely, evaluated information to assist the NBIC in maintaining biological situational awareness for timely and accurate detection and response purposes;

"(C) provide connectivity for the biosurveillance data systems of the department or agency to the NBIC network under mutually agreed protocols;

"(D) detail, if practicable, to the NBIC department or agency personnel with relevant expertise in human, animal, plant, food, or environmental disease analysis and interpretation;

"(E) retain responsibility for the surveillance and intelligence systems of that department or agency, if applicable; and

"(F) participate in forming the strategy and policy for the operation and information sharing practices of the NBIC.

"(e) NOTIFICATION OF DIRECTOR.—The Secretary shall ensure that the Director is notified of homeland security information relating to any significant biological threat and receives all classified and unclassified reports related to such a threat in a timely manner.

"(f) ADMINISTRATIVE AUTHORITIES.—

"(1) PRIVACY.—The Secretary shall—

"(A) designate the NBIC as a public health authority;

"(B) ensure that the NBIC complies with any applicable requirements of the Health Insurance Portability and Accountability Act of 1996; and

"(C) ensure that all applicable privacy regulations are strictly adhered to in the operation of the NBIC and the sharing of any information related to the NBIC.

"(2) COLLECTION OF INFORMATION.—The NBIC, as a public health authority with a public health mission, is authorized to collect or receive health information, including such information protected under the Health Insurance Portability and Accountability Act of 1996, for the purpose of preventing or controlling disease, injury, or disability.

"(g) NBIC INTERAGENCY WORKING GROUP.—The Director shall—

"(1) establish an interagency working group to facilitate interagency cooperation to advise the Director on recommendations to enhance the biosurveillance capabilities of the Department; and

"(2) invite officials of Federal agencies that conduct biosurveillance programs, including officials of the departments and agencies with which the Secretary

has entered into an agreement under subsection (d), to participate in the working group.

"(h) ANNUAL REPORT REQUIRED.—Not later than December 31 of each year, the Secretary shall submit to Congress a report that contains each of the following:

"(1) A list of departments, agencies, and private or nonprofit entities participating in the NBIC and a description of the data that each entity has contributed to the NBIC during the preceding fiscal year.

"(2) The schedule for obtaining access to any relevant biosurveillance information not received by the NBIC as of the date on which the report is submitted.

"(3) A list of Federal, State, and local government entities and private sector entities that have direct or indirect access to the information that is integrated by the NBIC.

"(4) For any year before the NBIC is fully implemented or any year in which any major structural or institutional change is made to the NBIC, an implementation plan for the NBIC that includes cost, schedule, key milestones, and the status of such milestones.

"(i) RELATIONSHIP TO OTHER DEPARTMENTS AND AGENCIES.—The authority of the Secretary under this section shall not affect an authority or responsibility of any other Federal department or agency with respect to biosurveillance activities under any program administered by that department or agency.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year.

"(k) BIOLOGICAL EVENT.—For purposes of this section, the term 'biological event' means—

"(1) an act of terrorism involving biological agents or toxins of known or unknown origin; or

"(2) a naturally occurring outbreak of an infectious disease that may be of potential national significance.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the items relating to such title the following:

"Sec. 316. National Biosurveillance Integration Center.".

(c) DEADLINE FOR IMPLEMENTATION.—The National Biosurveillance Integration Center required under section 316 of the Homeland Security Act of 2002, as added by subsection (a), shall be fully operational by not later than September 30, 2008.

SEC. 605. RISK ANALYSIS PROCESS AND INTEGRATED CBRN RISK ASSESSMENT.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is further amended by adding at the end the following:

"SEC. 317. RISK ANALYSIS PROCESS AND INTEGRATED CBRN RISK ASSESSMENT.

"(a) RISK ANALYSIS PROCESS.—The Secretary shall develop a risk analysis process that utilizes a scientific, quantitative methodology to assess and manage risks posed by chemical, biological, radiological, and nuclear (CBRN) agents.

"(b) INTEGRATED CBRN RISK ASSESSMENT.—The Secretary shall use the process developed under subsection (a) to conduct a risk assessment that shall support the integration of chemical, biological, radiological, and nuclear agents.

"(c) PURPOSE.—The purpose of the risk analysis process developed under subsection (a) and the integrated risk assessment conducted under subsection (b) shall be to identify high risk agents, determine how best to mitigate those risks, and guide resource allocation. Such risk analysis shall—

"(1) facilitate satisfaction of the requirements of section 602;

"(2) guide research, development, acquisition, and deployment of applicable countermeasures, including detection systems;

"(3) identify key knowledge gaps or vulnerabilities in the CBRN defense posture of the Department;

"(4) enable rebalancing and refining of investments within individual classes of threat agents as well as across such classes; and

"(5) support end-to-end assessments of the overall CBRN defense policy of the Department, taking into account the full spectrum of countermeasures available, including prevention, preparedness, planning, response and recovery activities, to better steer investments to strategies with the greatest potential for mitigating identified risks.

"(d) RISK INFORMATION.—

"(1) CLASSES OF THREAT AGENTS.—In developing the risk analysis process under subsection (a) and conducting the risk assessment under subsection (b), the Secretary shall consider risks posed by the following classes of threats:

"(A) Chemical threats, including—

"(i) toxic industrial materials and chemicals;

"(ii) traditional chemical warfare agents; and

"(iii) non-traditional agents, which are defined as novel chemical threat agents or toxicants requiring adapted countermeasures.

"(B) Biological threats, including—

"(i) traditional agents listed by the Centers of Disease Control and Prevention as Category A, B, and C pathogens and toxins;

"(ii) enhanced agents, which are defined as traditional agents that have been modified or selected to enhance their ability to harm human populations or circumvent current countermeasures;

"(iii) emerging agents, which are defined as previously unrecognized pathogens that may be naturally occurring and present a serious risk to human populations; and

"(iv) advanced or engineered agents, which are defined as novel pathogens or other materials of biological nature that have been artificially engineered in the laboratory to bypass traditional countermeasures or produce a more severe or otherwise enhanced spectrum of disease.

"(C) Nuclear and radiological threats, including fissile and other radiological material that could be incorporated into an improvised nuclear device or a radiological dispersal device or released into a wide geographic area by damage to a nuclear reactor.

"(D) Threats to the agriculture sector and food and water supplies.

"(E) Other threat agents the Secretary determines appropriate.

"(2) SOURCES.—The risk analysis process developed under subsection (a) shall be informed by findings of the intelligence and law enforcement communities and integrated with expert input from the scientific, medical, and public health communities, including from relevant components of the Department and other Federal agencies.

"(3) DATA QUALITY, SPECIFICITY, AND CONFIDENCE.—In developing the risk analysis process under subsection (a), the Secretary shall consider the degree of uncertainty and variability in the available scientific information and other information about the classes of threat agents under paragraph (1). An external review shall be conducted to assess the ability of the risk analysis process developed by the Secretary to address areas of large degrees of uncertainty.

"(4) NEW INFORMATION.—The Secretary shall frequently and systematically update the risk assessment conducted under subsection (b), as needed, to incorporate emerging intelligence information or technological changes in order to keep pace with evolving threats and rapid scientific advances.

"(e) METHODOLOGY.—The risk analysis process developed by the Secretary under subsection (a) shall—

"(1) consider, as variables—

"(A) threat, or the likelihood that a type of attack that might be attempted;

"(B) vulnerability, or the likelihood that an attacker would succeed; and

"(C) consequence, or the likely impact of an attack;

"(2) evaluate the consequence component of risk as it relates to mortality, morbidity, and economic effects;

"(3) allow for changes in assumptions to evaluate a full range of factors, including technological, economic, and social trends, which may alter the future security environment;

"(4) contain a well-designed sensitivity analysis to address high degrees of uncertainty associated with the risk analyses of certain CBRN agents;

"(5) utilize red teaming analysis to identify vulnerabilities an adversary may discover and exploit in technology, training, and operational procedures and to identify open-source information that could be used by those attempting to defeat the countermeasures; and

"(6) incorporate an interactive interface that makes results and limitations transparent and useful to decision makers for identifying appropriate risk management activities.

"(f) COORDINATION.—The Secretary shall ensure that all risk analysis activities with respect to radiological or nuclear materials shall be conducted in coordination with the Domestic Nuclear Detection Office.

"(g) TIMEFRAME; REPORTS TO CONGRESS.—

"(1) INITIAL REPORT.—By not later than June 2008, the Secretary shall complete the first formal, integrated, CBRN risk assessment required under subsection (b) and shall submit to Congress a report summarizing the findings of such assessment and identifying improvements that could be made to enhance the transparency and usability of the risk analysis process developed under subsection (a).

"(2) UPDATES TO REPORT.—The Secretary shall submit to Congress updates to the findings and report in paragraph (1), when appropriate, but by not later than two years after the date on which the initial report is submitted. Such updates shall reflect improvements in the risk analysis process developed under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the items relating to such title the following:

"Sec. 317. Risk analysis process and integrated CBRN risk assessment.".

SEC. 606. NATIONAL BIO AND AGRO-DEFENSE FACILITY.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6. U.S.C. 181 et seq.) is further amended by adding at the end the following new section:

"SEC. 318. NATIONAL BIO AND AGRO-DEFENSE FACILITY.

"(a) ESTABLISHMENT.—There is in the Department a National Bio and Agro-defense Facility (referred to in this section as the 'NBAF'), which shall be headed by a Director who shall be appointed by the Secretary.

"(b) PURPOSES.—

"(1) IN GENERAL.—The NBAF shall be an integrated human, foreign-animal, and zoonotic disease research, development, testing, and evaluation facility with the purpose of supporting the complementary missions of the Department, the Department of Agriculture, and the Department of Health and Human Services in defending against the threat of potential acts of agroterrorism and natural-occurring incidents related to agriculture with the potential to adversely impact public health, animal health, and the economy, or may otherwise impact homeland security.

"(2) KNOWLEDGE PRODUCTION AND SHARING.—The NBAF shall produce and share knowledge and technology for the purpose of reducing economic losses caused by foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases of livestock and poultry, and preventing human suffering and death caused by diseases existing or emerging in the agricultural sector.

"(c) RESPONSIBILITIES OF DIRECTOR.—The Secretary shall vest in the Director primary responsibility for each of the following:

"(1) Directing basic, applied, and advanced research, development, testing, and evaluation relating to foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases, including foot and mouth disease, and performing related activities, including—

"(A) developing countermeasures for foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases, including diagnostics, vaccines and therapeutics;

"(B) providing advanced test and evaluation capability for threat detection, vulnerability, and countermeasure assessment for foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases;

"(C) conducting nonclinical, animal model testing and evaluation under the Food and Drug Administration's Animal Rule as defined in parts 314 and 601 of title 22, Code of Federal Regulations, to support the development of human medical countermeasures by the Department of Human Services under the Public Health Service Act (42 U.S.C. 201 et seq);

"(D) establishing NBAF information-sharing mechanisms to share information with relevant stakeholders, including the National Animal Health Laboratory Network; and

"(E) identifying and promoting uniform national standards for animal disease diagnostics.

"(2) Facilitating the coordination of Federal, State, and local governmental research and development efforts and resources relating to protecting public health and animal health from foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases.

"(3) Ensuring public safety during an emergency by developing an emergency response plan under which emergency response providers in the community are sufficiently prepared or trained to respond effectively and given sufficient notice to allow for an effective response.

"(4) Ensuring NBAF site and facility security.

"(5) Providing training to develop skilled research and technical staff with the needed expertise in operations conducted at biological and agricultural research facilities.

"(6) Leveraging the expertise of academic institutions, industry, the Department of Energy National Laboratories, State and local governmental resources, and professional organizations involved in veterinary, medical and public health, and agriculture issues to carry out functions describes in (1) and (2).

"(d) REQUIREMENTS.—The Secretary, in designing and constructing the NBAF, shall ensure that the facility meets the following requirements:

"(1) The NBAF shall consist of state-of-the-art biocontainment laboratories capable of performing research and activities at Biosafety Level 3 and 4, as designated by the Centers for Disease Control and Prevention and the National Institutes of Health.

"(2) The NBAF facility shall be located on a site of at least 30 acres that can be readily secured by physical measure.

"(3) The NBAF facility shall be at least 500,000 square feet with a capacity of housing a minimum of 80 large animals for research, testing and evaluation;

"(4) The NBAF shall be located at a site with a preexisting utility infrastructure, or a utility infrastructure that can be easily built.

"(5) The NBAF shall be located at a site that has been subject to an Environmental Impact Statement under the National Environmental Policy Act of 1969.

"(6) The NBAF shall be located within a reasonable proximity to a national or regional airport and to major roadways.

"(e) AUTHORIZATION TO PROCURE REAL PROPERTY AND ACCEPT IN KIND DONATIONS FOR THE NBAF SITE.—The Secretary may accept and use donations of real property for the NBAF site and may accept and use in-kind donations of real property, personal property, laboratory and office space, utility services, and infrastructure upgrades for the purpose of assisting the Director in carrying out the responsibilities of the Director under this section.

"(f) APPLICABILITY OF OTHER LAWS.—

"(1) PUBLIC BUILDINGS ACT.—The NBAF shall not be considered a "public building" for purposes of the Public Buildings Act of 1959 (40 U.S.C. 3301 et seq.).

"(2) LIVE VIRUS OF FOOT AND MOUTH DISEASE RESEARCH.—The Secretary shall enable the study of live virus of foot and mouth disease at the NBAF, wherever it is sited, notwithstanding section 113a of title 21, United States Code.

"(g) COORDINATION.—

"(1) INTERAGENCY AGREEMENTS.—

"(A) IN GENERAL.—The Secretary shall enter into understandings or agreements with the heads of appropriate Federal departments and agencies, including the Secretary of Agriculture and the Secretary of Health and Human Services, to define the respective roles and responsibilities of each Department in carrying out foreign-animal, zoonotic, and other endemic animal disease research and development at the NBAF to protect public health and animal health.

"(B) DEPARTMENT OF AGRICULTURE.—The understanding or agreement entered into with the Secretary of Agriculture shall include a provision describing research programs and functions of the Department of Agriculture and the Department of Homeland Security, including those research programs and functions carried out at the Plum Island Animal Disease Center and those research programs and functions that will be transferred to the NBAF.

"(C) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The understanding or agreement entered into with the Department of Health and Human Services shall describe research programs of the Department of Health and Human Services that may relate to work conducted at NBAF.

"(2) COOPERATIVE RELATIONSHIPS.—The Director shall form cooperative relationships with the National Animal Health Laboratory Network and American Association of Veterinary Laboratory Diagnosticians to connect with the network of Federal and State resources intended to enable an integrated, rapid, and sufficient response to animal health emergencies.".

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

"Sec. 318. National Bio and Agro-defense Facility.".

TITLE VII—HOMELAND SECURITY CYBERSECURITY IMPROVEMENTS

SEC. 701. CYBERSECURITY AND COMMUNICATIONS.

(a) IN GENERAL.—Subtitle C of title II of the Homeland Security Act of 2002 (6 U.S.C. 141 et seq.) is amended by adding at the end the following new section:

"SEC. 226. OFFICE OF CYBERSECURITY AND COMMUNICATIONS.

"(a) IN GENERAL.—There shall be within the Department of Homeland Security an Office of Cybersecurity and Communications, which shall be headed by the Assistant Secretary for Cybersecurity and Communications.

"(b) DUTY OF THE ASSISTANT SECRETARY.—The Assistant Secretary shall assist the Secretary in carrying out the responsibilities of the Department regarding cybersecurity and communications.

"(c) RESPONSIBILITIES.—The Assistant Secretary shall be responsible for overseeing preparation, situational awareness, response, reconstitution, and mitigation necessary for cybersecurity and to protect communications from terrorist attacks, major disasters, and other emergencies, including large-scale disruptions, and shall conduct the following activities to execute those responsibilities:

"(1) PREPARATION AND SITUATIONAL AWARENESS.—

"(A) Establish and maintain a capability within the Department to monitor critical information infrastructure to aid in detection of vulnerabilities and warning of potential acts of terrorism and other attacks.

"(B) Conduct risk assessments on critical information infrastructure with respect to acts of terrorism and other large-scale disruptions, identify and prioritize vulnerabilities in critical information infrastructure, and coordinate the mitigation of such vulnerabilities.

"(C) Develop a plan for the continuation of critical information operations in the event of a cyber attack or other large-scale disruption of the information infrastructure of the United States.

"(D) Oversee an emergency communications system in the event of an act of terrorism or other large-scale disruption of the information infrastructure of the United States.

"(2) RESPONSE AND RECONSTITUTION.—

"(A) Define what qualifies as a cyber incident of national significance for purposes of the National Response Plan.

"(B) Ensure that the Department's priorities, procedures, and resources are in place to reconstitute critical information infrastructures in the event of an act of terrorism or other large-scale disruption.

"(3) MITIGATION.—

"(A) Develop a national cybersecurity awareness, training, and education program that promotes cybersecurity awareness within the Federal Government and throughout the Nation.

"(B) Consult and coordinate with the Under Secretary for Science and Technology on cybersecurity research and development to strengthen critical information infrastructure against acts of terrorism and other large-scale disruptions.

"(d) DEFINITION.—In this section the term 'critical information infrastructure' means systems and assets, whether physical or virtual, used in processing, transferring, and storing information so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting at the end of the items relating to subtitle C of title II the following:

"Sec. 226. Office of Cybersecurity and Communications.".

SEC. 702. CYBERSECURITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Under Secretary for Science and Technology shall support research, development, testing, evaluation, and transition of cybersecurity technology, including fundamental, long-term research to improve the ability of the United States to prevent, protect against, detect, respond to, and recover from acts of terrorism and cyber attacks, with emphasis on research and development relevant to large-scale, high-impact attacks.

(b) ACTIVITIES.—The research and development supported under subsection (a) shall include work to—

(1) advance the development and accelerate the deployment of more secure versions of fundamental Internet protocols and architectures, including for the domain name system and routing protocols;

(2) improve and create technologies for detecting attacks or intrusions, including monitoring technologies;

(3) improve and create mitigation and recovery methodologies, including techniques for containment of attacks and development of resilient networks and systems that degrade gracefully;

(4) develop and support infrastructure and tools to support cybersecurity research and development efforts, including modeling, testbeds, and data sets for assessment of new cybersecurity technologies;

(5) assist the development and support of technologies to reduce vulnerabilities in process control systems (PCS); and

(6) test, evaluate, and facilitate the transfer of technologies associated with the engineering of less vulnerable software and securing the IT software development lifecycle.

(c) COORDINATION.—In carrying out this section, the Under Secretary for Science and Technology shall coordinate activities with—

(1) the Assistant Secretary for Cybersecurity and Communications; and

(2) other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, the Information Assurance Directorate of the National Security Agency, the National Institute of Standards and Technology, and other appropriate working groups established by the President to identify unmet needs and cooperatively support activities, as appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized by section 101, there is authorized to be appropriated for the Department of Homeland Security for fiscal year 2008, $50,000,000, for the cybersecurity research and development activities of the Directorate for Science and Technology to prevent, detect, and respond to acts of terrorism and other large-scale disruptions to information infrastructure.

TITLE VIII—SCIENCE AND TECHNOLOGY IMPROVEMENTS

SEC. 801. REPORT TO CONGRESS ON STRATEGIC PLAN.

Not later than 120 days after the date of enactment of this Act, the Under Secretary for Science and Technology shall transmit to Congress the strategic plan described in section 302(2) of the Homeland Security Act of 2002 (6 U.S.C. 182(2)). In addition to the requirements described in that section 302(2), the strategic plan transmitted under this section shall include—

(1) a strategy to enhance the Directorate for Science and Technology workforce, including education and training programs, improving morale, minimizing turnover, strengthening workforce recruitment, and securing institutional knowledge;

(2) the Department policy describing the procedures by which the Directorate for Science and Technology hires and administers assignments to individuals assigned to the Department as detailees under an arrangement described in subchapter VI of chapter 33 of title 5, United States Code;

(3) the Department policy governing the responsibilities of the Under Secretary for Science and Technology, the Under Secretary for Policy, and the Under Secretary for Management, and the operational components of the Department regarding research, development, testing, evaluation, and procurement of homeland security technologies;

(4) a description of the methodology by which research, development, testing, and evaluation is prioritized and funded by the Directorate for Science and Technology;

(5) a description of the performance measurements to be used or a plan to develop performance measurements that can be used to annually evaluate the Directorate for Science and Technology's activities, mission performance, and stewardship of resources;

(6) a plan for domestic and international coordination of all related programs and activities within the Department and throughout Federal agencies, State, local, and tribal governments, the emergency responder community, industry, and academia;

(7) a plan for leveraging the expertise of the National Laboratories and the process for allocating funding to the National Laboratories; and

(8) a strategy for the Homeland Security Advanced Research Projects Agency that includes—

(A) a mission statement;

(B) a description of the Department's high risk and high payoff research, development, test, and evaluation strategy; and

(C) internal policies designed to encourage innovative solutions.

SEC. 802. CENTERS OF EXCELLENCE PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized by section 101, there is authorized to be appropriated to the Secretary of Homeland Security for carrying out the Centers of Excellence Program $31,000,000 for fiscal year 2008 such that each center that received funding in fiscal year 2007 shall receive, at a minimum, the same amount it received in fiscal year 2007.

(b) MINORITY SERVING INSTITUTIONS PROGRAM.—Of the amount authorized by section 101, there is authorized to be appropriated to the Secretary of Homeland Security for carrying out the Minority Serving Institutions Program $8,000,000 for fiscal year 2008.

(c) CENTERS OF EXCELLENCE PROGRAM PARTICIPATION.—

(1) REQUIREMENT.—If, by the date of the enactment of this Act, the Secretary of Homeland Security has not selected a Minority Serving Institution to participate as a Center of Excellence under the Department of Homeland Security Centers of Excellence Program, at least one of the next four Centers of Excellence selected after the date of enactment of this Act shall be an otherwise eligible applicant that is a Minority Serving Institution.

(2) MINORITY SERVING INSTITUTION DEFINED.—In this subsection the term "Minority Serving Institution" means—

(A) an historically black college or university that receives assistance under part B of title III of the Higher Education Act of 1965 (20 U.S.C. 106 et seq);

(B) an Hispanic-serving institution (as that term is defined in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a); or

(C) a tribally controlled college or university (as that term is defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801)).

SEC. 803. NATIONAL RESEARCH COUNCIL STUDY OF UNIVERSITY PROGRAMS.

(a) STUDY.—Not later than 3 months after the date of enactment of this Act, the Under Secretary for Science and Technology of the Department of Homeland Security shall seek to enter into an agreement with the National Research Council of the National Academy of Sciences to conduct a study to assess the University Programs of the Department, with an emphasis on the Centers of Excellence Program and the future plans for these programs, and make recommendations for appropriate improvements.

(b) SUBJECTS.—The study shall include—

(1) a review of key areas of study needed to support the homeland security mission, and criteria that should be utilized to determine those key areas for which the Department should maintain or establish Centers of Excellence;

(2) a review of selection criteria and weighting of such criteria for Centers of Excellence;

(3) an examination of the optimal role of Centers of Excellence in supporting the mission of the Directorate of Science and Technology and the most advantageous relationship between the Centers of Excellence and the Directorate and the Department components the Directorate serves;

(4) an examination of the length of time the Centers of Excellence should be awarded funding and the frequency of the review cycle in order to maintain such funding, particularly given their focus on basic, long term research;

(5) identification of the most appropriate review criteria and metrics to measure demonstrable progress, and mechanisms for delivering and disseminating the research results of established Centers of Excellence within the Department, and to other Federal, State, and local agencies;

(6) an examination of the means by which academic institutions that are not designated or associated with Centers of Excellence can optimally contribute to the research mission of the Directorate;

(7) an assessment of the interrelationship between the different University Programs; and

(8) a review of any other essential elements of the University Programs to be determined in the conduct of the study.

(c) REPORT.—The Under Secretary for Science and Technology shall transmit a report containing the results of the study and recommendations required by subsection (a) and the Under Secretary's response to the recommendations, to the appropriate Congressional committees not later than 24 months after the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized in section 101, there is authorized to be appropriated to carry out this section $500,000.

SEC. 804. STREAMLINING OF SAFETY ACT AND ANTITERRORISM TECHNOLOGY PROCUREMENT PROCESSES.

(a) PERSONNEL.—The Secretary of Homeland Security shall ensure that, in addition to any personnel engaged in technical evaluations that may be appropriate, a sufficient number of full-time equivalent personnel, who are properly trained and qualified to apply legal, economic, and risk analyses, are involved in the review and prioritization of antiterrorism technologies for the purpose of determining whether such technologies may be designated by the Secretary as qualified antiterrorism technologies under section 862(b) of the SAFETY Act (6 U.S.C. 441(b)) or certified by the Secretary under section 863(d) of such Act (6 U.S.C. 442(d)).

(b) COORDINATION WITHIN DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Homeland Security shall—

(1) establish a formal coordination process that includes the official of the Department of Homeland Security with primary responsibility for the implementation of the SAFETY Act, the Chief Procurement Officer of the Department, the Under Secretary for Science and Technology, the Under Secretary for Policy, and the Department of Homeland Security General Counsel to ensure the maximum application of the litigation and risk management provisions of the SAFETY Act to antiterrorism technologies procured by the Department; and

(2) promote awareness and utilization of the litigation and risk management provisions of the SAFETY Act in the procurement of antiterrorism technologies.

(c) ISSUANCE OF DEPARTMENTAL DIRECTIVE.—The Secretary of Homeland Security shall, in accordance with the final rule implementing the SAFETY Act, issue a Departmental management directive providing for coordination between Department procurement officials and any other Department official responsible for implementing the SAFETY Act in advance of any Department procurement of an antiterrorism technology, as required under subsection (b).

SEC. 805. PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION ACT.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is further amended by adding at the end the following:

"SEC. 319. PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) DIRECTOR.—The term 'Director' means the Director selected under subsection (b)(2).

"(2) INTERNATIONAL COOPERATIVE ACTIVITY.—The term 'international cooperative activity' includes—

"(A) coordinated research projects, joint research projects, or joint ventures;

"(B) joint studies or technical demonstrations;

"(C) coordinated field exercises, scientific seminars, conferences, symposia, and workshops;

"(D) training of scientists and engineers;

"(E) visits and exchanges of scientists, engineers, or other appropriate personnel;

"(F) exchanges or sharing of scientific and technological information; and

"(G) joint use of laboratory facilities and equipment.

"(b) SCIENCE AND TECHNOLOGY HOMELAND SECURITY INTERNATIONAL COOPERATIVE PROGRAMS OFFICE.—

"(1) ESTABLISHMENT.—The Under Secretary shall establish the Science and Technology Homeland Security International Cooperative Programs Office.

"(2) DIRECTOR.—The Office shall be headed by a Director, who—

"(A) shall be selected by and shall report to the Under Secretary; and

"(B) may be an officer of the Department serving in another position.

"(3) RESPONSIBILITIES.—

"(A) DEVELOPMENT OF MECHANISMS.—The Director shall be responsible for developing, in consultation with the Department of State, understandings or agreements that allow and support international cooperative activity in support of homeland security research, development, and comparative testing.

"(B) PRIORITIES.—The Director shall be responsible for developing, in coordination with the Directorate of Science and Technology, the other components of the Department of Homeland Security, and other Federal agencies, strategic priorities for international cooperative activity in support of homeland security research, development, and comparative testing.

"(C) ACTIVITIES.—The Director shall facilitate the planning, development, and implementation of international cooperative activity to address the strategic priorities developed under subparagraph (B) through mechanisms

the Under Secretary considers appropriate, including grants, cooperative agreements, or contracts to or with foreign public or private entities, governmental organizations, businesses, federally funded research and development centers, and universities.

"(D) IDENTIFICATION OF PARTNERS.—The Director shall facilitate the matching of United States entities engaged in homeland security research with non-United States entities engaged in homeland security research so that they may partner in homeland security research activities.

"(4) COORDINATION.—The Director shall ensure that the activities under this subsection are coordinated with those of other relevant research agencies, and may run projects jointly with other agencies.

"(5) CONFERENCES AND WORKSHOPS.—The Director may hold international homeland security technology workshops and conferences to improve contact among the international community of technology developers and to help establish direction for future technology goals.

"(c) INTERNATIONAL COOPERATIVE ACTIVITIES.—

"(1) AUTHORIZATION.—The Under Secretary is authorized to carry out international cooperative activities to support the responsibilities specified under section 302.

"(2) MECHANISMS AND EQUITABILITY.—In carrying out this section, the Under Secretary may award grants to and enter into cooperative agreements or contracts with United States governmental organizations, businesses (including small businesses and small and disadvantaged businesses), federally funded research and development centers, institutions of higher education, and foreign public or private entities. The Under Secretary shall ensure that funding and resources expended in international cooperative activities will be equitably matched by the foreign partner organization through direct funding or funding of complementary activities, or through provision of staff, facilities, materials, or equipment.

"(3) LOANS OF EQUIPMENT.—The Under Secretary may make or accept loans of equipment for research and development and comparative testing purposes.

"(4) COOPERATION.—The Under Secretary is authorized to conduct international cooperative activities jointly with other agencies.

"(5) FOREIGN PARTNERS.—Partners may include Israel, the United Kingdom, Canada, Australia, Singapore, and other allies in the global war on terrorism, as appropriate.

"(6) EXOTIC DISEASES.—As part of the international cooperative activities authorized in this section, the Under Secretary, in coordination with the Chief Medical Officer, may facilitate the development of information sharing and other types of cooperative mechanisms with foreign countries, including nations in Africa, to strengthen American preparedness against threats to the Nation's agricultural and public health sectors from exotic diseases.

"(d) BUDGET ALLOCATION.—There is authorized to be appropriated to the Secretary, to be derived from amounts otherwise authorized for the Directorate of Science and Technology, $25,000,000 for each of the fiscal years 2008 through 2011 for activities under this section.

"(e) FOREIGN REIMBURSEMENTS.—Whenever the Science and Technology Homeland Security International Cooperative Programs Office participates in an international cooperative activity with a foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country to meet its share of the project may be credited to appropriate current appropriations accounts of the Directorate of Science and Technology.

"(f) REPORT TO CONGRESS ON INTERNATIONAL COOPERATIVE ACTIVITIES.—

"(1) INITIAL REPORT.—Not later than 180 days after the date of enactment of this section, the Under Secretary, acting through the Director, shall transmit to the Congress a report containing—

"(A) a brief description of each partnership formed under subsection (b)(4), including the participants, goals, and amount and sources of funding; and

"(B) a list of international cooperative activities underway, including the participants, goals, expected duration, and amount and sources of funding, including resources provided to support the activities in lieu of direct funding.

"(2) UPDATES.—At the end of the fiscal year that occurs 5 years after the transmittal of the report under subsection (a), and every 5 years thereafter, the Under Secretary, acting through the Director, shall transmit to the Congress an update of the report required under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of contents for the Homeland Security Act of 2002 is further amended by adding at the end of the items relating to such title the following new item:

"Sec. 319. Promoting antiterrorism through international cooperation program.".

TITLE IX—BORDER SECURITY IMPROVEMENTS

SEC. 901. US–VISIT.

(a) IN GENERAL.—Not later than 7 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, the comprehensive strategy required by section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 for the biometric entry and exit data system (commonly referred to as the United States Visitor and Immigrant Status Indicator Technology program or US–VISIT) established under the section and other laws described in subsection (b) of such section. The comprehensive strategy shall include an action plan for full implementation of the biometric exit component of US–VISIT, as required under subsection (d) of section 7208 of such Act.

(b) CONTENTS.—The comprehensive strategy and action plan referred to in subsection (a) shall, at a minimum, include the following:

(1) An explanation of how US–VISIT will allow law enforcement officials to identify individuals who overstay their visas.

(2) A description of biometric pilot projects, including the schedule for testing, locations, cost estimates, resources needed, and performance measures.

(3) An implementation schedule for deploying future biometric exit capabilities at all air, land, and sea ports of entry.

(4) The actions the Secretary plans to take to accelerate the full implementation of the biometric exit component of US–VISIT at all air, land, and sea ports of entry.

(c) AIRPORT AND SEAPORT EXIT IMPLEMENTATION.—Not later than December 31, 2008, the Secretary of Homeland Security shall complete the exit portion of the biometric entry and exit data system referred to in subsection (a) for aliens arriving in or departing from the United States at an airport or seaport.

(d) PROHIBITION ON TRANSFER.—The Secretary of Homeland Security shall not transfer to the National Protection and Programs Directorate of the Department of Homeland Security the office of the Department that carries out the biometric entry and exit data system referred to in subsection (a) until the Secretary submits to the committees specified in such subsection the action plan referred to in such subsection for full implementation of the biometric exit component of US-VISIT at all ports of entry.

SEC. 902. SHADOW WOLVES PROGRAM.

Of the amount authorized by section 101, there is authorized to be appropriated $4,100,000 for fiscal year 2008 for the Shadow Wolves program.

SEC. 903. COST-EFFECTIVE TRAINING FOR BORDER PATROL AGENTS.

(a) IN GENERAL.—The Secretary of Homeland Security shall take such steps as may be necessary to control the costs of hiring, training, and deploying new Border Patrol agents, including—

(1) permitting individuals who are in training to become Border Patrol agents to waive certain course requirements of such training if such individuals have earlier satisfied such requirements in a similar or comparable manner as determined by the Secretary; and

(2) directing the Office of Inspector General to conduct a review of the costs and feasibility of training new Border Patrol agents at Federal training centers, including the Federal Law Enforcement Training Center facility in Charleston, South Carolina, and the HAMMER facility in Hanford, Washington, and at training facilities operated by State and local law enforcement academies, nonprofit entities, and private entities, including institutions in the southwest border region, as well as the use of all of the above to conduct portions of such training.

(b) LIMITATION ON PER-AGENT COST OF TRAINING.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall take such steps as may be necessary to ensure that the fiscal year 2008 per-agent cost of hiring, training, and deploying each new Border Patrol agent does not exceed $150,000.

(2) EXCEPTION AND CERTIFICATION.—If the Secretary determines that the per-agent cost referred to in paragraph (1) exceeds $150,000, the Secretary shall promptly submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a certification explaining why such per-agent cost exceeds such amount.

SEC. 904. STUDENT AND EXCHANGE VISITOR PROGRAM.

(a) IN GENERAL.—Section 442 of the Homeland Security Act of 2002 (6 U.S.C. 252) is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (5) as paragraph (10); and

(B) by inserting after paragraph (4) the following:

"(5) STUDENT AND EXCHANGE VISITOR PROGRAM.—In administering the program under paragraph (4), the Secretary shall—

"(A) prescribe regulations to require an institution or exchange visitor program sponsor participating in the Student and Exchange Visitor Program to ensure that each covered student or exchange visitor enrolled at the institution or attending the exchange visitor program—

"(i) is an active participant in the program for which the covered student or exchange visitor was issued a visa to enter the United States;

"(ii) is not unobserved for any period—

"(I) exceeding 30 days during any academic term or program in which the covered student or exchange visitor is enrolled; or

"(II) exceeding 60 days during any period not described in subclause (I); and

"(iii) is reported to the Department if within 21 days of—

"(I) transferring to another institution or program; or

"(II) being hospitalized or otherwise incapacitated necessitating a prolonged absence from the academic institution or exchange visitor program; and

"(B) notwithstanding subparagraph (A), require each covered student or exchange visitor to be observed at least once every 60 days.

"(6) ENHANCED ACCESS.—The Secretary shall provide access to the Student and Exchange Visitor Information System (hereinafter in this subsection referred to as the 'SEVIS'), or other equivalent program or system, to appropriate employees of an institution or exchange visitor program sponsor participating in the Student and Exchange Visitor Program if—

"(A) at least two authorized users are identified at each participating institution or exchange visitor sponsor;

"(B) at least one additional authorized user is identified at each such institution or sponsor for every 200 covered students or exchange visitors enrolled at the institution or sponsor; and

"(C) each authorized user is certified by the Secretary as having completed an appropriate training course provided by the Department for the program or system.

"(7) PROGRAM SUPPORT.—The Secretary shall provide appropriate technical support options to facilitate use of the program or system described in paragraph (4) by authorized users.

"(8) UPGRADES TO SEVIS OR EQUIVALENT DATA.—The Secretary shall update the program or system described in paragraph (4) to incorporate new data fields that include—

"(A) verification that a covered student's performance meets the minimum academic standards of the institution in which such student is enrolled; and

"(B) timely entry of academic majors, including changes to majors, of covered students and exchange visitors enrolled at institutions or exchange program sponsors participating in the Student and Exchange Visitor Program.

"(9) SAVINGS CLAUSE.— Nothing in this section shall prohibit the Secretary or any institution or exchange program sponsor participating in the Student Exchange Visitor Program from requiring more frequent observations of covered students or exchange visitors."; and

(2) by adding at the end the following:

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'covered student' means a student who is a nonimmigrant pursuant to section 101(1)(15)(F), 101(1)(15)(J), or 101(1)(15)(M) of the Immigration and Nationality Act of 1952.

"(2) The term 'observed' means positively identified by physical or electronic means.

"(3) The term 'authorized user' means an individual nominated by an institution participating in the Student Exchange Visitor Program and confirmed by the Secretary as not appearing on any terrorist watch list.

"(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized by section 101 of the Department of Homeland Security Authorization Act for Fiscal Year 2008, there are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.".

(b) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall conduct a review of the fees for the Student and Exchange Visitor Program of the Department of Homeland Security. The Comptroller General shall include in such review data from fiscal years 2004 through 2007 and shall consider fees collected by the Department and all expenses associated with the review, issuance, maintenance, data collection, and enforcement functions of the Student and Exchange Visitor Program.

SEC. 905. ASSESSMENT OF RESOURCES NECESSARY TO REDUCE CROSSING TIMES AT LAND PORTS OF ENTRY.

The Secretary of Homeland Security shall, not later than 180 days after the date of the enactment of this Act, conduct an assessment, and submit a report to the Congress, on the personnel, infrastructure, and technology required to reduce border crossing wait times for pedestrian, commercial, and non-commercial vehicular traffic at land ports of entry into the United States to wait times less than prior to September 11, 2001, while ensuring appropriate security checks continue to be conducted.

SEC. 906. BIOMETRIC IDENTIFICATION OF UNAUTHORIZED ALIENS.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a pilot program for the mobile biometric identification in the maritime environment of aliens unlawfully present in the United States.

(b) REQUIREMENTS.—The Secretary shall ensure that the pilot program is coordinated with other biometric identification programs within the Department of Homeland Security and shall evaluate the costs and feasibility of expanding the capability to all appropriate Department of Homeland Security maritime vessels.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized in section 101, there is authorized to be appropriated $10,000,000 to carry out this section.

SEC. 907. REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE REGARDING POLICIES AND PROCEDURES OF THE BORDER PATROL.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the policies and procedures of the Border Patrol pertaining to the use of lethal and non-lethal force and the pursuit of fleeing vehicles, including data on the number of incidents in which lethal or non-lethal force was used and any penalties that were imposed on Border Patrol agents as a result of such use.

(b) CONSULTATION.—

(1) REQUIREMENT.—In complying with this section, the Comptroller General shall consult with Customs and Border Protection and with representatives of the following:

(A) State and local law enforcement agencies located along the northern and southern international borders of the United States.

(B) The National Border Patrol Council.

(C) The National Association of Former Border Patrol Officers.

(D) Human rights groups with experience regarding aliens who cross the international land borders of the United States.

(E) Any other group that the Comptroller General determines would be appropriate.

(2) INCLUSION OF OPINIONS.—The Comptroller General shall attach written opinions provided by groups referenced to in paragraph (1) as appendices to the report.

TITLE X—INFORMATION SHARING IMPROVEMENTS

SEC. 1001. STATE AND LOCAL FUSION CENTER PROGRAM.

(a) IN GENERAL.—Subtitle I of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 481 et seq.) is amended by striking sections 895 through 899 and inserting the following:

"SEC. 895. STATE AND LOCAL FUSION CENTER PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish within the Department a State and Local Fusion Center Program. The program shall be overseen by the component charged with overseeing information sharing of homeland security information with State, local and tribal law enforcement. The purpose of the State and Local Fusion Center Program is to facilitate information sharing between the Department and State, local, and tribal law enforcement for homeland security and other purposes.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as are necessary for the Secretary to carry out the purpose of the State and Local Fusion Center Program, including for—

"(1) deploying Department personnel with intelligence and operational skills to State and local fusion centers participating in the Program;

"(2) hiring and maintaining individuals with substantial law enforcement experience who have retired from public service and deploying such individuals to State and local fusion centers participating in the Program (with the consent of such centers); and

"(3) maintaining an adequate number of staff at the headquarters of the Department to sustain and manage the portion of the Program carried out at the headquarters and to otherwise fill positions vacated by Department staff deployed to State and local fusion centers participating in the Program.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by striking the items relating to sections 895 through 899 and inserting the following:

"Sec. 895. State and Local Fusion Center Program.".

(c) PRIOR AMENDMENTS NOT AFFECTED.—This section shall not be construed to affect the application of sections 895 through 899 of the Homeland Security Act of 2002 (including provisions enacted by the amendments made by those sections), as in effect before the effective date of this section.

SEC. 1002. FUSION CENTER PRIVACY AND CIVIL LIBERTIES TRAINING PROGRAM.

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

"SEC. 203. FUSION CENTER PRIVACY AND CIVIL LIBERTIES TRAINING PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, through the Assistant Secretary for Information Analysis, the Privacy Officer, and the Officer for Civil Rights and Civil Liberties, shall establish a program within the Office of Civil Rights and Civil Liberties to provide privacy, civil liberties, and civil rights protection training for appropriate Department employees and State, local, tribal employees serving in State and local fusion centers participating in the State and Local Fusion Center Program.

"(b) MANDATORY TRAINING.—

"(1) DEPARTMENT EMPLOYEES.—The Secretary shall require each employee of the Department who is embedded at a State or local fusion center and has access to United States citizens and legal permanent residents personally identifiable information to successfully complete training under the program established under subsection (a).

"(2) FUSION CENTER REPRESENTATIVES.—As a condition of receiving a grant from the Department, a fusion center shall require each State, local, tribal, or private sector representative of the fusion center to successfully complete training under the program established under subsection (a) not later than six months after the date on which the State or local fusion center at which the employee is embedded receives a grant from the Department.

"(c) CONTENTS OF TRAINING.—Training provided under the program established under subsection (a) shall include training in Federal law in each of the following:

"(1) Privacy, civil liberties, and civil rights policies, procedures, and protocols that can provide or control access to information at a State or local fusion center.

"(2) Privacy awareness training based on section 552a of title 5, United States Code, popularly known as the Privacy Act of 1974.

"(3) The handling of personally identifiable information in a responsible and appropriate manner.

"(4) Appropriate procedures for the destruction of information that is no longer needed.

"(5) The consequences of failing to provide adequate privacy and civil liberties protections.

