

112TH CONGRESS  
1ST SESSION

# H. R. 2658

To amend the Homeland Security Act of 2002 to enhance the ability of the Federal Protective Service to provide adequate security for the prevention of terrorist activities and for the promotion of homeland security, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2011

Mr. DANIEL E. LUNGREN of California introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Homeland Security Act of 2002 to enhance the ability of the Federal Protective Service to provide adequate security for the prevention of terrorist activities and for the promotion of homeland security, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Protective  
5 Service Reform and Enhancement Act”.

1 **SEC. 2. AUTHORIZATION OF FEDERAL PROTECTIVE SERV-**  
2 **ICE.**

3 (a) AUTHORIZATION.—Title II of the Homeland Se-  
4 curity Act of 2002 (6 U.S.C. 121 et seq.) is amended by  
5 adding at the end the following:

6 **“Subtitle E—Federal Protective**  
7 **Service**

8 **“SEC. 241. AUTHORIZATION OF FEDERAL PROTECTIVE**  
9 **SERVICE.**

10 “(a) AUTHORIZATION.—There shall be in the Depart-  
11 ment the Federal Protective Service.

12 “(b) DIRECTOR.—There shall be a Director of the  
13 Federal Protective Service, who shall report to the Under  
14 Secretary responsible for critical infrastructure protection.

15 “(c) DUTIES AND AUTHORITIES OF THE DIREC-  
16 TOR.—

17 “(1) IN GENERAL.—The Director shall be re-  
18 sponsible for the management and administration of  
19 the Federal Protective Service and the employees  
20 and programs of the Federal Protective Service.

21 “(2) MISSION.—The Director shall endeavor to  
22 secure all facilities and surrounding Federal prop-  
23 erty under the protection of the Federal Protective  
24 Service, and safeguard all occupants thereof, includ-  
25 ing Federal employees, officers, and visitors.

1           “(3) ENFORCEMENT POLICY.—The Director  
2 shall establish and direct the implementation of the  
3 policies of the Federal Protective Service, and advise  
4 the Under Secretary responsible for critical infra-  
5 structure protection on policy matters relating to the  
6 protection of facilities.

7           “(4) TRAINING.—The Director shall establish a  
8 training program for all employees of the Federal  
9 Protective Service, and all security guards hired by  
10 the Federal Protective Service by contract, with re-  
11 sponsibilities for carrying out the mission of the Di-  
12 rector under paragraph (2).

13           “(5) PERSONNEL.—The Director shall make  
14 recommendations for staffing and training necessary  
15 to ensure security for Federal facilities protected by  
16 the Federal Protective Service.

17           “(6) INFORMATION SHARING.—The Director  
18 shall ensure effective coordination and liaison with  
19 other Federal law enforcement agencies and State  
20 and local law enforcement agencies regarding threats  
21 to facilities protected by the Federal Protective Serv-  
22 ice and shall share information and intelligence re-  
23 garding such threats in a timely manner through the  
24 Regional Information Sharing Plan and the Home-  
25 land Secure Data Network.

1           “(7) SECURITY ASSESSMENTS.—The Director  
2 shall—

3           “(A) conduct a security risk assessment  
4 for each Federal facility protected by the Fed-  
5 eral Protective Service; and

6           “(B) inspect and patrol such facilities on a  
7 recurring basis for the purpose of detecting and  
8 determining terrorist or criminal activity and  
9 determining compliance with Federal security  
10 standards and making appropriate risk mitiga-  
11 tion recommendations to devalue any such facil-  
12 ity as a terrorist target.

13           “(8) EMERGENCY PREPAREDNESS ASSIST-  
14 ANCE.—The Director shall—

15           “(A) ensure each facility protected by the  
16 Federal Protective Service has adequate plans  
17 for emergency situations;

18           “(B) provide technical assistance to agen-  
19 cies that are the tenant of a facility protected  
20 by the Federal Protective Service in developing  
21 plans described in subparagraph (A); and

22           “(C) ensure plans described in subpara-  
23 graph (A) are carried out using standards es-  
24 tablished by the Interagency Security Com-  
25 mittee.