"(6) Compliance with Federal regulations setting standards for multijurisdictional criminal intelligence systems, including 28 CFR 23 (as in effect on the date of the enactment of this section).

"(7) The use of immutable auditing mechanisms designed to track access to information at a State or local fusion center.

"(d) CERTIFICATION OF TRAINING.—The Secretary, acting through the head of the Office of Civil Rights and Civil Liberties, shall issue a certificate to each person who completes the training under this section and performs successfully in a written examination administered by the Office of Civil Rights and Civil Liberties. A copy of each such certificate issued to an individual working at a participating fusion center shall be kept on file at that fusion center.

"(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized by section 101, there are authorized to be appropriate to carry out this section—

"(1) $3,000,000 for each of fiscal years 2008 through 2013; and

"(2) such sums as may be necessary for each subsequent fiscal year.".

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

"Sec. 203. Fusion center privacy and civil liberties training program.".

SEC. 1003. AUTHORITY TO APPOINT AND MAINTAIN A CADRE OF FEDERAL ANNUITANTS FOR THE OFFICE OF INFORMATION ANALYSIS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "IA" means the Office of Information Analysis;

(2) the term "annuitant" means an annuitant under a Government retirement system;

(3) the term "Government retirement system" has the meaning given such term by section 501(a); and

(4) the term "employee" has the meaning given such term by section 2105 of title 5, United States Code.

(b) APPOINTMENT AUTHORITY.—The Secretary (acting through the Assistant Secretary for Information Analysis) may, for the purpose of accelerating the ability of IA to perform its statutory duties under the Homeland Security Act of 2002, appoint annuitants to positions in IA in accordance with succeeding provisions of this section.

(c) NONCOMPETITIVE PROCEDURES; EXEMPTION FROM OFFSET.—An appointment made under subsection (b) shall not be subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and any annuitant serving pursuant to such an appointment shall be exempt from sections 8344 and 8468 of such title 5 (relating to annuities and pay on reemployment) and any other similar provision of law under a Government retirement system.

(d) LIMITATIONS.—No appointment under subsection (b) may be made if such appointment would result in the displacement of any employee or would cause the total number of positions filled by annuitants appointed under such subsection to exceed 100 as of any time (determined on a full-time equivalent basis).

(e) RULE OF CONSTRUCTION.—An annuitant as to whom an exemption under subsection (c) is in effect shall not be considered an employee for purposes of any Government retirement system.

(f) TERMINATION.—Upon the expiration of the 5-year period beginning on the date of the enactment of this Act—

(1) any authority to make appointments under subsection (b) shall cease to be available; and

(2) all exemptions under subsection (c) shall cease to be effective.

TITLE XI—MISCELLANEOUS PROVISIONS

SEC. 1101. ELIGIBLE USES FOR INTEROPERABILITY GRANTS.

The Secretary of Homeland Security shall ensure that all funds administered by the Department of Homeland Security to support the interoperable communications needs of State, local, and tribal agencies, including funds administered pursuant to a Memorandum of Understanding or other agreement, may be used to support the standards outlined in the SAFECOM interoperability continuum, including governance, standard operating procedures, technology, training and exercises, and usage.

SEC. 1102. RURAL HOMELAND SECURITY TRAINING INITIATIVE.

(a) ESTABLISHMENT.—The Secretary of Homeland Security shall establish a program to be administered by the Director of the Federal Law Enforcement Training Center of the Department of Homeland Security to expand homeland security training to units of local and tribal governments located in rural areas. The Secretary shall take the following actions:

(1) EVALUATION OF NEEDS OF RURAL AREAS.—The Secretary shall evaluate the needs of such areas.

(2) DEVELOPMENT OF TRAINING PROGRAMS.—The Secretary shall develop expert training programs designed to respond to the needs of such areas, including, but not limited to, those pertaining to rural homeland security responses including protections for privacy, and civil rights and civil liberties.

(3) PROVISION OF TRAINING PROGRAMS.—The Secretary shall provide to such areas the training programs developed under paragraph (2).

(4) OUTREACH EFFORTS.—The Secretary shall conduct outreach efforts to ensure that such areas are aware of the training programs developed under paragraph (2) so that such programs are made available to units of local government and tribal governments located in rural areas.

(b) NO DUPLICATION OR DISPLACEMENT OF CURRENT PROGRAMS.—Any training program developed under paragraph (2) of subsection (a) and any training provided by the program pursuant to such subsection shall be developed or provided, respectively, in a manner so as to not duplicate or displace any program in existence on the date of the enactment of this section.

(c) PRIORITIZED LOCATIONS FOR RURAL HOMELAND SECURITY TRAINING.—In designating sites for the provision of training under this section, the Secretary shall, to the maximum extent possible and as appropriate, give priority to facilities of the Department of Homeland Security in existence as of the date of the enactment of this Act and to closed military installations, and to the extent possible, shall conduct training onsite, at facilities operated by participants.

(d) RURAL DEFINED.—In this section, the term "rural" means an area that is not located in a metropolitan statistical area, as defined by the Office of Management and Budget.

SEC. 1103. CRITICAL INFRASTRUCTURE STUDY.

(a) IN GENERAL.—The Secretary of Homeland Security shall work with the Center for Risk and Economic Analysis of Terrorism Events (CREATE), led by the University of Southern California, to evaluate the feasibility and practicality of creating further incentives for private sector stakeholders to share protected critical infrastructure information with the Department for homeland security and other purposes.

(b) INCLUDED INCENTIVES.—Incentives evaluated under this section shall include, but not be limited to, tax incentives, grant eligibility incentives, and certificates of compliance and other non-monetary incentives.

(c) RECOMMENDATIONS.—The evaluation shall also include recommendations on the structure and thresholds of any incentive program.

SEC. 1104. TERRORIST WATCH LIST AND IMMIGRATION STATUS REVIEW AT HIGH-RISK CRITICAL INFRASTRUCTURE.

From amounts authorized under section 101, there may be appropriated such sums as are necessary for the Secretary of Homeland Security to require each owner or operator of a Tier I or Tier II critical infrastructure site as selected for the Buffer Zone Protection Program, to conduct checks of their employees against available terrorist watch lists and immigration status databases.

SEC. 1105. AUTHORIZED USE OF SURPLUS MILITARY VEHICLES.

The Secretary of Homeland Security shall include United States military surplus vehicles having demonstrated utility for responding to terrorist attacks, major disasters, and other emergencies on the Authorized Equipment List in order to allow State, local, and tribal agencies to purchase, modify, upgrade, and maintain such vehicles using homeland security assistance administered by the Department of Homeland Security.

SEC. 1106. COMPUTER CAPABILITIES TO SUPPORT REAL-TIME INCIDENT MANAGEMENT.

From amounts authorized under section 101, there are authorized such sums as may be necessary for the Secretary of Homeland Security to encourage the development and use of software- or Internet-based computer capabilities to support real-time incident management by Federal, State, local, and tribal agencies. Such software-based capabilities shall be scalable and not be based on proprietary systems to ensure the compatibility of Federal, State, local, and tribal first responder agency incident management systems. In the development and implementation of such com-

puter capabilities, the Secretary shall consider the feasibility and desirability of including the following capabilities:

(1) Geographic information system data.
(2) Personnel, vehicle, and equipment tracking and monitoring.
(3) Commodity tracking and other logistics management.
(4) Evacuation center and shelter status tracking.
(5) Such other capabilities as determined appropriate by the Secretary.

SEC. 1107. EXPENDITURE REPORTS AS A CONDITION OF HOMELAND SECURITY GRANTS.

(a) IN GENERAL.—Subtitle H of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 451 et seq.) is amended by adding at the end the following new section:

"SEC. 890A. EXPENDITURE REPORTS AS A CONDITION OF HOMELAND SECURITY GRANTS.

"(a) QUARTERLY REPORTS REQUIRED AS A CONDITION OF HOMELAND SECURITY GRANTS.—

"(1) EXPENDITURE REPORTS REQUIRED.—As a condition of receiving a grant administered by the Secretary, the Secretary shall require the grant recipient to submit quarterly reports to the Secretary describing the nature and amount of each expenditure made by the recipient using grant funds.

"(2) DEADLINE FOR REPORTS.—Each report required under paragraph (1) shall be submitted not later than 30 days after the last day of a fiscal quarter and shall cover expenditures made during that fiscal quarter.

"(b) PUBLICATION OF EXPENDITURES.—Not later than 30 days after receiving a report under subsection (a), the Secretary shall publish and make publicly available on the Internet website of the Department a description of the nature and amount of each expenditure covered by the report.

"(c) PROTECTION OF SENSITIVE INFORMATION.—In meeting the requirements of this section, the Secretary shall take appropriate action to ensure that sensitive information is not disclosed.".

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

"Sec. 890A. Expenditure reports as a condition of homeland security grants.".

SEC. 1108. ENCOURAGING USE OF COMPUTERIZED TRAINING AIDS.

The Under Secretary for Science and Technology of the Department of Homeland Security shall use and make available to State and local agencies computer simulations to help strengthen the ability of municipalities to prepare for and respond to a chemical, biological, or other terrorist attack, and to standardize response training.

SEC. 1109. PROTECTION OF NAME, INITIALS, INSIGNIA, AND DEPARTMENTAL SEAL.

Section 875 of the Homeland Security Act of 2002 (6 U.S.C. 455) is amended by adding at the end the following new subsection:

"(d) PROTECTION OF NAME, INITIALS, INSIGNIA, AND SEAL.—

"(1) IN GENERAL.—Except with the written permission of the Secretary, no person may knowingly use, in connection with any advertisement, commercial activity, audiovisual production (including film or television production), impersonation, Internet domain name, Internet e-mail address, or Internet Web site, merchandise, retail product, or solicitation in a manner reasonably calculated to convey the impression that the Department or any organizational element of the Department has approved, endorsed, or authorized such use, any of the following (or any colorable imitation thereof):

"(A) The words 'Department of Homeland Security', the initials 'DHS', the insignia or seal of the Department, or the title 'Secretary of Homeland Security'.

"(B) The name, initials, insignia, or seal of any organizational element (including any former such element) of the Department, or the title of any other officer or employee of the Department, notice of which has been published by the Secretary in accordance with paragraph (3).

"(2) CIVIL ACTION.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice that constitutes or will constitute conduct prohibited by paragraph (1) the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other actions as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

"(3) NOTICE AND PUBLICATION.—The notice and publication to which paragraph (1)(B) refers is a notice published in the Federal Register including the

name, initials, seal, or class of titles protected under paragraph (1)(B) and a statement that they are protected under that provision. The Secretary may amend such notice from time to time as the Secretary determines appropriate in the public interest and shall publish such amendments in the Federal Register.

"(4) AUDIOVISUAL PRODUCTION.—For the purpose of this subsection, the term 'audiovisual production' means the production of a work that consists of a series of related images that are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the work is embodied.".

SEC. 1110. REPORT ON UNITED STATES SECRET SERVICE APPROACH TO SHARING UNCLASSIFIED, LAW ENFORCEMENT SENSITIVE INFORMATION WITH FEDERAL, STATE, AND LOCAL PARTNERS.

(a) REPORT BY DIRECTOR OF UNITED STATES SECRET SERVICE.—Not later than 240 days after the date of the enactment of this Act, the Director of the United States Secret Service shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Inspector General of the Department of Homeland Security a report describing the approach of the Secret Service to sharing unclassified, law enforcement sensitive information with Federal, State, and local law enforcement agencies for homeland security and other purposes.

(b) REPORT BY INSPECTOR GENERAL.—The Inspector General of the Department of Homeland Security shall conduct a review of the report submitted by the Director of the United States Secret Service under subsection (a), and submit a report with recommendations on whether and how such approach could be incorporated throughout the Department to Congress within 240 days after receiving the report of the Director of the United States Secret Service under subsection (a).

SEC. 1111. REPORT ON UNITED STATES SECRET SERVICE JAMES J. ROWLEY TRAINING CENTER.

Within 240 days after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security shall provide to the appropriate congressional committees, including the Committees on Homeland Security and Appropriations of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Appropriations of the Senate, a report describing the following:

(1) The mission and training capabilities of the United States Secret Service James J. Rowley Training Center.

(2) Current Secret Service personnel throughput capacity of the James J. Rowley Training Center.

(3) Maximum Secret Service personnel throughput capacity of the James J. Rowley Training Center.

(4) An assessment of what departmental components engage in similar training activities as those conducted at the James J. Rowley Training Center.

(5) An assessment of the infrastructure enhancements needed to support the mission and training capabilities of the James J. Rowley Training Center.

(6) An assessment of the actual and expected total throughput capacity at the James J. Rowley Training Center, including outside entity participants.

SEC. 1112. METROPOLITAN MEDICAL RESPONSE SYSTEM PROGRAM.

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

"SEC. 522. METROPOLITAN MEDICAL RESPONSE SYSTEM PROGRAM.

"(a) IN GENERAL.—There is a Metropolitan Medical Response System Program (in this section referred to as the 'program').

"(b) PURPOSE.—The purpose of the program shall be to support local jurisdictions in enhancing and maintaining all-hazards response capabilities to manage mass casualty incidents (including terrorist acts using chemical, biological, radiological, nuclear agents, or explosives, large-scale hazardous materials incidents, epidemic disease outbreaks, and natural disasters) by systematically enhancing and integrating first responders, public health personnel, emergency management personnel, business representatives, and volunteers.

"(c) PROGRAM ADMINISTRATION.—The Assistant Secretary for Health Affairs shall develop the programmatic and policy guidance for the program in coordination with the Administrator of the Federal Emergency Management Agency.

"(d) PERSONNEL COSTS.—The program shall not be subject to an administrative cap on the hiring of personnel to conduct program activities.

"(e) FINANCIAL ASSISTANCE.—

"(1) ADMINISTRATION.—The Administrator of the Federal Emergency Management Agency shall administer financial assistance provided to State and local jurisdictions under the program.

"(2) ASSISTANCE TO LOCAL JURISDICTIONS.—In providing financial assistance to a State under the program, the Administrator shall ensure that 100 percent of the amount of such assistance is allocated by the State to local jurisdictions, except that a State may retain up to 20 percent of the amount of such assistance to facilitate integration between the State and the local jurisdiction pursuant to a written agreement between the State and the chair of the Metropolitan Medical Response System steering committee.

"(3) MUTUAL AID.—

"(A) AGREEMENTS.—Local jurisdictions receiving assistance under the program are encouraged to develop and maintain memoranda of understanding and agreement with neighboring jurisdictions to support a system of mutual aid among the jurisdictions.

"(B) CONTENTS.—A memorandum referred to in subparagraph (A) shall include, at a minimum, policies and procedures to—

"(i) enable the timely deployment of program personnel and equipment across jurisdictions and, if relevant, across State boundaries;

"(ii) share information in a consistent and timely manner; and

"(iii) notify State authorities of the deployment of program resources in a manner that ensures coordination with State agencies without impeding the ability of program personnel and equipment to respond rapidly to emergencies in other jurisdictions.

"(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized by section 101 there is authorized to be appropriated to carry out the program $63,000,000 for each of the fiscal years 2008 through 2011.".

(b) PROGRAM REVIEW.—

(1) IN GENERAL.—The Assistant Secretary for Health Affairs shall conduct a review of the Metropolitan Medical Response System Program.

(2) CONTENT OF REVIEW.—In conducting the review of the program, the Assistant Secretary shall examine—

(A) strategic goals;

(B) objectives;

(C) operational capabilities;

(D) resource requirements;

(E) performance metrics;

(F) administration;

(G) whether the program would be more effective if it were managed as a contractual agreement;

(H) the degree to which the program's strategic goals, objectives, and capabilities are incorporated in State and local homeland security plans; and

(I) challenges in the coordination among public health, public safety, and other stakeholder groups to prepare for and respond to mass casualty incidents.

(3) REPORT.—Not later than 9 months after the date of enactment of this subsection, the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the results of the review.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 635 of the Post-Katrina Management Reform Act of 2006 (6 U.S.C. 723) is repealed.

(2) TABLE OF CONTENTS.—The table of contents contained in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 521 the following:

"Sec. 522. Metropolitan Medical Response System Program.".

SEC. 1113. IDENTITY FRAUD PREVENTION GRANT PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) The National Commission on Terrorist Attacks Upon the United States found that the 19 hijackers had been issued 16 State driver's licenses (from Arizona, California, Florida, and Virginia) and 14 State identification cards (from Florida, Maryland and Virginia).

(2) The Commission concluded that "[s]ecure identification should begin in the United States. The Federal Government should set standards for the issuance of birth certificates and sources of identification, such as driver's licenses. Fraud in identification is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identifica-

tion are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists."

(b) GRANT PROGRAM.—Subtitle D of title IV of the Homeland Security Act of 2002 (6 U.S.C. 251 et seq.) is amended by adding at the end the following:

"SEC. 447. DOCUMENT FRAUD PREVENTION GRANT PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a program to make grants available to States to be used to prevent terrorists and other individuals from fraudulently obtaining and using State-issued identification cards and to develop more secure State-issued documents to be used for official Federal purposes.

"(b) USE OF FUNDS.—A recipient of a grant under this section may use the grant for any of the following purposes:

"(1) To develop machine readable technology, encryption methods, or other means of protecting against unauthorized access of information appearing on licenses or identification.

"(2) To establish a system for a State-to-State data exchange that allows electronic access to States to information contained in a State department of motor vehicles database.

"(3) To develop or implement a security plan designed to safeguard the privacy of personal information collected, maintained, and used by State motor vehicles offices from unauthorized access, misuse, fraud, and identity theft.

"(4) To develop a querying service that allows access to Federal databases in a timely, secure, and cost-effective manner, in order to verify the issuance, validity, content, and completeness of source documents provided by applicants for identity documents issued by State agencies, including departments of motor vehicles.

"(5) To develop a system for States to capture and store digital images of identity source documents and photographs of applicants in electronic format.

"(6) To design systems or establish procedures that would reduce the number of in-person visits required to State departments of motor vehicles to obtain State-issued identity documents used for Federal official purposes.

"(c) PRIORITY IN AWARDING GRANTS.—In awarding grants under this section the Secretary shall give priority to a State that demonstrates that—

"(1) the grant will assist the State in complying with any regulation issued by the Department to prevent the fraudulent issuance of identification documents to be used for official Federal purposes; and

"(2) such compliance will facilitate the ability of other States to comply with such regulations.

"(d) LIMITATION ON SOURCE OF FUNDING.—The Secretary may not use amounts made available under this section for any other grant program of the Department to provide funding for expenses related to the REAL ID Act of 2005 (Public Law 109–13).

"(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized by section 101 there are authorized to be appropriated to the Secretary for making grants under this section—

"(1) 120,000,000 for fiscal year 2008;

"(2) $100,000,000 for fiscal year 2009; and

"(3) $80,000,000 for fiscal year 2010.".

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the items relating to such subtitle the following:

"Sec. 447. Document fraud prevention grant program.".

SEC. 1114. TECHNICAL CORRECTIONS.

The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended—

(1) in section 1(b) in the table of contents by striking the items relating to the second title XVIII, as added by section 501(b)(3) of Public Law 109–347, and inserting the following:

"TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE

"Sec. 1901. Domestic Nuclear Detection Office.
"Sec. 1902. Mission of Office.
"Sec. 1903. Hiring authority.
"Sec. 1904. Testing authority.
"Sec. 1905. Relationship to other Department entities and Federal agencies.
"Sec. 1906. Contracting and grant making authorities.".

(2) by redesignating the second title XVIII, as added by section 501(a) of Public Law 109–347, as title XIX;

(3) in title XIX (as so redesignated)—

(A) by redesignating sections 1801 through 1806 as sections 1901 through 1906, respectively;

(B) in section 1904(a) (6 U.S.C. 594(a)), as so redesignated, by striking "section 1802" and inserting "section 1902"; and

(C) in section 1906 (6 U.S.C. 596), as so redesignated, by striking "section 1802(a)" each place it appears and inserting "section 1902(a)".

SEC. 1115. CITIZEN CORPS.

Of the amount authorized to be appropriated under section 101, such sums as may be necessary shall be available to the Secretary of Homeland Security to encourage the use of Citizen Corps funding and local Citizen Corps Councils to provide education and training for populations located around critical infrastructure on preparing for and responding to terrorist attacks, major disasters, and other emergencies.

SEC. 1116. REPORT REGARDING DEPARTMENT OF HOMELAND SECURITY IMPLEMENTATION OF COMPTROLLER GENERAL AND INSPECTOR GENERAL RECOMMENDATIONS REGARDING PROTECTION OF AGRICULTURE.

(a) REPORT REQUIRED.—The Secretary of Homeland Security shall prepare a report describing how the Department of Homeland Security will implement the applicable recommendations of the following reports:

(1) Comptroller General report entitled "Homeland Security: How Much is Being Done to Protect Agriculture from a Terrorist Attack, but Important Challenges Remain" (GAO–05–214).

(2) Department of Homeland Security Office of Inspector General report entitled "The Department of Homeland Security's Role in Food Defense and Critical Infrastructure Protection" (OIG–07–33).

(b) SUBMISSION OF REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit the report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate. If the Secretary determines that a specific recommendation will not be implemented or will not be fully implemented, the Secretary shall include in the report a description of the reasoning or justification for the determination.

SEC. 1117. REPORT REGARDING LEVEE SYSTEM.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees a report analyzing the threat, vulnerability, and consequence of a terrorist attack on the levee system of the United States.

(b) EXISTING REPORTS.—In implementing this section, the Secretary may build upon existing reports as necessary.

SEC. 1118. REPORT ON FORCE MULTIPLIER PROGRAM.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees a report on the progress of the Secretary—

(1) in establishing procedures to ensure compliance with section 44917(a)(7) of title 49, United States Code; and

(2) in accomplishing the operational aspects of the Force Multiplier Program, as required pursuant to the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295).

SEC. 1119. ELIGIBILITY OF STATE JUDICIAL FACILITIES FOR STATE HOMELAND SECURITY GRANTS.

(a) IN GENERAL.—States may utilize covered grants for the purpose of providing funds to State and local judicial facilities for security at those facilities.

(b) COVERED GRANTS.—For the purposes of this section, the term "covered grant" means a grant under any of the following programs of the Department of Homeland Security:

(1) The State Homeland Security Grant Program.

(2) The Urban Area Security Initiative.

SEC. 1120. AUTHORIZATION OF HOMELAND SECURITY FUNCTIONS OF THE UNITED STATES SECRET SERVICE.

(a) AUTHORIZED FUNDING.—Of the amounts authorized by section 101, there is authorized to be appropriated for fiscal year 2008 for necessary expenses of the United States Secret Service, $1,641,432,000.

(b) AUTHORIZED PERSONNEL STRENGTH.—The United States Secret Service is authorized to provide 6,822 full-time equivalent positions.

SEC. 1121. DATA SHARING.

The Secretary of Homeland Security shall provide information relating to assistance requested or provided in response to a terrorist attack, major disaster, or other

emergency, to Federal, State, or local law enforcement entities to assist in the location of a missing child or registered sex offender. In providing such information, the Secretary shall take reasonable steps to protect the privacy of individuals.

TITLE XII—MARITIME ALIEN SMUGGLING

SEC. 1201. SHORT TITLE.

This title may be cited as the "Maritime Alien Smuggling Law Enforcement Act".

SEC. 1202. CONGRESSIONAL DECLARATION OF FINDINGS.

The Congress finds and declares that maritime alien smuggling violates the national sovereignty of the United States, places the country at risk of terrorist activity, compromises the country's border security, contravenes the rule of law, and compels an unnecessary risk to life among those who enforce the Nation's laws. Moreover, such maritime alien smuggling creates a condition of human suffering among those who seek to enter the United States without official permission or lawful authority that is to be universally condemned and vigorously opposed.

SEC. 1203. DEFINITIONS.

In this title:

(1) The term "alien" has the same meaning given that term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) The term "lawful authority" means permission, authorization, or waiver that is expressly provided for in the immigration laws of the United States or the regulations prescribed thereunder and does not include any such authority secured by fraud or otherwise obtained in violation of law or authority that has been sought but not approved.

(3) The term "serious bodily injury" has the same meaning given that term in section 1365 of title 18, United States Code, including any conduct that would violate sections 2241 or 2242 of such title, if the conduct occurred in the special maritime and territorial jurisdiction of the United States.

(4) The term "State" has the same meaning given that term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(5) The term "terrorist activity" has the same meaning given that term in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)).

(6) The term "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(7) The term "vessel of the United States" and "vessel subject to the jurisdiction of the United States" have the same meanings given those terms in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).

SEC. 1204. MARITIME ALIEN SMUGGLING.

(a) OFFENSE.—For purposes of enforcing Federal laws, including those that pertain to port, maritime, or land border security, no person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States, or who is a citizen or national of the United States or an alien who is paroled into or is a resident of the United States on board any vessel, shall assist, encourage, direct, induce, transport, move, harbor, conceal, or shield from detection an individual in transit from one country to another on the high seas, knowing or in reckless disregard of the fact that such individual is an alien, known, or suspected terrorist, or an individual seeking to commit terrorist activity, seeking to enter the United States without official permission or lawful authority.

(b) ATTEMPT OR CONSPIRACY.—Any person who attempts or conspires to commit a violation of this title shall be subject to the same penalties as those prescribed for the violation, the commission of which was the object of the attempt or conspiracy.

(c) JURISDICTION AND SCOPE.—

(1) IN GENERAL.—Jurisdiction of the United States with respect to vessels and persons subject to this section is not an element of any offense. All jurisdictional issues arising under this section are preliminary questions of law to be determined solely by the trial judge.

(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this section.

(3) NONAPPLICABILITY TO LAWFUL ACTIVITIES.—Nothing in this title shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

(d) CLAIM OF FAILURE TO COMPLY WITH INTERNATIONAL LAW; JURISDICTION OF COURT.—Any person charged with a violation of this title shall not have standing to raise the claim of failure to comply with international law as a basis for a defense. A claim of failure to comply with international law in the enforcement of this title may be invoked solely by a foreign nation, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this title.

(e) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a violation of this section, as to which the defendant has the burden of proof by a preponderance of the evidence, that prior to the alleged violation the defendant rescued the alien at sea, if the defendant—

(1) immediately reported to the Coast Guard the circumstances of the rescue, and the name, description, registry number, and location of the rescuing vessel; and

(2) did not bring or attempt to bring the alien into the land territory of the United States without official permission or lawful authority, unless exigent circumstances existed that placed the life of the alien in danger, in which case the defendant must have reported to the Coast Guard the information required by paragraph (1) of this subsection immediately upon delivering that alien to emergency medical personnel ashore.

(f) ADMISSIBILITY OF EVIDENCE.—Notwithstanding any provision of the Federal Rules of Evidence, the testimony of Coast Guard personnel and official records of the Coast Guard, offered to show either that the defendant did not report immediately the information required by subsection (e) or the absence of any such report by the defendant, shall be admissible, and the jury shall be instructed, upon request of the United States, that it may draw an inference from such records or testimony in deciding whether the defendant reported as required by subsection (e).

(g) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually or electronically preserved) deposition of a witness to any alleged violation of subsection (a) of this section who has been repatriated, removed, extradited, or otherwise expelled from or denied admission to the United States or who is otherwise unable to testify may be admitted into evidence in an action brought for that violation if the witness was available for cross examination at the deposition and the deposition otherwise complies with the Federal Rules of Evidence.

(h) PENALTIES.—A person who commits any violation under this section shall—

(1) be imprisoned for not less than 3 years and not more than 20 years, fined not more than $100,000, or both;

(2) in a case in which the violation furthers or aids the commission of any other criminal offense against the United States or any State for which the offense is punishable by imprisonment for more than 1 year, be imprisoned for not less than 5 years and not more than 20 years, fined not more than $100,000, or both;

(3) in a case in which any participant in the violation created a substantial risk of death or serious bodily injury to another person (including, but not limited to, transporting a person in a shipping container, storage compartment, or other confined space or at a speed in excess of the rated capacity of the vessel), be imprisoned for not less than 5 years and not more than 20 years, fined not more than $100,000, or both;

(4) in a case in which the violation caused serious bodily injury to any person, regardless of where the injury occurred, be imprisoned for not less than 7 years and not more than 30 years, fined not more than $500,000, or both;

(5) in a case in which the violation involved an alien who the offender knew or had reason to believe was an alien engaged in terrorist activity or intending to engage in terrorist activity, be imprisoned for not less than 10 years and not more than 30 years, fined not more than $500,000, or both; and

(6) in the case where the violation caused or resulted in the death of any person regardless of where the death occurred, be punished by death or imprisoned for not less than 10 years and up to a life sentence, fined not more than $1,000,000, or both.

SEC. 1205. SEIZURE OR FORFEITURE OF PROPERTY.

(a) IN GENERAL.—Any conveyance (including any vessel, vehicle, or aircraft) that has been or is being used in the commission of any violation of this title), the gross proceeds of such violation, and any property traceable to such conveyance or proceeds shall be seized and subject to forfeiture in the same manner as property seized or forfeited under section 274 of the Immigration and Nationality Act (8 U.S.C. 1324).

(b) PRIMA FACIE EVIDENCE OF VIOLATIONS OF THE TITLE.—Practices commonly recognized as alien smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, a violation of this title and may support seizure and forfeiture of the vessel, even in the absence aboard the vessel of an alien in unlawful transit. The following indicia may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, a violation of this title:

(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

(A) the configuration of the vessel to avoid being detected visually or by radar;

(B) the presence of any compartment or equipment that is built or fitted out for smuggling (excluding items reasonably used for the storage of personal valuables);

(C) the presence of an auxiliary fuel, oil, or water tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

(D) the presence of engines, the power of which exceeds the design specifications or size of the vessel;

(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel or avoid detection;

(F) the presence of a camouflaging paint scheme or materials used to camouflage the vessel; and

(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

(3) The presence of fuel, lube oil, food, water, or spare parts inconsistent with legitimate operation of the vessel, the construction or equipment of the vessel, or the character of the vessel.

(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation or in a manner of navigation.

(5) The failure of the vessel to stop, respond, or heave to when hailed by an official of the Federal Government, including conducting evasive maneuvers.

(6) The declaration to the Federal Government of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by a Government official.

(c) PRIMA FACIE EVIDENCE OF THE ABSENCE OF LAWFUL AUTHORITY TO ENTER.—Notwithstanding any provision of the Federal Rules of Evidence, in determining whether a violation of this title has occurred, any of the following shall be prima facie evidence in an action for seizure or forfeiture pursuant to this section that an alien involved in the alleged offense had not received prior official permission or legal authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law:

(1) Any order, finding, or determination concerning the alien's status or lack thereof made by a Federal judge or administrative adjudicator (including an immigration judge or an immigration officer) during any judicial or administrative proceeding authorized under the immigration laws or regulations prescribed thereunder.

(2) Official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack thereof.

(3) Testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack thereof.

PURPOSE AND SUMMARY

The purpose of H.R. 1684 is to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Department of Homeland Security has been in operation for more than three years. During this time, the Department has experienced a variety of growing pains as it continues to develop, ad-

just, and integrate various components to achieve its primary missions of preventing, reducing our vulnerability to, responding to, and recovering from terrorist attacks, major natural disasters, and other such emergencies.

The complexity of the Department's mission, coupled with the enormity of its management and operational challenges, requires the close and intensive oversight that annual Congressional reauthorization provides. The Department should be subject to an annual authorization process through which the evolving needs of the Department can be met, and through which Congressional direction, oversight, and prioritization can occur. Adherence to the process will help the Department improve the overall management and integration of its various legacy agencies, guide resource allocation and prioritization, set clear and achievable benchmarks for progress and success, and enhance the Department's implementation of its critical mission. H.R. 1684 is the third Department of Homeland Security authorization bill to be reported by this Committee to the House of Representatives since the creation of the Department. It builds upon the groundwork laid by H.R. 1817, the Department of Homeland Security Authorization Act for 2006, and H.R. 5814, the Department of Homeland Security Authorization Act for Fiscal Year 2007. H.R. 1684 is not intended to be a comprehensive re-authorization of the Department; several issue areas, including border security, port security, rail and mass transit security, the recommendations of the National Commission on Terrorist Attacks Upon the United States (9/11 Commission), and emergency management reforms have been recently or will be promptly addressed in separate legislation. The intent of this measure is to build core capacity at the Department and bring about targeted improvements to Department operations, particularly with respect to management, organization, personnel, contracting, and policy. H.R. 1684 accomplishes these goals within a realistic budgetary framework.

HEARINGS

On February 7, 2007, the Full Committee held a hearing entitled "An Overview of Issues and Challenges Facing the Department of Homeland Security." The Committee received testimony from Hon. David M. Walker, Comptroller General of the United States, Government Accountability Office, accompanied by Mr. Norman Rabkin, Managing Director, Homeland Security and Justice Government Accountability Office; and Hon. Richard L. Skinner, Inspector General, Department of Homeland Security.

On February 9, 2007, the Full Committee held a Hearing entitled "An Examination of the President's FY 2008 Budget Request for the Department of Homeland Security." The Committee received testimony from Hon. Michael Chertoff, Secretary, Department of Homeland Security.

On February 14, 2007, the Subcommittee on Emerging Threats, Cybersecurity, and Science and Technology held a hearing entitled "Understanding the Budget and Strategic Agenda of the Science and Technology Directorate." The Subcommittee received testimony from Admiral Jay Cohen, Under Secretary for Science and Technology, Department of Homeland Security; and Mr. Richard Wil-

liams, Chief Financial Officer for Science and Technology, Department of Homeland Security

On February 14, 2007, the Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment held a hearing entitled "The President's Proposed FY2008 Budget for the Department of Homeland Security: The Office of Intelligence and Analysis." The Subcommittee received testimony from Mr. Charles E. Allen, Chief Intelligence Officer, Office of Intelligence and Analysis, Department of Homeland Security.

On February 15, 2007, the Full Committee held a hearing entitled "Lessons Learned and Grading Goals: The Department of Homeland Security in 2007." The Committee received testimony from Hon. Michael P. Jackson, Deputy Secretary, Department of Homeland Security.

On March 1, 2007, the Subcommittee on Management, Investigations, and Oversight held a hearing entitled "The Department of Homeland Security's Management Directorate: Goals and Objectives of the New Under Secretary." The Subcommittee received testimony from Hon. Paul A. Schneider, Under Secretary for Management, Department of Homeland Security.

On March 20, 2007, the Full Committee held a hearing entitled "Organizational and Policy Proposals for the FY 2008 Department of Homeland Security Authorization: Positioning US-VISIT for Success and Establishing a Quadrennial Homeland Security Review Process." The Committee received testimony from Mr. Robert A. Mocny, Acting Director, US-VISIT, Department of Homeland Security, accompanied by Mr. Richard Robert Zitz, Deputy Undersecretary for Preparedness, Department of Homeland Security; Mr. Richard Stana, Director, Homeland Security and Justice Issues, Government Accountability Office; James Jay Carafano, Ph.D., Senior Fellow, The Heritage Foundation; Ms. Michèle A. Flournoy, President and Co-Founder, Center for a New American Security; and Hon. Asa Hutchinson, Founding Partner, Hutchinson Group.

COMMITTEE CONSIDERATION

H.R. 1684 was introduced in the House by Mr. Thompson of Mississippi, Mr. King of New York, Mr. Carney, Mr. Rogers of Alabama, Mr. Etheridge, Mr. Langevin, Mr. Cuellar, Ms. Clarke, and Ms. Loretta Sanchez of California on March 26, 2007, and referred solely to the Committee on Homeland Security. Within the Committee on Homeland Security, H.R. 1684 was retained at the Full Committee.

On March 27, 2007, the Full Committee met in open markup session and ordered H.R. 1684 favorably reported to the House of Representatives, as amended, by a record vote of 26 yeas and 0 nays (Roll Call Vote No. 11).

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto.

H.R. 1684, to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes;

was ordered favorably reported to the House, amended, by a recorded vote of 26 yeas and 0 nays (Roll Call Vote No. 11) as follows:

COMMITTEE ON HOMELAND SECURITY
U.S. House of Representatives
110th Congress

Date: Wednesday, March 28, 2007 Convened: 10:20 a.m.
Adjourned: 2:43 p.m.

Meeting on : Markup of H.R. 1684, to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes.
On ordering to be reported to the House, favorably, as amended.

☐ Attendance ☒ Recorded Vote Vote Number: 11 Total: Yeas 26 Nays 0

	YEA	NAY	PRESENT		YEA	NAY	PRESENT
Ms. Loretta Sanchez California	✓			*Mr. Peter T. King* *New York, Ranking Member*	✓		
Mr. Edward J. Markey Massachusetts	✓			*Mr. Lamar Smith* *Texas*			
Mr. Norman D. Dicks Washington				*Mr. Christopher Shays* *Connecticut*	✓		
Ms. Jane Harman California	✓			*Mr. Mark E. Souder* *Indiana*	✓		
Mr. Peter A. DeFazio Oregon				*Mr. Tom Davis* *Virginia*			
Mrs. Nita M. Lowey New York				*Mr. Daniel E. Lungren* *California*	✓		
Ms. Eleanor Holmes Norton District of Columbia				*Mr. Mike Rogers* *Alabama*	✓		
Ms. Zoe Lofgren California				*Mr. Bobby Jindal* *Louisiana*	✓		
Ms. Sheila Jackson-Lee Texas	✓			*Mr. David G. Reichert* *Washington*	✓		
Mrs. Donna M. Christensen Virgin Islands	✓			*Mr. Michael T. McCaul* *Texas*	✓		
Mr. Bob Etheridge North Carolina	✓			*Mr. Charles W. Dent* *Pennsylvania*	✓		
Mr. James R. Langevin Rhode Island	✓			*Ms. Ginny Brown-Waite* *Florida*	✓		
Mr. Henry Cuellar Texas	✓			*Mr. Gus M. Bilirakis* *Florida*	✓		
Mr. Christopher P. Carney Pennsylvania	✓			*Mr. David Davis* *Tennessee*	✓		
Ms. Yvette D. Clarke New York	✓			*Mr. Kevin McCarthy* *California*	✓		
Mr. Al Green Texas	✓						
Mr. Ed Perlmutter Colorado	✓						
Vacancy							
Mr. Bennie G. Thompson Mississippi, Chairman	✓			Total	26	0	

The Committee adopted the bill, as amended, by voice vote.

The following amendments were offered:

An en bloc amendment offered by Mr. Thompson (#1) consisting of: an amendment by Mr. Thompson making technical corrections, establishing a Student Exchange Visitor Program, and establishing the REAL ID Grant Program; an amendment by Mr. Etheridge, on page 6, line 11 insert a new subsection "(b) Ensuring consideration of the needs of children"; and "(c) report to Congress"; an amendment by Mr. Carney, at the end of title II add a new section entitled "Sec. ____. Sense of Congress Regarding Consolidation of Department Headquarters."; an amendment by Mr. Etheridge, on page 38, after line 25, insert a new subsection entitled "(e) Use of Domestic Textiles." and Page 39, line 1, strike "(e)" and insert "(f)".; an amendment by Mr. McCarthy, at the end of title IV add a new section entitled "Sec. ____. Prohibition on Award of Contracts and Grants to Educational Institutions not Supporting Coast Guard Efforts."; an amendment by Ms. Sanchez, in section 505, in the matter preceding paragraph (1), strike "in order to address" and insert "(a) In General.—In order to address". ; in section 505(a), add a new paragraph (5).; and in section 505, add at the end a new subsection entitled "(b) Report."; an amendment by Ms. Jackson-Lee, on page 56, after line 2, insert a new section entitled "Sec. ____. Citizen Corps."; an amendment by Mr. McCaul, at the end of title VI (page 80, before line 14) add a new section entitled "Sec. ____. National Bio and Agro-Defense Facility."; an amendment by Mr. Bilirakis, at the end of title IX, insert a new section entitled "Sec. ____. Biometric Identification of Unauthorized Aliens."; an amendment by Mr. Etheridge, at the end of title XI, add a new section entitled "Sec. ____. Report Regarding Department of Homeland Security Implementation of Comptroller General and Inspector General Recommendations Regarding Protection of Agriculture."; an amendment by Mr. Rogers, at the end of title XI add a new section entitled "Sec. ____. Strengthening Line of Authority for Legislative, Congressional, and Intergovernmental Affairs."; an amendment by Mr. Jindal, at the end of title XI add a new section entitled "Sec. ____. Report Regarding Levee System."; an amendment by Mr. Lungren, to insert a new section entitled "Sec. 1114. Report on Force Multiplier Program."; an amendment by Mr. Perlmutter, to insert a new section entitled. "Sec. ____. Eligibility of State Judicial Facilities for State Homeland Security Grants."; an amendment by Mr. Dent, add a new section entitled "Sec. 1114. Authorization of Homeland Security Functions of the United States Secret Service."; and an amendment by Mr. Cuellar, on page 106, line 3–4, strike "comparable to" and insert "less than".; was AGREED TO by voice vote.

An amendment offered by Mr. Perlmutter (#2), to insert at the end of title IV a new section "Sec. 406. Prohibition on Use of Contracts That Move Off-Shore."; was WITHDRAWN by unanimous consent. A unanimous consent request by Mr. Perlmutter to withdraw his amendment, was not objected to.

An amendment offered by Ms. Clarke (#3), in section 901, add a new subsection entitled "(d) Prohibition on Transfer."; was AGREED TO by voice vote.

An amendment offered by Ms. Sanchez (#4) to strike section 903(b)(2)(B).; was AGREED TO by voice vote.

An amendment offered by Mr. Reichert (#5) to insert a new section entitled "Sec. ____. Requirement on Visa Waiver Program Countries to Enter Into Homeland Security Information Sharing Agreement."; was WITHDRAWN by unanimous consent. A unanimous consent request by Mr. Reichert to withdraw his amendment, was not objected to.

An amendment offered by Mr. McCaul (#6) to insert at the end of title IX a new section "Sec. ____. Task Force to Reform Border Patrol Policies."; was NOT AGREED TO by a record vote of 11 yeas and 15 nays (Roll Call Vote No. 6).

COMMITTEE ON HOMELAND SECURITY
U.S. House of Representatives
110th Congress

Date: Wednesday, March 28, 2007 Convened: 10:20 a.m.
Adjourned: 2:43 p.m.

Meeting on : Markup of H.R. 1684, to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes.
On agreeing to the amendment offered by Mr. McCaul (#6)

☐ Attendance ☒ Recorded Vote Vote Number: 6 Total: Yeas 11 Nays 15

	YEA	NAY	PRESENT		YEA	NAY	PRESENT
Ms. Loretta Sanchez California		✓		*Mr. Peter T. King* *New York, Ranking Member*	✓		
Mr. Edward J. Markey Massachusetts				*Mr. Lamar Smith* *Texas*			
Mr. Norman D. Dicks Washington		✓		*Mr. Christopher Shays* *Connecticut*			
Ms. Jane Harman California		✓		*Mr. Mark E. Souder* *Indiana*	✓		
Mr. Peter A. DeFazio Oregon		✓		*Mr. Tom Davis* *Virginia*			
Mrs. Nita M. Lowey New York		✓		*Mr. Daniel E. Lungren* *California*	✓		
Ms. Eleanor Holmes Norton District of Columbia				*Mr. Mike Rogers* *Alabama*	✓		
Ms. Zoe Lofgren California		✓		*Mr. Bobby Jindal* *Louisiana*			
Ms. Sheila Jackson-Lee Texas		✓		*Mr. David G. Reichert* *Washington*	✓		
Mrs. Donna M. Christensen Virgin Islands		✓		*Mr. Michael T. McCaul* *Texas*	✓		
Mr. Bob Etheridge North Carolina		✓		*Mr. Charles W. Dent* *Pennsylvania*	✓		
Mr. James R. Langevin Rhode Island		✓		*Ms. Ginny Brown-Waite* *Florida*	✓		
Mr. Henry Cuellar Texas				*Mr. Gus M. Bilirakis* *Florida*	✓		
Mr. Christopher P. Carney Pennsylvania		✓		*Mr. David Davis* *Tennessee*	✓		
Ms. Yvette D. Clarke New York		✓		*Mr. Kevin McCarthy* *California*	✓		
Mr. Al Green Texas		✓					
Mr. Ed Perlmutter Colorado		✓					
Vacancy							
Mr. Bennie G. Thompson Mississippi, Chairman		✓		Total	11	15	

An amendment offered by Mr. Dent (#7) to insert at the end of title IX a new section entitled "Sec. ____. Passenger and Crew Manifests for Vessels, Vehicles, and Aircraft Arriving in or Departing From the United States."; was WITHDRAWN by unanimous consent. A unanimous consent request by Mr. Dent to withdraw his amendment, was not objected to.

An amendment offered by Mr. Dent (#8) to insert at the end of title IX a new section entitled "Sec. ____. Automated Targeting Systems for Persons Entering or Departing the United States."; was NOT AGREED TO by a record vote of 14 yeas and 16 nays (Roll Call Vote No. 7).

COMMITTEE ON HOMELAND SECURITY
U.S. House of Representatives
110th Congress

Date: Wednesday, March 28, 2007 Convened: 10:20 a.m.
Adjourned: 2:43 p.m.

Meeting on : Markup of H.R. 1684, to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes.
On agreeing to the amendment offered by Mr. Dent (#8)

☐ Attendance ☒ Recorded Vote Vote Number: 7 Total: Yeas 14 Nays 16

	YEA	NAY	PRESENT		YEA	NAY	PRESENT
Ms. Loretta Sanchez California		✓		*Mr. Peter T. King* *New York, Ranking Member*	✓		
Mr. Edward J. Markey Massachusetts				*Mr. Lamar Smith* *Texas*			
Mr. Norman D. Dicks Washington		✓		*Mr. Christopher Shays* *Connecticut*	✓		
Ms. Jane Harman California		✓		*Mr. Mark E. Souder* *Indiana*	✓		
Mr. Peter A. DeFazio Oregon		✓		*Mr. Tom Davis* *Virginia*			
Mrs. Nita M. Lowey New York		✓		*Mr. Daniel E. Lungren* *California*	✓		
Ms. Eleanor Holmes Norton District of Columbia		✓		*Mr. Mike Rogers* *Alabama*	✓		
Ms. Zoe Lofgren California		✓		*Mr. Bobby Jindal* *Louisiana*	✓		
Ms. Sheila Jackson-Lee Texas		✓		*Mr. David G. Reichert* *Washington*	✓		
Mrs. Donna M. Christensen Virgin Islands		✓		*Mr. Michael T. McCaul* *Texas*	✓		
Mr. Bob Etheridge North Carolina		✓		*Mr. Charles W. Dent* *Pennsylvania*	✓		
Mr. James R. Langevin Rhode Island		✓		*Ms. Ginny Brown-Waite* *Florida*	✓		
Mr. Henry Cuellar Texas		✓		*Mr. Gus M. Bilirakis* *Florida*	✓		
Mr. Christopher P. Carney Pennsylvania	✓			*Mr. David Davis* *Tennessee*	✓		
Ms. Yvette D. Clarke New York		✓		*Mr. Kevin McCarthy* *California*	✓		
Mr. Al Green Texas		✓					
Mr. Ed Perlmutter Colorado		✓					
Vacancy							
Mr. Bennie G. Thompson Mississippi, Chairman		✓		Total	14	16	

An amendment offered by Mr. Davis of Tennessee (#9) to insert at the end of title IX a new section entitled "Sec. ____. Border Security and Immigration Enforcement of State and Local Law Enforcement Personnel."; was NOT AGREED TO by a record vote of 15 yeas and 15 nays (Roll Call Vote No. 8).

COMMITTEE ON HOMELAND SECURITY
U.S. House of Representatives
110th Congress

Date: Wednesday, March 28, 2007 Convened: 10:20 a.m.
Adjourned: 2:43 p.m.

Meeting on : Markup of H.R. 1684, to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes.
On agreeing to the amendment offered by Mr. Davis of Tennessee (#9)

☐ Attendance ☒ Recorded Vote Vote Number: 8 Total: Yeas 15 Nays 15

	YEA	NAY	PRESENT		YEA	NAY	PRESENT
Ms. Loretta Sanchez California		✓		*Mr. Peter T. King* *New York, Ranking Member*	✓		
Mr. Edward J. Markey Massachusetts				*Mr. Lamar Smith* *Texas*			
Mr. Norman D. Dicks Washington		✓		*Mr. Christopher Shays* *Connecticut*	✓		
Ms. Jane Harman California		✓		*Mr. Mark E. Souder* *Indiana*	✓		
Mr. Peter A. DeFazio Oregon	✓			*Mr. Tom Davis* *Virginia*			
Mrs. Nita M. Lowey New York		✓		*Mr. Daniel E. Lungren* *California*	✓		
Ms. Eleanor Holmes Norton District of Columbia		✓		*Mr. Mike Rogers* *Alabama*	✓		
Ms. Zoe Lofgren California		✓		*Mr. Bobby Jindal* *Louisiana*	✓		
Ms. Sheila Jackson-Lee Texas		✓		*Mr. David G. Reichert* *Washington*	✓		
Mrs. Donna M. Christensen Virgin Islands		✓		*Mr. Michael T. McCaul* *Texas*	✓		
Mr. Bob Etheridge North Carolina		✓		*Mr. Charles W. Dent* *Pennsylvania*	✓		
Mr. James R. Langevin Rhode Island		✓		*Ms. Ginny Brown-Waite* *Florida*	✓		
Mr. Henry Cuellar Texas		✓		*Mr. Gus M. Bilirakis* *Florida*	✓		
Mr. Christopher P. Carney Pennsylvania	✓			*Mr. David Davis* *Tennessee*	✓		
Ms. Yvette D. Clarke New York		✓		*Mr. Kevin McCarthy* *California*	✓		
Mr. Al Green Texas		✓					
Mr. Ed Perlmutter Colorado		✓					
Vacancy							
Mr. Bennie G. Thompson Mississippi, Chairman		✓		Total	15	15	

An amendment offered by Mr. Reichert (#10) to add a new section entitled "Sec. ____. Use of Grants for Analysts."; was WITHDRAWN by unanimous consent. A unanimous consent request by Mr. Reichert to withdraw his amendment, was not objected to.

An amendment offered by Ms. Brown-Waite (#11) to add a new section entitled "Sec. ____. Data Sharing."; was AGREED To by voice vote.

An amendment offered by Ms. Norton (#12) to insert a new section entitled "Sec. ____. Report on Source of Shortfalls at Federal Protective Services."; was AGREED TO by a record vote of 17 yeas and 13 nays (Roll Call Vote No. 9).

COMMITTEE ON HOMELAND SECURITY
U.S. House of Representatives
110th Congress

Date: Wednesday, March 28, 2007 Convened: 10:20 a.m.
Adjourned: 2:43 p.m.

Meeting on : Markup of H.R. 1684, to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes.
On agreeing to the amendment offered by Ms. Norton (#12)

☐ Attendance ☒ Recorded Vote Vote Number: 9 Total: Yeas 17 Nays 13

	Yea	Nay	Present		Yea	Nay	Present
Ms. Loretta Sanchez California	✓			*Mr. Peter T. King* *New York, Ranking Member*		✓	
Mr. Edward J. Markey Massachusetts				*Mr. Lamar Smith* *Texas*			
Mr. Norman D. Dicks Washington	✓			*Mr. Christopher Shays* *Connecticut*		✓	
Ms. Jane Harman California	✓			*Mr. Mark E. Souder* *Indiana*		✓	
Mr. Peter A. DeFazio Oregon	✓			*Mr. Tom Davis* *Virginia*			
Mrs. Nita M. Lowey New York	✓			*Mr. Daniel E. Lungren* *California*		✓	
Ms. Eleanor Holmes Norton District of Columbia	✓			*Mr. Mike Rogers* *Alabama*		✓	
Ms. Zoe Lofgren California	✓			*Mr. Bobby Jindal* *Louisiana*		✓	
Ms. Sheila Jackson-Lee Texas	✓			*Mr. David G. Reichert* *Washington*		✓	
Mrs. Donna M. Christensen Virgin Islands	✓			*Mr. Michael T. McCaul* *Texas*		✓	
Mr. Bob Etheridge North Carolina	✓			*Mr. Charles W. Dent* *Pennsylvania*		✓	
Mr. James R. Langevin Rhode Island	✓			*Ms. Ginny Brown-Waite* *Florida*		✓	
Mr. Henry Cuellar Texas	✓			*Mr. Gus M. Bilirakis* *Florida*		✓	
Mr. Christopher P. Carney Pennsylvania	✓			*Mr. David Davis* *Tennessee*		✓	
Ms. Yvette D. Clarke New York	✓			*Mr. Kevin McCarthy* *California*		✓	
Mr. Al Green Texas	✓						
Mr. Ed Perlmutter Colorado	✓						
Vacancy							
Mr. Bennie G. Thompson Mississippi, Chairman	✓			Total	17	13	

An amendment offered by Mr. Dent (#13) to insert a new section entitled "Sec. ____. Civil Air Patrol Support of Homeland Security Missions."; was WITHDRAWN by unanimous consent. A unanimous consent request by Mr. Dent to withdraw his amendment, was not objected to.

An amendment offered by Mr. Dent (#14) to insert a new section entitled "Sec. ____. Prevention of Flooding of Streams and Rivers."; was WITHDRAWN by unanimous consent. A unanimous consent request by Mr. Dent to withdraw his amendment, was not objected to.

An amendment offered by Ms. Brown-Waite (#15) to insert a new section entitled "Sec. ____. Enhanced Perimeter Security and Access Control Through Comprehensive Screening of Airport Workers."; was WITHDRAWN by unanimous consent. A unanimous consent request by Ms. Brown-Waite to withdraw her amendment, was not objected to.

An amendment offered by Mr. Lungren (#16) to insert a new section entitled "Sec. 1114. Federal Flight Deck Officers."; was WITHDRAWN by unanimous consent. A unanimous consent request by Mr. Lungren to withdraw his amendment, was not objected to.

An amendment offered by Mr. Lungren (#17) to insert a new section entitled "Sec. 512. Strengthening Airport Security Through Biometrics and Strategic Deployment of Canines."; was WITHDRAWN by unanimous consent. A unanimous consent request by Mr. Lungren to withdraw his amendment, was not objected to.

An amendment offered by Ms. Jackson-Lee (#18) on page 56, after line 2, insert a new section entitled "Sec. 512. Repeal of Chapter 97 of Title 5 United States Code."; was AGREED TO by a record vote of 17 yeas and 13 nays (Roll Call Vote No. 10).

COMMITTEE ON HOMELAND SECURITY
U.S. House of Representatives
110th Congress

Date: Wednesday, March 28, 2007 Convened: 10:20 a.m.
Adjourned: 2:43 p.m.

Meeting on : Markup of H.R. 1684, to authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes.
On agreeing to the amendment offered by Ms. Jackson-Lee (#18)

☐ Attendance ☒ Recorded Vote Vote Number: 10 Total: Yeas 17 Nays 13

	YEA	NAY	PRESENT		YEA	NAY	PRESENT
Ms. Loretta Sanchez California	✓			*Mr. Peter T. King* *New York, Ranking Member*		✓	
Mr. Edward J. Markey Massachusetts				*Mr. Lamar Smith* *Texas*			
Mr. Norman D. Dicks Washington	✓			*Mr. Christopher Shays* *Connecticut*		✓	
Ms. Jane Harman California	✓			*Mr. Mark E. Souder* *Indiana*		✓	
Mr. Peter A. DeFazio Oregon	✓			*Mr. Tom Davis* *Virginia*			
Mrs. Nita M. Lowey New York	✓			*Mr. Daniel E. Lungren* *California*		✓	
Ms. Eleanor Holmes Norton District of Columbia	✓			*Mr. Mike Rogers* *Alabama*		✓	
Ms. Zoe Lofgren California	✓			*Mr. Bobby Jindal* *Louisiana*		✓	
Ms. Sheila Jackson-Lee Texas	✓			*Mr. David G. Reichert* *Washington*		✓	
Mrs. Donna M. Christensen Virgin Islands	✓			*Mr. Michael T. McCaul* *Texas*		✓	
Mr. Bob Etheridge North Carolina	✓			*Mr. Charles W. Dent* *Pennsylvania*		✓	
Mr. James R. Langevin Rhode Island	✓			*Ms. Ginny Brown-Waite* *Florida*		✓	
Mr. Henry Cuellar Texas	✓			*Mr. Gus M. Bilirakis* *Florida*		✓	
Mr. Christopher P. Carney Pennsylvania	✓			*Mr. David Davis* *Tennessee*		✓	
Ms. Yvette D. Clarke New York	✓			*Mr. Kevin McCarthy* *California*		✓	
Mr. Al Green Texas	✓						
Mr. Ed Perlmutter Colorado	✓						
Vacancy							
Mr. Bennie G. Thompson Mississippi, Chairman	✓			Total	17	13	

An amendment offered by Ms. Jackson-Lee (#19) to insert a new section entitled "Sec. ____. Report by Government Accountability Office Regarding Policies and Procedures of the Border Patrol."; was AGREED TO by voice vote, as amended. A unanimous consent request by Ms. Jackson-Lee to amend her amendment to include new subsections 1 and 2 detailing consultation groups, was not objected to.

An amendment offered by Mr. McCaul (#20) to insert a new section entitled "Sec. ____. Department of Homeland Security Identity Verification and Access to Information." was WITHDRAWN by unanimous consent. A unanimous consent request by Mr. McCaul to withdraw his amendment, was not objected to.

An amendment offered by Mr. Rogers (#21) to insert a new section entitled "Sec. ____. Utilization of Non-Law Enforcement Officers as Instructors for Non-Law Enforcement Classes at the Border Patrol Training Academy." was AGREED TO by voice vote.

An en bloc amendment offered by Mr. Souder (#22) to insert a new title entitled "Title ____ —Maritime Alien Smuggling"; to insert at the end of title II a new section entitled "Sec. ____. Required Budget Line Item for Office of Counternarcotics Enforcement."; and to insert at the end of title II a new section entitled "Sec. ____. Designation of Office of Counternarcotics Enforcement as Sole Department Counternarcotics Enforcement Representative."; was AGREED TO by voice vote. A unanimous consent request by Mr. Souder to consider his amendments en bloc, was not objected to.

An en bloc amendment offered by Ms. Jackson-Lee (#23) to insert a new section entitled "Sec. ____. Report by Government Accountability Office."; to insert a new section entitled "Sec. ____. TOPOFF Exercises."; and to insert a new section entitled "Sec. ____. Report by Government Accountability Office."; was WITHDRAWN by unanimous consent. A unanimous consent request by Ms. Jackson-Lee to withdraw her amendment, was not objected to.

A motion by Ms. Sanchez that Staff is authorized to make any technical and conforming changes, was not objected to.

A motion by Ms. Sanchez to authorize the Chairman to offer such motions as may be necessary in the House to go to Conference with the Senate on the bill just ordered reported by this Committee, or on a similar Senate bill; was not objected to.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

MAY 2, 2007.

Hon. BENNIE G. THOMPSON,
Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has completed the enclosed cost estimate for H.R. 1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008.

The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs), Melissa Merrell (for the impact on state and local governments), and Paige Piper/Bach (for the impact on the private sector).

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 1684—Department of Homeland Security Authorization Act for Fiscal Year 2008

Summary: H.R. 1684 would authorize the appropriation of $39.9 billion for fiscal year 2008 to fund operations of the Department of Homeland Security (DHS). The bill also would authorize the appropriation of $456 million over the 2009–2012 period for certain DHS programs. In addition, CBO estimates that the bill would authorize the appropriation of $40 million over the 2009–2012 period for several other programs within DHS. CBO estimates that implementing H.R. 1684 would cost $39.5 billion over the 2008–2012 period, assuming appropriation of the necessary amounts.

We estimate that enacting the legislation would increase revenues by $19 million over the 2008–2012 period and $46 million over the 2008–2017 period by allowing Customs and Border Protection officers to increase contributions to their retirement funds. Enacting the bill could affect direct spending, but we estimate that any such effects would not be significant.

H.R. 1684 contains both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of those mandates would be well below the annual thresholds established by UMRA ($66 million for intergovernmental mandates and $131 million for private-sector mandates in 2007, adjusted annually for inflation). The bill also would create new grant programs that would benefit state, local, and tribal governments and would alter some existing programs.

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 1684 is shown in the following table. The costs of this legislation fall within budget functions 050 (national defense), 300 (natural resources and environment), 400 (transportation), 450 (community and regional development), 550 (health), 600 (income security), 750 (administration of justice), and 800 (general government).

	By fiscal year, in millions of dollars—					
	2007	2008	2009	2010	2011	2012
SPENDING SUBJECT TO APPROPRIATION						
DHS Spending Under Current Law						
Estimated Budget Authority [a]	33,962	0	2,175	0	0	0
Estimated Outlays	41,192	17,111	10,072	5,192	3,235	885
Proposed Changes:						
DHS Operations [b]						
Authorization Level	0	39,625	0	0	0	0
Estimated Outlays	0	22,982	8,321	5,547	1,981	15
Programs with Specified Funding:						
Grants to Prevent Document Fraud						
Authorization Level	0	120	100	80	0	0
Estimated Outlays	0	26	68	98	71	33
Metropolitan Medical Response System						
Authorization Level	0	63	63	63	63	0
Estimated Outlays	0	4	20	43	59	59
Other Programs with Specified Funding						
Authorization Level	0	28	28	28	28	3
Estimated Outlays	0	22	28	28	28	8
Other DHS Programs						
Estimated Authorization Level	0	28	27	8	2	2
Estimated Outlays	0	25	27	10	3	2
Total Changes						
Estimated Authorization Level [b]	0	39,863	218	179	93	5
Estimated Outlays	0	23,060	8,464	5,726	2,142	117
Spending Under H.R. 1684						
Estimated Authorization Level	33,962	39,863	2,393	179	93	5
Estimated Outlays	41,192	40,171	18,536	10,918	5,377	1,002
CHANGES IN REVENUES						
Estimated Revenues [c]	0	5	3	3	4	4

[a] The estimated 2007 level is the amount of appropriations less offsetting collections for that year for operations of DHS. The 2009 level reflects an advance appropriation for a biodefense countermeasures program.
[b] Section 101 of H.R. 1684 would authorize the appropriation of $39,863 million for fiscal year 2008 for DHS. Of that amount, the bill would authorize funding for certain programs in 2008; the remainder is shown as ''DHS operations.''
[c] CBO estimates that enacting H.R. 1684 would increase revenues by an additional $27 million over the 2013–2017 period.

Basis of estimate: CBO estimates that implementing H.R. 1684 would cost $39.5 billion over the 2008–2012 period, assuming appropriation of the amounts authorized and estimated to be necessary. For this estimate, we assume that such amounts will be appropriated for each year. Estimated outlays are based on historical spending patterns for existing or similar programs.

We estimate that enacting H.R. 1684 would increase revenues by $46 million over the 2008–2017 period. In addition, CBO estimates that the bill would have an insignificant effect on direct spending.

Spending subject to appropriation

H.R. 1684 would authorize appropriations for DHS operations in 2008, including funding for document fraud grants, medical-response programs, and other activities. It also would authorize appropriations in 2009 and later years for these programs.

DHS Operations for Fiscal Year 2008. Section 101 would authorize the appropriation of $39.9 billion for fiscal year 2008 to fund the operations of DHS. Of that amount, the bill would authorize specific funding levels for certain programs, covering a little more than $200 million of the $39.9 billion total. Those specified amounts are detailed below, along with authorizations for the 2009–2012 period.

DHS Programs with Specified Funding Levels. The bill also would authorize the appropriation of $456 million over the 2009–2012 period to fund certain DHS programs.

Grants to Prevent Document Fraud. H.R. 1684 would authorize the appropriation of $100 million for 2009 and $80 million for 2010 for grants to states to prevent fraudulent use of identification cards and other documents. CBO estimates that this program would cost $176 million over the 2009–2012 period. (Of the 2008 authorization total, the bill would authorize the appropriation of $120 million for such grants in that year.)

Metropolitan Medical Response System. H.R. 1684 would authorize the appropriation of $63 million annually over the 2009–2011 period for DHS to assist local jurisdictions in responding to incidents involving mass casualties. CBO estimates that this program would cost about $120 million over the 2009–2012 period. (Of the 2008 authorization, the bill would authorize funding of $63 million for that year.)

Other Programs. H.R. 1684 would authorize the appropriation of $25 million annually over the 2009–2011 period for DHS to establish a program to foster international cooperation on scientific research. The bill also would authorize the appropriation of $3 million annually over the 2009–2012 period to provide training on civil liberties issues to employees of fusion centers (state, local, and regional organizations that aim to prevent terrorist activity). CBO estimates that implementing these programs would cost about $85 million over the 2009–2012 period. (The bill also specifies $28 million in authorized funding for those activities from the 2008 total.)

Other DHS Programs. In addition, CBO estimates that the bill would authorize the appropriation of $40 million over the 2009–2012 period for several other programs within DHS.

H.R. 1684 would authorize the appropriation of sums necessary for fiscal years 2008 and 2009 for DHS to prepare assessments of terrorist threats using chemical, biological, nuclear, and other weapons or agents. Based on information from DHS about the funding provided for threat assessments for fiscal year 2007, CBO estimates that implementing this provision would cost $20 million in 2009. (Of the 2008 authorization total, CBO estimates that the bill would authorize $20 million for this activity.)

H.R. 1684 would authorize appropriations for fiscal years 2009 and 2010 for the DHS Office of the Inspector General (IG) to increase oversight of the Secure Border Initiative program. The bill would authorize the appropriation of at least 6 percent of the total IG budget for 2009 and at least 7 percent of the IG budget for 2010 for increased oversight activities. The fiscal year 2007 appropriation for the IG was $85.2 million. Adjusting the 2007 level for anticipated inflation, CBO estimates that this provision would require additional funding of $5 million in 2009 and $6 million in 2010. (Of the 2008 authorization total, the bill would authorize the appropriation of $6 million for increased oversight activities.)

Finally, H.R. 1684 would establish a program to improve systems to detect and combat biohazards. Based on information from DHS, CBO estimates that this program would require additional funding of about $2 million annually. (Of the 2008 total, CBO estimates that the bill would authorize $2 million for this activity.)

Revenues and direct spending

H.R. 1684 would allow certain Customs and Border Protection officers to elect law enforcement officer coverage under Title V of the

United States Code within five years of the bill's enactment. CBO estimates that employee contributions would increase by $19 million over the 2008–2012 period and by $46 million over the 2008–2017 period.

Based on data provided by the Office of Customs and Border Protection and the Office of Personnel Management, CBO estimates that, in 2008, roughly 9,000 border patrol agents would be subject to treatment as federal law enforcement officers (LEOs) under the Federal Employees Retirement System (FERS). (This number would grow over time because newly hired border patrol agents would all come under the LEO classification.) As such, they would be required to pay an additional 0.5 percent of salary as retirement contributions, and earn higher accrual rates for their retirement benefits. Because of the more attractive retirement benefits offered LEOs, CBO assumes that 90 percent of officers under age 40 would opt for LEO status. (Because one needs 20 years of LEO status to receive the benefits accorded LEOs and there is a mandatory retirement age of 57, few agents over age 40 would switch status.)

CBO estimates that the additional FERS contributions would total about $3 million in 2008 (based on an average salary of $60,000) and grow to $6 million annually by 2016. In addition, current agents who opt for LEO status could elect to have the status retroactively applied to service beginning in January 2003. Those agents could either make a lump-sum payment of 0.5 percent of salary for those years of service or accept an actuarial reduction in benefits equal to those contributions. In either case, service beginning in 2003 would be treated as LEO service for calculating retirement benefits. CBO assumes that 20 percent of agents would make lump-sum payments, and those payment would total $2 million in 2008. The 20 percent assumption is consistent with the experience in the late 1980s when federal retirees were allowed to withdraw their own retirement contributions in exchange for an actuarially reduced benefit. In total, H.R. 1684 would increase revenues by $5 million in 2008, $19 million over the 2008–2012 period, and $46 million over the 2008–2017 period.

H.R. 1684 would establish a new federal crime relating to alien smuggling. Because those prosecuted and convicted under the bill could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, then deposited in the Crime Victims Fund, and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the small number of cases likely to be affected.

Persons prosecuted and convicted under the bill also could be subject to the seizure of certain assets by the federal government. Proceeds from the sale of such assets would be deposited into the Assets Forfeiture Fund and spent from that fund, mostly in the same year. Thus, enacting H.R. 1684 could increase both revenues deposited into the fund and direct spending from the fund. However, CBO estimates that any increased revenues or spending would be negligible.

Intergovernmental and private-sector impact: H.R. 1684 contains both intergovernmental and private-sector mandates, as defined in UMRA. CBO estimates that the cost of those mandates would be well below the annual thresholds established by UMRA ($66 mil-

lion for intergovernmental mandates and $131 million for private-sector mandates in 2007, adjusted annually for inflation). The bill also would create new grant programs that would benefit state, local, and tribal governments and would alter some existing programs.

Mandates on public and private entities

The bill would increase the cost of an existing mandate on sponsors of exchange visitors and on colleges and universities that accept international students. Under current law, those sponsors and schools collect and submit information about courses of study, addresses, and work activities for visitors and students who have F, J, or M visas. They currently track about 1 million visitors and students and send information to the Department of Homeland Security using a Web-based interface, known as the Student and Exchange Visitor Information System (SEVIS). This bill would require those sponsors and schools to ensure that the visitors and students are active participants in their program and are observed at least once every 60 days. That observation could be done in person or electronically. The total direct cost of the mandate would depend on regulations yet to be issued by DHS and would include the costs for observation, training, and upgrades for software. Based on information from industry sources, CBO expects that the incremental costs of complying with those new requirements would be small relative to the annual UMRA thresholds.

Additional private-sector mandate

H.R. 1684 would impose another private-sector mandate, as defined in UMRA, by prohibiting individuals and entities from using specific words, initials, titles, or the insignia of DHS in connection with certain activities without written permission. The bill would expand restrictions beyond those in current law. The cost of the mandate would be the cost of acquiring written permission to use such words or symbols or the forgone net value attributable to such uses in the event that permission is not granted. Based on information from DHS, CBO expects that the direct cost to comply with the mandate would be minimal.

Other impacts on state, local, and tribal governments

The bill would create two new grant programs that would benefit state, local, and tribal governments. Section 1112 would create the Metropolitan Medical Response System to help local governments prepare for incidents that result in mass casualties. Section 1113 would create a grant program to increase the security of identity documents issued by state governments and to decrease the potential for those documents to be used fraudulently. Assuming the appropriation of authorized amounts, CBO estimates that those governments would receive about $480 million over the 2008–2012 period. In addition to creating new grant programs, the bill also would add new requirements to several existing grant programs. Any costs to state, local, and tribal governments for participating in the new or existing grants would be incurred voluntarily as a condition of receiving federal assistance.

Estimate prepared by: Federal Spending: Mark Grabowicz. Federal Revenues: Craig Meklir. Impact on State, Local, and Tribal

Governments: Melissa Merrell. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 1684, contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

The Committee has included within H.R. 1684 provisions to authorize appropriations for the Department of Homeland Security for Fiscal Year 2008; establish a Directorate for Policy within the Department; provide for a Comprehensive Homeland Security Review to be periodically conducted within the Department; address financial accountability with regard to Secure Border Initiative contracts; authorize Federal annuitants to strengthen personnel at several Department agencies; require additional checks on potential contractors to enhance Department operations and increase transparency; encourage opportunities for small and minority-owned businesses to partner with the Department; authorize the Chief Medical Officer and the Office of Health Affairs within the Department; improve risk assessment and the material threats process; establish the National Biosurveillance Integration Center; strengthen cybersecurity and communications for both the Department and the Nation; enhance research and development for cybersecurity; demand delivery of the overdue strategic plan from the Department's Science and Technology Directorate; streamline SAFETY Act (6 U.S.C. 441) and antiterrorism technology procurement processes; strengthen and improve border security operations, including US–VISIT, the Student and Exchange Visitor Program, and training for Border Patrol Agents; strengthen information sharing efforts through fusion centers; and authorize the Metropolitan Medical Response System, among others.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(a) of Rule XXI of the Rules of the House of Representatives, the following Members submitted congressional earmarks, limited tax benefits, or limited tariff benefits as included in H.R. 1684.

Section	Member	Amount	Earmark
Sec. 303	Mr. Reichert	$500,000	Dedicated for a new Office of the Inspector General field office in Bellingham, Washington.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 1, which grants Congress the power to provide for the common Defense of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of H.R. 1684 as the "Department of Homeland Security Authorization Act for Fiscal Year 2008."

Section 2. Table of contents

This section lists the contents of H.R. 1684.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Section 101. Department of Homeland Security

This section authorizes $39,863,000,000 in appropriations for the Department of Homeland Security for Fiscal Year 2008.

TITLE II—POLICY AND MANAGEMENT IMPROVEMENTS

Section 201. Establishment of Directorate for Policy

This section establishes a Directorate for Policy within the Department of Homeland Security, which shall be headed by the Under Secretary for Policy. Within the Directorate for Policy, this provision creates the Office of the Private Sector, which shall be administered by an Assistant Secretary for the Private Sector; it also creates the Victim Assistance Officer, the Tribal Security Officer, the Border Community Liaison Officer, and allows for such other offices as considered necessary by the Under Secretary for Policy. This section requires the Under Secretary for Policy to be Senate-confirmed, and to have the education, experience, demonstrated knowledge, ability, and skill in the fields of policy and strategic planning necessary to direct and supervise policy development for the programs, offices, and activities of the Department.

This section also directs the Under Secretary for Policy, acting through the Assistant Secretary for Policy and Development, to ensure that all Departmental policies, programs, and activities appropriately consider the needs of and impact upon children. Additionally, one year following the enactment of this legislation, and on an annual basis thereafter, the Under Secretary for Policy shall report

to the Committee on Homeland Security of the House of Representatives and to the Committee on Homeland Security and Governmental Affairs of the Senate on activities undertaken pursuant to this section and the resulting improvement in security for children, schools and other child-centered facilities.

The Committee intends the Border Community Liaison Officer to serve as a liaison between elected officials, business leaders, residents, and other stakeholders in the northern and southern border regions and the Department on matters affecting border communities. The Committee expects that the Border Community Liaison Officer will convey input received from border stakeholders to the Department for use in the development and implementation of policies and programs affecting border communities.

The Committee intends the Victim Assistance Officer to coordinate and serve as the point of contact for individuals affected by a terrorist attack or natural disaster, and their families. Moreover, the Victim Assistance Officer will coordinate with relevant officials throughout the Department to facilitate the dissemination of information regarding assistance programs and other forms of aid that may be available in the wake of a terrorist attack or disaster, as well as to coordinate other concerns raised by affected individuals. The Victim Assistance Officer also will coordinate Departmental responses to victims with similarly situated officials at the Federal Bureau of Investigation, the National Transportation Safety Board, and other Federal agencies which respond to an act of terrorism or natural disaster.

The Committee is concerned that the Department of Homeland Security has thus far made too little effort to address the needs of children, and done too little to meet the emergency planning needs of schools, Head Start centers, after school programs, and other facilities for children. This deficiency extends to all areas of planning—prevention and mitigation, preparedness, response, and recovery—as well as to accommodations for the physical and mental health of children as unique from that of adults. This new responsibility for the Department's Policy Directorate will raise the profile of children's needs across the Department and help to ensure that their needs are met.

The Committee expects that the Under Secretary for Policy will work to assess the Department's programs to see how they are addressing the particular vulnerabilities of children to attack and providing the resources necessary for planning, preparedness, and response in schools, Head Start centers, after school programs, and other facilities for children. The Committee does not mean to create a new layer of bureaucracy, but instead to facilitate the development of materials and standards that are appropriate for children across the Department and to leverage knowledge to the benefit of the Department's various programs.

The Committee is particularly concerned about the needs of schools, including whether they have the resources necessary to develop and implement emergency response plans and appropriate training programs. The Committee recommends that the Department work to identify ways to provide assistance to schools in planning, training, and equipment. The Committee further recommends that national planning efforts include school preparedness as a

high priority and that schools are considered in risk assessment and communication programs going forward.

The Committee intends the report requested under section 201 to consider the following issues as well as other issues identified by the Policy Directorate: measurable improvements in security for children, schools and other child-centered facilities; steps taken to develop response plans that are focused on the needs of children; training efforts for first responders, medical personnel, and other front-line actors on issues that affect children differently than adults; and preparedness plans that provide equipment and resources that are appropriate for the disaster needs of children.

The Committee recommends that the annual report, in addition to being a tool for assessing the Department's progress in addressing the needs of children and their schools, also provide recommendations to Congress and the Department for ways to improve planning and preparedness for children.

Section 202. Direct line authority for chief operating officers

This section confers authority to the Chief Financial Officer, the Chief Procurement Officer, the Chief Information Officer, the Chief Human Capital Officer, the Chief Administrative Officer, and the Chief Security Officer (Chief Operating Officers) of the Department of Homeland Security over their counterparts in the Department's components to direct planning, operations, and training, as well as personnel activities, the budget, and other financial resources of the Department to ensure compliance with Department-wide policies and plans. This section also requires Chief Operating Officers to coordinate with heads of the component agencies when executing the authority conferred by this provision.

Section 203. Comprehensive Homeland Security review

This section directs the Secretary of Homeland Security to undertake a Comprehensive Homeland Security Review (CHSR) for the Department of Homeland Security (the Department) at the beginning of every new presidential administration, similar to the Quadrennial Defense Review done at the Department of Defense. The purpose of the review is to ensure that personnel, assets, organizational structure, budget plans, and procurement process are aligned with the Department's mission and the National Strategy for Homeland Security. The CHSR is to be submitted with the President's budget in the years that the review is due.

This section requires the Secretary to consult with key officials of the Department in conducting the CHSR, including the Assistant Secretary of the Transportation Security Administration, the Commissioner of U.S. Customs and Border Protection, the Director of U.S. Citizenship and Immigration Services, the Assistant Secretary for Immigration and Customs Enforcement, the Director of the U.S. Secret Service, the Administrator of the Federal Emergency Management Agency, the Director of the Federal Law Enforcement Training Center, and the Commandant of the Coast Guard.

Moreover, this section requires the CHSR to include a Department Strategy that is consistent with the most recent National Strategy for Homeland Security; it must define sufficient personnel, appropriate organizational structure, and other requirements necessary to execute the Department Strategy; and it must

identify a budget plan, acquisition strategy, procurement process, and other resources necessary to provide for successful execution of the Department Strategy.

This section requires the Secretary to submit a report on the CHSR, to be submitted during the fiscal year following the fiscal year in which the CHSR is conducted. Under this section, the report must include a comprehensive assessment of the alignment between the Department Strategy and the human resources, infrastructure, assets, and organization of the Department; an explanation of any underlying assumptions used in conducting the CHSR; the human resources requirements and response capabilities of the Department relating to terrorist attacks, major disasters, and other emergencies; the strategic and tactical air, border, sea, and land capabilities and requirements for supporting the Department Strategy; the nature and appropriateness of homeland security operational capabilities, including scientific and technological resources and their anticipated effects on human resources; and any other matters the Secretary considers appropriate.

This section also requires each report to discuss the aforementioned issues with a focus on reducing and managing risk, as well as preparing for, mitigating against, responding to, and recovering from terrorist attacks, major disasters, and other emergencies.

While the Committee understands that the Department of Homeland Security was hastily created in the wake of the terrorist attacks of September 11, 2001, the Committee is concerned that there is no clear and coherent homeland security policy planning to ensure that the Department's assets are properly aligned to fulfill its homeland security mission. The Committee believes that the CHSR will be an important tool for the Department to utilize in meeting the continuing challenge of systematic policy development. The Committee would like to emphasize that the initial review will be conducted during Fiscal Year 2009, and that each subsequent Comprehensive Homeland Security Review will be conducted at the beginning of the first term of each new presidential administration, rather than at the start of every new presidential term.

Section 204. Qualifications for the Under Secretary for Management

This section sets out the following qualifications for the Department of Homeland Security's Under Secretary for Management: extensive executive level leadership and management experience in the public or private sector, strong leadership skills, a demonstrated ability to manage large and complex organizations, and a proven record of achieving positive operational results. This section allows the Secretary of Homeland Security to retain the incumbent Under Secretary for Management without resubmitting his name to the Senate for confirmation, so long as he issues a statement that informs Congress that the incumbent Under Secretary meets the prescribed qualifications.

Section 205. Sense of Congress regarding consolidation of department headquarters

This provision expresses the sense of Congress that the planned consolidation of the Department of Homeland Security and its key component headquarters on the West Campus of St. Elizabeth's Hospital and should move forward as expeditiously as possible,

with all the agencies involved in this effort bearing those costs for which they are responsible.

Section 206. Required budget line item for Office of Counternarcotics Enforcement

This section requires a line item in the budget for the Office of Counternarcotics Enforcement to strengthen the Office's authority over its general budget. The Committee believes that designating a line item in the Federal budget for the Office of Counternarcotics Enforcement will strengthen the Congressional oversight role of this important component of the Department of Homeland Security and strengthen the Office's ability to perform its mission to help stop the entry of illegal drugs into the United States.

Section 207. Designation of Office of Counternarcotics Enforcement as primary department counternarcotics representative

This section requires the Department of Homeland Security to recognize the Office of Counternarcotics Enforcement as the primary representative on all counternarcotics related committees and taskforces. The Committee believes this designation will strengthen the role of this office and solidify the Office's role as the chief counternarcotics policymaker for the Department of Homeland Security.

Section 208. Granting line authority to the Assistant Secretary for Legislative Affairs

This section provides the Assistant Secretary for Legislative Affairs at the Department of Homeland Security with the requisite authority to ensure that component agencies adhere to the laws, rules, regulations, and departmental policies set by the Assistant Secretary. This provision also authorizes the Assistant Secretary for Legislative Affairs to make recommendations concerning hiring, reassignment, and termination of individual employees; develop performance measures; submit performance evaluations; and withhold funds from component agencies.

The Committee recognizes the need for strengthening line authority of key officers at the Department's headquarters level to continue to advance the integration of the Department's components. The Committee provided direct line authority to the Department's chief operating officers, as reflected in Section 202, and specified key authorities of the Chief Security Officer, as reflected in Section 509. Similarly, it is the Committee's view that the Assistant Secretary for Legislative Affairs requires additional authority to further integrate the activities of the legislative affairs offices in the Department's component agencies.

The Committee believes these enhanced authorities for the Assistant Secretary for Legislative Affairs will help advance integration of the Department, while improving the quality and timing of the Department's responses to congressional inquiries and requests.

TITLE III—OVERSIGHT IMPROVEMENTS

Section 301. Secure Border Initiative Financial Accountability.

This section requires the Office of the Inspector General (OIG) of the Department of Homeland Security to monitor each Secure Bor-

der Initiative (SBI) contract valued at greater than $20 million to ensure compliance with cost requirements, performance objectives, small business participation goals, and other objectives. This section also requires the OIG to complete a review on the progress of contracts and compliance issues not later than 60 days after the contract action and at the conclusion of the performance of the contract. Under this provision, the review will determine whether each action fully complies with applicable cost requirements; performance objectives; program milestones; requirements for the inclusion of small, minority, and women-owned businesses; and applicable timelines.

This section requires OIG to submit a report to the Secretary on Homeland Security on its findings, upon completion of each review. In addition, within 30 days of receipt of each OIG report, this section requires the Secretary to submit a report to the Committee on Homeland Security in the House of Representatives and the Committee on Homeland Security and Governmental Affairs in the Senate that outlines steps that Secretary has taken or plans to take to address OIG's findings, including those regarding any cost overruns, significant delays in contract execution, lack of rigorous departmental contract management, insufficient departmental financial oversight, bundling that limits the ability of small businesses to compete, or other high risk business practices.

The provision authorizes additional appropriations for OIG to conduct this additional oversight, and if, in the course of this oversight, OIG becomes aware of improper conduct or wrongdoing, this section requires OIG to report the matter to the Secretary as expeditiously as possible.

The Committee believes it is important to closely monitor the development and implementation of SBI and the SBInet border surveillance program. The Committee is concerned about the mismanagement of SBI's predecessor border surveillance programs, the Integrated Surveillance and Intelligence System and America's Shield Initiative. This section is intended to ensure the mistakes of the past are not repeated in the implementation of the more expensive and more complex SBI.

Section 302. Authorization Liaison Officer

This section creates the position of Authorization Liaison Officer within the office of the Chief Financial Officer to ensure responsiveness to the authorizing Congressional committees and to work with the Appropriations Liaison Officer to coordinate the sharing of all reports prepared for the Congressional appropriations committees.

Section 303. Office of the Inspector General

This section authorizes $108.5 million in appropriations to the Office of the Inspector General (OIG) of the Department of Homeland Security to provide additional resources to restore capacity for oversight of the Department in light of the diversion of resources to create the OIG standing disaster preparedness, response and recovery oversight shop. Of this authorization, $500,000 is dedicated for a new field office in Bellingham, Washington. The Committee notes that the total amount authorized by this provision is more than $9 million above the President's funding request.

Section 304. Congressional notification requirement

This section requires the Secretary of Homeland Security to actively consult with the Committee on Homeland Security in the House of Representatives and the Committee on Homeland Security and Governmental Affairs in the Senate, and to keep the committees fully informed of the Department's activities. Under this provision, the Secretary may submit any required information in classified form if the information is classified pursuant to applicable national security standards.

The Committee wishes to emphasize the importance of Congressional notification and consultation by the Department of Homeland Security as the Department implements reforms, streamlines organization and procedure, and endeavors to fulfill its homeland security missions.

Section 305. Sense of Congress regarding oversight of Homeland Security

This section expresses the sense of Congress that the House of Representatives and the Senate should implement the recommendation of the National Commission on Terrorist Attacks Upon the United States (9/11 Commission) to designate a committee in each chamber to serve as the single, principal point of oversight and review for homeland security and to authorize the activities of the Department.