1           “(9) SECURITY COUNTERMEASURES.—The Di-  
2           rector shall ensure and supervise the effective de-  
3           sign, installation, maintenance, and operation of se-  
4           curity countermeasures (including contract guards,  
5           electronic physical security systems, and weapons  
6           and explosives screening devices) for facilities pro-  
7           tected by the Federal Protective Service.

8           “(10) SUITABILITY OF GUARDS.—The Director  
9           shall ensure that—

10                   “(A) background investigations are con-  
11                   ducted for contract guards and building service  
12                   contractors employed at facilities protected by  
13                   the Federal Protective Service; and

14                   “(B) each contract guard and building  
15                   service contractor is suitable for work in a facil-  
16                   ity protected by the Federal Protective Service  
17                   before being granted unescorted or recurring  
18                   access.

19           “(11) TERRORISM PREVENTION.—The Sec-  
20           retary shall ensure security personnel are provided  
21           training in terrorism prevention, including dis-  
22           patching of canine bomb detection teams.

23           “(d) RISK MANAGEMENT.—The Under Secretary of  
24           the Department who is responsible for critical infrastruc-  
25           ture protection shall manage risk by utilizing and main-

1 taining a risk assessment tool and centralized database in  
2 order to at a minimum—

3 “(1) conduct facility security risk assessments;

4 “(2) track contract guard posts; and

5 “(3) validate contract guard certifications.

6 **“SEC. 242. REPORT ON MINIMUM FULL-TIME EQUIVALENT**  
7 **EMPLOYEE REQUIREMENTS.**

8 “The Secretary shall submit an annual report to the  
9 Committee on Homeland Security of the House of Rep-  
10 resentatives and the Committee on Homeland Security  
11 and Governmental Affairs of the Senate that provides esti-  
12 mates of staffing needs of the Federal Protective Service  
13 for the 5-year period beginning on the date of submission  
14 of the report, including the number of full-time equivalent  
15 employees necessary to fulfill the mission of the Federal  
16 Protective Service.

17 **“SEC. 243. OVERSIGHT OF CONTRACT GUARD SERVICES.**

18 “(a) ARMED GUARD TRAINING REQUIREMENTS.—

19 “(1) ESTABLISHMENT.—Not later than 90 days  
20 after the date of enactment the Federal Protective  
21 Service Reform and Enhancement Act the Director  
22 shall establish minimum training and annual certifi-  
23 cation requirements for all contract guards procured  
24 by the Federal Protective Service.

1           “(2) REQUIREMENTS.—Training requirements  
2 under this subsection shall include—

3           “(A) at least 16 hours of instruction dedi-  
4 cated to x-ray and magnetometer training pro-  
5 vided by the Federal Protective Service before  
6 an armed guard may stand post in a facility  
7 employing x-rays or a magnetometer; and

8           “(B) regular and recurring training in—

9           “(i) arrest and control procedures;

10           “(ii) weapons training if necessary;

11           “(iii) operation of emergency equip-  
12 ment;

13           “(iv) access control; and

14           “(v) cardiopulmonary resuscitation  
15 and basic first aid.

16           “(b) TRAINING AND SECURITY ASSESSMENT PRO-  
17 GRAM.—

18           “(1) ESTABLISHMENT.—Not later than 180  
19 days after the date of enactment of the Federal Pro-  
20 tective Service Reform and Enhancement Act, the  
21 Director shall establish a program to periodically as-  
22 sess—

23           “(A) the training of contract guards for  
24 the security and protection of facilities pro-  
25 tected by the Federal Protective Service; and

1           “(B) the security of facilities protected by  
2           the Federal Protective Service.

3           “(2) PROGRAM.—The program under this sub-  
4           section shall include an assessment of—

5                   “(A) methods to test the training and cer-  
6                   tifications of guards;

7                   “(B) procedures for taking personnel ac-  
8                   tions against, or for providing recommendations  
9                   regarding, individuals; and

10                   “(C) a covert testing program, that shall  
11                   be conducted without prior notice to the facility  
12                   concerned and in a manner that does not affect  
13                   the security or safety of the property or employ-  
14                   ees, in order to evaluate—

15                           “(i) the ability of the Federal Protec-  
16                           tive Service security and contract guards  
17                           to prevent an incident that applicable secu-  
18                           rity performance standards are intended to  
19                           prevent; and

20                           “(ii) any weaknesses in the security  
21                           plan of a facility.

22           “(3) REPORTS.—The Secretary shall annually  
23           submit a report to the Committee on Homeland Se-  
24           curity of the House of Representatives and the Com-  
25           mittee on Homeland Security and Governmental Af-



1       fairs of the Senate, in a classified manner, if nec-  
2       essary, on the results of the assessment of the overt  
3       and covert testing program of the Federal Protective  
4       Service.

5       **“SEC. 244. STRATEGIC PLAN REQUIREMENT.**

6       “(a) IN GENERAL.—Not later than 180 days after  
7       the date of enactment of the Federal Protective Service  
8       Reform and Enhancement Act, the Secretary shall submit  
9       to Congress a 5-year budget outlook and strategic plan  
10      for the Federal Protective Service that includes the fol-  
11      lowing:

12           “(1) Estimates of staffing and associated costs  
13      the Federal Protective Service requires in order to  
14      provide counterterrorism and homeland security  
15      functions.

16           “(2) Estimates of staffing and associated costs  
17      the Federal Protective Service requires in order to  
18      assess the need for and, as appropriate, provide  
19      building-specific security countermeasures.

20           “(3) Estimates of staffing and associated cost  
21      the Federal Protective Service requires for reimburs-  
22      able agency-specific security work authorization  
23      functions.

24           “(4) Reviews of the performance of contractor-  
25      provided security guards that assess both quality

1 and cost of individual private contract guard pro-  
2 viders performing Federal Protective Service guard  
3 functions under contract.

4 “(b) UPDATES.—The Secretary shall include an an-  
5 nual update of such plan with the President’s annual  
6 budget submission to the Congress.

7 **“SEC. 245. PROMOTION OF FEDERAL PROTECTIVE SERVICE**  
8 **TECHNOLOGY AND TRAINING.**

9 “(a) IN GENERAL.—Within 6 months after the date  
10 of enactment of the Federal Protective Service Reform  
11 and Enhancement Act, the Director of the Federal Protec-  
12 tive Service, in consultation with the Administrator for the  
13 Transportation Security Administration, shall publish—

14 “(1) a list of qualified vendors and a list of  
15 qualified products that would promote common  
16 standards of deployment of personnel and tech-  
17 nology;

18 “(2) procedures and requirements for the prop-  
19 er administration of the list of qualified vendors and  
20 the list of qualified products as appropriate on a  
21 periodic basis, including—

22 “(A) requirements for qualification for in-  
23 clusion on a list;

24 “(B) review of such lists at least annually;

25 and

1           “(C) addition of new qualified vendors and  
2           products to such lists removal of any vendors  
3           and products that no longer meet the qualifica-  
4           tion requirements; and

5           “(3) best practices for utilizing items on the  
6           qualified products list so they are utilized in the  
7           most effective manner, including a process to best  
8           utilize existing products currently deployed.

9           “(b) APPLICATION TO PROCUREMENTS.—

10           “(1) IN GENERAL.—After the publication of the  
11           qualified vendors list and the qualified products list  
12           under subsection (a), the Federal Protective Service  
13           may not enter into any contractual arrangement for  
14           services or products covered by such lists—

15           “(A) with any person that is not included  
16           on the qualified vendors list;

17           “(B) for procurement of any product that  
18           is not included on the qualified products list; or

19           “(C) under which a subcontract may be  
20           awarded to a person that is not included on the  
21           qualified vendors list.

22           “(2) LIMITATION ON APPLICATION.—

23           “(A) IN GENERAL.—Paragraph (1) shall  
24           not apply to any contract the Director of the  
25           Federal Protective Service determines is of a

1 class of contracts that is not inherent to the se-  
2 curity missions of the Federal Protective Serv-  
3 ice or otherwise conflicts with Federal or State  
4 law.

5 “(B) NOTIFICATION TO CONGRESS.—The  
6 Director shall notify the Committee on Home-  
7 land Security of the House of Representatives  
8 and the Committee on Homeland Security and  
9 Governmental Affairs of the Senate in writing  
10 within 30 days after determining for purposes  
11 of subparagraph (A) any class of contracts that  
12 is not inherent to the security missions of the  
13 Federal Protective Service.