TITLE IV—PROCUREMENT POLICY AND RESOURCES IMPROVEMENTS

Section 401. Homeland Security procurement training

This section requires the Chief Procurement Officer (CPO) of the Department of Homeland Security to (1) create courses, including any required curriculum, to train acquisitions employees about homeland security procurement; (2) develop a system of maintaining records on student enrollment; and (3) submit a report on procurement training records including enrollment, graduates, and certification. This provision also creates a new Council on Procurement Training within the Department, to be composed of the chief procurement officers of the United States Coast Guard, the Transportation Security Administration, the Office of Procurement, Immigration and Customs Enforcement, Customs and Border Protection, the Federal Emergency Management Agency, the Federal Law Enforcement Training Center, and the United States Secret Service. This provision directs the Council to consult with the CPO in developing the program and identify acquisitions employees who should receive such training. Eligible employees are individuals who, for at least 50 percent of their time, are involved in acquisitions, procurement-related program management, or oversight.

The Committee wishes to note that the language in this section is very similar to certain provisions of H.R. 803, which was introduced by Rep. Carney on February 5, 2007. That bill, the Department of Homeland Security Procurement Improvement Act of 2007, was cosponsored by other Committee Members, including Chairman Thompson of Mississippi, Ranking Member King of New York, and Rep. Rogers of Alabama.

Section 402. Authority to appoint and maintain a cadre of Federal annuitants for procurement offices

This section authorizes the Secretary of Homeland Security to hire up to 250 annuitants with experience in procurement and contract management to support the Department of Homeland Security's acquisitions capabilities and enhance contract management throughout the Department. This provision bars the hiring of an annuitant if it means that an employee would be displaced.

The Committee observes that, since its creation, the Department has had significant and continuing problems in effectively managing all aspects of the procurement cycle. One of the primary reasons for this difficulty is a shortage of trained and experienced contracting personnel. The Committee acknowledges that the Department has recently announced initiatives that could, in the long term, develop a cadre of skilled in-house contracting professionals. The Committee believes this provision will help address the short term staffing needs of the Department's procurement offices, as well as provide a group of experienced contracting professionals to assist in training newly hired staff.

Section 403. Additional requirement to review past performance of contractors

This section requires the Secretary of Homeland Security to consider past performance of a contractor before deciding whether to award such contractor with a contract. This provision also requires the contractor, as a part of the contract bid, to submit information regarding the contractor's past performance of Federal, State, local, and private sector contracts.

The Committee wishes to note that the language in this section is very similar to certain provisions of H.R. 803, which was introduced by Rep. Carney on February 5, 2007. That bill, the Department of Homeland Security Procurement Improvement Act of 2007, was cosponsored by other Committee Members, including Chairman Thompson of Mississippi, Ranking Member King of New York, and Rep. Rogers of Alabama.

Section 404. Requirement to disclose foreign ownership or control of contractors and subcontractors.

This section requires the Chief Procurement Officer of the Department of Homeland Security to conduct an independent review of each procurement for compliance with the Buy American Act (41 U.S.C. 41 10a–10d). It also requires companies that apply for a contract to disclose whether they or any of their subcontractors are owned or controlled by a foreign person or entity. This provision requires such disclosures to be continuously, including instances where there is a change in ownership or subcontractors during performance of the contract. Under this section, foreign ownership occurs when 50 percent or more of the voting stock or other ownership interest is controlled by a foreign national, corporation, or government.

In the Department of Homeland Security Inspector General's Semiannual Report to Congress for the period April 1, 2006 to September 30, 2006, the Office of the Inspector General stated that it is unable to "determine whether DHS complied with the Buy American Act (BAA) requirements on a comprehensive, agency-wide

level because of system limitations and manual reporting errors." The Committee believes that this is unacceptable, and included this provision to emphasize the importance the Committee places on BAA compliance.

Section 405. Integrity in contracting

This section amends the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) by adding certain requirements to the contracting process, including requiring attestation by contractors bidding for government contracts that affirmatively discloses any substantial role the bidder, employees of the bidder, or any corporate parent or subsidiary of the bidder may have played in certain activities bringing about the bid; additional requirements for bidders who disclose such roles; and certification of whether the bidder is in default on any payment to the Federal government or owes any delinquent taxes.

Section 406. Small business utilization report

This section requires the Chief Procurement Officer of the Department of Homeland Security, within 360 days of enactment, to submit a report to the Secretary of Homeland Security, the Committee on Homeland Security in the House of Representatives, and the Homeland Security and Governmental Affairs Committee in the Senate, that identifies each program in the Department where government-wide goals for small business participation are not met.

In addition, this section requires the Chief Procurement Officer, within 90 days of submission of such report, to submit to Congress an action plan, including performance measures and timetables for each program to meet the Government-wide goals of ensuring that at least 3 percent of Department procurement contracts is awarded to HUBZone and veteran-owned businesses and that at lease 5 percent is awarded to women-owned and economically-disadvantaged businesses.

This section also directs the Chief Procurement Officer to give priority to small business concerns for all open market procurements exceeding the simplified acquisition threshold prior to initiating full and open, or unrestricted, competition; and it sets the order of priority.

Section 407. Requirement that uniforms, protective gear, badges, and identification cards of homeland security personnel be manufactured in the United States

This section provides that funds appropriated to the Department of Homeland Security may not be used for procurement of uniforms, protective gear, badges, or identification cards for Department personnel if those items are not manufactured in the United States. However, under this provision, the requirement does not apply if the Secretary of Homeland Security determines that such items cannot be procured at a satisfactory level of quality or sufficient quantity. In those instances, the Secretary must notify the Committee on Homeland Security in the House of Representatives and the Committee on Homeland Security and Governmental Affairs in the Senate within 7 days of making the determination; certify that the items which are not made in the United States do not

pose a risk to national security; and explain how the foreign provider of the items is ensuring that materials, patterns, logos, and designs used in or for those items will not be misappropriated. This section does not affect any waiver under §301 of the Trade Agreements Act of 1979 (19 U.S.C. 13). Finally, to ensure that this provision does not adversely impact domestic textile manufacturers, the Secretary is directed to take all available steps to ensure that producers of the listed items use domestic textiles.

The Committee notes that, in the past, Department uniforms—including those for the United States Border Patrol—have not been manufactured domestically, raising serious security concerns that this provision is intended to address. The Committee would also like to acknowledge that this provision is identical to a bill previously introduced by Rep. Etheridge and co sponsored by Rep. Rogers of Alabama and Rep. Thompson of Mississippi.

Section 408. Department of Homeland Security mentor protégé program

This section authorizes the Department of Homeland Security's Mentor Protégé program within the Office of Small and Disadvantaged Business Utilization. The program, which is already established, motivates and encourages large business prime contractor firms to provide developmental assistance to small and disadvantaged businesses. This section also directs the Secretary to publicize and ensure that Department contractors and offerors are made aware of the benefits of participating in the program. Under this provision, one benefit is that a firm's efforts to seek and develop a formal mentor protégé relationship will be a positive factor in the Department's evaluation of any bid or offer for a Department contract. Finally, this section directs the Inspector General of the Department to conduct a review of the program, including an assessment of the program's effectiveness and identification of any barriers that restrict contractors from participating in the program.

Section 409. Prohibition on award of contracts and grants to educational institutions not supporting coast guard efforts

This section prohibits the Secretary of Homeland Security from awarding a contract or grant to an institution of higher education that refuses to allow the United States Coast Guard access to its campuses and students for the purposes of recruiting. This section also provides a safeguard exemption for universities with a history of pacifism based on religious beliefs.

The Committee wishes to emphasize that the Coast Guard plays a strong role in protecting our Nation. The Coast Guard has both humanitarian and homeland security missions, including port security, migrant interdiction, maritime border security, search and rescue, and the protection of living marine resources. Coast Guard recruits are afforded the opportunity to participate in any of these missions.

Section 410. Report on source of shortfalls at Federal Protective Service

This section enjoins the Secretary of Homeland Security from conducting a reduction in force or furlough of the workforce of the Federal Protective Service (FPS) until the Comptroller General of

the United States submits to the Committees on Homeland Security and Transportation and Infrastructure in the House of Representatives and the Committee on Homeland Security and Governmental Affairs in the Senate a report on the source of shortfalls at FPS. Moreover, this section prohibits the Secretary from conducting such a reduction in force or furlough until the three aforementioned Congressional Committees have held hearings on the report.

The Committee would oppose significant reductions to the Department's workforce absent an independent investigation to ensure that such reductions are necessary. To address the issue, the Committee recently issued a request to the Government Accountability Office (GAO) to investigate the reason for reducing the Federal Protective Service workforce. As of the date of this report, GAO has confirmed that it will investigate the source of shortfalls and report back to the requesting Committees.

TITLE V—WORKFORCE AND TRAINING IMPROVEMENTS

Section 501. Customs and Border Protection officer pay equity

This section grants law enforcement status for retirement purposes to Customs and Border Protection (CBP) Officers, specifically to individuals that work in this capacity on the date of enactment and retire or leave within 5 years of enactment. If a CBP Officer chooses to make contributions to their retirement accounts to make up the difference of what should have been contributed in the past, had they been conferred law enforcement status previously, this section requires the Department of Homeland Security to add the amount it would have contributed, had such status been conferred previously.

The Committee appreciates the dedicated law enforcement work of legacy employees from the Departments of Justice and Treasury who currently serve as Customs and Border Protection (CBP) Officers under the Department's One Face at the Border Initiative to streamline the inspection process at ports of entry. The Committee notes that, while CBP was created in March 2003, the title "Customs and Border Protection Officer" was not adopted until July 2004. Thus, for the purposes of this section, the definition of "prior qualified service" applies to predecessor positions held by CBP enforcement personnel, including Customs Inspectors, Canine Enforcement Officers, and Immigration Inspectors as of March 2003.

Based on its oversight, the Committee recognizes that many duties of these officers formerly included law enforcement activities such as the investigation or apprehension of individuals suspected or convicted of criminal offenses, and many of these officers were authorized and trained to carry firearms. The Committee continues to investigate options for providing equitable recognition of law enforcement service by individuals who served in legacy agencies prior to the Department's creation.

Section 502. Plan to improve representation of minorities in various categories of employment

This section requires the Chief Human Capital Officer of the Department of Homeland Security to submit a plan to address the underrepresentation of minorities in various categories of employ-

ment within 90 days of enactment. This section also requires that, within one year of the issuance of such a plan, the Government Accountability Office issue an assessment of the plan, including the likelihood that the Department will achieve the goal of sufficiently addressing underrepresentation. This section defines "underrepresentation," "minority groups," "minorities," and "category of civil service employment."

Section 503. Continuation of authority for federal law enforcement training center to appoint and maintain a cadre of federal annuitants

This section extends authority of the Federal Law Enforcement Training Center to hire and maintain Federal annuitants as trainers until December 31, 2008.

Section 504. Authority to appoint and maintain a cadre of Federal annuitants for Customs and Border Protection

This section authorizes the Secretary of Homeland Security to hire up to 500 annuitants with experience in border security to accelerate the ability of Customs and Border Protection (CBP) to secure the borders. This provision also bars the hiring of an annuitant where an employee would be displaced.

This section provides CBP with temporary authority to rehire up to 500 annuitants to provide necessary capacity to deploy a sufficient number of Border Patrol agents between the ports of entry and CBP inspectors at the ports of entry. The Committee intends this authority to allow CBP to utilize the wealth of experience and expertise held by annuitants to train and supervise new personnel as they are hired, as well as to meet the demand for highly trained agents and inspectors in the interim. The Committee would like to note that nothing in this provision is intended to limit rights to which employees are otherwise entitled under the law.

Section 505. Strengthening border patrol recruitment and retention

This section requires the Secretary of Homeland Security to develop a plan to address the recruitment and retention challenges of hiring border patrol agents by, among other things, utilizing pay, recruitment, relocation, and retention bonuses to attract and maintain the border security workforce. This section also requires the Secretary to submit a report to Congress.

The Committee intends that the plans outlined in this section will focus on providing incentives to Border Patrol agents, including the payment of bonuses, increases in the pay percentage differentials for agents living in high cost areas, and mechanisms to allow agents to transfer locations after the first two years of service. The Committee also intends this section to assist Customs and Border Protection (CBP) in recruiting and retaining a top quality Border Patrol workforce, particularly as the Department attempts to increase the size of the Border Patrol to 18,000 agents by the end of calendar year 2008.

Section 506. Limitation on reimbursement relating to certain detailees

This section restricts payment by the Department of Homeland Security to specialized detailees hired under the Intergovernmental

Personnel Act (IPA) (5 U.S.C. 3371 3375) to no more than the highest salary available under the Senior Executive Service.

The Committee learned during an investigation in the 109th Congress that a high ranking official was being paid in excess of $230,000 per year under his arrangement with the Department of Homeland Security. The Committee views this provision as a step toward ensuring that the Department will not enter into such an arrangement again. The Committee would also like to acknowledge that this provision was previously offered as an amendment by Rep. Loretta Sanchez and accepted during the markup of H.R. 5814 in the 109th Congress.

Section 507. Integrity in post employment

This section closes a loophole in the law so that no agency or bureau within the Department of Homeland Security is deemed to be a separate entity with respect to lobbying regulations. This section requires that the Department be excluded from the post employment restrictions under Title 18, section 207(h)(1) of the United States Code, which allows for an agency designation of separate entities for purposes of administering the post employment restrictions.

The Committee recognizes that excluding the Department from Title 18, section 207(h)(1) of the U.S. Code will help ensure accountability and integrity, both of which are paramount for the Department to maintain the highest professional and ethical standards and to effectively protect the nation. The Committee has determined that while more could be done to improve post employment accountability and integrity, this is a significant step in the improving post employment restrictions.

Section 508. Increased security screening of Homeland Security officials

This section requires the Secretary of Homeland Security to conduct a Department wide review of the security clearance and suitability review process for employees, contractors, State, local and private sector officials, within 90 days of enactment. Based on the review's findings, this section directs the Secretary to take all necessary steps to strengthen the Department's security policies. In developing steps, the Secretary shall assess whether all components meet or exceed Federal or Department security clearance standards; whether the Department has a cadre of well trained security clearance adjudicators; and whether suitability reviews are undertaken when individuals are transferred from components to the Department's headquarters.

In the 109th Congress, the Subcommittee on Management, Integration, and Oversight held a hearing on the security practices at the Department. The Subcommittee reviewed serious examples of criminal conduct by departmental officials and a transportation contract awarded to a company whose owner had multiple felony convictions and a poor business record.

The Committee has determined that additional steps should be taken to increase security screening of departmental officials. Thus, this section requires a department wide review to ensure the Department's security screening practices are improved.

The Committee believes the Secretary of Homeland Security must ensure that (1) all Departmental components meet or exceed Federal and departmental standards for security clearance investigations, adjudications, and suitability reviews; (2) the Department has a sufficient number of well trained adjudicators; and (3) suitability reviews are conducted for Department employees who transfer into headquarters from a departmental component.

Section 509. Authorities of Chief Security Officer

This section establishes the Chief Security Officer in the Department of Homeland Security and sets forth four areas of responsibility: (1) personal security, facility access, security awareness and related training; (2) ensuring that components comply with Federal security clearance standards; (3) ensuring, to the greatest extent practicable, that State, local, and private individuals who need to access classified material from the Department are able to receive clearances in a timely fashion; and (4) performing all other functions as determined by the Secretary.

The Committee remains concerned about the backlog in security clearances. In view of this, the Committee decided to require the Chief Security Officer to take steps to ensure, to the greatest extent practicable, that State and local officials, as well as private sector entities, who have a need to receive classified information from the Department receive the appropriate clearances as expeditiously as possible.

Section 510. Departmental culture improvement

This section requires the Secretary of Homeland Security to consider implementing the recommendations of the Homeland Security Advisory Council Culture Task Force Report of January 2007, and to choose an appropriate term to replace "human capital" in the Department's operations, policies, and programs.

The Committee included this section to address a number of personnel issues that continue to plague the Department. The 2006 Federal Human Capital Survey measuring satisfaction among Federal employees issued by the Office of Personnel Management indicated the Department scored last or nearly last in every category. Specifically, the Survey notes that the Department had the lowest score of any Federal agency or department on the job satisfaction index and the results oriented performance culture index. The Department also received low scores on the leadership and knowledge management index and the talent management index.

In June 2006, the Secretary of Homeland Security requested that the Homeland Security Advisory Council (HSAC) review the culture of the Department and issue recommendations on ways to improve it. The HSAC's Homeland Security Culture Taskforce drew on the experience of leaders in the private sector, and recommended that the Department further define its role; implement homeland security management and leadership models; establish an operational leadership position; create leadership empowered teamwork and a "blended culture"; engage the State, local, Tribal, and private sectors in an "outside the Beltway focused" collaborative process; and institutionalize the opportunity for innovation.

The Committee seeks to ensure that continued progress is made. Thus, this section requires the Secretary of Homeland Security,

acting through the Chief Human Capital Officer, to consider implementing recommendations set forth in the Homeland Security Advisory Council Culture Task Force Report of January 2007.

The Committee further notes that one of the Culture Task Force recommendations reflected empowering employees by "dropping the buzzword 'Human Capital' and replacing it with 'employees' or 'members' of DHS." The Committee recognizes the importance of this key recommendation. The Committee also notes testimony by the Under Secretary for Management on March 1, 2007, which supported replacing the phrase "human capital" with a term more appropriately reflective of the DHS workforce.

Section 511. Homeland Security Education Program Enhancements

This section amends §845(b) of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) to require the Administrator of the Homeland Security Education Program at the Department of Homeland Security to use curricula modeled on existing Department reviewed Master's Degree curricula in homeland security, in conjunction with numerous other media and facilities (including the National Domestic Preparedness Consortium, the National Fire Academy, and the Emergency Management Institute) and to allow the Administrator to develop additional educational programs as appropriate.

The Committee believes that the Department should use all appropriate existing educational resources to fully leverage and maximize these assets as a cost effective and efficient way to implement and operate the Homeland Security Education Program. Therefore, this section expands the pool of statutorily authorized education components the Department should utilize to include asynchronous distance learning, video conferencing, and curricula modeled on existing Department reviewed Master's Degree curricula in homeland security.

Section 512. Repeal of Chapter 97 of Title 5, United States Code

This section repeals Chapter 97 of Title V in the United States Code, and voids any regulations promulgated thereunder.

The Committee wishes to emphasize that Department of Homeland Security employees must be afforded the same protections as other civil service employees. In the Committee's view, the first step in ensuring these rights is to repeal the authority of the Department to establish a separate personnel system. The Committee recognizes that, given the President's prerogative to suspend any protections offered to civil service employees during a state of emergency, any additional personnel systems are unnecessary.

Section 513. Utilization of non law enforcement officers as instructors for non law enforcement classes at the Border Patrol Training Academy

This section expands the ability of the Federal Law Enforcement Training Center (FLETC) to increase its pool of trainers to meet growing homeland security needs and respond in national emergencies. Specifically, this section would allow qualified Federal employees to teach non law enforcement courses at FLETC where appropriate, to ensure the most efficient and cost effective training for Border Patrol agents and other law enforcement personnel.

The Committee recognizes that since the terrorist attacks of September 11, 2001, the need for FLETC training has increased dramatically, and the Center is under significant strain to provide training to Federal law enforcement officers. The Border Patrol, for example, currently is working to increase its force by approximately 6,000 agents over the next two years and, given attrition rates, the Border Patrol will need to hire and train approximately 8,800 agents using FLETC programs.

The Committee is aware that FLETC currently uses only personnel with extensive law enforcement experience to teach in FLETC basic training programs, and the Border Patrol specific portion of this training is taught by current and former Border Patrol agents. The Committee believes it is critical to have as many of these agents as is feasible guarding the Nation's borders, rather than teaching non law enforcement classes that could be taught by other qualified Federal employees. The Committee recognizes, however, that even non law enforcement classes need to be tailored for the specific needs of law enforcement trainees and expects FLETC to take steps to ensure that the substance and quality of the training are not impacted by the use of other Federal employees.

TITLE VI—BIOPREPAREDNESS IMPROVEMENTS

Section 601. Chief Medical Officer and Office of Health Affairs

This section authorizes the Chief Medical Officer (CMO) within the Department of Homeland Security, to be appointed by the President and subject to Senate confirmation. This section also provides that the CMO will have the rank and title of Assistant Secretary for Health Affairs, which will assist the CMO when coordinating with counterparts in other Federal agencies.

Moreover, this provision authorizes creation of the Office of Health Affairs, to be headed by the Chief Medical Officer. This section also requires that the CMO possess a demonstrated ability in and knowledge of medicine and public health.

This section defines the responsibilities of the Chief Medical Officer in discharging the duties of the Office of Health Affairs, including serving as the advisor to the Secretary and the Department's lead authority on matters relating to medical care, public health, food, water, veterinary, and agro defense; overseeing the Department's medical personnel; administering the Department's responsibilities for medical preparedness; acting as the primary point of contact with other Federal agencies on matters relating to medical care, public health, food, water, veterinary, and agro defense; serving as the Department's primary point of contact with State and local governments, the medical community, and the private sector, on medical readiness and response; managing the National Biosurveillance Integration System, BioWatch, and the Department's responsibilities for BioShield; ensuring science based policy, standards, requirements, and metrics for occupational health and safety of the Department's workforce; supporting the Department's components with respect to protective medicine and tactical medical support; developing, in coordination with appropriate Department entities, end to end plans for medical prevention, preparedness, protection, response, and recovery from catastrophic events; integrating into such end to end plans Department of Health and

Human Services' efforts to identify and deploy medical assets used in preparation for or response to national disasters and catastrophes, and to enable access by medical personnel patient electronic medical records to aid treatment of displaced persons to ensure that actions of both Departments are combined for maximum effectiveness during an emergency consistent with the National Response Plan and other emergency support functions; performing such other duties as the Secretary may require; and directing and maintaining a coordinated system for medical support of the Department's operations.

The Secretary of Homeland Security established the Chief Medical Officer (CMO) in July 2005, following the Second Stage Review of the Department's structure and operations. The CMO was approved by statute via the Department of Homeland Security Appropriations Act, 2007 (P.L. 109–295). The Committee believes this statutory language needs to be updated and expanded upon, given the growing recognition of the vital role of medical preparedness in homeland security missions. The Office of Health Affairs (OHA) was proposed by the Secretary in the President's Fiscal Year 2008 budget request and further centralizes responsibility for the medical component of disaster preparedness and response.

Prior to the establishment of the CMO, the Department had no centralized structure for coordinating medical preparedness activities within the Department or with other agencies across the Federal government. The Committee believes that formally establishing OHA will ensure that the Department is able to effectively oversee medical preparedness and response activities and coordinate with other Federal agencies on these matters.

The Committee intends that OHA will play a critical role in preparing for a possible influenza pandemic or for other emerging diseases, including foreign animal and zoonotic diseases, that could threaten National Security, and that it will provide guidelines for medical response plans to State and local first responders. The Committee believes that the Department needs dedicated staff to coordinate and integrate medical preparedness and response activities into overarching emergency response plans. The Committee feels that OHA will provide the critical on site expertise necessary to ensure effective Department leadership on emergency preparedness and response issues relating to medical care, public health, food, water, veterinary care, and agriculture.

Section 602. Improving the material threats process

This section modifies the Project BioShield Act of 2004 (P.L. 108–276), to accelerate and prioritize the Department of Homeland Security's performance of Material Threat Assessments (MTAs) and Material Threat Determinations (MTDs). This section requires the Secretary of Homeland Security to utilize existing risk assessments if deemed credible by the Secretary to accelerate completion of MTAs and MTDs for agents capable of significantly affecting national security. This section also directs the grouping of agents in completing MTAs and MTDs to the extent practicable and appropriate. This provision requires that MTDs for chemical, biological, radiological, and nuclear (CBRN) agents known to the Secretary prior to the date of enactment and which the Secretary considers to be capable of significantly affecting national security be com-

pleted by December 31, 2007. Moreover, it requires the Secretary to submit the results of all material CBRN threat or risk assessments to Congress within 30 days of the completion of each assessment.

This section reauthorizes funds for the Department to conduct MTAs through 2009. It also authorizes the use of additional funds specifically for the purpose of accelerating the MTA and MTD processes to enable the Department to meet the December 31, 2007 deadline. Under this provision, this funding may be used for conducting risk assessments where no credible ones exist.

The Department of Health and Human Services procures countermeasures under Project BioShield, but before this procurement can take place, the Department of Homeland Security must issue MTDs identifying those agents which may pose a credible and immediate threat to national security, and conduct MTAs to provide information about such a threat, including an estimated number of exposed individuals, the geographical extent of the exposure, and other collateral effects. The Committee acknowledges that the pace with which the Department of Homeland Security is issuing and conducting MTDs and MTAs has improved in recent months, and the Committee directs the Secretary to maintain an aggressive schedule by utilizing known risk assessments where feasible. The Committee also directs the Secretary to complete all MTDs for those agents determined to be capable of significantly affecting national security by December 31, 2007.

Section 603. Study on national biodefense training

This section requires the Secretary of Homeland Security to conduct a study to determine the staffing and training requirements for construction or expansion/upgrading of biodefense laboratories at Biosafety Levels (BSL) 3 and 4. This section also directs the study to be conducted in consultation with the Secretary of Defense and the Secretary for Health and Human Services.

This section provides that the study shall address the number of trained personnel, by discipline and qualification level, required for existing biodefense laboratories at BSL 3 and BSL 4; the number of research and support staff, including researchers, laboratory technicians, animal handlers, facility managers, facility or equipment maintainers, and safety and security personnel; the necessary training for the personnel to staff BSL 3 and BSL 4 labs; and training schedules necessary to meet the scheduled openings of these biodefense laboratories. This section also requires a report to be submitted to Congress by December 31, 2007.

The Committee acknowledges that over the next five years, the Federal government will invest in over 2.6 million gross square feet of new construction involving Bio Safety Level (BSL) 3 and BSL 4 laboratory space to support the development of countermeasures against the threat of bioterrorism. Early estimates show that full deployment of these facilities could require over 3,000 trained personnel. This section requires the Secretary of Homeland Security to work with the Secretary of Defense and the Secretary of Health and Human Services to examine the current status of staffing at BSL 4 facilities and to determine the number of newly trained staff that will be needed as these new Federally supported facilities are completed and become operational.

The Committee intends that the study outlined in this provision should determine specific training requirements, including the needs for curriculum development, to fully staff existing and planned BSL 4 facilities so as to ensure their safe and efficient operation. The Committee encourages the Department of Homeland Security to partner with a university that is experienced in operating a BSL 4 facility in order to determine the staffing needs, training requirements, and opportunities for a coordinated national biocontainment training program. The Committee also believes that attention must be given to the ability of future facilities to support Good Laboratory Practice (GLP) techniques. For universities, where many of the new facilities will be located, GLP guidelines have traditionally not been adhered to, but the Committee views GLP compliance as essential for advancing products through the regulatory pipeline.

Section 604. National Biosurveillance Integration Center

This section establishes the National Biosurveillance Integration Center (NBIC) to enhance the Federal government's ability to rapidly identify and track a biological event and creates a Director to head the NBIC. This section requires the Director to, as part of NBIC, develop, maintain, and operate an information technology system that integrates data from relevant surveillance systems and identifies and characterizes biological events in as near real time as possible.

This section provides that the Director's responsibilities shall include enhancing NBIC performance by adding new data feeds, improving statistical and analytical tools, establishing a procedure for reporting suspicious events, considering all relevant homeland security information, and providing technical assistance to State and local governments and private entities. This section requires the Director to assess data from biosurveillance systems and integrate it with intelligence information in order to provide overall biological situational awareness and enable identification of a biological event. It also requires the Director to establish information sharing mechanisms for real time communication with the National Operations Center, to provide integrated information to the heads of other agencies, notify the Secretary and relevant officials of any significant biological event, report on NBIC assessments to partner entities, and distribute NBIC incident or situational awareness reports via information sharing networks.

This section requires the Secretary of Homeland Security to actively seek out interagency agreements that are necessary for the success of this program and delineates the responsibilities of the Department of Homeland Security's interagency partners when they enter into such agreements. Under this provision, partnering agencies shall use best efforts to integrate biosurveillance information through NBIC, provide timely information to NBIC, provide connectivity of data systems to NBIC, detail personnel to NBIC, retain responsibility for their own surveillance systems, and participate in shaping operating practices of NBIC.

This section requires the Director to be informed of any homeland security information relating to biological threats that comes through other channels to the Secretary's attention. It also designates NBIC as a Public Health Authority and ensures that NBIC

is compliant with applicable Health Insurance Portability and Accountability Act (HIPAA) requirements and other applicable privacy regulations. This section also authorizes NBIC to collect or receive health information in order to complete its mission of preventing or controlling disease, injury, or disability. Moreover, this provision requires the Director to establish an interagency working group to advise the biosurveillance capabilities of NBIC, including officials of other government agencies and interagency partners.

This section requires a report be submitted to Congress by December 31 of each year which provides a list of the participants in NBIC; a timeframe for when they expect to have access to new, desirable data; a list of those accessing NBIC information; and a plan for implementing development efforts or major changes to NBIC. This section authorizes for appropriation such funds as may be necessary to carry out NBIC's mission, declares that the NBIC should be fully operational by September 30, 2008, and defines the term "biological event."

This section formally authorizes NBIC to ensure the continued development of a surveillance component as part of an integrated strategy for biodefense. The NBIC is a data fusion center designed to integrate relevant surveillance data from public and private sources to rapidly recognize and characterize the dispersal of biological agents in human and animal populations, food, water, agriculture, and the environment.

The Committee believes that NBIC will enhance the Nation's capability to provide early warning of a biological event, whether terrorist related or naturally occurring, and provide continuous biosituational awareness. This system is being built upon and reinforces existing Federal, State, local, international, and private sector surveillance systems, and incorporates relevant threat information from the Intelligence Community. The Committee encourages the Department to incorporate the analysis of social disruption indicators into NBIC's data fusion activities.

The Committee intends that the Department, in cooperation with other appropriate Federal departments and agencies, will integrate and disseminate assessments to appropriate Federal, regional, State, and local response entities to support decision making.

Because NBIC requires near real time surveillance data from multiple agencies to be an effective detection and early warning program, the Committee directs the Secretary to enter formal interagency agreements. Activities of the NBIC are to be reported to Congress annually. The Committee believes that this Center will provide the earliest warnings of a biological attack and thus enable Federal, State, and local entities to appropriately respond as soon as possible.

Section 605. Risk analysis process and integrated CBRN risk assessment

This section tasks the Secretary of Homeland Security with developing a scientific, quantifiable risk analysis process for chemical, biological, radiological, and nuclear (CBRN) agents, and to conduct such risk assessments. It also directs the Department of Homeland Security to conduct cross cutting risk assessments which will allow comparison not just among biological agents, for example, but across the entire CBRN spectrum of agents. These risk assess-

ments will facilitate Material Threat Assessments required under project BioShield; guide countermeasure research, acquisition and deployment; identify vulnerability gaps; guide resource investment; and support development of the Department's end to end CBRN defense policy. The Secretary is required to complete the first integrated CBRN risk assessment by June 2008 and report the results to Congress.

The methodology developed under this section will support the integration of all classes of agents—chemical, biological, radiological, and nuclear—into a single framework to provide a strategic, integrated CBRN risk assessment.

The Committee feels that an integrated assessment of all CBRN threats is necessary to compare risk across threat classes to better guide resource allocation. This section is intended to establish a risk analysis process that will support both conducting this integrated risk assessment and evaluating optimal risk management strategies. A robust risk analysis process is needed to identify key knowledge gaps or vulnerabilities in our CBRN defense posture; enable rebalancing and refining of investments within, as well as across, the various classes of threats; and support end to end assessments of our overall CBRN defense policy, taking into account the full spectrum of countermeasures available including prevention, preparedness, planning, response and recovery activities. The Committee believes that this risk analysis tool will better steer investments to strategies with the greatest potential for mitigating identified risks.

Section 606. National Bio and Agro defense Facility

This section establishes in statute the proposed National Bio and Agro defense Facility (NBAF) as part of the Science and Technology Directorate in the Department of Homeland Security and provides that it will be headed by a Director. Under this provision, the NBAF will conduct research on animal and zoonotic diseases that pose human health or economic threats to the United States, and will share the results of its research to prevent or reduce the damage done by such diseases.

This section sets out the responsibilities of the NBAF Director as directing research, development, testing and evaluation (RDT&E) on countermeasures, detection technologies, animal models, information sharing mechanisms, and standards; coordinating Federal, State, and local government research efforts; develop an emergency response plan for such diseases; ensuring that NBAF itself is secure; training research and technical staff; and leveraging expertise of academia, private industry, national labs, and Federal, State, and local governments.

Moreover, this section directs that NBAF shall have Bio Safety Level (BSL) 3 and 4 facilities; be situated on at least 30 acres of securable land; be at least 500,000 square feet and be capable of housing at least 80 large animals; have preexisting or easily installed utility infrastructure; have a completed environmental impact statement; and be located reasonably near an airport and major roadways. This provision also specifies that the Department may accept and use in kind donations of real property, personal property, laboratory and office space, utility services, and infrastructure upgrades for the NBAF, and provides that the NBAF is

exempt from the Public Buildings Act of 1959 (40 U.S.C. 3301 et seq.), as well as the requirement under 21 U.S.C. 113a that research on live foot and mouth disease be conducted only on coastal islands.

The Committee believes the Nation currently lacks sufficient BSL 3 and BSL 4 large animal laboratory space to research many high consequence foreign animal and zoonotic diseases. NBAF will fill this gap, provide a unique capability, and fulfill the guidance in Homeland Security Presidential Directive (HSPD) 9 to develop a plan "to provide safe, secure, and state of the art agriculture biocontainment laboratories that research and develop diagnostic capabilities for foreign animal and zoonotic diseases," as well as meet the objectives of HSPD 10, "Biodefense for the 21st Century."

The Committee also views the exemption from a statute which prohibits the study of live virus of foot and mouth disease on the U.S. mainland as an important element of this legislation. Modern biocontainment technology has matured to the point that BSL 4 facilities do not need to be located on an island, and indeed, BSL 4 facilities already do exist on the mainland, although the focus of these facilities is on diseases affecting human health. Furthermore, placing such a facility on an island presents challenges in terms of operating the facility for example, maintenance and operation of utilities and getting personnel, samples, and equipment on and off the island, especially during inclement weather.

The Committee emphasizes that the NBAF will not alter any other agency's mission. This facility's focus will be on addressing those foreign animal and zoonotic diseases of such high consequence that they may pose a threat to national security. The Committee recognizes that with this focus in mind, in some circumstances, it may be necessary to conduct research on certain endemic diseases that share similar characteristics to foreign animal and zoonotic diseases of concern. The Committee expects that the relationships among the Departments of Homeland Security, Agriculture, and Health and Human Services in conducting research and managing personnel within this new facility will be mutually agreed upon and formalized by interagency agreements and understandings. The Committee believes that strong coordination among these Departments is vital to the functioning of the facility and the success of its research.

TITLE VII—HOMELAND SECURITY CYBERSECURITY IMPROVEMENTS

Section 701. Cybersecurity and communications

This section establishes an Office of Cybersecurity and Communications within the Department of Homeland Security, to be headed by the Assistant Secretary for Cybersecurity and Communications. This section requires the Assistant Secretary to assist the Secretary of Homeland Security in carrying out the Department's cybersecurity and communications responsibilities.

This provision requires the Assistant Secretary to establish and maintain a capability in the Department to detect vulnerabilities to cyber attacks or large scale disruptions; conduct risk assessments; develop a plan for continuation of critical information operations in the event of the attack or a large scale disruption; and oversee an emergency communications system in the event of an attack or a

large scale disruption. It also requires the Assistant Secretary to define what constitutes a "cyber incident of national significance" and ensure that the Department's priorities, procedures, and resources are in place to reconstitute critical information in the event of a cyber attack or large scale disruption. Moreover, this section requires the Assistant Secretary to develop a cybersecurity awareness training and education program for awareness throughout the Federal government and consult and coordinate with the Under Secretary for Science and Technology.

This section defines the term "critical information infrastructure" and directs that, if the Secretary reprograms or transfers any funds under this section, the Secretary must comply with any applicable provisions of the annual appropriations act.

The Committee views establishment of the Office of Cybersecurity and Communications as an effort to ensure that the Department fulfills its responsibility as the lead Federal agency for cybersecurity systematically and with the requisite sense of urgency. Moreover, the Committee expects the Department to establish a capability to allow it to monitor critical information infrastructure.

The Committee encourages the Assistant Secretary for Cybersecurity and Communications to request that State Homeland Security Directors develop a State cybersecurity strategy with a focus on continuity of operations and disaster recovery strategies for the critical information and communications technology systems and technology assets that support emergency services at the State and local levels. The Assistant Secretary should encourage States to conduct risk and needs assessments that take into account the multitude of threats to relevant cyber systems. The Assistant Secretary should also encourage coordination with State Homeland Security Directors and State Chief Information Officers, to jointly develop a State cybersecurity strategy for critical information and communications technology systems.

Another area of importance to the Committee is the promotion and distribution of cybersecurity best practices. The responsibilities of the Assistant Secretary include promoting voluntary cybersecurity best practices and benchmarks that are responsive to rapid technology changes and to the security needs of critical infrastructure. As such, the Committee encourages the Department to consider the roles of Federal, State, local and foreign governments, appropriate standards bodies and the private sector, including the insurance industry and auditors to develop methods to promote the wider use of cybersecurity across the economy. The Committee recognizes that due to the interconnectedness of information networks a weakness in one sector may have a cascading effect across other sectors. In view of this, the Department is expected to work with the private sector and academia to determine the best mechanisms for developing a distribution system for cybersecurity best practices and benchmarks to all end user groups across economic sectors, as well as students and government entities.

Section 702. Cybersecurity research and development

This section authorizes $50 million for cybersecurity research and development activities of the Science and Technology Direc-

torate in the Department of Homeland Security for Fiscal Year 2008.

This section requires the Under Secretary for Science and Technology of the Department of Homeland Security to support research, development, testing, evaluation, and transition of cybersecurity technology including fundamental, long term research in cybersecurity, to improve the ability of the United States to prevent, protect against, detect, respond to, and recover from cyber attacks, with emphasis on research and development relevant to large scale, high impact attacks. Of particular interest to the Committee is research to develop more secure versions of fundamental Internet protocols, technologies for detecting attacks or intrusions, techniques for containment of attacks, and development of resilient networks, technologies to reduce vulnerabilities in process control systems, and less vulnerable software.

The Committee acknowledges that the cybersecurity program at the Department's Science and Technology Directorate has funded research which has resulted in almost a dozen open source and commercial products that provide capabilities such as secure thumb drives, root kit detection, worm and distributed denial of service detection, defenses against phishing, network vulnerability assessment, software analysis, and security for process control systems. Unfortunately, the budget for this program continues to be cut. In the last seven years, more than 20 reports from such entities as the INFOSEC Research Council, the National Science Foundation, the National Institute of Justice, the National Security Telecommunications Advisory Committee, the National Research Council, and the President's Commission on Critical Infrastructure Protection have all urged the government to do more to drive, discover, and deliver new solutions to address cyber vulnerabilities. Yet, the cybersecurity program at the Department of Homeland Security has seen its budget reduced from $22.7 million in Fiscal Year 2007 to $14.8 million in Fiscal Year 2008. By comparison, the Federal Bureau of Investigation estimated in 2004 that cybercrime cost companies worldwide around $400 billion. In 2005, U.S. businesses lost an estimated $67 billion.

The Committee wishes to emphasize that this section will increase the funding level for the cybersecurity portfolio to $50 million. This funding level is similar to what was provided for in an amendment offered by Rep. Loretta Sanchez to H.R. 4941, the Homeland Security Science and Technology Enhancement Act of 2006, during the 109th Congress. The Committee received several letters of support for this provision from private sector groups concerned about cybersecurity.

TITLE VIII—SCIENCE AND TECHNOLOGY IMPROVEMENTS

Section 801. Report to Congress on strategic plan

This section requires the Under Secretary for Science and Technology at the Department of Homeland Security to submit to Congress a strategic plan for the Science and Technology Directorate, not later than 120 days after enactment. This section directs the plan to cover a number of areas, including a strategy to enhance the directorate's workforce, a policy for hiring and administering

detailees, a Departmental policy to take technologies from research and development through the procurement process.

The Committee is concerned that, five years after the passage of the Homeland Security Act in 2002 (6 U.S.C. 361 et seq.), the Science and Technology Directorate still has not submitted the strategic plan required under the Act. As time has passed, problems with morale and leadership within the workforce and the Department's use of important tools like the National Laboratories have come into question. The Committee notes that these issues were discussed during a February 14, 2007 hearing held before the Subcommittee on Emerging Threats, Cybersecurity, Science and Technology entitled, "Understanding the Budget and Strategic Agenda of the Science and Technology Directorate."

Section 802. Centers of Excellence program

This section authorizes $31 million for the Centers of Excellence Program and $8 million for the Minority Serving Institutions program for Fiscal Year 2008. This provision also requires that at least one of the next four Centers of Excellence established by the Department of Homeland Security be located at a Minority Serving Institution.

Section 803. National Research Council Study of University Programs

This section requires the Under Secretary for Science and Technology at the Department of Homeland Security to engage the National Academy of Sciences to conduct a study to assess the Department's University Programs, with an emphasis on the Centers of Excellence program.

Specifically, this section directs the Under Secretary for Science and Technology to commission a study by the National Research Council on the University Programs of the Science and Technology (S&T) Directorate. The Committee intends this study to focus primarily on the Centers of Excellence Program and make recommendations for appropriate improvements. This section directs the National Research Council to review many aspects of the S&T Directorate's University Programs including: the key areas of study relevant to the homeland security mission, the selection criteria and weighting of such criteria used for ranking competing institution proposals, the frequency of the review cycle, and the most appropriate criteria and metrics to measure demonstrable progress of Centers of Excellence.

The Committee recognizes that broad criteria are listed in the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) governing the selection of Centers of Excellence; however, the Committee believes the selection criteria should be established to ensure Centers of Excellence are selected that are best aligned with identified homeland security mission areas and demonstrate ability to provide leadership in a particular area of expertise.

This section also instructs the National Research Council to examine and provide recommendations on the most advantageous relationship between the Centers of Excellence and the S&T Directorate with the Department components the Directorate serves. The Committee is concerned with the recent decision of the S&T Directorate to realign the Centers of Excellence in such a way that

limits one Center of Excellence per division of the S&T Directorate. Given the large breadth and scope of research within individual divisions, the Committee questions the rationale for limiting each division to one Center of Excellence. For example, the Chemical/Biological Division conducts research on threats diverse as chemical, food, zoonotic and other biological threats, and each may require unique defense strategies. One Center of Excellence to examine all of these research areas may not provide the most qualified expertise to conduct work across the full breadth of activities and develop the various, unique defenses that may be required by a single division.

Section 804. Streamlining of SAFETY act and antiterrorism technology procurement processes

This section requires the Secretary of Homeland Security to ensure that a sufficient number of personnel trained to apply economic, legal and risk analyses are involved in the review and prioritization of anti terrorism technologies for the purpose of determining whether those technologies may be designated or certified by the Secretary under the Support Anti Terrorism by Fostering Effective Technologies (SAFETY) Act of 2002 (6 U.S.C. 441). This section also requires the Secretary to ensure coordination for implementing the SAFETY Act among the Chief Procurement Officer, the Under Secretary for Science and Technology, the Under Secretary for Policy, and the General Counsel, and to ensure coordination of the Department's efforts to promote awareness and utilization of the SAFETY Act at the Federal, State, and local level.

The Committee acknowledges that legislation identical to this provision was introduced in H.R. 599 on January 22, 2007 by Rep. Langevin. The bill was cosponsored by a number of Committee Members, including Rep. Bilirakis of Florida and Rep. Rogers of Alabama. On January 23, 2007, the House passed H.R. 599, to direct the Secretary of Homeland Security to streamline the SAFETY Act and anti terrorism technology procurement processes. H.R. 599 was referred to the Senate Committee on Homeland Security and Governmental Affairs.

Section 805. Promoting antiterrorism through International Cooperation Act

This section requires the Under Secretary for Science and Technology at the Department of Homeland Security to establish the Science and Technology Homeland Security International Cooperative Programs Office. This section provides that the Office shall be responsible for developing, in consultation with the Department of State, understandings and agreements to allow international cooperative activities to support homeland security research, development, and comparative testing.

This section authorizes $25 million for fiscal years 2008 through 2011 to administer the program and award grants to entities that enter into cooperative agreements under this program.

The Committee notes that language similar to this provision was included in H.R. 4942, which then-Chairman King introduced during the 109th Congress. H.R. 4942 was passed in the House by voice vote on September 26, 2006 and referred to the Senate Committee on Homeland Security and Governmental Affairs. In the

110th Congress, Ranking Member King introduced a provision identical to this section known as the "PACTS Act," or H.R. 884. The House passed H.R. 884 on February 27, 2007, and the bill was referred to the Senate Committee on Homeland Security and Governmental Affairs.

The Committee recognizes that the development and implementation of technology is critical to combating terrorism and is the cornerstone of a comprehensive homeland security strategy. Considering certain U.S. allies in the global war on terror, such as the United Kingdom and the State of Israel, have extensive experience, technological expertise, and common interests in homeland security science and technology, we can mutually benefit from the sharing of technologies to combat domestic and international terrorism.

TITLE IX—BORDER SECURITY IMPROVEMENTS

Section 901. US–VISIT

This section requires the Secretary of Homeland Security to submit the comprehensive strategy required by section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108–458) for the biometric entry and exit data system (US–VISIT) no later than 7 days after the date of enactment, and sets out new minimum exit contents for the strategy, along with a deadline (December 31, 2008) for airport and seaport exit implementation. Moreover, this section prohibits the Department of Homeland Security from transferring the office that carries out US–VISIT to the National Protection and Programs Directorate (NPPD) until the Secretary submits the comprehensive strategy to the appropriate Congressional committees.

The Committee notes that the comprehensive strategy is more than 2 years overdue, and expects the Department to work expeditiously to complete it by the prescribed deadline. The Department's decision to move US–VISIT to NPPD and to describe the program as an "identity management" system has left the Committee uncertain about the Department's position on the exit functions of US–VISIT. The Committee expects the Department to complete both the biometric entry and exit functions of US–VISIT, as mandated in law. This section ensures that the Department will continue to take tangible steps towards deploying exit capabilities at all ports of entry before altering the course of the system. Completing the exit portion of US–VISIT would allow the Department to address the issue of visa overstays and meet an important recommendation of the 9/11 Commission. The Committee believes it is important to national security that the Department remains committed to fulfilling the intended vision for US–VISIT.

Section 902. Shadow Wolves Program

This section authorizes $4.1 million for the Shadow Wolves Program for Fiscal Year 2008. The Shadow Wolves were founded in 1972 under a program created by Congress to track drug smugglers transporting contraband mostly marijuana on Indian reservation lands. The team is responsible for patrolling the Tohono O'odham lands in southern Arizona, and is Immigration and Customs Enforcement's only American Indian tracking unit.

Section 903. Cost effective training for Border Patrol agents

This section requires the Secretary of Homeland Security to take steps necessary to control the costs of hiring, training, and deploying new Border Patrol agents, including allowing the waiver of certain course requirements when the individual has already satisfied such requirements. This section also directs the Office of the Inspector General (OIG) at the Department of Homeland Security to conduct a review of the costs and feasibility of training new Border Patrol agents at Federal training centers and training facilities operated by State, local, and private entities.

This section requires the Secretary to take steps to ensure that the Fiscal Year 2008 per agent cost does not exceed $150,000. If the Secretary determines that the per agent cost must exceed $150,000, this provision requires the Secretary to provide an explanation to the House Committee on Homeland Security in the House of Representative and the Committee on Homeland Security and Government Affairs in the Senate.

The Committee intends the provisions in this section to reduce the overall costs of hiring, training, and deploying new Border Patrol agents. This section permits the Department to waive certain course requirements for trainees and requires OIG to conduct a study to compare the costs and feasibility of training new Border Patrol agents at non profit or private training facilities, including those in the southwest border region.

The Committee notes that a provision that would have prohibited the Department from recruiting, hiring, or training new Border Patrol agents until such costs are certified was struck during the markup process. The Committee believes that given the Department's efforts to increase the number of Border Patrol agents to improve border security, other effective methods of controlling costs should be utilized as appropriate. The Committee, however, will explore other viable mechanisms to enforce this section.

Section 904. Student and Exchange Visitor Program

This section requires the Department of Homeland Security to promulgate regulations to require academic institutions and programs that sponsor international students and exchange visitors to ensure that those individuals are in fact actively participating in the programs for which they were admitted to the United States at the border. This provision ensures that academic institutions and exchange visitor programs devote adequate personnel resources to meet the reporting requirements of the Student and Exchange Visitor Program (SEVP) and that the Department provides adequate training and technical support to the authorized users of SEVP. This section also provides that all authorized users of SEVP shall be confirmed by the Department as not being on a terrorist watch list, and requires a Government Accountability Office review of the SEVP's fee structure.

The Committee intends this section to ensure that international students and exchange visitors are actually complying with the terms of their admission and are not using their student or exchange visitor status as a pretext to enter our borders and pursue unauthorized or illegal activity once they gain admission to the United States. It is not intended to create a burdensome or intrusive requirement for sponsoring institutions, requiring only that

the institution report to the Department if the student or exchange visitor has not been positively identified by physical or electronic means for the periods of time designated in the section or when the student or exchange visitor is not maintaining the institution's minimum standards of success.

By updating the Student and Exchange Visitor Information System (SEVIS) to incorporate timely entries of a student or exchange visitor's declared academic major, the Committee intends to ensure that all information in SEVIS is current and complete, including when a student changes majors before completing their previously declared course of study. This will permit the Department to initiate appropriate security screening for foreign students who pursue programs of national security concern.

The Committee further intends that this section will ensure that academic institutions and exchange visitor programs devote adequate personnel resources to comply with the reporting requirements of this border security program. To assist those institutions, the section requires the Department to provide adequate training and technical support to the authorized users of SEVP. The requirement that all authorized users of SEVP must be confirmed by the Department as not appearing on a terrorist watch list is intended to protect the integrity of SEVP.

The Committee intends that the requirement of the Comptroller General to conduct a review of the SEVP's fee structure will ensure that the program is financially sound and that the fees charged are adequate but not excessive and are necessary to cover the cost of the services provided.

Section 905. Assessment of resources necessary to reduce crossing times at land ports of entry

This section orders the Secretary of Homeland Security to conduct an assessment and submit a report to Congress on the personnel, infrastructure, and technology required to reduce border crossing wait times for pedestrian, commercial, and non commercial vehicular traffic at land ports of entry in the United States to wait times comparable to those existing prior to September 11, 2001, while ensuring that appropriate security checks are maintained, within 180 days of enactment.

The purpose of the study is to quantify the detrimental effects that post September 11, 2001 security measures have had on legitimate trade and travel at U.S. land ports of entry and to assess the resources necessary to compensate for those effects without compromising border security.

Section 906. Biometric identification of unauthorized aliens

This section requires the Secretary of Homeland Security to conduct a pilot program for mobile biometric identification of individuals apprehended by United States Coast Guard personnel on vessels at or near U.S. shores and to consider expanding the capability to all appropriate Department of Homeland Security maritime vessels. This section authorizes $10 million for the program.

Section 907. Report by Government Accountability Office regarding policies and procedures of the Border Patrol

This section requires the Government Accountability Office to submit a report to the Committee on Homeland Security in the House of Representatives and the Committee on Homeland Security and Governmental Affairs in the Senate on the policies and procedures of the Border Patrol with respect to the use of lethal and non lethal force and the pursuit of fleeing vehicles, including data on the number of incidents in which lethal or non lethal force was used and any penalties that were imposed on Border Patrol agents as a result of such use. This section also directs the Comptroller General to consult with Customs and Border Protection and other specified representatives in developing the report and to attach any written opinions those consulted parties may wish to provide as appendices to the report.

TITLE X—INFORMATION SHARING IMPROVEMENTS

Section 1001. State and Local Fusion Center Program

This section establishes the State and Local Fusion Center Program and authorizes such sums as may be necessary to carry out the program's goals, including deploying Department of Homeland Security personnel and retired local law enforcement to participating centers and the maintenance of headquarters staff.

In the wake of the terrorist attacks of September 11, 2001, numerous State and local authorities responsible for the protection of citizenry and critical infrastructure established intelligence or information "fusion" centers. Generally, fusion centers have been created by State authorities to prevent terrorist attacks, while concurrently preparing to respond to and recover from a terrorist attack should one occur. Some centers have a broader counter crime mission. Other centers serve an analytical function only that is, they integrate and analyze raw information provided to them by member agencies and entities and disseminate finished products to a broad array of consumers that range from State governors to street level law enforcement officers. Other centers are engaged in every stage of what is known as the intelligence cycle; based on assessed threats, they develop intelligence collection requirements, recruit human sources to fill these requirements, analyze raw information collected, and produce finished intelligence products. Generally, these fusion centers report to State Governor's offices through State homeland security directors. Most fusion centers are contained within State or locally owned facilities. The Committee notes that this measure does not authorize the construction of Federal facilities to house a State, local, or regional fusion center.

Section 1002. Fusion Center Privacy and Civil Liberties Training Program

This section establishes a program for privacy, civil liberties, and civil rights protection training to be administered by the Office of Civil Liberties and Civil Rights in the Department of Homeland Security. This section requires all Department employees embedded at fusion centers under the State and Local Fusion Center Program to successfully complete the training program and conditions the receipt of grant funds for the State and Local Fusion Center Pro-

gram on the successful completion of the training by a representative from each Center. This provision also authorizes $3 million for each of Fiscal Years 2008 through 2013 and such sums as may be necessary for each subsequent year.

This section specifies that the program shall include training on privacy and civil liberties policies, procedures, and protocols to control access to information; the Privacy Act of 1974 (5 U.S.C. §552a); handling of personally identifiable information in a responsible and appropriate manner; appropriate procedures for the destruction of information that is no longer needed; the consequences of failing to provide adequate privacy and civil liberties protections; compliance with Federal regulations setting standards for multijurisdictional criminal intelligence systems, including 28 C.F.R. 23; and the use of immutable auditing mechanisms designed to track access to information at a State or local fusion center.

The Committee recognizes that, in the wake of the attacks on September 11, 2001, there is a need to develop and share information and intelligence across all levels and sectors of government and private industry. In response, many states have created fusion centers with various Federal, State, and local funding sources. The Committee acknowledges that fusion centers have proven to be an effective and efficient mechanism for exchanging information and intelligence, maximizing resources, streamlining operations, and improving capabilities for fighting crime and terrorism by analyzing data from a variety of sources.

The Committee is committed to strengthening privacy, civil liberties, and civil rights policies at all levels of fusion center activities. Thus, this section requires that fusion center personnel with access to personally identifiable information undergo mandatory privacy, civil rights, and civil liberties training. The Department's Office of Civil Rights and Civil Liberties has conducted similar training in the past and, according to its officials and in conjunction with the Chief Privacy Officer, it is prepared to design and implement the required training.

The Committee agrees that fusion centers are an important and vital tool in addressing the terrorism threat against the United States; however, their importance does not outweigh the importance of the privacy, civil liberties, and civil rights of American citizens and lawful permanent residents. The Committee believes that those rights must be thoughtfully considered in order to legislate responsibly and build public confidence in fusion center measures.

Section 1003. Authority to appoint and maintain a cadre of Federal annuitants for the Office of Information Analysis

This section allows the Secretary of Homeland Security to appoint up to 100 annuitants to positions in the fusion center program to facilitate information sharing between the Department of Homeland Security and State, local, and Tribal law enforcement, and to respond to terrorism, within 5 years of enactment. This section specifies that an appointment made under this provision shall not be subject to the provisions governing appointments in the competitive service or under sections 8344 and 8468 of Title 5 of the U.S. Code, nor any other similar provision of law under a Government retirement system. This section also sets other limitations to appointment of annuitants. This section strengthens the ability of

the Department to attract and hire experienced intelligence analysts by allowing intelligence analysts who have retired from the Federal government to serve at the Department in this critical capacity. The Committee recognizes that the Department has had some difficulty competing for analysts against established intelligence and law enforcement agencies. The Committee further recognizes that while the Department has engaged with State and local fusion centers and is deploying intelligence analysts to support fusion center activities, it is important to ensure that the Department continues to have robust intelligence support at headquarters. The Department has hard working and quality intelligence analysts, but the addition of the most experienced, highly trained retirees will benefit information sharing at a time when the Federal Government is actively engaged in expanding the intelligence workforce.

TITLE XI—MISCELLANEOUS PROVISIONS

Section 1101. Eligible uses for interoperability grants

This section directs the Secretary of Homeland Security to ensure that all funds administered by the Department of Homeland Security to support interoperable communications for State, local, and Tribal agencies may be used to support the standards outlined in the SAFECOM continuum, including governance, standard operating procedures, technology, training and exercises, and usage. The Committee intends this section to ensure that all funds administered by the Department of Homeland Security to support the interoperable emergency communications needs of State, local, and Tribal first responder agencies including funds administered pursuant to a Memorandum of Understanding or other agreement may be used to support all areas of the SAFECOM interoperability continuum. The SAFECOM interoperability continuum, which serves as the Federal standard for interoperable communications spending by States and localities, consists of five areas: governance, standard operating procedures, technology, training and exercises, and usage. The Committee wishes to emphasize that all five areas of the continuum are integral to the achievement of interoperable communications.

In February 2007, the Office of Grants and Training within the Department of Homeland Security and the National Telecommunications and Information Administration (NTIA) within the Department of Commerce signed a Memorandum of Understanding regarding the administration of the new Public Safety Interoperable Communications (PSIC) grant program. The PSIC grant program will disburse $1 billion in grants to support the achievement of interoperable communications for first responders. The two agencies are currently developing grant guidance that will determine how grant recipients may use the funds.

The Committee is concerned that NTIA and the Department of Homeland Security may restrict the use of funds to support only equipment purchases and limited planning activities. This approach is shortsighted and may lead to a waste of funds. Equipment is important to achieving interoperable communications; however, it is not the only challenge. The Department of Homeland Security's National Interoperability Baseline Survey, released in De-

cember 2006, and the Tactical Interoperable Communications Program scorecards, released in January 2007, confirmed that governance and standard operating procedures are the greatest challenges regarding achievement of multi jurisdictional interoperability. Therefore, this section will ensure that State, local, and Tribal agencies receiving PSIC grants will have the flexibility to use the funds to support activities in all five areas of the SAFECOM interoperability continuum.

Section 1102. Rural Homeland Security training initiative

This section establishes a program within the Federal Law Enforcement Training Center (FLETC) to expand homeland security training to units of local and Tribal governments located in rural areas. This section requires the Secretary of Homeland Security to conduct an evaluation of the specific needs of rural areas; to develop and provide training programs to respond to those needs; and to conduct outreach efforts to ensure rural areas are aware of the training programs. This section further ensures that the new rural training programs do not duplicate or displace existing programs in this area, and that the Department of Homeland Security will maximize use of its existing facilities and closed military installations, and conduct on site training at facilities operated by participants.

FLETC established the National Center for State and Local Law Enforcement Training in 1982. The National Center is responsible for training State and local law enforcement personnel in advanced topics designed to develop specialized law enforcement skills. To meet the needs of approximately 90 percent of police agencies in the United States those located outside of large metropolitan areas FLETC developed a training series specifically designed for law enforcement agencies in small towns and rural areas. In recent years, demands on rural law enforcement agencies have increased as they work to prevent and prepare for terrorist acts, major disasters, and other emergencies. The Committee is responding to this dynamic by authorizing and augmenting the existing FLETC program to expand homeland security training to local and Tribal law enforcement personnel in rural areas.

Section 1103. Critical infrastructure study

This section directs the Secretary of Homeland Security, working with the Center for Risk and Economic Analysis of Terrorism Events, to evaluate the feasibility and practicality of creating further incentives for private sector stakeholders to share Protected Critical Infrastructure Information with the Department.

This section authorizes a study on the creation of new incentives for the private sector to share critical information. It is well known that the private sector owns approximately 85 percent of the Nation's critical infrastructure. Because these assets are privately held, many industries fear public disclosure of their commercial secrets or vulnerabilities. The Committee notes that because of the need for private sector cooperation in the war on terror, Congress created the category of information called "Protected Critical Infrastructure Information" to help alleviate some of these concerns. However, many companies are still wary because they believe shar-

ing critical information makes them more vulnerable and will negatively affect their business.

The study authorized by this section would review the incentives that could lead the private sector to see information sharing as a win win situation. The study will specifically consider the use of tax policy to help accomplish this goal through tax incentives, but would also look at other means. The Committee seeks to understand the best ways to ensure that the private sector remains a strong partner in homeland security information sharing efforts.

Section 1104. Terrorist watch list and immigration status review at high risk critical infrastructure

This section authorizes for appropriation such sums as may be necessary to require owners of Tier I or Tier II critical infrastructure sites, as selected for the Buffer Zone Protection Program, to conduct checks of their employees against available terrorist watch lists and immigration status databases.

Section 1105. Authorized use of surplus military vehicles

This section directs the Secretary of Homeland Security to include U.S. military surplus vehicles that have demonstrated utility for responding to acts of terrorism, emergencies, and other disasters on the Authorized Equipment List to allow States and localities to purchase, modify, upgrade, and maintain such vehicles with homeland security assistance administered by the Department of Homeland Security.

The Committee acknowledges that State and local law enforcement agencies currently are using, or plan to use, modified surplus military vehicles for homeland security purposes. Therefore, to support law enforcement agencies in this effort, this section requires the Secretary of Homeland Security to include United States military surplus vehicles that have demonstrated utility for responding to terrorist acts, major disasters, and other emergencies on the Standardized Equipment List in order to allow States and localities to purchase, modify, upgrade, and maintain such vehicles using homeland security assistance administered by the Department.

Section 1106. Computer capabilities to support real time incident management

This section authorizes such sums as may be necessary to encourage development and use of software or Internet based computer capabilities to support real time incident management by Federal, State, local, and Tribal agencies.

This section directs the Secretary of Homeland Security to encourage the development and use of software or Internet based computer capabilities to enable Federal, State, local, and Tribal agencies to manage the response to terrorist attacks or natural disasters in real time. As witnessed after Hurricane Katrina, situational awareness, including geographic information system data and the location and tracking of people, vehicles, commodities, evacuation centers, and shelters, is critical to an effective response. Real time computer based incident management will help ensure that victims of future disasters receive the food and medical attention they require and that public infrastructure is restored or repaired as quickly as possible.

Section 1107. Expenditure reports as a condition of Homeland Security grants.

This section requires recipients of grants administered by the Secretary of Homeland Security to submit expenditure reports to the Secretary no later than 30 days after the last day of each fiscal quarter. Within 30 days of receiving these reports, the Secretary is required to post this information on the internet, but must also take appropriate steps to avoid disclosure of sensitive information. The Committee continues to be concerned about reports of questionable or improper spending of homeland security grants. Through this section, the Committee seeks to add greater transparency to the grants process and allow taxpayers to see where their tax dollars are spent.

Section 1108. Encouraging use of computerized training aids

This section directs the Under Secretary for Science and Technology at the Department of Homeland Security to use and make available to State and local agencies computer simulations to help strengthen the ability of municipalities to prepare for and respond to a chemical, biological, or other terrorist attack, and to standardize response training.

The Committee recognizes the potential benefits of computer simulations to help Federal, State, Tribal, and local agencies prepare for and respond to terrorist acts, major disasters, and other emergencies. Therefore, this section authorizes the Under Secretary for Science and Technology to use and make available to State and local agencies computerized training aids, including Government owned computer modeling programs, as appropriate, in order to improve the abilities of municipalities to prepare for and respond to a chemical, biological, or other terrorist attack, and to standardize response training.

Section 1109. Protection of name, initials, insignia, and departmental seal

This section prohibits the knowing use of the name, initials, insignia, and seal of the Department of Homeland Security for commercial purposes, in a manner that is reasonably calculated to convey the impression that the Department or any component thereof endorsed such use, without written permission by the Secretary of Homeland Security. This section also authorizes the United States Attorney General to initiate civil proceedings in a Federal district court to enjoin such act or practice.

Section 1110. Report on United States Secret Service approach to sharing unclassified, law enforcement sensitive information with Federal, State, and local partners

This section requires the Director of the United States Secret Service to submit a report to the Committee on Homeland Security in the House of Representatives, the Committee on Homeland Security and Governmental Affairs in the Senate, and the Inspector General of the Department of Homeland Security, describing the approach used by the Secret Service to share unclassified, law enforcement sensitive information with Federal, State and local law enforcement, within 240 days of enactment of this Act. This provision also requires a review of the Secret Service report by the Of-

fice of the Inspector General that includes an assessment, with recommendations as to whether the approach can be incorporated throughout the Department of Homeland Security.

Section 1111. Report on United States Secret Service James J. Rowley Training Center

This section requires the Office of the Inspector General of the Department of Homeland Security to report, within 240 days of enactment, to the appropriate Congressional committees on the mission and training capabilities and assessments of the United States Secret Service's James J. Rowley Training Center.

The purpose of this section is to provide the Committee detailed information on the activities and capabilities of the James J. Rowley Training Center, operated by the United States Secret Service. The Committee is interested in assessing current training activities provided to Secret Service personnel, as well as to other Federal, State, and local entities. In view of this, the Committee believes it is important to require an assessment of the material condition of the facilities to maintain current and future throughput of Secret Service participants.

Section 1112. Metropolitan Medical Response System Program

This section authorizes the Metropolitan Medical Response System (MMRS) Program to support local jurisdictions in enhancing and maintaining all hazards response capabilities to manage mass casualty incidents by systematically enhancing and integrating first responders, public health personnel, emergency management personnel, business representatives, and volunteers. Under this section, financial assistance for the program shall be administered by the Federal Emergency Management Agency (FEMA), and programmatic and policy guidance for the program shall be developed by the Assistant Secretary for Health Affairs in coordination with the FEMA Administrator. The program encourages mutual aid agreements and memoranda of understanding between local jurisdictions. This section also authorizes $63 million for each of the fiscal years 2008 through 2011 and requires the Assistant Secretary to conduct a review of the MMRS Program, including a report to be submitted to Congress within 9 months of enactment.

The Committee believes that MMRS is critical to developing and enhancing comprehensive regional health and medical response plans. MMRS also maintains an operational capability to implement the plans and to ensure the maximum usage of regional resources in response to a public health crisis, including an event involving weapons of mass destruction. The Committee wishes to emphasize that when an incident overwhelms local resources and Federal resources are requested, MMRS provides a platform that ensures the rapid and efficient integration of Federal resources into the local incident management system.

Section 1113. Identity Fraud Prevention Grant Program

This section creates a new grant program to help States with the costs of issuing secure driver's licenses and identification cards in accordance with the REAL ID Act of 2005 (P.L. 109–13 Division B). Under this provision, the grants may be used to develop machine readable technology, establish a system for State to State data ex-

change; safeguard of personal information; facilitate queries of Federal databases by States; capture digital images of identity source documents; and reduce the number of in person visits necessary to obtain state issued identity documents. This section directs that priority is to be given to States that will use the grant funds to prevent fraudulent issuance of identification cards. This section authorizes for appropriation $120 million for Fiscal Year 2008, $100 million for Fiscal Year 2009, and $80 million for Fiscal Year 2010.

This section creates a grant program that would assist States in preventing individuals from fraudulently obtaining State issued drivers' licenses and identification cards and make those forms of identification more secure, in accord with the principles established by the REAL ID Act of 2005.

The Committee notes that this grant program would give priority to those States that demonstrate the grant will assist the State in complying with regulations issued by the Department for the prevention of fraudulently issued identification in a way that would facilitate other States to achieve the same goal. In addition, this section precludes the Department from using funds from any other Homeland Security Grant Program for expenses related to the REAL ID Act. The Committee is concerned that the Department's recent decision to allow the use of Homeland Security grants by States for REAL ID compliance dilutes the intended focus of the Homeland Security Grant Program on terrorism related programs.

Section 1114. Technical corrections

This section makes technical corrections to the Homeland Security Act of 2002 (P.L. 107 296; 6 U.S.C. 361 et seq.).

Section 1115. Citizen Corps

This section authorizes such sums as may be necessary for the Secretary of Homeland Security to encourage the utilization of Citizen Corps funding and local Citizen Corps Councils to assist in the education and training of populations located around critical infrastructure for preparedness and response.

Section 1116. Report regarding Department of Homeland Security implementation of comptroller general and inspector general recommendations regarding protection of agriculture

This section requires the Secretary of Homeland Security to submit a report to Congress, within 120 days of enactment of this Act, on the status of Department of Homeland Security activities with respect to agriculture security, with an emphasis on the recommendations of the referenced reports on the issue from the Government Accountability Office (GAO) and the Department's Office of the Inspector General (OIG). This section directs the report to include, for each recommendation in the two reports, a description of steps taken thus far in response to the recommendation and either the Department's plans to implement the recommendation or a justification for the nonimplementation of the recommendation.

The Committee is concerned that the Department has not done enough to ensure the security of agriculture in the United States, and that it is not acting fast enough to get its new Agriculture Security programs online. The Committee notes that there have been problems with staffing and funding for the critical work of agro de-

fense, but the Committee is aware of the Department's efforts to develop a strategic plan and execute the National Policy on Defense of U.S. Agriculture and Food (Homeland Security Presidential Directive HSPD 9; January 20, 2004) tasks. The Committee expects that the report outlined in this section will detail progress and planning on this front.

The Committee is concerned that various agencies, stakeholders, and working groups have not been tasked or engaged in securing agriculture, consistent with the national plans and guidelines. In particular, the Committee expects the report to reflect efforts to coordinate national intelligence and data gathering among Federal departments and agencies, State and local governments, the private sector, and non governmental organizations. This is consistent with both the GAO and OIG reports, and with the need for an early warning and response system.

The Committee recommends that the Department expand its use of the Risk Analysis and Management for Critical Asset Protection (RAMCAP) methodology or a RAMCAP consistent methodology, as recommended in the National Infrastructure Protection Plan, and coordinate with the Department of Agriculture to provide guidance in the use of a standardized methodology consistent with other Department risk assessment efforts. Both the GAO and OIG reports emphasized the need for comparative analysis and consistency to help secure the Nation's food supply from malevolent threats and natural disasters. The Committee remains committed to working with the Department to ensure that food is safe "from farm to fork."

Section 1117. Report regarding levee system

This section requires the Secretary to develop a comprehensive risk analysis of the Nation's levee systems, including analysis of threats to, vulnerabilities of, and consequences for such systems. This section permits the Secretary to build upon plans already developed or being developed. It is the sense of the Committee that the Dams/Levees Sector Specific Plan being developed pursuant to Homeland Security Presidential Directive 7 (HSPD–7, Directive on Critical Infrastructure Identification, Prioritization, and Protection; December 17, 2003) and the National Infrastructure Protection Plan may meet this requirement. The Committee urges the Department to release this Sector Specific Plan and the 16 other plans as soon as possible.

Section 1118. Report on force multiplier program

This section requires the Secretary of Homeland Security to submit a report on the Department's progress in establishing procedures and operational aspects to ensure that Federal Air Marshals are made aware of any armed or unarmed law enforcement personnel on board an aircraft.

Section 1119. Eligibility of State judicial facilities for State Homeland Security grants

This section provides that States may use grant funds received under the State Homeland Security Grant Program or the Urban Area Security Initiative for the purpose of providing funds to State and local judicial facilities for security at those facilities.

Section 1120. Authorization of Homeland Security functions of the United States Secret Service

This section authorizes $1,641,432,000 and 6,822 full time equivalent positions for the United States Secret Service's missions.

The Committee was concerned that the President's budget recommended reallocating $20,945,000 of the base funds to support personnel and fuel costs associated with the Service's protection mission. The Committee's authorization seeks to restore $10,600,000 of these funds. Above the President's request, the Committee recommends $2,000,000 be provided for maintenance of perimeter security systems at the White House, and $8,600,000 for protective countermeasure systems used to protect Secret Service protectees.

The Committee further recommends $322,029,000 be provided for field and investigations operations, which includes $21,836,000 for the hiring of 122 full time equivalent (FTE) positions above the President's request for homeland.

Congress intended the United States Secret Service to be a dual mission agency a century ago when it passed the Sundry Civil Expenses Act for 1907. It is incumbent upon the Congress to resource it as such.

The Committee recommends the Secret Service be appropriated a minimum of $3,725,000 for maintenance and upkeep of the James J. Rowley Training Center. It has also requested a report on the Center's current capabilities, requirements, and infrastructure improvements necessary to meet those requirements, which is further explained under Section 1111 of this Report.

Section 1121. Data sharing

This section requires the Secretary of Homeland Security to share information on disaster assistance requested or provided in response to an act of terrorism, natural disaster, or other emergency to Federal, State, and local law enforcement entities to assist in the location of a missing child or a sex offender. It also requires the Secretary to consider the privacy implications of sharing this information.

After Hurricane Katrina, law enforcement entities had difficulty locating some of the approximately 2000 registered sex offenders that were evacuated as a result of the storm. At the time, the Department of Health and Human Services' Administration for Children and Families estimated that registered sex offenders evacuated to about 30 States. Some of these offenders failed to register with the jurisdiction to which they moved. In many cases, law enforcement agencies were unable to locate these offenders and the Federal Emergency Management Agency (FEMA was unable to provide information about assistance that had been provided. The Committee believes that this section will ensure that the Secretary of Homeland Security has the authority to share this information with law enforcement entities.

TITLE XII—MARITIME ALIEN SMUGGLING

This title, modeled after the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 1904), enables the Department of Homeland Security to improve the security of the U.S. land ports of

entry and coastlines against unlawful entry by those who seek to enter the United States without official permission or lawful authority, and to deny smugglers the use of maritime routes. Like the Maritime Drug Law Enforcement Act, this section addresses the shortcomings of existing law that impede the prosecution of maritime smugglers.

The Committee is concerned that each year, maritime smugglers transport thousands of aliens to the United States with virtual impunity because the existing law does not sufficiently punish or deter such conduct. During Fiscal Years 2004 and 2005, over 840 alien smugglers facilitated or attempted to facilitate the illegal entry of over 5,200 aliens into the United States at an estimated profit of $13.9 million. During this period, fewer than three percent of interdicted maritime alien smugglers were referred for prosecution because they successfully circumvented the elements necessary for the government to prevail on existing felony offenses.

The Committee notes that previously, 8 U.S.C. 1324 was the principal Federal criminal statute under which alien smugglers, including maritime smugglers, are prosecuted. That law was not designed for prosecuting maritime smuggling cases with their unique evidentiary and jurisdictional issues. The Committee further notes that many of the difficulties encountered by the Coast Guard and other law enforcement agencies in maritime smuggling enforcement stem from a statutory framework that did not take into consideration the unique aspects of extraterritorial maritime law enforcement operations. Moreover, alien smuggling under 8 U.S.C. 1324 was only a felony if the government could prove beyond a reasonable doubt that an alien smuggler sought commercial advantage or private financial gain, caused serious bodily injury, or placed in jeopardy the life of any person. Maritime smuggling is inherently dangerous, and felony prosecution should not be predicated on additional proof of that fact. Likewise, maritime smugglers have exploited the "profit" requirement for felony prosecution by offering incentives to the aliens to lie and coaching the aliens to tell criminal investigators that the smuggler was a "good Samaritan" who "rescued" them.

The Committee notes that in 1980, Congress recognized and addressed similar shortcomings in the Comprehensive Drug Abuse Prevention and Control Act of 1970 by enacting the Maritime Drug Law Enforcement Act. With this Title, the Committee addresses shortcomings in existing law and provides the law enforcement community with the legal tools and authority it needs to prevent human maritime smuggling.

Section 1201. Short Title

This section provides that this Title may be cited as the "Maritime Alien Smuggling Law Enforcement Act."

Section 1202. Congressional Declaration of Findings

This section declares Congressional findings that maritime alien smuggling violates the national sovereignty of the United States, places the country at risk of terrorist activity, compromises the country's border security, contravenes the rule of law, and compels an unnecessary risk to life among those who enforce the Nation's laws. It also declares that such maritime alien smuggling creates

a condition of human suffering among those who seek to enter the United States without official permission or lawful authority that is to be universally condemned and vigorously opposed.

Section 1203. Definitions

This section defines the terms "alien," "lawful authority," "serious bodily injury," "State," "terrorist activity," and "vessel of the United States" as those terms are to be construed in this Title.

Section 1204. Maritime alien smuggling

This section creates and defines the substantive offense of Maritime Alien Smuggling, as well as offenses for attempt and conspiracy to commit the substantive crime. This section clarifies certain jurisdictional issues and also enumerates an affirmative defense and rules for the admissibility of evidence. This provision also prescribes penalties for committing the enumerated offenses, including imprisonment for not less than 3 years and not more than 20 years, a fine of not more than $100,000, or both. This provision also provides for more severe penalties in certain circumstances.

Section 1205. Seizure or forfeiture of property

This section provides for seizure or forfeiture of property in the manner prescribed by section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) of any conveyance, including any vessel, vehicle, or aircraft, that has been or is being used in the commission of any violation of this Title, the gross proceeds of such violation, and any property traceable to such conveyance or proceeds. This section also provides that practices commonly recognized as alien smuggling tactics may provide prima facie evidence of the intent needed to support an order to seize or forfeit property.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.— This Act may be cited as the "Homeland Security Act of 2002".

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

Sec. 1. Short title; table of contents.

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TITLE I—DEPARTMENT OF HOMELAND SECURITY

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Sec. 104. Congressional notification.

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TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

Sec. 201. Directorate for Information Analysis and Infrastructure Protection.
Sec. 202. Access to information.
Sec. 203. Fusion center privacy and civil liberties training program.

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Subtitle C—Information Security

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Sec. 226. Office of Cybersecurity and Communications.

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TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

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Sec. 316. National Biosurveillance Integration Center.
Sec. 317. Risk analysis process and integrated CBRN risk assessment.
Sec. 318. National Bio and Agro-defense Facility.
Sec. 319. Promoting antiterrorism through international cooperation program.

[TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

[Subtitle A—Under Secretary for Border and Transportation Security

[Sec. 401. Under Secretary for Border and Transportation Security.
[Sec. 402. Responsibilities.
[Sec. 403. Functions transferred.]

TITLE IV—DIRECTORATE FOR POLICY

Subtitle A—Under Secretary for Policy

Sec. 401. Directorate for Policy.
Sec. 402. Comprehensive Homeland Security Review.

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Subtitle D—Immigration Enforcement Functions

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Sec. 447. Document fraud prevention grant program.

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TITLE V—NATIONAL EMERGENCY MANAGEMENT

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Sec. 522. Metropolitan Medical Response System Program.

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TITLE VII—MANAGEMENT

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Sec. 707. Chief Operating Officers.
Sec. 708. Chief Security Officer.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

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Subtitle D—Acquisitions

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Sec. 836. Homeland security procurement training.
Sec. 837. Review of contractor past performance.
Sec. 838. Integrity in contracting.
Sec. 839. Requirement that certain articles procured for Department personnel be manufactured in the United States.

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Subtitle H—Miscellaneous Provisions

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Sec. 890A. Expenditure reports as a condition of homeland security grants.

Subtitle I—Information Sharing

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[Sec. 895. Authority to share grand jury information.
[Sec. 896. Authority to share electronic, wire, and oral interception information.
[Sec. 897. Foreign intelligence information.
[Sec. 898. Information acquired from an electronic surveillance.
[Sec. 899. Information acquired from a physical search.]
Sec. 895. State and Local Fusion Center Program.

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[TITLE XVIII—DOMESTIC NUCLEAR DETECTION OFFICE

[Sec. 1801. Domestic Nuclear Detection Office.
[Sec. 1802. Mission of Office.
[Sec. 1803. Hiring authority.
[Sec. 1804. Testing authority.
[Sec. 1805. Relationship to other Department entities and Federal agencies.
[Sec. 1806. Contracting and grant making authorities.]

TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE

Sec. 1901. Domestic Nuclear Detection Office.
Sec. 1902. Mission of Office.
Sec. 1903. Hiring authority.
Sec. 1904. Testing authority.
Sec. 1905. Relationship to other Department entities and Federal agencies.
Sec. 1906. Contracting and grant making authorities.

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TITLE I—DEPARTMENT OF HOMELAND SECURITY

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SEC. 102. SECRETARY; FUNCTIONS.

(a) * * *

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(f) SPECIAL ASSISTANT TO THE SECRETARY.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(1) * * *

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(9) coordinating with [the Directorate of Border and Transportation Security] *United States Customs and Border Protection* and the Assistant Secretary for Trade Development of the Department of Commerce on issues related to the travel and tourism industries; and

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SEC. 103. OTHER OFFICERS.

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—There are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) * * *

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(3) An Under Secretary [for Border and Transportation Security] *for Policy*.

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SEC. 104. CONGRESSIONAL NOTIFICATION.

(a) IN GENERAL.—The Secretary shall actively consult with the congressional homeland security committees, and shall keep such committees fully and currently informed with respect to all activities and responsibilities within the jurisdictions of these committees.

(b) RELATIONSHIP TO OTHER LAW.—Nothing in this section affects the requirements of section 872. The requirements of this section supplement, and do not replace, the requirements of that section.

(c) CLASSIFIED NOTIFICATION.—The Secretary may submit any information required by this section in classified form if the information is classified pursuant to applicable national security standards.

(d) SAVINGS CLAUSE.—This section shall not be construed to limit or otherwise affect the congressional notification requirements of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), insofar as they apply to the Department.

(e) DEFINITION.—As used in this section, the term "congressional homeland security committees" means the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate.–

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

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SEC. 203. FUSION CENTER PRIVACY AND CIVIL LIBERTIES TRAINING PROGRAM.

(a) ESTABLISHMENT.—The Secretary, through the Assistant Secretary for Information Analysis, the Privacy Officer, and the Officer for Civil Rights and Civil Liberties, shall establish a program within the Office of Civil Rights and Civil Liberties to provide privacy, civil liberties, and civil rights protection training for appropriate Department employees and State, local, tribal employees serving in State and local fusion centers participating in the State and Local Fusion Center Program.

(b) MANDATORY TRAINING.—

(1) DEPARTMENT EMPLOYEES.—The Secretary shall require each employee of the Department who is embedded at a State or local fusion center and has access to United States citizens and legal permanent residents personally identifiable information to successfully complete training under the program established under subsection (a).

(2) FUSION CENTER REPRESENTATIVES.—As a condition of receiving a grant from the Department, a fusion center shall require each State, local, tribal, or private sector representative of

the fusion center to successfully complete training under the program established under subsection (a) not later than six months after the date on which the State or local fusion center at which the employee is embedded receives a grant from the Department.

(c) CONTENTS OF TRAINING.—Training provided under the program established under subsection (a) shall include training in Federal law in each of the following:

(1) Privacy, civil liberties, and civil rights policies, procedures, and protocols that can provide or control access to information at a State or local fusion center.

(2) Privacy awareness training based on section 552a of title 5, United States Code, popularly known as the Privacy Act of 1974.

(3) The handling of personally identifiable information in a responsible and appropriate manner.

(4) Appropriate procedures for the destruction of information that is no longer needed.

(5) The consequences of failing to provide adequate privacy and civil liberties protections.

(6) Compliance with Federal regulations setting standards for multijurisdictional criminal intelligence systems, including 28 CFR 23 (as in effect on the date of the enactment of this section).

(7) The use of immutable auditing mechanisms designed to track access to information at a State or local fusion center.

(d) CERTIFICATION OF TRAINING.—The Secretary, acting through the head of the Office of Civil Rights and Civil Liberties, shall issue a certificate to each person who completes the training under this section and performs successfully in a written examination administered by the Office of Civil Rights and Civil Liberties. A copy of each such certificate issued to an individual working at a participating fusion center shall be kept on file at that fusion center.

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized by section 101, there are authorized to be appropriate to carry out this section—

(1) $3,000,000 for each of fiscal years 2008 through 2013; and

(2) such sums as may be necessary for each subsequent fiscal year.

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Subtitle C—Information Security

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SEC. 226. OFFICE OF CYBERSECURITY AND COMMUNICATIONS.

(a) IN GENERAL.—There shall be within the Department of Homeland Security an Office of Cybersecurity and Communications, which shall be headed by the Assistant Secretary for Cybersecurity and Communications.

(b) DUTY OF THE ASSISTANT SECRETARY.—The Assistant Secretary shall assist the Secretary in carrying out the responsibilities of the Department regarding cybersecurity and communications.

(c) RESPONSIBILITIES.—The Assistant Secretary shall be responsible for overseeing preparation, situational awareness, response, re-

constitution, and mitigation necessary for cybersecurity and to protect communications from terrorist attacks, major disasters, and other emergencies, including large-scale disruptions, and shall conduct the following activities to execute those responsibilities:

(1) PREPARATION AND SITUATIONAL AWARENESS.—

(A) Establish and maintain a capability within the Department to monitor critical information infrastructure to aid in detection of vulnerabilities and warning of potential acts of terrorism and other attacks.

(B) Conduct risk assessments on critical information infrastructure with respect to acts of terrorism and other large-scale disruptions, identify and prioritize vulnerabilities in critical information infrastructure, and coordinate the mitigation of such vulnerabilities.

(C) Develop a plan for the continuation of critical information operations in the event of a cyber attack or other large-scale disruption of the information infrastructure of the United States.

(D) Oversee an emergency communications system in the event of an act of terrorism or other large-scale disruption of the information infrastructure of the United States.

(2) RESPONSE AND RECONSTITUTION.—

(A) Define what qualifies as a cyber incident of national significance for purposes of the National Response Plan.

(B) Ensure that the Department's priorities, procedures, and resources are in place to reconstitute critical information infrastructures in the event of an act of terrorism or other large-scale disruption.

(3) MITIGATION.—

(A) Develop a national cybersecurity awareness, training, and education program that promotes cybersecurity awareness within the Federal Government and throughout the Nation.

(B) Consult and coordinate with the Under Secretary for Science and Technology on cybersecurity research and development to strengthen critical information infrastructure against acts of terrorism and other large-scale disruptions.

(d) DEFINITION.—In this section the term "critical information infrastructure" means systems and assets, whether physical or virtual, used in processing, transferring, and storing information so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

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TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

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SEC. 316. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

(a) ESTABLISHMENT.—The Secretary shall establish a National Biosurveillance Integration Center (referred to in this section as the

"NBIC") to enhance the capability of the Federal Government to rapidly identify, characterize, and localize a biological event by integrating and analyzing data related to human health, animals, plants, food, and the environment. The NBIC shall be headed by a Director.

(b) INTEGRATED BIOSURVEILLANCE NETWORK.—As part of the NBIC, the Director shall develop, operate, and maintain an integrated network to detect, as early as possible, a biological event that presents a risk to the United States or the infrastructure or key assets of the United States. The network shall—

(1) consolidate data from all relevant surveillance systems maintained by the Department and other governmental and private sources, both foreign and domestic, to the extent practicable; and

(2) use an information technology system that uses the best available statistical and other analytical tools to identify and characterize biological events in as close to real-time as possible.

(c) RESPONSIBILITIES.—

(1) IN GENERAL.—The Director shall—

(A) monitor on an ongoing basis the availability and appropriateness of candidate data feeds and solicit new surveillance systems with data that would enhance biological situational awareness or overall performance of the NBIC;

(B) review and seek to improve on an ongoing basis the statistical and other analytical methods used by the NBIC;

(C) establish a procedure to enable Federal, State and local government, and private sector entities to report suspicious events that could warrant further assessments by the NBIC;

(D) receive and consider all relevant homeland security information; and

(E) provide technical assistance, as appropriate, to all Federal, State, and local government entities and private sector entities that contribute data relevant to the operation of the NBIC.

(2) ASSESSMENTS.—The Director shall—

(A) continuously evaluate available data for evidence of a biological event; and

(B) integrate homeland security information with NBIC data to provide overall biological situational awareness and determine whether a biological event has occurred.

(3) INFORMATION SHARING.—The Director shall—

(A) establish a mechanism for real-time communication with the National Operations Center;

(B) provide integrated information to the heads of the departments and agencies with which the Director has entered into an agreement under subsection (d);

(C) notify the Secretary, the head of the National Operations Center, and the heads of appropriate Federal, State, tribal, and local entities of any significant biological event identified by the NBIC;

(D) provide reports on NBIC assessments to Federal, State, and local government entities, including departments and agencies with which the Director has entered into an

agreement under subsection (d), and any private sector entities, as considered appropriate by the Director; and

(E) use information sharing networks available to the Department for distributing NBIC incident or situational awareness reports.

(d) INTERAGENCY AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall, where feasible, enter into agreements with the heads of appropriate Federal departments and agencies, including the Department of Health and Human Services, Department of Defense, the Department of Agriculture, the Department of State, the Department of Interior, and the Intelligence Community.

(2) CONTENT OF AGREEMENTS.—Under an agreement entered into under paragraph (1), the head of a Federal department or agency shall agree to—

(A) use the best efforts of the department or agency to integrate biosurveillance information capabilities through NBIC;

(B) provide timely, evaluated information to assist the NBIC in maintaining biological situational awareness for timely and accurate detection and response purposes;

(C) provide connectivity for the biosurveillance data systems of the department or agency to the NBIC network under mutually agreed protocols;

(D) detail, if practicable, to the NBIC department or agency personnel with relevant expertise in human, animal, plant, food, or environmental disease analysis and interpretation;

(E) retain responsibility for the surveillance and intelligence systems of that department or agency, if applicable; and

(F) participate in forming the strategy and policy for the operation and information sharing practices of the NBIC.

(e) NOTIFICATION OF DIRECTOR.—The Secretary shall ensure that the Director is notified of homeland security information relating to any significant biological threat and receives all classified and unclassified reports related to such a threat in a timely manner.

(f) ADMINISTRATIVE AUTHORITIES.—

(1) PRIVACY.—The Secretary shall—

(A) designate the NBIC as a public health authority;

(B) ensure that the NBIC complies with any applicable requirements of the Health Insurance Portability and Accountability Act of 1996; and

(C) ensure that all applicable privacy regulations are strictly adhered to in the operation of the NBIC and the sharing of any information related to the NBIC.

(2) COLLECTION OF INFORMATION.—The NBIC, as a public health authority with a public health mission, is authorized to collect or receive health information, including such information protected under the Health Insurance Portability and Accountability Act of 1996, for the purpose of preventing or controlling disease, injury, or disability.

(g) NBIC INTERAGENCY WORKING GROUP.—The Director shall—

(1) establish an interagency working group to facilitate interagency cooperation to advise the Director on recommendations

to enhance the biosurveillance capabilities of the Department; and

(2) invite officials of Federal agencies that conduct biosurveillance programs, including officials of the departments and agencies with which the Secretary has entered into an agreement under subsection (d), to participate in the working group.

(h) ANNUAL REPORT REQUIRED.—Not later than December 31 of each year, the Secretary shall submit to Congress a report that contains each of the following:

(1) A list of departments, agencies, and private or nonprofit entities participating in the NBIC and a description of the data that each entity has contributed to the NBIC during the preceding fiscal year.

(2) The schedule for obtaining access to any relevant biosurveillance information not received by the NBIC as of the date on which the report is submitted.

(3) A list of Federal, State, and local government entities and private sector entities that have direct or indirect access to the information that is integrated by the NBIC.

(4) For any year before the NBIC is fully implemented or any year in which any major structural or institutional change is made to the NBIC, an implementation plan for the NBIC that includes cost, schedule, key milestones, and the status of such milestones.

(i) RELATIONSHIP TO OTHER DEPARTMENTS AND AGENCIES.—The authority of the Secretary under this section shall not affect an authority or responsibility of any other Federal department or agency with respect to biosurveillance activities under any program administered by that department or agency.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year.

(k) BIOLOGICAL EVENT.—For purposes of this section, the term "biological event" means—

(1) an act of terrorism involving biological agents or toxins of known or unknown origin; or

(2) a naturally occurring outbreak of an infectious disease that may be of potential national significance.

SEC. 317. RISK ANALYSIS PROCESS AND INTEGRATED CBRN RISK ASSESSMENT.

(a) RISK ANALYSIS PROCESS.—The Secretary shall develop a risk analysis process that utilizes a scientific, quantitative methodology to assess and manage risks posed by chemical, biological, radiological, and nuclear (CBRN) agents.

(b) INTEGRATED CBRN RISK ASSESSMENT.—The Secretary shall use the process developed under subsection (a) to conduct a risk assessment that shall support the integration of chemical, biological, radiological, and nuclear agents.

(c) PURPOSE.—The purpose of the risk analysis process developed under subsection (a) and the integrated risk assessment conducted under subsection (b) shall be to identify high risk agents, determine how best to mitigate those risks, and guide resource allocation. Such risk analysis shall—

(1) facilitate satisfaction of the requirements of section 602;

(2) guide research, development, acquisition, and deployment of applicable countermeasures, including detection systems;

(3) identify key knowledge gaps or vulnerabilities in the CBRN defense posture of the Department;

(4) enable rebalancing and refining of investments within individual classes of threat agents as well as across such classes; and

(5) support end-to-end assessments of the overall CBRN defense policy of the Department, taking into account the full spectrum of countermeasures available, including prevention, preparedness, planning, response and recovery activities, to better steer investments to strategies with the greatest potential for mitigating identified risks.

(d) RISK INFORMATION.—

(1) CLASSES OF THREAT AGENTS.—In developing the risk analysis process under subsection (a) and conducting the risk assessment under subsection (b), the Secretary shall consider risks posed by the following classes of threats:

(A) Chemical threats, including—

(i) toxic industrial materials and chemicals;

(ii) traditional chemical warfare agents; and

(iii) non-traditional agents, which are defined as novel chemical threat agents or toxicants requiring adapted countermeasures.

(B) Biological threats, including—

(i) traditional agents listed by the Centers of Disease Control and Prevention as Category A, B, and C pathogens and toxins;

(ii) enhanced agents, which are defined as traditional agents that have been modified or selected to enhance their ability to harm human populations or circumvent current countermeasures;

(iii) emerging agents, which are defined as previously unrecognized pathogens that may be naturally occurring and present a serious risk to human populations; and

(iv) advanced or engineered agents, which are defined as novel pathogens or other materials of biological nature that have been artificially engineered in the laboratory to bypass traditional countermeasures or produce a more severe or otherwise enhanced spectrum of disease.

(C) Nuclear and radiological threats, including fissile and other radiological material that could be incorporated into an improvised nuclear device or a radiological dispersal device or released into a wide geographic area by damage to a nuclear reactor.

(D) Threats to the agriculture sector and food and water supplies.

(E) Other threat agents the Secretary determines appropriate.

(2) SOURCES.—The risk analysis process developed under subsection (a) shall be informed by findings of the intelligence and law enforcement communities and integrated with expert input from the scientific, medical, and public health communities, in-

cluding from relevant components of the Department and other Federal agencies.

(3) DATA QUALITY, SPECIFICITY, AND CONFIDENCE.—In developing the risk analysis process under subsection (a), the Secretary shall consider the degree of uncertainty and variability in the available scientific information and other information about the classes of threat agents under paragraph (1). An external review shall be conducted to assess the ability of the risk analysis process developed by the Secretary to address areas of large degrees of uncertainty.

(4) NEW INFORMATION.—The Secretary shall frequently and systematically update the risk assessment conducted under subsection (b), as needed, to incorporate emerging intelligence information or technological changes in order to keep pace with evolving threats and rapid scientific advances.

(e) METHODOLOGY.—The risk analysis process developed by the Secretary under subsection (a) shall—

(1) consider, as variables—

(A) threat, or the likelihood that a type of attack that might be attempted;

(B) vulnerability, or the likelihood that an attacker would succeed; and

(C) consequence, or the likely impact of an attack;

(2) evaluate the consequence component of risk as it relates to mortality, morbidity, and economic effects;

(3) allow for changes in assumptions to evaluate a full range of factors, including technological, economic, and social trends, which may alter the future security environment;

(4) contain a well-designed sensitivity analysis to address high degrees of uncertainty associated with the risk analyses of certain CBRN agents;

(5) utilize red teaming analysis to identify vulnerabilities an adversary may discover and exploit in technology, training, and operational procedures and to identify open-source information that could be used by those attempting to defeat the countermeasures; and

(6) incorporate an interactive interface that makes results and limitations transparent and useful to decision makers for identifying appropriate risk management activities.

(f) COORDINATION.—The Secretary shall ensure that all risk analysis activities with respect to radiological or nuclear materials shall be conducted in coordination with the Domestic Nuclear Detection Office.

(g) TIMEFRAME; REPORTS TO CONGRESS.—

(1) INITIAL REPORT.—By not later than June 2008, the Secretary shall complete the first formal, integrated, CBRN risk assessment required under subsection (b) and shall submit to Congress a report summarizing the findings of such assessment and identifying improvements that could be made to enhance the transparency and usability of the risk analysis process developed under subsection (a).

(2) UPDATES TO REPORT.—The Secretary shall submit to Congress updates to the findings and report in paragraph (1), when appropriate, but by not later than two years after the date on which the initial report is submitted. Such updates shall reflect

improvements in the risk analysis process developed under subsection (a).

SEC. 318. NATIONAL BIO AND AGRO-DEFENSE FACILITY.

(a) ESTABLISHMENT.—There is in the Department a National Bio and Agro-defense Facility (referred to in this section as the "NBAF"), which shall be headed by a Director who shall be appointed by the Secretary.

(b) PURPOSES.—

(1) IN GENERAL.—The NBAF shall be an integrated human, foreign-animal, and zoonotic disease research, development, testing, and evaluation facility with the purpose of supporting the complementary missions of the Department, the Department of Agriculture, and the Department of Health and Human Services in defending against the threat of potential acts of agroterrorism and natural-occurring incidents related to agriculture with the potential to adversely impact public health, animal health, and the economy, or may otherwise impact homeland security.

(2) KNOWLEDGE PRODUCTION AND SHARING.—The NBAF shall produce and share knowledge and technology for the purpose of reducing economic losses caused by foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases of livestock and poultry, and preventing human suffering and death caused by diseases existing or emerging in the agricultural sector.

(c) RESPONSIBILITIES OF DIRECTOR.—The Secretary shall vest in the Director primary responsibility for each of the following:

(1) Directing basic, applied, and advanced research, development, testing, and evaluation relating to foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases, including foot and mouth disease, and performing related activities, including—

(A) developing countermeasures for foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases, including diagnostics, vaccines and therapeutics;

(B) providing advanced test and evaluation capability for threat detection, vulnerability, and countermeasure assessment for foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases;

(C) conducting nonclinical, animal model testing and evaluation under the Food and Drug Administration's Animal Rule as defined in parts 314 and 601 of title 22, Code of Federal Regulations, to support the development of human medical countermeasures by the Department of Human Services under the Public Health Service Act (42 U.S.C. 201 et seq);

(D) establishing NBAF information-sharing mechanisms to share information with relevant stakeholders, including the National Animal Health Laboratory Network; and

(E) identifying and promoting uniform national standards for animal disease diagnostics.

(2) Facilitating the coordination of Federal, State, and local governmental research and development efforts and resources relating to protecting public health and animal health from foreign-animal, zoonotic, and, as appropriate, other endemic animal diseases.

(3) Ensuring public safety during an emergency by developing an emergency response plan under which emergency response providers in the community are sufficiently prepared or trained to respond effectively and given sufficient notice to allow for an effective response.

(4) Ensuring NBAF site and facility security.

(5) Providing training to develop skilled research and technical staff with the needed expertise in operations conducted at biological and agricultural research facilities.

(6) Leveraging the expertise of academic institutions, industry, the Department of Energy National Laboratories, State and local governmental resources, and professional organizations involved in veterinary, medical and public health, and agriculture issues to carry out functions describes in (1) and (2).

(d) REQUIREMENTS.—The Secretary, in designing and constructing the NBAF, shall ensure that the facility meets the following requirements:

(1) The NBAF shall consist of state-of-the-art biocontainment laboratories capable of performing research and activities at Biosafety Level 3 and 4, as designated by the Centers for Disease Control and Prevention and the National Institutes of Health.

(2) The NBAF facility shall be located on a site of at least 30 acres that can be readily secured by physical measure.

(3) The NBAF facility shall be at least 500,000 square feet with a capacity of housing a minimum of 80 large animals for research, testing and evaluation;

(4) The NBAF shall be located at a site with a preexisting utility infrastructure, or a utility infrastructure that can be easily built.

(5) The NBAF shall be located at a site that has been subject to an Environmental Impact Statement under the National Environmental Policy Act of 1969.

(6) The NBAF shall be located within a reasonable proximity to a national or regional airport and to major roadways.

(e) AUTHORIZATION TO PROCURE REAL PROPERTY AND ACCEPT IN KIND DONATIONS FOR THE NBAF SITE.—The Secretary may accept and use donations of real property for the NBAF site and may accept and use in-kind donations of real property, personal property, laboratory and office space, utility services, and infrastructure upgrades for the purpose of assisting the Director in carrying out the responsibilities of the Director under this section.

(f) APPLICABILITY OF OTHER LAWS.—

(1) PUBLIC BUILDINGS ACT.—The NBAF shall not be considered a "public building" for purposes of the Public Buildings Act of 1959 (40 U.S.C. 3301 et seq.).

(2) LIVE VIRUS OF FOOT AND MOUTH DISEASE RESEARCH.—The Secretary shall enable the study of live virus of foot and mouth disease at the NBAF, wherever it is sited, notwithstanding section 113a of title 21, United States Code.

(g) COORDINATION.—

(1) INTERAGENCY AGREEMENTS.—

(A) IN GENERAL.—The Secretary shall enter into understandings or agreements with the heads of appropriate Federal departments and agencies, including the Secretary of

Agriculture and the Secretary of Health and Human Services, to define the respective roles and responsibilities of each Department in carrying out foreign-animal, zoonotic, and other endemic animal disease research and development at the NBAF to protect public health and animal health.

(B) DEPARTMENT OF AGRICULTURE.—The understanding or agreement entered into with the Secretary of Agriculture shall include a provision describing research programs and functions of the Department of Agriculture and the Department of Homeland Security, including those research programs and functions carried out at the Plum Island Animal Disease Center and those research programs and functions that will be transferred to the NBAF.

(C) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The understanding or agreement entered into with the Department of Health and Human Services shall describe research programs of the Department of Health and Human Services that may relate to work conducted at NBAF.

(2) COOPERATIVE RELATIONSHIPS.—The Director shall form cooperative relationships with the National Animal Health Laboratory Network and American Association of Veterinary Laboratory Diagnosticians to connect with the network of Federal and State resources intended to enable an integrated, rapid, and sufficient response to animal health emergencies.

SEC. 319. PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director selected under subsection (b)(2).

(2) INTERNATIONAL COOPERATIVE ACTIVITY.—The term "international cooperative activity" includes—

(A) coordinated research projects, joint research projects, or joint ventures;

(B) joint studies or technical demonstrations;

(C) coordinated field exercises, scientific seminars, conferences, symposia, and workshops;

(D) training of scientists and engineers;

(E) visits and exchanges of scientists, engineers, or other appropriate personnel;

(F) exchanges or sharing of scientific and technological information; and

(G) joint use of laboratory facilities and equipment.

(b) SCIENCE AND TECHNOLOGY HOMELAND SECURITY INTERNATIONAL COOPERATIVE PROGRAMS OFFICE.—

(1) ESTABLISHMENT.—The Under Secretary shall establish the Science and Technology Homeland Security International Cooperative Programs Office.

(2) DIRECTOR.—The Office shall be headed by a Director, who—

(A) shall be selected by and shall report to the Under Secretary; and

(B) may be an officer of the Department serving in another position.

(3) RESPONSIBILITIES.—

(A) DEVELOPMENT OF MECHANISMS.—The Director shall be responsible for developing, in consultation with the Department of State, understandings or agreements that allow and support international cooperative activity in support of homeland security research, development, and comparative testing.

(B) PRIORITIES.—The Director shall be responsible for developing, in coordination with the Directorate of Science and Technology, the other components of the Department of Homeland Security, and other Federal agencies, strategic priorities for international cooperative activity in support of homeland security research, development, and comparative testing.

(C) ACTIVITIES.—The Director shall facilitate the planning, development, and implementation of international cooperative activity to address the strategic priorities developed under subparagraph (B) through mechanisms the Under Secretary considers appropriate, including grants, cooperative agreements, or contracts to or with foreign public or private entities, governmental organizations, businesses, federally funded research and development centers, and universities.

(D) IDENTIFICATION OF PARTNERS.—The Director shall facilitate the matching of United States entities engaged in homeland security research with non-United States entities engaged in homeland security research so that they may partner in homeland security research activities.

(4) COORDINATION.—The Director shall ensure that the activities under this subsection are coordinated with those of other relevant research agencies, and may run projects jointly with other agencies.

(5) CONFERENCES AND WORKSHOPS.—The Director may hold international homeland security technology workshops and conferences to improve contact among the international community of technology developers and to help establish direction for future technology goals.

(c) INTERNATIONAL COOPERATIVE ACTIVITIES.—

(1) AUTHORIZATION.—The Under Secretary is authorized to carry out international cooperative activities to support the responsibilities specified under section 302.

(2) MECHANISMS AND EQUITABILITY.—In carrying out this section, the Under Secretary may award grants to and enter into cooperative agreements or contracts with United States governmental organizations, businesses (including small businesses and small and disadvantaged businesses), federally funded research and development centers, institutions of higher education, and foreign public or private entities. The Under Secretary shall ensure that funding and resources expended in international cooperative activities will be equitably matched by the foreign partner organization through direct funding or funding of complementary activities, or through provision of staff, facilities, materials, or equipment.

(3) LOANS OF EQUIPMENT.—The Under Secretary may make or accept loans of equipment for research and development and comparative testing purposes.

(4) COOPERATION.—The Under Secretary is authorized to conduct international cooperative activities jointly with other agencies.

(5) FOREIGN PARTNERS.—Partners may include Israel, the United Kingdom, Canada, Australia, Singapore, and other allies in the global war on terrorism, as appropriate.

(6) EXOTIC DISEASES.—As part of the international cooperative activities authorized in this section, the Under Secretary, in coordination with the Chief Medical Officer, may facilitate the development of information sharing and other types of cooperative mechanisms with foreign countries, including nations in Africa, to strengthen American preparedness against threats to the Nation's agricultural and public health sectors from exotic diseases.

(d) BUDGET ALLOCATION.—There is authorized to be appropriated to the Secretary, to be derived from amounts otherwise authorized for the Directorate of Science and Technology, $25,000,000 for each of the fiscal years 2008 through 2011 for activities under this section.

(e) FOREIGN REIMBURSEMENTS.—Whenever the Science and Technology Homeland Security International Cooperative Programs Office participates in an international cooperative activity with a foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country to meet its share of the project may be credited to appropriate current appropriations accounts of the Directorate of Science and Technology.

(f) REPORT TO CONGRESS ON INTERNATIONAL COOPERATIVE ACTIVITIES.—

(1) INITIAL REPORT.—Not later than 180 days after the date of enactment of this section, the Under Secretary, acting through the Director, shall transmit to the Congress a report containing—

(A) a brief description of each partnership formed under subsection (b)(4), including the participants, goals, and amount and sources of funding; and

(B) a list of international cooperative activities underway, including the participants, goals, expected duration, and amount and sources of funding, including resources provided to support the activities in lieu of direct funding.

(2) UPDATES.—At the end of the fiscal year that occurs 5 years after the transmittal of the report under subsection (a), and every 5 years thereafter, the Under Secretary, acting through the Director, shall transmit to the Congress an update of the report required under subsection (a).

[TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

[Subtitle A—Under Secretary for Border and Transportation Security

[SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

[There shall be in the Department a Directorate of Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.

[SEC. 402. RESPONSIBILITIES.

[The Secretary, acting through the Under Secretary for Border and Transportation Security, shall be responsible for the following:

[(1) Preventing the entry of terrorists and the instruments of terrorism into the United States.

[(2) Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating those functions transferred to the Department at ports of entry.

[(3) Carrying out the immigration enforcement functions vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the date on which the transfer of functions specified under section 441 takes effect.

[(4) Establishing and administering rules, in accordance with section 428, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not a citizen or an alien lawfully admitted for permanent residence in the United States.

[(5) Establishing national immigration enforcement policies and priorities.

[(6) Except as provided in subtitle C, administering the customs laws of the United States.

[(7) Conducting the inspection and related administrative functions of the Department of Agriculture transferred to the Secretary of Homeland Security under section 421.

[(8) In carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

[SEC. 403. FUNCTIONS TRANSFERRED.

[In accordance with title XV (relating to transition provisions), there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of—

[(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

[(2) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto;

[(3) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto;

[(4) the Federal Law Enforcement Training Center of the Department of the Treasury; and

[(5) the Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.]

TITLE IV—DIRECTORATE FOR POLICY

Subtitle A—Under Secretary for Policy

SEC. 401. DIRECTORATE FOR POLICY.

(a) ESTABLISHMENT.—There is in the Department a Directorate for Policy. The Directorate for Policy shall contain each of the following:

(1) The Office of the Private Sector, which shall be administered by an Assistant Secretary for the Private Sector.

(2) The Victim Assistance Officer.

(3) The Tribal Security Officer.

(4) The Border Community Liaison Officer.

(5) Such other offices as considered necessary by the Under Secretary for Policy.

(b) UNDER SECRETARY FOR POLICY.—

(1) IN GENERAL.—The head of the Directorate is the Under Secretary for Policy, who shall be appointed by the President, with the advice and consent of the Senate.

(2) QUALIFICATIONS.—No individual shall be appointed to the position of Under Secretary for Policy under paragraph (1) unless the individual has, by education and experience, demonstrated knowledge, ability, and skill in the fields of policy and strategic planning.

(3) RESPONSIBILITIES.—Subject to the direction and control of the Secretary, the responsibilities of the Under Secretary for Policy shall be as follows:

(A) To serve as the principal policy advisor to the Secretary.

(B) To provide overall direction and supervision of policy development for the programs, offices, and activities of the Department.

(C) To ensure that the budget of the Department (including the development of future year budgets and interaction with the Office of Management and Budget and with Congress) is compatible with the statutory and regulatory responsibilities of the Department and with the Secretary's priorities, strategic plans, and policies.

(D) To conduct long-range, strategic planning for the Department, including overseeing the Comprehensive Homeland Security Review established in section 203.

(E) To carry out such other responsibilities as the Secretary may determine are appropriate.

SEC. 402. COMPREHENSIVE HOMELAND SECURITY REVIEW.

(a) REQUIREMENT TO CONDUCT REVIEWS.—The Secretary, acting through the Under Secretary for Policy, shall conduct a comprehensive examination of the Department, to be known as the Comprehensive Homeland Security Review. The Secretary shall conduct the first such review in fiscal year 2009, and shall conduct a subsequent review in the first fiscal year in which there begins the first presidential term of a new presidential administration.

(b) PURPOSE OF REVIEW.—In each Comprehensive Homeland Security Review, the Secretary shall—

(1) include a Department of Homeland Security Strategy that is consistent with the most recent National Strategy for Homeland Security prescribed by the President;

(2) define sufficient personnel and appropriate organizational structure and other requirements necessary for the successful execution of the full range of missions called for in the Department of Homeland Security Strategy; and

(3) identify a budget plan, acquisition strategy, procurement process, and any other resources, that are necessary to provide sufficient resources for the successful execution of the full range of missions called for in the Department of Homeland Security Strategy.

(c) CONDUCT OF REVIEW.—

(1) CONSULTATION REQUIRED.—The Secretary shall conduct each review required under subsection (a) in consultation with key officials of the Department, including the Assistant Secretary of the Transportation Security Administration, the Commissioner of United States Customs and Border Protection, the Director of United States Citizenship and Immigration Services, the Assistant Secretary for Immigration and Customs Enforcement, the Director of the United States Secret Service, the Administrator of the Federal Emergency Management Agency, the Director of the Federal Law Enforcement Training Center, and the Commandant of the Coast Guard.

(2) RELATIONSHIP WITH FUTURE YEARS HOMELAND SECURITY PROGRAM.—The Secretary shall ensure that each review conducted under this section is consistent with the Future Years Homeland Security Program required under section 874.

(d) REPORT TO CONGRESS AND THE PRESIDENT.—

(1) REPORT.—The Secretary shall submit to the Committee on Homeland Security of the House of Representatives, to the Committee on Homeland Security and Governmental Affairs of the Senate, and to the President a report on each Comprehensive Homeland Security Review. Each such report shall be submitted during the fiscal year following the fiscal year in which the review is conducted, but not later than the date on which the President submits to Congress the budget under section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the report is to be submitted.

(2) CONTENTS.—Each such report shall include the following, with a focus on reducing and managing risk and in preparing for, mitigating against, responding to, and recovering from terrorist attacks, major disasters, and other emergencies:

(A) A comprehensive assessment of the level of alignment between the Department of Homeland Security Strategy

and the human resources, infrastructure, assets, and organizational structure of the Department.

(B) An explanation of any and all underlying assumptions used in conducting the Review.

(C) The human resources requirements and response capabilities of the Department as they relate to the risks of terrorist attacks, major disasters, and other emergencies.

(D) The strategic and tactical air, border sea, and land capabilities and requirements to support the Department of Homeland Security Strategy.

(E) The nature and appropriateness of homeland security operational capabilities, including operational scientific and technical resources and capabilities and the anticipated effects on the human resources capabilities, costs, efficiencies, resources, and planning of the Department of any technology or operational capabilities anticipated to be available during the years subsequent to the Review.

(F) Any other matter the Secretary considers appropriate to include in the Review.

(3) DEADLINE FOR INITIAL REPORT.—Notwithstanding paragraph (1), the Secretary shall submit the first Report required under subsection (a) not later than September 30, 2010.

(e) PREPARATIONS FOR FISCAL YEAR 2008 REVIEW.—In fiscal year 2008, the Under Secretary for Policy shall make all preparations for the conduct of the first Comprehensive Homeland Security Review in fiscal year 2009, including—

(1) determining the tasks to be performed;

(2) estimating the human, financial, and other resources required to perform each task;

(3) establishing the schedule for the execution of all project tasks;

(4) ensuring that these resources will be available as needed; and

(5) all other preparations considered necessary by the Under Secretary.

Subtitle B—United States Customs Service

SEC. 411. ESTABLISHMENT; COMMISSIONER OF CUSTOMS.

(a) ESTABLISHMENT.—There is established in the Department the United States Customs Service, [under the authority of the Under Secretary for Border and Transportation Security,] which shall be vested with those functions including, but not limited to those set forth in section 415(7), and the personnel, assets, and liabilities attributable to those functions.

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Subtitle C—Miscellaneous Provisions

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SEC. 430. OFFICE FOR DOMESTIC PREPAREDNESS.

(a) IN GENERAL.—[The] *There is in the Department an* Office for Domestic Preparedness [shall be within the Directorate of Border and Transportation Security].

(b) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. [The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security.]

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[(d) FISCAL YEARS 2003 and 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.]

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Subtitle D—Immigration Enforcement Functions

SEC. 441. TRANSFER OF FUNCTIONS TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

In accordance with title XV (relating to transition provisions), there shall be transferred from the Commissioner of Immigration and Naturalization to the [Under Secretary for Border and Transportation Security] *Secretary* all functions performed under the following programs, and all personnel, assets, and liabilities pertaining to such programs, immediately before such transfer occurs:

(1) * * *

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SEC. 442. ESTABLISHMENT OF BUREAU OF BORDER SECURITY.

(a) ESTABLISHMENT OF BUREAU.—

(1) * * *

(2) ASSISTANT SECRETARY.—The head of the Bureau of Border Security shall be the Assistant Secretary of the Bureau of Border Security, [who—

[(A) shall report directly to the Under Secretary for Border and Transportation Security; and

[(B) shall] *who shall* have a minimum of 5 years professional experience in law enforcement, and a minimum of 5 years of management experience.

(3) FUNCTIONS.—The Assistant Secretary of the Bureau of Border Security—

(A) shall establish the policies for performing such functions as are—

(i) transferred to the [Under Secretary for Border and Transportation Security] *Secretary* by section 441 and delegated to the Assistant Secretary by the

[Under Secretary for Border and Transportation Security] *Secretary*; or

* * * * * * *

(C) shall advise the Under Secretary for [Border and Transportation Security] *Policy* with respect to any policy or operation of the Bureau of Border Security that may affect the Bureau of Citizenship and Immigration Services established under subtitle E, including potentially conflicting policies or operations.

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(5) STUDENT AND EXCHANGE VISITOR PROGRAM.—In administering the program under paragraph (4), the Secretary shall—

(A) prescribe regulations to require an institution or exchange visitor program sponsor participating in the Student and Exchange Visitor Program to ensure that each covered student or exchange visitor enrolled at the institution or attending the exchange visitor program—

(i) is an active participant in the program for which the covered student or exchange visitor was issued a visa to enter the United States;

(ii) is not unobserved for any period—

(I) exceeding 30 days during any academic term or program in which the covered student or exchange visitor is enrolled; or

(II) exceeding 60 days during any period not described in subclause (I); and

(iii) is reported to the Department if within 21 days of—

(I) transferring to another institution or program; or

(II) being hospitalized or otherwise incapacitated necessitating a prolonged absence from the academic institution or exchange visitor program; and

(B) notwithstanding subparagraph (A), require each covered student or exchange visitor to be observed at least once every 60 days.

(6) ENHANCED ACCESS.—The Secretary shall provide access to the Student and Exchange Visitor Information System (hereinafter in this subsection referred to as the "SEVIS"), or other equivalent program or system, to appropriate employees of an institution or exchange visitor program sponsor participating in the Student and Exchange Visitor Program if—

(A) at least two authorized users are identified at each participating institution or exchange visitor sponsor;

(B) at least one additional authorized user is identified at each such institution or sponsor for every 200 covered students or exchange visitors enrolled at the institution or sponsor; and

(C) each authorized user is certified by the Secretary as having completed an appropriate training course provided by the Department for the program or system.

(7) PROGRAM SUPPORT.—The Secretary shall provide appropriate technical support options to facilitate use of the program or system described in paragraph (4) by authorized users.

(8) UPGRADES TO SEVIS OR EQUIVALENT DATA.—The Secretary shall update the program or system described in paragraph (4) to incorporate new data fields that include—

(A) verification that a covered student's performance meets the minimum academic standards of the institution in which such student is enrolled; and

(B) timely entry of academic majors, including changes to majors, of covered students and exchange visitors enrolled at institutions or exchange program sponsors participating in the Student and Exchange Visitor Program.

(9) SAVINGS CLAUSE.— Nothing in this section shall prohibit the Secretary or any institution or exchange program sponsor participating in the Student Exchange Visitor Program from requiring more frequent observations of covered students or exchange visitors.–

[(5)**]** *(10)* MANAGERIAL ROTATION PROGRAM.—

(A) * * *

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(d) DEFINITIONS.—For purposes of this section:

(1) The term "covered student" means a student who is a nonimmigrant pursuant to section 101(1)(15)(F), 101(1)(15)(J), or 101(1)(15)(M) of the Immigration and Nationality Act of 1952.

(2) The term "observed" means positively identified by physical or electronic means.

(3) The term "authorized user" means an individual nominated by an institution participating in the Student Exchange Visitor Program and confirmed by the Secretary as not appearing on any terrorist watch list.

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized by section 101 of the Department of Homeland Security Authorization Act for Fiscal Year 2008, there are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.–

SEC. 443. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

[The Under Secretary for Border and Transportation Security**]** *Subject to the direction and control of the Secretary, the Deputy Secretary* shall be responsible for—

(1) * * *

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SEC. 444. EMPLOYEE DISCIPLINE.

[The Under Secretary for Border and Transportation Security**]** *Subject to the direction and control of the Secretary, the Deputy Secretary* may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Border Security who willfully deceives the Congress or agency leadership on any matter.

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SEC. 447. DOCUMENT FRAUD PREVENTION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program to make grants available to States to be used to prevent terrorists and other individuals from fraudulently obtaining and using State-issued identification cards and to develop more secure State-issued documents to be used for official Federal purposes.

(b) USE OF FUNDS.—A recipient of a grant under this section may use the grant for any of the following purposes:

(1) To develop machine readable technology, encryption methods, or other means of protecting against unauthorized access of information appearing on licenses or identification.

(2) To establish a system for a State-to-State data exchange that allows electronic access to States to information contained in a State department of motor vehicles database.

(3) To develop or implement a security plan designed to safeguard the privacy of personal information collected, maintained, and used by State motor vehicles offices from unauthorized access, misuse, fraud, and identity theft.

(4) To develop a querying service that allows access to Federal databases in a timely, secure, and cost-effective manner, in order to verify the issuance, validity, content, and completeness of source documents provided by applicants for identity documents issued by State agencies, including departments of motor vehicles.

(5) To develop a system for States to capture and store digital images of identity source documents and photographs of applicants in electronic format.

(6) To design systems or establish procedures that would reduce the number of in-person visits required to State departments of motor vehicles to obtain State-issued identity documents used for Federal official purposes.

(c) PRIORITY IN AWARDING GRANTS.—In awarding grants under this section the Secretary shall give priority to a State that demonstrates that—

(1) the grant will assist the State in complying with any regulation issued by the Department to prevent the fraudulent issuance of identification documents to be used for official Federal purposes; and

(2) such compliance will facilitate the ability of other States to comply with such regulations.

(d) LIMITATION ON SOURCE OF FUNDING.—The Secretary may not use amounts made available under this section for any other grant program of the Department to provide funding for expenses related to the REAL ID Act of 2005 (Public Law 109–13).

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized by section 101 there are authorized to be appropriated to the Secretary for making grants under this section—

(1) 120,000,000 for fiscal year 2008;

(2) $100,000,000 for fiscal year 2009; and

(3) $80,000,000 for fiscal year 2010.

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Subtitle F—General Immigration Provisions

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SEC. 472. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) * * *

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(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who receives a voluntary separation incentive payment under this section and who, within 5 years after the date of the separation on which the payment is based, accepts any compensated employment with the Government or works for any agency of the Government through a personal services contract, shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment. Such payment shall be made to the covered entity from which the individual separated or, if made on or after the transfer date, to the Deputy Secretary [or the Under Secretary for Border and Transportation Security] (for transfer to the appropriate component of the Department of Homeland Security, if necessary).

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TITLE V—NATIONAL EMERGENCY MANAGEMENT

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[SEC. 516. CHIEF MEDICAL OFFICER.

[(a) IN GENERAL.—There is in the Department a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

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

[(c) RESPONSIBILITIES.—The Chief Medical Officer shall have the primary responsibility within the Department for medical issues related to natural disasters, acts of terrorism, and other man-made disasters, including—

[(1) serving as the principal advisor to the Secretary and the Administrator on medical and public health issues;

[(2) coordinating the biodefense activities of the Department;

[(3) ensuring internal and external coordination of all medical preparedness and response activities of the Department, including training, exercises, and equipment support;

[(4) serving as the Department's primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments or agencies, on medical and public health issues;

[(5) serving as the Department's primary point of contact for State, local, and tribal governments, the medical community,

and others within and outside the Department, with respect to medical and public health matters;

[(6) discharging, in coordination with the Under Secretary for Science and Technology, the responsibilities of the Department related to Project Bioshield; and

[(7) performing such other duties relating to such responsibilities as the Secretary may require.]

SEC. 516. CHIEF MEDICAL OFFICER.

(a) IN GENERAL.—There is in the Department a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall have the rank and title of Assistant Secretary for Health Affairs and Chief Medical Officer (in this section referred to as the "Chief Medical Officer").

(b) OFFICE OF HEALTH AFFAIRS.—There is in the Department an Office of Health Affairs, which shall be headed by the Chief Medical Officer.

(c) QUALIFICATIONS.—The individual appointed as the Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine, public health, and the treatment of illnesses caused by chemical, biological, nuclear, and radiological agents.

(d) RESPONSIBILITIES.—The Chief Medical Officer shall have the primary responsibility within the Department for medical and health issues related to the general roles, responsibilities, and operations of the Department, and terrorist attacks, major disasters, and other emergencies, including—

(1) serving as the principal advisor to the Secretary and leading the Department's medical care, public health, food, water, veterinary care, and agro- security and defense responsibilities;

(2) providing oversight for all medically-related actions and protocols of the Department's medical personnel;

(3) administering the Department's responsibilities for medical readiness, including—

(A) planning and guidance to support improvements in local training, equipment, and exercises funded by the Department; and

(B) consistent with the National Response Plan established pursuant to Homeland Security Presidential Directive 8, assisting in fulfilling the Department's roles in related emergency support functions;

(4) serving as the Department's primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments and agencies, on all matters of medical and public health to ensure coordination consistent with the National Response Plan;

(5) serving as the Department's primary point of contact for State, local, tribal, and territorial governments, the medical community, and the private sector, to ensure that medical readiness and response activities are coordinated and consistent with the National Response Plan and the Secretary's incident management requirements;

(6) managing the Department's biodefense and biosurveillance activities including the National Biosurveillance Integration System, and the Departments responsibilities under Project

BioShield in coordination with the Under Secretary of Science and Technology as appropriate;

(7) assuring that the Department's workforce has science-based policy, standards, requirements, and metrics for occupational safety and health;

(8) supporting the operational requirements of the Department's components with respect to protective medicine and tactical medical support;

(9) developing, in coordination with appropriate Department entities and other appropriate Federal agencies, end-to-end plans for prevention, readiness, protection, response, and recovery from catastrophic events with human, animal, agricultural, or environmental health consequences;

(10) integrating into the end-to-end plans developed under paragraph (9), Department of Health and Human Services' efforts to identify and deploy medical assets (including human, fixed, and material assets) used in preparation for or response to national disasters and catastrophes, and to enable access to patient electronic medical records by medical personnel to aid treatment of displaced persons in such circumstance, in order to assure that actions of both Departments are combined for maximum effectiveness during an emergency consistent with the National Response Plan and applicable emergency support functions;

(11) performing other duties relating to such responsibilities as the Secretary may require; and

(12) directing and maintaining a coordinated system for medical support of the Department's operational activities.

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SEC. 521. PROCUREMENT OF SECURITY COUNTERMEASURES FOR STRATEGIC NATIONAL STOCKPILE.

(a) * * *

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(d) RELATED AUTHORIZATIONS OF APPROPRIATIONS.—

(1) THREAT ASSESSMENT CAPABILITIES.—For the purpose of carrying out the responsibilities of the Secretary for terror threat assessment under the security countermeasures program, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through [2006,] *2009,* for the hiring of professional personnel within the Directorate for Information Analysis and Infrastructure Protection, who shall be analysts responsible for chemical, biological, radiological, and nuclear threat assessment (including but not limited to analysis of chemical, biological, radiological, and nuclear agents, the means by which such agents could be weaponized or used in a terrorist attack, and the capabilities, plans, and intentions of terrorists and other non-state actors who may have or acquire such agents). All such analysts shall meet the applicable standards and qualifications for the performance of intelligence activities promulgated by the Director of Central Intelligence pursuant to section 104 of the National Security Act of 1947.

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(3) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS REGARDING CERTAIN THREAT ASSESSMENTS.—For the purpose of providing an additional amount to the Secretary to assist the Secretary in meeting the requirements of clause (iv) of section 319F–2(c)(2)(A) of the Public Health Service Act (relating to time frames), there are authorized to be appropriated such sums as may be necessary for fiscal year 2008, in addition to the authorization of appropriations established in paragraph (1). The purposes for which such additional amount may be expended include conducting risk assessments regarding clause (i)(II) of such section when there are no existing risk assessments that the Secretary considers credible.

SEC. 522. METROPOLITAN MEDICAL RESPONSE SYSTEM PROGRAM.

(a) IN GENERAL.—There is a Metropolitan Medical Response System Program (in this section referred to as the "program").

(b) PURPOSE.—The purpose of the program shall be to support local jurisdictions in enhancing and maintaining all-hazards response capabilities to manage mass casualty incidents (including terrorist acts using chemical, biological, radiological, nuclear agents, or explosives, large-scale hazardous materials incidents, epidemic disease outbreaks, and natural disasters) by systematically enhancing and integrating first responders, public health personnel, emergency management personnel, business representatives, and volunteers.

(c) PROGRAM ADMINISTRATION.—The Assistant Secretary for Health Affairs shall develop the programmatic and policy guidance for the program in coordination with the Administrator of the Federal Emergency Management Agency.

(d) PERSONNEL COSTS.—The program shall not be subject to an administrative cap on the hiring of personnel to conduct program activities.

(e) FINANCIAL ASSISTANCE.—

(1) ADMINISTRATION.—The Administrator of the Federal Emergency Management Agency shall administer financial assistance provided to State and local jurisdictions under the program.

(2) ASSISTANCE TO LOCAL JURISDICTIONS.—In providing financial assistance to a State under the program, the Administrator shall ensure that 100 percent of the amount of such assistance is allocated by the State to local jurisdictions, except that a State may retain up to 20 percent of the amount of such assistance to facilitate integration between the State and the local jurisdiction pursuant to a written agreement between the State and the chair of the Metropolitan Medical Response System steering committee.

(3) MUTUAL AID.—

(A) AGREEMENTS.—Local jurisdictions receiving assistance under the program are encouraged to develop and maintain memoranda of understanding and agreement with neighboring jurisdictions to support a system of mutual aid among the jurisdictions.

(B) CONTENTS.—A memorandum referred to in subparagraph (A) shall include, at a minimum, policies and procedures to—

(i) enable the timely deployment of program personnel and equipment across jurisdictions and, if relevant, across State boundaries;

(ii) share information in a consistent and timely manner; and

(iii) notify State authorities of the deployment of program resources in a manner that ensures coordination with State agencies without impeding the ability of program personnel and equipment to respond rapidly to emergencies in other jurisdictions.

(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized by section 101 there is authorized to be appropriated to carry out the program $63,000,000 for each of the fiscal years 2008 through 2011.

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TITLE VII—MANAGEMENT

SEC. 701. UNDER SECRETARY FOR MANAGEMENT.

(a) * * *

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(c) QUALIFICATIONS.—The Under Secretary for Management shall have all of the following qualifications:

(1) Extensive executive level leadership and management experience in the public or private sector.

(2) Strong leadership skills.

(3) A demonstrated ability to manage large and complex organizations.

(4) A proven record of achieving positive operational results.

(d) AUTHORITY OF THE ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS OVER DEPARTMENTAL COUNTERPARTS.—

(1) IN GENERAL.—The Secretary for the Department shall ensure that the Assistant Secretary for Legislative Affairs has adequate authority over his or her respective counterparts in component agencies of the Department to ensure that such component agencies adhere to the laws, rules, regulations, and departmental policies that the Assistant Secretary for Legislative Affairs is responsible for implementing.

(2) INCLUDED AUTHORITIES.—The authorities of the Assistant Secretary for Legislative Affairs shall include, with respect to the counterparts in component agencies of the Department, the following:

(A) The authority to direct the activities of personnel responsible for any of the following:

(i) Making recommendations regarding the hiring, termination, and reassignment of individuals.

(ii) Developing performance measures.

(iii) Submitting written performance evaluations during the performance evaluation process that shall be considered in performance reviews, including recommendations for bonuses, pay raises, and promotions.

(iv) Withholding funds from the relevant component agency that would otherwise be available for a par-

ticular purpose until the relevant component agency complies with the directions of the Assistant Secretary for Legislative Affairs or makes substantial progress towards meeting the specified goal.

(B) The authority to direct planning, operations, and training.

(C) The authority to direct the budget and other financial resources.

SEC. 702. CHIEF FINANCIAL OFFICER.

(a) * * *

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(d) AUTHORIZATION LIAISON OFFICER.—

(1) IN GENERAL.—The Chief Financial Officer shall establish the position of Authorization Liaison Officer to provide timely budget and other financial information to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate. The Authorization Liaison Officer shall report directly to the Chief Financial Officer.

(2) SUBMISSION OF REPORTS TO CONGRESS.—The Authorization Liaison Officer shall coordinate with the Appropriations Liaison Officer within the Office of the Chief Financial Officer to ensure, to the greatest extent possible, that all reports prepared for the Committees on Appropriations of the House of Representatives and the Senate are submitted concurrently to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

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SEC. 707. CHIEF OPERATING OFFICERS.

(a) IN GENERAL.—The Chief Operating Officers of the Department include the following officials of the Department:

(1) The Chief Financial Officer.

(2) The Chief Procurement Officer.

(3) The Chief Information Officer.

(4) The Chief Human Capital Officer.

(5) The Chief Administrative Officer.

(6) The Chief Security Officer.

(b) DELEGATION.—The Secretary shall delegate to each Chief Operating Officer direct authority over that Officer's counterparts in component agencies to ensure that the component agencies adhere to the laws, rules, regulations, and departmental policies for which such Officer is responsible for implementing. In coordination with the head of the relevant component agency, such authorities shall include, with respect to the Officer's counterparts within component agencies of the Department, the following:

(1) The authority to direct the activities of personnel.

(2) The authority to direct planning, operations, and training.

(3) The authority to direct the budget and other financial resources.

(c) COORDINATION WITH HEADS OF COMPONENT AGENCIES.—In reporting to a Chief Operating Officer of the Department as required

under subsection (b), a Chief Operating Officer of a component agency shall coordinate with the head of that component agency.

SEC. 708. CHIEF SECURITY OFFICER.

(a) ESTABLISHMENT.—There is in the Department a Chief Security Officer.

(b) RESPONSIBILITIES.—The Chief Security Officer shall—

(1) have responsibility for personnel security, facility access, security awareness, and related training;

(2) ensure that each component of the Department complies with Federal standards for security clearances and background investigations;

(3) ensure, to the greatest extent practicable, that individuals in State and local government agencies and private sector entities with a need to receive classified information, receive the appropriate clearances in a timely fashion; and

(4) perform all other functions as determined by the Secretary.

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TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

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Subtitle D—Acquisitions

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SEC. 836. HOMELAND SECURITY PROCUREMENT TRAINING.

(a) PROVISION OF TRAINING.—The Chief Procurement Officer shall provide homeland security procurement training to acquisition employees.

(b) RESPONSIBILITIES OF CHIEF PROCUREMENT OFFICER.—The Chief Procurement Officer shall carry out the following responsibilities:

(1) Establish objectives to achieve the efficient and effective use of available acquisition resources by coordinating the acquisition education and training programs of the Department and tailoring them to support the careers of acquisition employees.

(2) Develop, in consultation with the Council on Procurement Training established under subsection (d), the curriculum of the homeland security procurement training to be provided.

(3) Establish, in consultation with the Council on Procurement Training, training standards, requirements, and courses to be required for acquisition employees.

(4) Establish an appropriate centralized mechanism to control the allocation of resources for conducting such required courses and other training and education.

(5) Select course providers and certify courses to ensure that the procurement training curriculum supports a coherent framework for the educational development of acquisition employees, including the provision of basic, intermediate, and advanced courses.

(6) Publish an annual catalog that includes a list of the acquisition education and training courses.

(7) Develop a system of maintaining records of student enrollment, and other data related to students and courses conducted pursuant to this section.

(c) ELIGIBILITY FOR TRAINING.—An acquisition employee of any entity under subsection (d)(3) may receive training provided under this section. The appropriate member of the Council on Procurement Training may direct such an employee to receive procurement training.

(d) COUNCIL ON PROCUREMENT TRAINING.—

(1) ESTABLISHMENT.—The Secretary shall establish a Council on Procurement Training to advise and make policy and curriculum recommendations to the Chief Procurement Officer.

(2) CHAIR OF COUNCIL.—The chair of the Council on Procurement Training shall be the Deputy Chief Procurement Officer.

(3) MEMBERS.—The members of the Council on Procurement Training are the chief procurement officers of each of the following:

(A) United States Customs and Border Protection.

(B) The Transportation Security Administration.

(C) The Office of Procurement Operations.

(D) The Bureau of Immigration and Customs Enforcement.

(E) The Federal Emergency Management Agency.

(F) The Coast Guard.

(G) The Federal Law Enforcement Training Center.

(H) The United States Secret Service.

(I) Such other entity as the Secretary determines appropriate.

(e) ACQUISITION EMPLOYEE DEFINED.—For purposes of this section, the term "acquisition employee" means an employee serving under a career or career-conditional appointment in the competitive service or appointment of equivalent tenure in the excepted service of the Federal Government, at least 50 percent of whose assigned duties include acquisitions, procurement-related program management, or procurement-related oversight functions.

(f) REPORT REQUIRED.—Not later than March 1 of each year, the Chief Procurement Officer shall submit to the Secretary a report on the procurement training provided under this section, which shall include information about student enrollment, students who enroll but do not attend courses, graduates, certifications, and other relevant information.

SEC. 837. REVIEW OF CONTRACTOR PAST PERFORMANCE.

(a) CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.—In awarding a contract to a contractor, the Secretary shall consider the past performance of that contractor based on the review conducted under subsection (b).

(b) REVIEW REQUIRED.—Before awarding to a contractor (including a contractor that has previously provided goods or services to

the Department) a contract to provide goods or services to the Department, the Secretary, acting through the appropriate contracting officer of the Department, shall require the contractor to submit information regarding the contractor's performance of Federal, State, and local government and private sector contracts.

(c) CONTACT OF RELEVANT OFFICIALS.—As part of any review of a contractor conducted under subsection (b), the Secretary, acting through an appropriate contracting officer of the Department, shall contact the relevant official who administered or oversaw each contract performed by that contractor during the five-year period preceding the date on which the review begins.

SEC. 838. INTEGRITY IN CONTRACTING.

(a) ATTESTATION REQUIRED.—The Secretary shall require any offeror for any contract to provide goods or services to the Department to submit as part of the offeror's bid for such contract an attestation that affirmatively discloses any substantial role the offeror, the employees of the offeror, or any corporate parent or subsidiary of the offeror may have played in creating a solicitation, request for proposal, statement of work, or statement of objectives (as those terms are defined in the Federal Acquisition Regulation) for the Department.

(b) ADDITIONAL REQUIREMENTS FOR CERTAIN OFFERORS.—If an offeror submits an attestation under subsection (a) that discloses that the offeror, an employee of the offeror, or any corporate parent or subsidiary of the offeror played a substantial role in creating a solicitation, request for proposal, statement of work, or statement of objectives for the Department, the Secretary shall require the offeror to submit to the Secretary a description of the safeguards used to ensure that precautions were in place to prevent the offeror from receiving information through such role that could be used to provide the offeror an undue advantage in submitting an offer for a contract.

(c) CERTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall require any offeror for any contract to provide goods or services to the Department to submit to the Secretary as part of the offeror's bid for such contract a certification in writing whether, as of the date on which the certification is submitted, the offeror—

(A) is in default on any payment of any tax to the Federal Government; or

(B) owes the Federal Government for any payment of any delinquent tax.

(2) FAILURE OF CERTIFICATION.—Nothing in this section shall prevent the Department from awarding a contract to an offeror based solely on the offeror's certification.

SEC. 839. REQUIREMENT THAT CERTAIN ARTICLES PROCURED FOR DEPARTMENT PERSONNEL BE MANUFACTURED IN THE UNITED STATES.

(a) REQUIREMENT.—Except as provided in section (c), funds appropriated or otherwise available to the Department may not be used for the procurement of an article described in section (b) if the item is not manufactured in the United States.

(b) COVERED ARTICLES.—An article referred to in subsection (a) is any of the following articles procured for personnel of the Department:

(1) Uniforms.

(2) Protective gear.

(3) Badges or other insignia indicating the rank, office, or position of personnel.

(4) Identification cards.

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary determines that satisfactory quality and sufficient quantity of the article cannot be procured as and when needed at United States market prices. If such a determination is made with respect to an article, the Secretary shall—

(1) notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate within 7 days after making the determination; and

(2) include in that notification a certification that manufacturing the article outside the United States does not pose a risk to the national security of the United States, as well as a detailed explanation of the steps any facility outside the United States that is manufacturing the article will be required to take to ensure that the materials, patterns, logos, designs, or any other element used in or for the article are not misappropriated.

(d) OTHER EXCEPTIONS.—Subsection (a) does not apply—

(1) to acquisitions at or below the micro-purchase threshold (as defined in section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428)); and

(2) to acquisitions outside the United States for use outside of the United States.

(e) USE OF DOMESTIC TEXTILES.—For fiscal year 2008 and each subsequent fiscal year, the Secretary shall take all available steps to ensure that, to the maximum extent practicable, the items described in subsection (b) procured by the Department are manufactured using domestic textiles.

(f) RELATIONSHIP TO WAIVER UNDER TRADE AGREEMENTS ACT OF 1979.—Subsection (a) shall apply notwithstanding any waiver under section 301 of the Trade Agreements Act of 1979 (19 U.S.C. 2511).

Subtitle E—Human Resources Management

SEC. 841. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) * * *

(b) EFFECT ON PERSONNEL.—

(1) * * *

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[(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.]

SEC. 842. LABOR-MANAGEMENT RELATIONS.

(a) * * *

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[(c) WAIVER.—If the President determines that the application of subsections (a), (b), and (d) would have a substantial adverse impact on the ability of the Department to protect homeland security, the President may waive the application of such subsections 10 days after the President has submitted to Congress a written explanation of the reasons for such determination.]

* * * * * * *

[(e) RULE OF CONSTRUCTION.—Nothing in section 9701(e) of title 5, United States Code, shall be considered to apply with respect to any agency or subdivision of any agency, which is excluded from the coverage of chapter 71 of title 5, United States Code, by virtue of an order issued in accordance with section 7103(b) of such title and the preceding provisions of this section (as applicable), or to any employees of any such agency or subdivision or to any individual or entity representing any such employees or any representatives thereof.]

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SEC. 845. HOMELAND SECURITY EDUCATION PROGRAM.

(a) * * *

[(b) LEVERAGING OF EXISTING RESOURCES.—To maximize efficiency and effectiveness in carrying out the Program, the Administrator shall use existing Department-reviewed Master's Degree curricula in homeland security, including curricula pending accreditation, together with associated learning materials, quality assessment tools, digital libraries, exercise systems and other educational facilities, including the National Domestic Preparedness Consortium, the National Fire Academy, and the Emergency Management Institute. The Administrator may develop additional educational programs, as appropriate.]

(b) LEVERAGING OF EXISTING RESOURCES.—To maximize efficiency and effectiveness in carrying out the Program, the Administrator shall use curricula modeled on existing Department-reviewed Master's Degree curricula in homeland security, including curricula pending accreditation, together with associated learning materials, quality assessment tools, digital libraries, asynchronous distance learning, video conferencing, exercise systems, and other educational facilities, including the National Domestic Preparedness Consortium, the National Fire Academy, and the Emergency Management Institute. The Administrator may develop additional educational programs, as appropriate.

* * * * * * *

Subtitle H—Miscellaneous Provisions

* * * * * * *

SEC. 875. MISCELLANEOUS AUTHORITIES.

(a) * * *

* * * * * * *

(d) PROTECTION OF NAME, INITIALS, INSIGNIA, AND SEAL.—

(1) IN GENERAL.—Except with the written permission of the Secretary, no person may knowingly use, in connection with any advertisement, commercial activity, audiovisual production (including film or television production), impersonation, Internet domain name, Internet e-mail address, or Internet Web site, merchandise, retail product, or solicitation in a manner reasonably calculated to convey the impression that the Department or any organizational element of the Department has approved, endorsed, or authorized such use, any of the following (or any colorable imitation thereof):

(A) The words "Department of Homeland Security", the initials "DHS", the insignia or seal of the Department, or the title "Secretary of Homeland Security".

(B) The name, initials, insignia, or seal of any organizational element (including any former such element) of the Department, or the title of any other officer or employee of the Department, notice of which has been published by the Secretary in accordance with paragraph (3).

(2) CIVIL ACTION.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice that constitutes or will constitute conduct prohibited by paragraph (1) the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other actions as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

(3) NOTICE AND PUBLICATION.—The notice and publication to which paragraph (1)(B) refers is a notice published in the Federal Register including the name, initials, seal, or class of titles protected under paragraph (1)(B) and a statement that they are protected under that provision. The Secretary may amend such notice from time to time as the Secretary determines appropriate in the public interest and shall publish such amendments in the Federal Register.

(4) AUDIOVISUAL PRODUCTION.—For the purpose of this subsection, the term "audiovisual production" means the production of a work that consists of a series of related images that are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the work is embodied.

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SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCEMENT.

(a) * * *

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(d) RESPONSIBILITIES.—The Secretary shall direct the Director of the Office of Counternarcotics Enforcement—

(1) * * *

* * * * * * *

(5) [to be a representative] *to be the primary representative* of the Department on all task forces, committees, or other entities whose purpose is to coordinate the counternarcotics enforcement activities of the Department and other Federal, State or local agencies.

(e) SAVINGS CLAUSE.—Nothing in this section shall be construed to authorize direct control of the operations conducted by [the Directorate of Border and Transportation Security] *United States Customs and Border Protection, Immigration and Customs Enforcement*, the Coast Guard, or joint terrorism task forces.

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SEC. 888. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) * * *

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(f) ANNUAL REVIEW.—

(1) * * *

(2) REPORT.—The report under this paragraph shall be submitted to—

[(A) the Committee on Governmental Affairs of the Senate;]

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

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

[(B)] *(C)* the Committee on Government Reform of the House of Representatives;

[(C)] *(D)* the Committees on Appropriations of the Senate and the House of Representatives;

[(D)] *(E)* the Committee on Commerce, Science, and Transportation of the Senate; and

[(E)] *(F)* the Committee on Transportation and Infrastructure of the House of Representatives.

* * * * * * *

SEC. 890A. EXPENDITURE REPORTS AS A CONDITION OF HOMELAND SECURITY GRANTS.

(a) QUARTERLY REPORTS REQUIRED AS A CONDITION OF HOMELAND SECURITY GRANTS.—

(1) EXPENDITURE REPORTS REQUIRED.—As a condition of receiving a grant administered by the Secretary, the Secretary shall require the grant recipient to submit quarterly reports to the Secretary describing the nature and amount of each expenditure made by the recipient using grant funds.

(2) DEADLINE FOR REPORTS.—Each report required under paragraph (1) shall be submitted not later than 30 days after the last day of a fiscal quarter and shall cover expenditures made during that fiscal quarter.

(b) PUBLICATION OF EXPENDITURES.—Not later than 30 days after receiving a report under subsection (a), the Secretary shall publish and make publicly available on the Internet website of the Depart-

ment a description of the nature and amount of each expenditure covered by the report.

(c) PROTECTION OF SENSITIVE INFORMATION.—In meeting the requirements of this section, the Secretary shall take appropriate action to ensure that sensitive information is not disclosed.

Subtitle I—Information Sharing

* * * * * * *

[SEC. 895. AUTHORITY TO SHARE GRAND JURY INFORMATION.

[Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

[(1) in paragraph (2), by inserting ", or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6," after "Rule 6"; and

[(2) in paragraph (3)—

[(A) in subparagraph (A)(ii), by inserting "or of a foreign government" after "(including personnel of a state or subdivision of a state";

[(B) in subparagraph (C)(i)—

[(i) in subclause (I), by inserting before the semicolon the following: "or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation";

[(ii) in subclause (IV)—

[(I) by inserting "or foreign" after "may disclose a violation of State";

[(II) by inserting "or of a foreign government" after "to an appropriate official of a State or subdivision of a State"; and

[(III) by striking "or" at the end;

[(iii) by striking the period at the end of subclause (V) and inserting "; or"; and

[(iv) by adding at the end the following:

["(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat."; and

[(C) in subparagraph (C)(iii)—

[(i) by striking "Federal";

[(ii) by inserting "or clause (i)(VI)" after "clause (i)(V)"; and

[(iii) by adding at the end the following: "Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney Gen-

eral and Director of Central Intelligence shall jointly issue.".

[SEC. 896. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

[Section 2517 of title 18, United States Code, is amended by adding at the end the following:

["(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

["(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

[SEC. 897. FOREIGN INTELLIGENCE INFORMATION.

[(a) DISSEMINATION AUTHORIZED.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56; 50 U.S.C. 403–5d) is amended by adding at the end the following: "Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere,

obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

[(b) CONFORMING AMENDMENTS.—Section 203(c) of that Act is amended—

[(1) by striking "section 2517(6)" and inserting "paragraphs (6) and (8) of section 2517 of title 18, United States Code,"; and

[(2) by inserting "and (VI)" after "Rule 6(e)(3)(C)(i)(V)".

[SEC. 898. INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.

[Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after "law enforcement officers" the following: "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)".

[SEC. 899. INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.

[Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after "law enforcement officers" the following: "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)".]

SEC. 895. STATE AND LOCAL FUSION CENTER PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish within the Department a State and Local Fusion Center Program. The program shall be overseen by the component charged with overseeing information sharing of homeland security information with State, local and tribal law enforcement. The purpose of the State and Local Fusion Center Program is to facilitate information sharing between the Department and State, local, and tribal law enforcement for homeland security and other purposes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as are necessary for the Secretary to carry out the purpose of the State and Local Fusion Center Program, including for—

(1) deploying Department personnel with intelligence and operational skills to State and local fusion centers participating in the Program;

(2) hiring and maintaining individuals with substantial law enforcement experience who have retired from public service and deploying such individuals to State and local fusion centers participating in the Program (with the consent of such centers); and

(3) maintaining an adequate number of staff at the headquarters of the Department to sustain and manage the portion of the Program carried out at the headquarters and to otherwise fill positions vacated by Department staff deployed to State and local fusion centers participating in the Program.

* * * * * * *

TITLE [XVIII] *XIX*—DOMESTIC NUCLEAR DETECTION OFFICE

SEC. [1801] *1901*. DOMESTIC NUCLEAR DETECTION OFFICE.

(a) * * *

* * * * * * *

SEC. [1802] *1902*. MISSION OF OFFICE.

(a) * * *

* * * * * * *

SEC. [1803] *1903*. HIRING AUTHORITY.

In hiring personnel for the Office, the Secretary shall have the hiring and management authorities provided in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note). The term of appointments for employees under subsection (c)(1) of such section may not exceed 5 years before granting any extension under subsection (c)(2) of such section.

SEC. [1804] *1904*. TESTING AUTHORITY.

(a) IN GENERAL.—The Director shall coordinate with the responsible Federal agency or other entity to facilitate the use by the Office, by its contractors, or by other persons or entities, of existing Government laboratories, centers, ranges, or other testing facilities for the testing of materials, equipment, models, computer software, and other items as may be related to the missions identified in section [1802] *1902*. Any such use of Government facilities shall be carried out in accordance with all applicable laws, regulations, and contractual provisions, including those governing security, safety, and environmental protection, including, when applicable, the provisions of section 309. The Office may direct that private sector entities utilizing Government facilities in accordance with this section pay an appropriate fee to the agency that owns or operates those facilities to defray additional costs to the Government resulting from such use.

* * * * * * *

SEC. [1805] *1905*. RELATIONSHIP TO OTHER DEPARTMENT ENTITIES AND FEDERAL AGENCIES.

The authority of the Director under this title shall not affect the authorities or responsibilities of any officer of the Department or of any officer of any other department or agency of the United States with respect to the command, control, or direction of the functions, personnel, funds, assets, and liabilities of any entity within the Department or any Federal department or agency.

SEC. [1806] *1906*. CONTRACTING AND GRANT MAKING AUTHORITIES.

The Secretary, acting through the Director for Domestic Nuclear Detection, in carrying out the responsibilities under paragraphs (6) and (7) of section [1802(a)] *1902(a)*, shall—

(1) operate extramural and intramural programs and distribute funds through grants, cooperative agreements, and other transactions and contracts;

(2) ensure that activities under paragraphs (6) and (7) of section [1802(a)] *1902(a)* include investigations of radiation detection equipment in configurations suitable for deployment at seaports, which may include underwater or water surface detection equipment and detection equipment that can be mounted on cranes and straddle cars used to move shipping containers; and

* * * * * * *

2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I—SUPPLEMENTAL APPROPRIATIONS

* * * * * * *

CHAPTER 12

DEPARTMENT OF THE TREASURY

* * * * * * *

GENERAL PROVISIONS—THIS CHAPTER

* * * * * * *

SEC. 1202. (a) The Federal Law Enforcement Training Center may, for a period ending not later than December 31, [2007] *2008*, appoint and maintain a cadre of up to 350 Federal annuitants: (1) without regard to any provision of title 5, United States Code, which might otherwise require the application of competitive hiring procedures; and (2) who shall not be subject to any reduction in pay (for annuity allocable to the period of actual employment) under the provisions of section 8344 or 8468 of such title 5 or similar provision of any other retirement system for employees. A reemployed Federal annuitant as to whom a waiver of reduction under paragraph (2) applies shall not, for any period during which such waiver is in effect, be considered an employee for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States

Code, or such other retirement system (referred to in paragraph (2)) as may apply.

* * * * * * *

TITLE 5, UNITED STATES CODE

* * * * * * *

PART III—EMPLOYEES

Chapter Sec.

SUBPART A—GENERAL PROVISIONS

21. Definitions 2101

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SUBPART I—MISCELLANEOUS

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[97. Department of Homeland Security ..... 9701]

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SUBPART I—Miscellaneous

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[CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

[§ 9701. Establishment of human resources management system

[(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

[(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

[(1) be flexible;

[(2) be contemporary;

[(3) not waive, modify, or otherwise affect—

[(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

[(B) any provision of section 2302, relating to prohibited personnel practices;

[(C)(i) any provision of law referred to in section 2302(b)(1), (8), and (9); or

[(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1), (8), and (9) by—

[(I) providing for equal employment opportunity through affirmative action; or

[(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

[(D) any other provision of this part (as described in subsection (c)); or

[(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

[(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

[(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

[(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

[(1) subparts A, B, E, G, and H of this part; and

[(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

[(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

[(1) to modify the pay of any employee who serves in—

[(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

[(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

[(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

[(3) to exempt any employee from the application of such section 5307.

[(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

[(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of employee representatives in the planning, development, and implementation of any human resources management system or adjustments to such system under this section, the Secretary of Homeland Security and the Director of the Office of Personnel Management shall provide for the following:

[(A) NOTICE OF PROPOSAL.—The Secretary and the Director shall, with respect to any proposed system or adjustment—

[(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

[(ii) give each representative 30 calendar days (unless extraordinary circumstances require earlier ac-

tion) to review and make recommendations with respect to the proposal; and

[(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

[(B) PRE-IMPLEMENTATION CONGRESSIONAL NOTIFICATION, CONSULTATION, AND MEDIATION.—Following receipt of recommendations, if any, from employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

[(i) notify Congress of those parts of the proposal, together with the recommendations of employee representatives;

[(ii) meet and confer for not less than 30 calendar days with any representatives who have made recommendations, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

[(iii) at the Secretary's option, or if requested by a majority of the employee representatives who have made recommendations, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

[(C) IMPLEMENTATION.—

[(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which their recommendations are accepted by the Secretary and the Director, may be implemented immediately.

[(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary determines, in the Secretary's sole and unreviewable discretion, that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts, including any modifications made in response to the recommendations as the Secretary determines advisable.

[(iii) The Secretary shall promptly notify Congress of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

[(D) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

[(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

[(ii) give each employee representative adequate access to information to make that participation productive.

[(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly as internal rules of departmental procedure which shall not be subject to review. Such procedures shall include measures to ensure—

[(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

[(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection;

[(C) the fair and expeditious handling of the consultation and mediation process described in subparagraph (B) of paragraph (1), including procedures by which, if the number of employee representatives providing recommendations exceeds 5, such representatives select a committee or other unified representative with which the Secretary and Director may meet and confer; and

[(D) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

[(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

[(1) SENSE OF CONGRESS.—It is the sense of Congress that—

[(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

[(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

[(i) should ensure that employees of the Department are afforded the protections of due process; and

[(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

[(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

[(A) shall be issued only after consultation with the Merit Systems Protection Board;

[(B) shall ensure the availability of procedures which shall—

[(i) be consistent with requirements of due process; and

[(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

[(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

[(g) PROVISIONS RELATING TO LABOR-MANAGEMENT RELATIONS.—Nothing in this section shall be construed as conferring authority on the Secretary of Homeland Security to modify any of the provisions of section 842 of the Homeland Security Act of 2002.

[(h) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 1501 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.]

* * * * * * *

SECTION 319F–2 OF THE PUBLIC HEALTH SERVICE ACT

SEC. 319F–2. STRATEGIC NATIONAL STOCKPILE AND SECURITY COUNTERMEASURE PROCUREMENTS.

(a) * * *

* * * * * * *

(c) ADDITIONAL AUTHORITY REGARDING PROCUREMENT OF CERTAIN COUNTERMEASURES; AVAILABILITY OF SPECIAL RESERVE FUND.—

(1) * * *

(2) DETERMINATION OF MATERIAL THREATS.—

[(A) MATERIAL THREAT.—The Homeland Security Secretary]

(A) MATERIAL THREAT.—

(i) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary and the heads of other agencies as appropriate, shall on an ongoing basis—

[(i)] *(I)* assess current and emerging threats of chemical, biological, radiological, and nuclear agents; and

[(ii)] *(II)* determine which of such agents present a material threat against the United States population sufficient to affect national security.

(ii) USE OF EXISTING RISK ASSESSMENTS.—For the purpose of satisfying the requirements of clause (i) as expeditiously as possible, the Secretary of Homeland Security shall, as practicable, utilize existing risk assessments that the Secretary of Homeland Security, in consultation with the Secretaries of Health and Human Services, Defense, and Agriculture, and the heads of other appropriate Federal agencies, considers credible.

(iii) ORDER OF ASSESSMENTS.—

(I) GROUPINGS TO FACILITATE ASSESSMENT OF COUNTERMEASURES.—In conducting threat assessments and determinations under clause (i) of chemical, biological, radiological, and nuclear agents, the Secretary of Homeland Security shall, to the extent practicable and appropriate, consider the completion of such assessments and determinations for groups of agents toward the goal of facilitating the assessment of countermeasures under paragraph (3) by the Secretary of Health and Human Services.

(II) CATEGORIES OF COUNTERMEASURES.—The grouping of agents under subclause (I) by the Secretary of Homeland Security shall be designed to facilitate assessments under paragraph (3) by the Secretary of Health and Human Services regarding the following two categories of countermeasures:

(aa) Countermeasures that may address more than one agent identified under clause (i)(II).

(bb) Countermeasures that may address adverse health consequences that are common to exposure to different agents.

(III) RULE OF CONSTRUCTION.—A particular grouping of agents pursuant to subclause (II) is not required under such subclause to facilitate assessments of both categories of countermeasures described in such subclause. A grouping may concern one category and not the other.

(iv) DEADLINE FOR COMPLETION OF CERTAIN MATERIAL THREAT DETERMINATIONS.—With respect to chemical, biological, radiological, and nuclear agents known to the Secretary of Homeland Security as of the day before the date of the enactment of this clause, and which such Secretary considers to be capable of significantly affecting national security, such Secretary shall complete the determinations under clause (i)(II) not later than December 31, 2007.

(v) REPORT TO CONGRESS.—Not later than 30 days after the date on which the Secretary of Homeland Security completes a material threat assessment under clause (i), the Secretary shall submit to Congress a report containing the results of such assessment.

(vi) DEFINITION.—For purposes of this subparagraph, the term "risk assessment" means a scientific, technically-based analysis of agents that incorporates threat, vulnerability, and consequence information.

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SECTION 635 OF THE POST-KATRINA MANAGEMENT REFORM ACT OF 2006

[SEC. 635. METROPOLITAN MEDICAL RESPONSE GRANT PROGRAM.

[(a) IN GENERAL.—There is a Metropolitan Medical Response Program.

[(b) PURPOSES.—The program shall include each purpose of the program as it existed on June 1, 2006.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program for fiscal year 2008, an amount equal to the amount appropriated for the program for fiscal year 2007 and an additional $30,000,000.]

COMMITTEE CORRESPONDENCE

BART GORDON, TENNESSEE
CHAIRMAN

RALPH M. HALL, TEXAS
RANKING MEMBER

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON SCIENCE AND TECHNOLOGY

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May 2 2007

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
H2-176 Ford House Office Building
Washington, DC 20515

Dear Mr. Chairman,

I am writing to you concerning the jurisdictional interest of the Committee on Science and Technology in H.R. 1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008. The Committee on Science and Technology has jurisdictional interest in this bill based on the Committee's jurisdiction over the Department of Homeland Security Science and Technology Directorate ("DHS S&T") and other DHS research and development. [See *Rule X(o)(14)* which grants the Committee on Science and Technology jurisdiction over "Scientific research, development, and demonstration, and projects therefor."]

Specifically, the Committee on Science and Technology has jurisdictional claims to Section 702 and all of Title VIII. These sections all deal with Homeland Security research and development, which is clearly within the jurisdiction of the Committee on Science and Technology

The Committee on Science and Technology acknowledges the importance of H.R. 1684 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over this bill, I agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forgo a sequential referral waives, reduces, or otherwise affects the jurisdiction of the Committee on Science and Technology, and that a copy of this letter and of your response will be included in the *Congressional Record* when the bill is considered on the House Floor.

The Committee on Science and Technology also expects that you will support our request to be conferees during any House-Senate conference on this, or any similar legislation. Thank you for your attention to this matter.

Sincerely,

Bart Gordon

BART GORDON
Chairman

cc: The Honorable Ralph Hall

BENNIE G. THOMPSON, MISSISSIPPI
CHAIRMAN

PETER T. KING, NEW YORK
RANKING MEMBER

One Hundred Tenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

May 3, 2007

The Honorable Bart Gordon
Chairman
Committee on Science and Technology
2320 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gordon:

I thank you for your letter of May 2, 2007, indicating jurisdictional interests in H.R.1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008. I thank you for your agreement to expedite consideration of this measure and not seek a sequential referral of this legislation as reported.

I acknowledge your jurisdictional concerns and prerogatives with respect to H.R. 1684, and that your waiving of your right to consider will not prejudice future jurisdictional interests in the legislation. I agree to support your request to seek conferees should a House-Senate Conference be called on this or other similar legislation.

A copy of your letter, and this response, will be included in the Committee Report on H.R. 1684, and placed in the *Congressional Record* during Floor consideration of the measure.

Thank you for your cooperation as we work to move to enact this legislation.

Sincerely,

Bennie G. Thompson

BENNIE G. THOMPSON
Chairman

cc: The Honorable Peter T. King, Ranking Member
The Honorable Ralph M. Hall, Ranking Member, House Committee on Science and Technology

U.S. House of Representatives
Committee on Transportation and Infrastructure

James L. Oberstar
Chairman

David Heymsfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

Washington, DC 20515

John L. Mica
Ranking Republican Member

James W. Coon II, Republican Chief of Staff

May 3, 2007

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
176 Ford House Office Building
Washington, D.C. 20515

Dear Chairman Thompson:

I write to you regarding H.R. 1684, the "Department of Homeland Security Authorization Act for Fiscal Year 2008". This legislation authorizes the Department of Homeland Security.

H.R. 1684 contains provisions that fall within the jurisdiction of the Committee on Transportation and Infrastructure. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, agreeing to waive consideration of this bill should not be construed as the Committee on Transportation and Infrastructure waiving its jurisdiction over H.R. 1684.

Further, the Committee on Transportation and Infrastructure reserves the right to seek the appointment of conferees during any House-Senate conference convened on this legislation on provisions of the bill that are within the Committee's jurisdiction. I ask for your commitment to support any request by the Committee on Transportation and Infrastructure for the appointment of conferees on H.R. 1684 or similar legislation.

I look forward to working with you as we prepare to pass this important homeland security legislation.

Sincerely,

James L. Oberstar

James L. Oberstar, M.C.
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John L. Mica, Ranking Member
The Honorable Peter T. King, Ranking Member, Committee on Homeland Security
The Honorable John Sullivan, Parliamentarian

BENNIE G. THOMPSON, MISSISSIPPI
CHAIRMAN

PETER T. KING, NEW YORK
RANKING MEMBER

One Hundred Tenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

May 3, 2007

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Oberstar:

I thank you for your letter of May 3, 2007, indicating jurisdictional interests in H.R.1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008. I thank you for your agreement to expedite consideration of this measure and not seek a sequential referral of this legislation as reported.

I acknowledge your jurisdictional concerns and prerogatives with respect to H.R. 1684, and that your waiving of your right to consider will not prejudice future jurisdictional interests in the legislation. I agree to support your request to seek conferees should a House-Senate Conference be called on this or other similar legislation.

A copy of your letter, and this response, will be included in the Committee Report on H.R. 1684, and placed in the *Congressional Record* during Floor consideration of the measure.

Thank you for your cooperation as we work to move to enact this legislation.

Sincerely,

Bennie G. Thompson

BENNIE G. THOMPSON
Chairman

cc: The Honorable Peter T. King, Ranking Member
The Honorable John L. Mica, Ranking Member, House Committee on Transportation and Infrastructure

HENRY A. WAXMAN, CALIFORNIA
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GREGG A. ROTHSCHILD, CHIEF COUNSEL

ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515–6115

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MARSHA BLACKBURN, TENNESSEE

May 3, 2007

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
H2-176 Ford House Office Building
Washington, D.C. 20515

Dear Chairman Thompson:

I am writing with regard to H.R. 1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008. The bill contains provisions that fall within the jurisdiction of the Committee on Energy and Commerce. I support passage of the bill, and I recognize and appreciate your desire to bring it up on the House floor in an expeditious manner. The Committee will not seek a sequential referral of the bill. This decision is based on my understanding that you have agreed that the inaction of the Committee with respect to the bill does not in any way serve as a jurisdictional precedent as to our two committees.

Further, as to any House-Senate conference on the bill, the Committee on Energy and Commerce reserves the right to seek the appointment of conferees for consideration of portions of the bill that are within the Committee's jurisdiction. It is my understanding that you have agreed to support a request by the Committee with respect to serving as conferees on the bill (or similar legislation).

I request that you send a letter to me confirming our agreements as to jurisdiction, including with respect to conferees, and that our exchange of letters be included in your Committee's report on the bill and inserted in the *Congressional Record* as part of the consideration of the bill.

I look forward to working with you on this important legislation. If you wish to discuss this matter further, please contact me or have your staff contact my staff.

Sincerely,

JOHN D. DINGELL
CHAIRMAN

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

BENNIE G. THOMPSON, MISSISSIPPI
CHAIRMAN

PETER T. KING, NEW YORK
RANKING MEMBER

One Hundred Tenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

May 3, 2007

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Dingell:

I thank you for your letter of May 3, 2007, indicating jurisdictional interests in H.R.1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008. I thank you for your agreement to expedite consideration of this measure and not seek a sequential referral of this legislation as reported.

I acknowledge your jurisdictional concerns and prerogatives with respect to H.R. 1684, and that your waiving of your right to consider will not prejudice future jurisdictional interests in the legislation. I agree to support your request to seek conferees should a House-Senate Conference be called on this or other similar legislation.

A copy of your letter, and this response, will be included in the Committee Report on H.R. 1684, and placed in the *Congressional Record* during Floor consideration of the measure.

Thank you for your cooperation as we work to move to enact this legislation.

Sincerely,

Bennie G. Thompson

BENNIE G. THOMPSON
Chairman

cc: The Honorable Peter T. King, Ranking Member
The Honorable Joe Barton, Ranking Member, House Committee on Energy and Commerce

HENRY A. WAXMAN, CALIFORNIA,
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ONE HUNDRED TENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

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BILL SALI, IDAHO

May 3, 2007

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
176 Ford House Office Building
Washington, DC 20515

Dear Chairman Thompson:

I am writing about H.R. 1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008, which the Homeland Security Committee ordered reported to the House on March 28, 2007.

I appreciate your effort to consult with the Committee on Oversight and Government Reform regarding those provisions of H.R. 1684 that fall within the Oversight Committee's jurisdiction. These provisions include several sections affecting federal civil service and personnel matters as well as numerous federal contracting and procurement requirements. In addition, H.R. 1684 contains a provision authorizing a grant program related to the REAL ID Act of 2005 (Public Law 109-13).

In the interest of expediting consideration of H.R. 1684, and in recognition of your diligent efforts to address my concerns with several provisions contained in this measure, the Oversight Committee will not request a sequential referral of this bill.

I would, however, request your support for the appointment of conferees from the Oversight Committee should H.R. 1684 or a similar Senate bill be considered in conference with the Senate.

Moreover, I believe it is important to identify a few of the provisions in H.R. 1684 that are of particular concern to me.

I have concerns about granting the Secretary of Homeland Security authority to hire annuitants to work in various full-time positions. In effect, these employees will be paid full retirement and full pay at the same time, requiring an exemption from existing federal law. Although you have agreed to limit this provision to require that such authority be granted only

after the Secretary has utilized exemption procedures already available in existing law, I am concerned about agencies having direct authority to rehire annuitants. I intend to review this issue carefully as the legislation moves forward. Our goal should be to determine what is the best policy for more efficient government operations at the least cost to American taxpayers.

I am also concerned with provisions that require that homeland security related purchases come from domestic production facilities only. Although I recognize there may at times be legitimate security reasons to require certain products be manufactured on American soil, I think such determinations are best made on a case-by-case basis. Requiring that products be made in America regardless of less costly alternatives may not be in the best interests of American taxpayers.

H.R. 1684 confers Law Enforcement Officer (LEO) status on Customs and Border Protection Officers for retirement purposes. I do not object to enhancing the retirement benefits of federal workers that have potentially dangerous responsibilities. The best way to do this is through a careful analysis of the impact across the federal government. Indeed, the Oversight Committee has been approached about this issue by several federal law enforcement officers from other agencies seeking LEO status for retirement purposes.

As the process moves forward, we should strive to understand the implications of provisions in the bill and the impact of any inconsistencies they may create. I am concerned, for example, that the legislation provides enhanced retirement benefits only to recent and new hires, but not to more senior officers.

As noted above, H.R. 1684 establishes a grant program for states to assist in development of state-issued identity cards to be used for federal purposes. This may be a valid and necessary grant program. Nevertheless, the rationale behind this grant program is the staggering cost imposed by the REAL ID Act. Currently, implementing the REAL ID Act is an issue of significant controversy and debate in several states and in the privacy community. Federal legislation to repeal the REAL ID Act has been introduced and referred to the Oversight Committee. In my view, the costs and benefits of the REAL ID Act merit further review and study. The Oversight Committee plans to explore this issue in more detail.

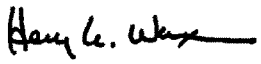
Again, thank you for your efforts to address my concerns with H.R. 1684. Although I still have reservations about several provisions, I look forward to working with you to resolve these matters and develop policies that benefit the federal government as a whole.

This letter should not be construed as a waiver of the Oversight Committee's legislative jurisdiction over subjects addressed in H.R. 1684 that fall within the jurisdiction of the Oversight Committee.

The Honorable Bennie G. Thompson
May 3, 2007
Page 3

Please include our exchange of letters on this matter in the Homeland Security Committee Report on H.R. 1684 and in the Congressional Record during consideration of this legislation on the House floor.

Sincerely,



Henry A. Waxman
Chairman

cc: Tom Davis
Ranking Minority Member

BENNIE G. THOMPSON, MISSISSIPPI
CHAIRMAN

PETER T. KING, NEW YORK
RANKING MEMBER

One Hundred Tenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

May 3, 2007

The Honorable Henry A. Waxman
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Waxman:

I thank you for your letter of May 3, 2007, indicating jurisdictional interests in H.R.1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008. I thank you for your agreement to expedite consideration of this measure and not seek a sequential referral of this legislation as reported.

I acknowledge your jurisdictional concerns and prerogatives with respect to H.R. 1684, and that your waiving of your right to consider will not prejudice future jurisdictional interests in the legislation. I agree to support your request to seek conferees should a House-Senate Conference be called on this or other similar legislation.

A copy of your letter, and this response, will be included in the Committee Report on H.R. 1684, and placed in the *Congressional Record* during Floor consideration of the measure.

Thank you for your cooperation as we work to move to enact this legislation.

Sincerely,

BENNIE G. THOMPSON
Chairman

cc: The Honorable Peter T. King, Ranking Member
The Honorable Tom Davis, Ranking Member, House Committee on Oversight and Government Reform

JOHN CONYERS, JR., Michigan
CHAIRMAN

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ONE HUNDRED TENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

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JIM JORDAN, Ohio

May 1, 2007

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Thompson:

This is to advise you that the Committee on the Judiciary has now had an opportunity to fully review the provisions in H.R. 1684, the "Department of Homeland Security Authorization Act for Fiscal Year 2008," as ordered reported by your Committee. As you know, a number of those provisions are within the Rule X jurisdiction of the Judiciary Committee. I appreciate your willingness to work with us on the provisions in which both our Committees have a jurisdictional interest, and to remove provisions that are within our Committee's jurisdiction for which there was not sufficient time for our Committee to give adequate attention.

Based on the resolution of our concerns, the Judiciary Committee will agree to waive the referral we receive on the bill as reported, so that it can move expeditiously to the floor for consideration by the full House. In the event a House-Senate conference on this or similar legislation is convened, the Judiciary Committee reserves the right to request an appropriate number of conferees to address any concerns that may arise with the Senate bill.

Thank you for your attention to our concerns.

Sincerely,

John Conyers, Jr.
Chairman

cc: Honorable Lamar Smith

BENNIE G. THOMPSON, MISSISSIPPI
CHAIRMAN

PETER T. KING, NEW YORK
RANKING MEMBER

One Hundred Tenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

May 3, 2007

The Honorable John Conyers, Jr.
Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Conyers:

I thank you for your letter of May 3, 2007, indicating jurisdictional interests in H.R.1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008. I thank you for your agreement to expedite consideration of this measure and not seek a sequential referral of this legislation as reported.

I acknowledge your jurisdictional concerns and prerogatives with respect to H.R. 1684, and that your waiving of your right to consider will not prejudice future jurisdictional interests in the legislation. I agree to support your request to seek conferees should a House-Senate Conference be called on this or other similar legislation.

A copy of your letter, and this response, will be included in the Committee Report on H.R. 1684, and placed in the *Congressional Record* during Floor consideration of the measure.

Thank you for your cooperation as we work to move to enact this legislation.

Sincerely,

Bennie G. Thompson

BENNIE G. THOMPSON
Chairman

cc: The Honorable Peter T. King, Ranking Member
The Honorable Lamar Smith, Ranking Member, House Committee on the Judiciary

COLLIN C. PETERSON, MINNESOTA,
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JOHN BARROW, GEORGIA
NICK LAMPSON, TEXAS
JOE DONNELLY, INDIANA
TIM MAHONEY, FLORIDA

U.S. House of Representatives
Committee on Agriculture
Room 1301, Longworth House Office Building
Washington, DC 20515–6001

(202) 225–2171
(202) 225–6510 FAX

BOB GOODLATTE, VIRGINIA,
RANKING MINORITY MEMBER
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ROBIN HAYES, NORTH CAROLINA
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ROBERT L. LAREW,
CHIEF OF STAFF
ANDREW W. BAKER,
CHIEF COUNSEL
WILLIAM E. O'CONNER, JR.,
MINORITY STAFF DIRECTOR

May 4, 2007

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
H2-176 Ford HOB
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of May 4, 2007 regarding H.R. 1684, as amended, the Department of Homeland Security Authorization Act for Fiscal Year 2008.

As you note, H.R. 1684, as reported, includes provisions that are in the jurisdiction of the Committee on Agriculture.

Because of your willingness to consult with the Committee on Agriculture on modifications and of the need to expedite this legislation, on behalf of the Committee I agree to forego referral of the bill. I do so with the understanding that the Committee on Agriculture does not waive its jurisdiction over H.R. 1684 or the subject matter. In addition, I reserve the authority to seek conferees during any House-Senate conference that may be convened on this or similar legislation.

I look forward to continuing to work with the Committee on Homeland Security with regard to issues related to a National Bio and Agro-Defense Facility.

I request that you include this letter and your preceding letter as part of your committee's report on the bill. Thank you for your cooperation in this matter.

Sincerely,

Collin C. Peterson
Chairman

agriculture.house.gov
agriculture@mail.house.gov

BENNIE G. THOMPSON, MISSISSIPPI
CHAIRMAN

PETER T. KING, NEW YORK
RANKING MEMBER

One Hundred Tenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

May 4, 2007

The Honorable Collin C. Peterson
Chairman
Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

Dear Chairman Peterson:

I thank you for your letter of May 4, 2007, indicating jurisdictional interests in H.R.1684, the Department of Homeland Security Authorization Act for Fiscal Year 2008. I thank you for your agreement to expedite consideration of this measure and not seek a sequential referral of this legislation as reported.

I acknowledge your jurisdictional concerns and prerogatives with respect to H.R. 1684, and that your waiving of your right to consider will not prejudice future jurisdictional interests in the legislation. I agree to support your request to seek conferees should a House-Senate Conference be called on this or other similar legislation.

A copy of your letter, and this response, will be included in the Committee Report on H.R. 1684, and placed in the *Congressional Record* during Floor consideration of the measure.

Thank you for your cooperation as we work to move to enact this legislation.

Sincerely,

Bennie G. Thompson

BENNIE G. THOMPSON
Chairman

cc: The Honorable Peter T. King, Ranking Member
The Honorable Bob Goodlatte, Ranking Member, House Committee on Agriculture

MINORITY VIEWS

The Republican Members of the Committee are pleased the Committee has once again passed an annual authorization bill for the Department of Homeland Security for Fiscal Year 2008. While more narrow in scope than prior bills, H.R. 1684 continues the Committee's efforts to implement effective homeland security policy and provide needed direction and funding levels to the Department as it continues to develop nascent capabilities.

INTRODUCTION

H.R. 1684, like previous DHS authorization bills, represents a largely bipartisan effort. The base bill considered by the Committee includes numerous sections identical or similar to provisions included in the Department of Homeland Security Authorization Act for Fiscal Year 2007, H.R. 5814, and other bills considered by the Committee last Congress.

During consideration of H.R. 1684, a number of Republican amendments were added to the bill to strengthen and improve the legislation. Republican Member contributions include provisions aimed at improving employee morale, providing more efficient and effective training, increasing flexibility for the Department regarding hiring of employees, and providing more effective control over the Nation's borders. Unfortunately, several other provisions were included in the bill over the objection of Republican Members that reflect unfortunate policy choices. These provisions include the Majority's revocation of human capital management flexibilities essential to the security mission of the Department. In other instances, the Majority rejected common sense amendments offered by Republican Members that would have provided needed tools to the Department to improve homeland security. Most notably, the Majority rejected an amendment authorizing the use of the automated targeting system as a tool for effectively identifying terrorist threats. We believe these shortcomings must be addressed as the bill moves through the legislative process.

REPUBLICAN IMPROVEMENTS

During consideration of H.R. 1684, Republican Members made substantial contributions to the bill. Notably, the Committee agreed to an amendment creating a program to make grants available to the States to be used to develop secure documents and prevent terrorists and other individuals from fraudulently obtaining State-issued identification cards, and an amendment offered by Representative Peter King strengthening the use of the Student and Exchange Visitor Information System. The bill also includes provisions suggested by Representative Ginny Brown-Waite which require high risk critical infrastructure owners to screen their employees against immigration and terrorist watch lists. The Com-

mittee believes these provisions will help encourage the presence of legal visitors and curb the ongoing abuse of our laws perpetrated by individuals using fraudulent documents.

The Committee also adopted provisions seeking to improve hiring and training practices at the Department. Representative David Reichert led the effort to provide the Department with the authority to appoint and maintain a cadre of Federal annuitants for the office of Information Analysis to help the Department compete for intelligence analysts with other more established intelligence agencies. The bill also includes an amendment offered by Representative Mike Rogers of Alabama authorizing the Department to use non-law enforcement officers as instructors for non-law enforcement classes at the Border Patrol Training academy. This change will enable the Department to leverage available expertise to provide more efficient training of CBP agents, and allow sworn Border Patrol agents to focus on securing the border rather than being taken away from this priority mission to teach non-law enforcement classes. The Republican Members of the Committee believe that providing the Department these needed flexibilities in its hiring and training practices will increase the efficiency and effectiveness of the Department.

Numerous other Republican amendments were also agreed to during consideration of the bill, including an amendment by Representative Kevin McCarthy to prohibit the award of contracts to educational institutions that refuse to support the Coast Guard's efforts to carry out its homeland security mission; an amendment by Representative Michael McCaul to establish a National Bio and Agro-Defense Facility; an amendment by Representative Mike Rogers of Alabama to strengthen the line authority for legislative affairs within the Department of Homeland Security; an amendment by Representative Bobby Jindal to request a report on the vulnerability of the Nation's levees to terrorist attack; an amendment by Representative Gus Bilirakis to increase the use of mobile biometric identification for unauthorized aliens; an amendment by Representative Dan Lungren to request a report on the implementation of a force multiplier program for Federal Air Marshals; an amendment by Representative Charles Dent to authorize the Homeland Security functions of the United States Secret Service; and amendments offered by Representative Mark Souder to require a specific budget line for the office of counternarcotics and to designate that office as the primary Departmental counternarcotics enforcement representative and a provision strengthening the federal criminal law regarding maritime human smuggling. Further explanation and discussion of other key provisions adopted by the Committee is included below.

Sense of Congress

At the request of Republican Members, the Committee agreed to include Section 305, a Sense of Congress expressing support for jurisdictional reorganization of the House and Senate to more effectively address the issue of homeland security. While this was a positive development, Republican Members remain disappointed that more has not been done by the Majority in the 110th Congress to fully implement this key 9/11 Commission recommendation. Ju-

risdiction over the Department remains fragmented, and the authority of the Committee on Homeland Security in the House of Representatives and the Homeland Security and Government Affairs Committee in the Senate are not comprehensive enough to achieve the policy goals of the 9/11 Commission's recommendation. Further changes to House and Senate rules to streamline and create efficiency in the oversight and authorization of the Department are necessary. Far too many committees of Congress still exercise control and oversight authority over the Department and its various terrorism-related mission areas. This creates an undue burden on a Department, when what is needed is the sort of focused attention, consistent guidance, and swift legislative responses to emerging threats that a single authorizing committee would provide. Modest changes to House and Senate rules would resolve the lingering overlaps in jurisdiction. These simple changes could have been made in the House on the opening day of Congress during consideration of the rules package, but unfortunately the newly-elected Majority failed to act. Despite promises to implement all the 9/11 Commission recommendations, the Majority party has continued to let committee turf battles and power struggles among chairmen get in the way of securing our Nation.

US–VISIT

The Republican Members of the Committee also support the inclusion of Section 901 in the bill to require the Department of Homeland Security to implement a biometric exit system at United States international airports by December 31, 2008, and to provide the Committee with a strategic plan for US–VISIT.

The Department's decision to move US–VISIT to the National Protection and Programs Directorate (NPPD) and to describe the program as an "identity management" system has raised questions regarding the Department's expectation for deploying the exit functions of US–VISIT. The Committee expects the Department to complete both the biometric entry and exit functions of US–VISIT, as mandated by law. This section directs the Department to continue working toward deploying exit capabilities at all ports of entry before altering the course of the system. Completing the exit portion of US–VISIT would allow the Department to address the issue of visa overstays and meet an important recommendation of the 9/11 Commission. The Committee believes it is important to national security that the Department remains committed to fulfilling the intended vision for US–VISIT.

The Republican Members of the Committee are concerned about the addition of an amendment to prohibit the transfer of the US–VISIT program into the NPPD until a plan is produced to fully implement the exit system at all ports of entry. While we support the goals of this amendment and believe a fully functioning entry and exit system is essential for border security, events appear to have overtaken the issue. The US–VISIT program was transferred into the NPPD on March 31, 2007, and we are concerned that this amendment, should it remain in the bill and be signed into law, would force the Department to rearrange the office again, causing significant costs and delays in the program.

Shadow Wolves program

We support the inclusion of Section 902 to authorize $4.1 million for the Shadow Wolves program for fiscal year 2008. This unique tracking unit conducts border security investigations and patrols along the sovereign Tohono O'odham Nation land. Republican Members support additional funding for this unit and efforts to expand the program to provide similar expertise and personnel on other tribal lands on or near the international land borders.

Biometric identification of unauthorized aliens

We are pleased that an amendment, offered by Representative Gus Bilirakis, requiring the Secretary of Homeland Security to conduct a pilot program for mobile biometric identification of apprehended aliens in the maritime environment and to consider expanding the capability to all appropriate DHS maritime vessels was accepted unanimously by the Committee and included as Section 906. The amendment includes a $10 million authorization for the program. The provision is intended to authorize a pilot, which began in November 2006 by the Coast Guard, and provide authorized funding to deal with technology hurdles encountered during the pilot, such as data synchronization and enhanced communications capabilities that can overcome radio frequency interference.

The Department of Homeland Security estimates that 10,000 unknown migrants attempt to cross from the Dominican Republic to Puerto Rico via the Mona Pass in small boats every year. Almost 50 percent of maritime migrant apprehensions occur in this area. The Mona Pass is also an attractive vector through which other migrant nationalities, such as Cubans and Haitians may attempt to enter the United States illegally.

Current procedure calls for repatriating interdicted migrants. Because we lack the capability to verify the identity of apprehended migrants, previous immigration violators, criminals, and possible terrorists remain undetected and are simply repatriated without consequence. Since starting the pilot, the Coast Guard has interdicted more than 21 vessels containing almost 600 undocumented aliens. Approximately 22 percent of those interdicted were enrolled in US–VISIT as prior felons or immigration violators.

Having a mobile biometric solution will enhance national maritime security by screening interdicted aliens and smugglers against US–VISIT biometric watch lists to identify violators, criminals, previous deportees, and possible terrorists, followed by appropriate law enforcement action. Additionally, interdicted migrants will be enrolled in the US–VISIT recidivist database to alert the Coast Guard's subsequent mission or repeat offenders.

Eligible uses for interoperability grants

The Republican Members of the Committee are pleased the Committee included section 1101, an important provision intended to ensure the Public Safety Interoperable Communications grant program will permit the use of funds to support not only the purchase of new equipment, but also governance, standard operating procedures, training and exercises, and usage. This new grant program will be administered jointly by the Department of Homeland Security Office of Grants and the National Telecommunications and In-

formation Administration within the Department of Commerce. The program will disburse $1 billion in funds to help State and local first responders achieve interoperable communications.

In response to testimony during a hearing held by the Subcommittee on Emergency Communications, Preparedness, and Response, as well as through meetings with Departmental officials, we became concerned that the guidance accompanying this grant program will be inflexible and only permit the use of grant funds to support equipment purchases and limited planning efforts. This would be contrary to the Federal standard for interoperability—the SAFECOM interoperability continuum—which applies to all other Federal grant programs.

The SAFECOM continuum consists of five areas: governance, standard operating procedures, technology, training and exercises, and usage. All five areas of the continuum are integral to the achievement of interoperable communications, as supported by two recent reports issued by the Department of Homeland Security. Both the National Interoperability Baseline Survey, released in December 2006, and the Tactical Interoperable Communications Program scorecards, released in January 2007, indicated that governance and standard operating procedures are the greatest challenges regarding achievement of multi-jurisdictional interoperability. Therefore, this section will ensure continuity in the interoperable communications grant guidance provided to States and localities. More importantly, this provision will also help ensure that $1 billion in Public Safety Interoperable Communications funds are not wasted.

Critical infrastructure study

Section 1103, offered by Representative David Reichert, authorizes an important study on creating further incentives for the private sector to share critical infrastructure information. It is well known that the private sector owns approximately 85 percent of America's critical infrastructure. But because these assets are privately held, many industries fear public disclosure of their commercial secrets or vulnerabilities. This study would look at incentives that would encourage the private sector to share its information. The study would specifically look at using tax policy to help accomplish this, but would also look at other means.

Computer capabilities to support real-time incident management

Section 1106, suggested to the Committee by Representative Bobby Jindal, directs the Secretary of Homeland Security to encourage the development and use of software or Internet-based computer capabilities to enable Federal, State, local, and tribal agencies to manage the response to terrorist attacks or natural disasters in real-time. The Republican Members of the Committee believe these computer-based capabilities should be based on technology designed to ensure that first responder incident management systems will be compatible with other incident management systems and able to share information easily. Real-time incident management will provide first responders with better and more accurate information to manage response and recovery efforts. As witnessed after Hurricane Katrina, situational awareness, includ-

ing geographic information system data and the location and tracking of people, vehicles, commodities, evacuation centers, and shelters, is critical to an effective response. Real-time computer-based incident management will help ensure that victims of future disasters receive the food and medical attention they require and that public infrastructure is restored or repaired as quickly as possible.

Expenditure reports as a condition of homeland security grants

The Republican Members of the Committee are pleased the Committee adopted section 1107, offered by Representative Christopher Shays, requiring a recipient of a grant administered by the Secretary of Homeland Security to submit expenditure reports to the Secretary no later than 30 days after the last day of the fiscal quarter. Within 30 days of receiving these reports, the Secretary is required to post this information on the internet, taking actions to avoid the disclosure of sensitive information.

Republican Committee Members are concerned about reports of questionable or improper spending of homeland security grants. This section seeks to add greater transparency to the grants process and allow taxpayers to see what their tax dollars are being spent on.

Metropolitan Medical Response System

Section 1112 authorizes funding for the Metropolitan Medical Response System (MMRS), a program designed to strengthen and enhance the nation's ability to respond to the medical consequences of a terrorist attack or other disaster with mass casualties. Specifically, this section would ensure that MMRS receives sufficient funding and proper program oversight. The Republican Members of the Committee are pleased that this section directs the Office of Health Affairs to conduct a program review to ensure that all 125 MMRS jurisdictions meet the strategic goals, objectives, and operational capabilities which the program was designed to develop and support. Through such a review, the Office of Health Affairs will be able to discern and distribute best practices to strengthen the MMRS program. Additionally, the program review will help address challenges jurisdictions may face in coordinating with public health, public safety, and other stakeholder groups to achieve appropriate integration and improve the jurisdiction's response capability.

Data sharing

The Republican Members of the Committee are pleased the Committee adopted section 1122, a provision offered as an amendment to the bill by Representative Ginny Brown-Waite that requires the Secretary of Homeland Security to share information on disaster assistance requested or provided in response to an act of terrorism, natural disaster, or other emergency to Federal, State, and local law enforcement entities to assist in the location of a missing child or a sex offender. The provision also requires the Secretary to consider the privacy implications of sharing this information.

After Hurricane Katrina, law enforcement entities had difficulty locating some of the approximately 2000 registered sex offenders that were evacuated as a result of the storm. At the time, the De-

partment of Health and Human Services' Administration for Children and Families estimated that registered sex offenders evacuated to about 30 states. In many cases law enforcement agencies were unable to locate these offenders and FEMA was unable to provide information about assistance that had been provided. This section will ensure that the Secretary of Homeland Security has the authority to share this information with law enforcement entities.

Task force to reform Border Patrol policies

Representative Michael McCaul offered an amendment that would establish a task force to examine the Border Patrol's policies regarding the use of deadly force and use of high speed pursuit. The participants in the task force would include the current and former Border Patrol agents, the Border Patrol union, local law enforcement, and human rights groups. The study would address the question of whether current United States Border Patrol policies adequately addresses the increase in violent encounters against Border Patrol agents, including shootings, rockings, and physical and vehicle assaults, that have accompanied a corresponding enhancement in border security.

Although Representative McCaul's amendment was rejected, the Majority agreed to include many of its provisions in an amendment offered by Representative Jackson-Lee of Texas. Ms. Jackson Lee's amendment requires the General Accountability Office to conduct a study on the Border Patrol's use of deadly force after consulting with the stakeholders proposed in Representative McCaul's original amendment.

Authorization of homeland security functions of the United States Secret Service

The Republican Members of the Committee are pleased that section 1121 was included in the bill. This section, offered by Representative Charles Dent, represents the first comprehensive authorization of specific funding levels of the United States Secret Service in its existence of over 140 years, and ensures its continued capability to conduct both its homeland security and non-homeland security missions.

While the provision is a positive first step, Republican Members of the Committee are disappointed the Majority failed to agree to language that specified a cap of not more than $1,105,648,000 for protection, administration, and training, despite negotiated assurances to include such provisions in report language. The Secret Service must have adequate resources to conduct more than just its protection missions. The Secret Service's field and investigations operations protect the Nation's monetary system, investigate certain cyber crimes and frauds, and help to prevent identity theft. Since Fiscal Year 2002, the number of counterfeit notes passed has increased by 44 percent.

The Republican Members of the Committee are also concerned that the President's budget included a 12 percent shift (226 FTE) in personnel resources from field investigations to protection operations. While we recognize this does not represent a physical shift in agent locations, such a reduction in field investigations would seem to imply a shift in agent focus. As a result, the Republican

Members of the Committee recommend the Service be provided an additional 122 agents to be used primarily in field and investigations operations, as they become available. The additional billets will also further decrease the average monthly overtime for a special agent, closing the gap between the current average of 58 hours per month to a target of 40 hours per month.

MISSED OPPORTUNITIES

While the Republican members are pleased with the adoption of Republican-authored provisions and amendments, and the resulting bipartisan bill, we are disappointed by missed opportunities to make a good bill even better. A number of Republican amendments were rejected by the Majority during the drafting and markup of the bill that would have further improved and strengthened the legislation. Of particular note, the Committee missed an opportunity to implement a key recommendation of the 9/11 Commission by authorizing the Automated Targeting System for passengers entering the United States. An amendment offered by Representative Dent would have fulfilled this vital recommendation. Another amendment offered by Representative Dent would have further strengthened terrorist targeting systems by requiring a covered transportation carrier to forward advance passenger information to United States Customs and Border Protection prior to the passengers' arrival in the United States. In other cases, the Majority missed opportunities to remove unsound policy provisions from the legislation, most notably the revocation of important human capital management flexibilities essential to the effective operation of DHS security missions. Further discussion of these provisions and other important security amendments rejected by the Majority is included below.

Repeal of chapter 97 of title 5, United States Code

Section 512 of the amended bill, which repeals chapter 97 or title 5 United States Code, represents a dangerous infringement on the ability of the Secretary of Homeland Security to manage the workforce of the Cabinet Department responsible for preventing, preparing for, and responding to terrorist attacks, major disasters, and other emergencies faced by our Nation. This provision is premature and unnecessary at a time when the Department is in the process of implementing a new personnel system based on management principles in use by other Federal agencies, and with flexibilities authorized by the Homeland Security Act of 2002.

Section 841 of the Homeland Security Act of 2002 authorized the Secretary of Homeland Security to establish a modern and efficient human resources management system for the Department of Homeland Security. Congress intended that the system include the flexibilities necessary for the Secretary to be able to take necessary actions and respond expeditiously to protect our Nation from terrorist attacks. We believe it remains critical that the Secretary have the tools he or she needs to manage the Department's workforce to fulfill the overarching mission of protecting our homeland.

The Department issued final regulations for its new, mission-centered, performance focused, flexible and contemporary human resources management system—known as MaxHR—on February 1,

2005. This system was designed to (1) implement a new performance management system to promote and sustain a high-performance culture and ensure good communication between supervisors and employees; (2) allow for flexibilities in pay to ensure the Department could continue to attract and retain a qualified workforce; (3) adjust the classification system to make it more contemporary; (4) create a more effective system for addressing discipline issues; (5) lay out new procedures governing labor-management relations and collective bargaining within the Department; and (6) establish a streamlined appeals process.

After protracted litigation over the Department's proposed new personnel system, the Federal courts enjoined the Labor Relations subpart. Shortly thereafter, the Department announced that in lieu of MaxHR, it was moving forward to implement the remaining personnel initiatives not enjoined by the courts, such as pay for performance, in a new program referred to as the Human Capital Operational Plan (HCOP). HCOP includes broad human resources initiatives consistent with Title 5 of the United States Code and found in existing Government-wide human resources management regulations. In addition, the Department intends to continue the roll-out of sound initiatives authorized by the Homeland Security Act of 2002. It is the intent of the Department to have in place a human resources management system that includes traditional programs such as training and education, hiring initiatives that reach out to a diverse candidate pool, timely processing of human resources actions, as well as some of the flexibilities envisioned in the Homeland Security Act of 2002.

As reflected in the HCOP, it is imperative for the ultimate success of the Department that it have the authority to move forward with initiatives to improve hiring practices and provide learning and development programs to ensure the Department's workforce has the skills necessary to meet the mission. In the 2006 Federal Human Capital Survey issued by the Office of Personnel Management earlier this year, Department employees declared that they do not feel that the Department's performance management system is responsive and that managers are not adequately skilled to implement it. The Department began to implement the new performance management program in fiscal year 2006, and the program now covers all employees in the Department's Headquarters as well as supervisors and managers across most components. This program will address many of the weaknesses employees raised in the Federal Human Capital Survey. Extensive performance leadership training has been, and continues to be offered to all covered managers and supervisors, and the training is receiving positive feedback. It would be a disservice to employees not to complete what the Department has begun in changing previous practices in this area, as would be required under this section.

The Department reports that efforts to improve the organizational focus on performance management and accountability are already showing progress—including clearer goals and expectations, and improved organizational planning. The Department is moving forward at a pace that ensures managers are trained and labor unions are consulted. The Department also has implemented reforms in a measured way, resulting in criticism by some that the

Department has moved too slowly. The Department contends that is has not been slow, but has invested a great deal of time with employees, employees' representatives, and managers throughout the organization in the design of these programs. The Department is now involved in the training and education of the new programs, and has reached out to employee representatives to include them in the implementation of the initiatives for represented employees.

In providing flexibilities to change how employees are paid in the Department, the Congress envisioned giving the Department all the tools it needs to make sure that the Department can continue to attract and retain the very best workforce. Congress also intended for the Department to be cautious in its implementation to avoid unintended consequences. As appropriate, the Department has moved slowly in this area. The Department will be testing the implementation with a small number of employees in the Department to ensure that the implementation is successful and that it yields the expected outcome.

We believe that HCOP initiatives place the appropriate emphasis in the training and development of the Department's workforce; hiring initiatives to increase diversity and ensure the right talent is put in place; a performance management system that requires managers be trained and to communicate with employees; and a carefully measured approach to pay reforms to ascertain how they can enhance the Department's ability to attract and retain employees. Significant time, resources, and careful analysis have been invested by the Department in creating a human resources system to meet its unique homeland security mission. Accordingly, we believe HCOP should be given a chance to work and the personnel flexibilities in the Homeland Security Act should be preserved. This section undermines the effort and represents a retreat from the development of needed flexibilities.

In addition to repealing chapter 97 of Title 5 of the United States Code, this section also repeals section 842(c) of the Homeland Security Act of 2002. Sections 842(a) and (b) of the Homeland Security Act of 2002 limit the President's ability to exclude employees of the Department of Homeland Security from joining bargaining units. Section 842(c) permits the President to waive the application of sections 842(a) and (b) upon a determination that their application "would have a substantial adverse impact on the ability of the Department to protect homeland security." In repealing section 842(c), this amendment would make it more difficult for the President to exclude Department entities (which by their nature have a national security mission), from coverage under chapter 71 of Title 5 of the United States Code, than it is for the President to exclude entities of other agencies. This misguided section would limit the authority of the President and the Secretary to make management decisions and may have dangerous implications on the Department's ability to fulfill its homeland security mission.

Centers of Excellence Program

Section 802 imposes a requirement on the Under Secretary for Science and Technology in establishing Centers of Excellence for homeland security research, to ensure that at least one of the next four Centers of Excellence established by the Department be lo-

cated at a Minority Serving Institution. This requirement is mandated without respect to an institution's academic qualifications or ability to successfully conduct the necessary work. The Republican Members of the Committee are concerned by the Majority imposing such a requirement on the Centers of Excellence Program. While competing institutions are held to several criteria, including quality, geographical diversity, and representation of minority students, quality and capability must always carry the greatest weight in the selection process.

Republican Members fully support efforts to encourage Minority Serving Institutions to play a greater role in the Centers of Excellence Program, and note that the current competitive process in no way limits the ability of a Minority Serving Institution to be included as a principal institution or as a supporting partner in accordance with its capabilities and skill-sets. However, we strongly believe Centers of Excellence should be established at institutions which have the most excellent capabilities to perform the best possible research, and as a result, have the greatest ability to succeed in supporting the Nation's homeland security mission.

Federal Protective Service mission

Section 410 represents another serious infringement on the ability of the Secretary of Homeland Security to manage the Department's workforce and allocate its resources. Specifically, the section prohibits the Secretary of Homeland Security from reducing the workforce of the Federal Protective Service until the Government Accountability Office (GAO) completes a report, and both the Committee on Homeland Security in the House of Representatives and the Committee on Homeland Security and Governmental Affairs in the Senate hold hearings on the GAO report.

The Federal Protective Service (FPS) is responsible for policing, securing, and ensuring a safe environment in which Federal agencies can conduct their business. The President's fiscal year 2008 budget request indicates that FPS will remain part of Immigration and Customs Enforcement (ICE), but the budget proposes a shift in focus for the agency. The Administration proposes that FPS focus on setting security standards and ensuring compliance with those standards, rather than maintaining a cadre of Federal officers providing security services.

The FY 2008 budget request for FPS supports 950 full-time equivalent (FTE) positions, which is a reduction from the current staffing level of approximately 1,220. The Department has indicated that the reduction in staff is related to the fees expected to be collected during FY 2008. FPS has struggled for financial stability for several years because of limitations on the fee amounts. The use of more contract support will allow FPS to direct more Federal resources to standard setting and management, while remaining within its budget.

Contrary to some claims, the Department advises that ICE has no intention to lay off current FPS employees. ICE has advised the Committee it will seek to provide these employees with opportunities to move into new positions, as well as other career developmental opportunities. The goal of ICE is to maintain the employee's grade and salary level. Those opportunities can allow employees to

train for new roles within FPS, ICE and DHS, and foster career mobility within DHS.

The Department advises further that the Voluntary Early Retirement Authority will continue through the remainder of Fiscal Year 2007. In addition, ICE's strategy to realign the FPS workforce with an authorized level of 950, includes assigning reimbursable ICE detailees to other DHS components and offers of permanent opportunities within ICE for FPS personnel.

Given these facts, we believe this section is premature, and attempts to address an issue that does not exist. This section also unduly restricts the Secretary's ability to manage part of the DHS workforce by barring implementation of a significant management decision until the completion of a GAO report and subsequent congressional hearings, the timing of which is uncertain.

Federal support for State and local law enforcement

We are similarly disappointed that the Majority refused to accept an amendment offered by Congressman David Davis of Tennessee, which would have allowed Immigration and Customs Enforcement (ICE) to reimburse State and local law enforcement agencies participating in the voluntary "287(g) program" for the costs of sending personnel to training, including backfill costs. This amendment was narrowly defeated on a tie vote of 15–15.

Securing our borders and enforcing our immigration laws are essential for effective homeland security. While these responsibilities belong to the Federal government, State and local law enforcement across the United States could serve as important force multipliers by coordinating and sharing information with Federal partners.

The 9/11 Commission recommended that "the U.S. border security system should be integrated into a larger network of screening points * * *"[1] and recognized that "there is a growing role for State and local law enforcement agencies. They need more training and work with federal agencies so that they can cooperate more effectively with those federal authorities in identifying terrorist suspects."[2]

The congressionally created 287(g) program is an existing program that can help achieve the recommendations of the 9/11 Commission for a network of screening and better cooperation among Federal, State, and local law enforcement. This provision allows States or localities and the Secretary of Homeland Security to enter into an agreement, or Memorandum of Understanding (MOU), under which local or State officers may be trained in immigration law and be qualified to perform the functions of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States.

Since the beginning of FY2006, law enforcement officers around the country participating in 287(g) have placed more than 9,000 individuals into removal proceedings. All of those individuals were originally arrested on local or State charges. The proposed amendment would not have changed any parameters of the program. It would have remained voluntary and participants would still have

[1] The Final Report of the National Commission on Terrorist Attacks upon the United States (The 9/11 Commission Report) at pg. 387.

[2] Ibid, at pg. 390.

received intensive training. The purpose of the amendment was to expand ICE's budget authority and allow for the reimbursement to States and localities for the added costs they incur when they send someone to this training.

According to ICE, it costs approximately $10,000 per week to provide the training course in the 287(g) instruction. This includes costs for travel to the training location, per diem, and lodging for the instructors and Subject Matter Experts. Currently, the State or political subdivision is responsible for the costs associated with their personnel attending the training. This amendment was intended to help bring some Federal assistance to States for their costs and encourage more participation in the program. State and local law enforcement agencies that volunteer to assist the Federal government through this program should not have to redirect their own resources to cover the personnel costs associated with the 287(g) training program. It is disheartening that this common sense amendment designed to bolster enforcement of our immigration laws was not accepted overwhelmingly.

Grant funding

As part of H.R. 1, Congress passed a provision that was intended to allow funding from the Homeland Security Grant Program to be used to pay State and local intelligence analysts or hire new intelligence analysts. However, because the language was vague on whether funds could be used to hire new analysts and was unclear on whether these could be law enforcement analysts, an amendment was offered during debate on H.R. 1684 to clarify this language. The amendment was debated but ultimately withdrawn with a pledge that Chairman Thompson would work to clarify the grant language in H.R. 1 during conference with the Senate.

We believe it is essential that the federal government lives up to its responsibility to provide for the common defense when it comes to terrorism and the resources needed to combat terrorism. After September 11, State, local, and tribal governments redoubled their efforts to combat terrorism and expended tremendous energy and financial resources to help the Federal Government fight the terrorist threat, including providing funding for the participation of State and local analysts in fusion centers and in other Federal homeland security intelligence efforts. Clarification of the language in H.R. 1 will ensure that states and localities can use their grant resources in these efforts to help the Federal government prevent terrorist attacks from occurring. We were disappointed that the amendment could not have been included in the bill during the markup, but look forward to clarifying the text of H.R. 1 during conference as promised.

Civil Air Patrol Support of Homeland Security Missions

Representative Charles W. Dent offered an amendment to direct the Secretary of Homeland Security to enter into agreements with the Secretary of the Air Force to utilize Civil Air Patrol assets to support homeland security missions. The text of this amendment is nearly identical to H.R. 1333, the Civil Air Patrol Homeland Security Support Act of 2007, which was introduced by Representative Dent on March 6, 2007. Specifically, this amendment would allow

the Civil Air Patrol to assist in monitoring activity along the nation's borders, and providing search and rescue, damage assessment, evacuation assistance, and other emergency response services. While this type of coordination is already underway in many states, this amendment would strengthen the Federal response capability by providing additional resources and well-trained personnel. Unfortunately, the Majority Members felt they were not prepared to consider the amendment. At the request of the Chairman, Representative Dent agreed to withdraw the amendment to allow the Committee to explore the issue through a hearing prior to considering legislation in this area. The Republican Members of the Committee are disappointed the amendment could not have been included in the bill, but look forward to working cooperatively with the Majority on a hearing and future consideration of this important initiative.

Automated Targeting System for Passengers Entering the United States

The Majority refused to include an amendment offered by Representative Dent that would have authorized the United States Custom and Border Protection (CBP) Automated Targeting System for persons (ATS–P). ATS–P is an invaluable tool for screening individuals entering and departing from the United States, and is currently used by CBP to systematically review known information about foreign travelers before they arrive in the United States. The program fulfills an integral recommendation of the 9/11 Commission, and has already proven instrumental in identifying individuals with ties to terrorism and allowing CBP officers to interdict those persons upon their attempted entry into the United States.

The ATS–P program utilizes data that is already available to CBP in order to perform a real-time risk assessment of a traveler in context with his or her previous behavior. CBP officers then use that assessment in determining whether the traveler should undergo secondary screening. The program does not make a determination of whether or not the individual should be allowed entry into the United States. Rather ATS–P is a tool to help target CBP resources on those individuals who are most appropriate for additional screening.

The amendment rejected by the Majority would have codified CBP's existing authority for conducting such risk assessment screening, and would have authorized the Secretary to utilize ATS–P for all persons departing or entering the United States, in accord with the recommendations of the 9/11 Commission. Moreover, the amendment would not have affected the program's existing privacy protections. The Republican Members of the Committee believe that this was a missed opportunity to support and further strengthen a program which has been successful in securing the country from individuals who seek to do us harm.

Advance Passenger Information System

Representative Dent offered another amendment that would have provided Customs and Border Protection (CBP) the authority to require providers of covered transportation to electronically transmit the manifests containing information regarding pas-

sengers and crew members in advance of their arrival at United States ports of entry. The information transportation providers are required to collect and submit can be found on routine entry documents that passengers and crew members must currently provide when processed into or out of the United States, including the passenger's name, date of birth, citizenship, gender, passport number and country of issuance, and alien registration number, if applicable.

The Republican Members of the Committee believe this amendment is important because it offers an additional layer of security, as well as convenience, to travelers entering and departing the United States. The amendment would not have granted CBP the authority to demand any information that it does not already receive when a person arrives at a port of entry or border crossing—it merely would have authorized CBP to require that transportation providers deliver the information electronically prior to the person's arrival at the port of entry or border crossing. This advance notification already occurs for travelers and crew members of commercial air and sea carriers, and has been utilized successfully in a number of pilot programs at land ports.

With the benefit of this amendment, the majority of the travelers would be more efficiently processed, and admitted into the country, while individuals of interest would be more readily identified. In addition, advance submission of passenger and crew information would help CBP allocate resources in the face of its ever increasing workload. Representative Dent withdrew his amendment upon assurances from the Chairman that the Majority would work in good faith to negotiate the language of the amendment so that it could be included in border security legislation to be introduced by the Committee within a few months. Republican Members are disappointed the amendment was not included in the bill, but look forward to working with the Majority to include it in future legislation.

PETER T. KING,
Ranking Member.
CHRISTOPHER SHAYS.
MIKE ROGERS.
CHARLES W. DENT.
GUS M. BILIRAKIS.
KEVIN MCCARTHY.
MARK E. SOUDER.
DANIEL E. LUNGREN.
BOBBY JINDAL.
MICHAEL T. MCCAUL.
GINNY BROWN-WAITE.
DAVID DAVIS.

DISSENTING VIEWS OF LAMAR SMITH

Section 305 of the bill provides that "[it] is the sense of the Congress that the House of Representatives and the Senate should * * * designate a committee in each body to serve as the single, principal point of oversight and review for homeland security and to authorize the activities of the Department of Homeland Security." To the extent that this section seeks to change the Rule X jurisdiction of the Judiciary Committee, I strongly object to its inclusion in the bill.

Rule X of the House Rules provides that the Judiciary Committee has jurisdiction over "immigration policy and non-border enforcement" while the Homeland Security Committee has jurisdiction over "[b]order and port security (except immigration policy and non-border enforcement)." [1]

This bifurcation of immigration jurisdiction was described in more detail in the Legislative History to Accompany Changes to Rule X that was printed in the Congressional Record on January 4, 2005:

> The Committee on the Judiciary shall retain jurisdiction over immigration policy and non-border [enforcement] of the immigration laws. Its jurisdiction over immigration policy shall include matters such as the immigration and. naturalization process, numbers of aliens (including immigrants and non-immigrants) allowed, classifications and lengths of allowable stay, the adjudication of immigration petitions and the requirements for the same, the domestic adjudication of immigration petitions and applications submitted to the Department of Labor or the Department of Homeland Security and setting policy with regard to visa issuance and acceptance. Its jurisdiction over non-border enforcement shall be limited to those aspects of immigration enforcement not associated with the immediate entry of individuals into the country, including those aspects of the Bureau of Immigration and Customs Enforcement.[2]

This House considered this issue exhaustively at the time. There is no reason to upset this careful compromise just two years later. The Judiciary Committee has had jurisdiction over immigration since 1946. While jurisdictional adjustments were made upon creation of the Homeland Security Committee in recognition of the Department of Homeland Security's crucial role in preventing terrorists from crossing our borders, most immigration jurisdiction was kept within the Judiciary Committee. The rationale for keeping jurisdiction over immigration policy and non-border enforcement

[1] Rules of the U.S. House of Representatives, 110th Congress, secs. 1(k)(9) and (i)(3)(A) of rule X.

[2] Cong. Rec. H25 (January 4, 2005).

within the Judiciary Committee was clear in 2005 and is clear now. While deterring terrorism is a key component of our immigration strategy, focusing solely on the terrorism aspects of immigration enforcement will make our nation's immigration crisis even worse. Up until very recently, our immigration enforcement agencies have dedicated so many post 9/11 resources to their anti-terrorism efforts that they have ignored the huge influx of illegal immigrants, who have entered our country since that date, more than half a million a year by some counts. Immigration enforcement must focus on labor and law enforcement concerns to turn the tide of illegal immigration. While terrorism concerns are significant in consideration of immigration enforcement, the danger posed by criminal aliens is equally, if not more, important in the day-to-day lives of Americans. A quarter of federal prison inmates are criminal aliens, and some 80,000 alien absconders are serious criminals. In 2005, the United States deported over 89,000 criminal aliens. The Judiciary Committee brings its expertise to these tasks. There is a danger that the Homeland Security Committee would pay little heed to the large amount of immigration enforcement that is not terrorist-related.

Because of the intertwined nature of immigration benefits and enforcement, neither does it make sense to bifurcate jurisdiction over these matters. Aliens subject to removal may seek immigration benefits, while aliens applying for benefits may be ineligible for those benefits on a ground that would render them removable. For these reasons, knowledge of both immigration enforcement and immigration benefits is crucial for any street agent or adjudicator. It is equally important for a Committee with immigration oversight responsibilities to have experience in both immigration enforcement and benefits.

Finally, should we focus exclusively on anti-terrorism efforts this would send a message of distrust to those who would come and contribute to our nation. The Judiciary Committee has appropriately balanced the law enforcement, labor, and national security components of our nation's immigration laws in the past, and it stands ready to do so in the future. The Committee understands that millions of U.S. jobs, the health of our institutions, and our image worldwide depend on our immigration policies, in a way that a committee solely focused on terrorism would not.

LAMAR SMITH.

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