14 “(c) COOPERATIVE AGREEMENT.—Within 6 months  
15 after the date of enactment of the Federal Protective Serv-  
16 ice Reform and Enhancement Act, the Secretary of Home-  
17 land Security shall require the Assistant Secretary of the  
18 Transportation Security Administration, the Under Sec-  
19 retary for Science and Technology, and the Under Sec-  
20 retary responsible for critical infrastructure protection to  
21 enter into a memorandum of understanding pursuant to  
22 which the Transportation Security Laboratory will provide  
23 the Federal Protective Service with expertise, consultation,  
24 exchange of information, and testing for technology cov-

1 ered by the qualified vendors list and the qualified prod-  
2 ucts list required by this section.

3 **“SEC. 246. PROHIBITED ITEMS LIST.**

4 “(a) IN GENERAL.—

5 “(1) LIST OF PROHIBITED ITEMS.—Not later  
6 than the end of the 180-day period beginning on the  
7 date of enactment of the Federal Protective Service  
8 Reform and Enhancement Act, the Secretary, acting  
9 through the Under Secretary responsible for critical  
10 infrastructure protection, shall issue and implement  
11 a list of items, including component parts, that are  
12 prohibited from being brought into facilities pro-  
13 tected by the Federal Protective Service, unless an  
14 exemption is granted under paragraph (2).

15 “(2) EXEMPTIONS AND EXCEPTIONS.—An ex-  
16 emption or exception to the list of prohibited items  
17 under paragraph (1) may be granted that is tem-  
18 porary and effective for a specific period of time, or  
19 is permanent until rescinded, by—

20 “(A) the Secretary; or

21 “(B) the Director of the Federal Protective  
22 Service or the Facility Security Committee for  
23 the Federal facility, if authorized by the Sec-  
24 retary.

1       “(b) ADDITIONAL ITEMS.—Nothing in this section  
2 prohibits a facility security committee from prohibiting  
3 items that are not included on such list from being  
4 brought into the facility of that committee.

5       “(c) FAILURE TO ISSUE LIST.—If the Secretary fails  
6 to implement a prohibited items list in accordance with  
7 subsection (a), then the prohibited items list established  
8 by the Transportation Security Administration for civilian  
9 aviation shall apply for facilities protected by the Federal  
10 Protective Service—

11               “(1) effective upon expiration of the period re-  
12 ferred to in subsection (a); and

13               “(2) until such time as the Secretary, acting  
14 through the Under Secretary responsible for critical  
15 infrastructure protection, issues a prohibited items  
16 list described in subsection (a).

17       “(d) FACILITY SECURITY COMMITTEE DEFINED.—In  
18 this section the term ‘facility security committee’ means  
19 a facility security committee established pursuant to the  
20 report entitled ‘Vulnerability Assessment of Federal Fa-  
21 cilities’, issued by the Interagency Security Committee es-  
22 tablished by Executive Order 12977.”.

23       (b) CLERICAL AMENDMENT.—The table of contents  
24 in section 2 of such Act is amended by adding at the end  
25 of the items relating to title II the following:

“Subtitle E—Federal Protective Service

“Sec. 241. Authorization of Federal Protective Service.

“Sec. 242. Report on minimum full-time equivalent employee requirements.

“Sec. 243. Oversight of contract guard services.

“Sec. 244. Strategic plan requirement.

“Sec. 245. Promotion of Federal Protective Service technology and training.

“Sec. 246. Prohibited items list.”.

1 **SEC. 3. FEDERAL PROTECTIVE SERVICE AUTHORITY TO**  
 2 **CARRY OUT COUNTERTERRORISM AND**  
 3 **HOMELAND SECURITY FUNCTIONS.**

4 Section 1315(a) of title 40, United States Code, is  
 5 amended by—

6 (1) striking “(a) IN GENERAL.—” and insert-  
 7 ing the following:

8 “(a) IN GENERAL.—

9 “(1) PROTECTION OF FACILITIES.—For each  
 10 Federal facility not subject to security requirements  
 11 under Federal laws or regulations, the Secretary,  
 12 acting through the Federal Protective Service shall  
 13 have the primary authority in the executive branch  
 14 for implementing counterterrorism and homeland se-  
 15 curity functions to secure any building and all Fed-  
 16 eral property located in or on a facility, that is  
 17 owned, occupied, or secured by any component of  
 18 the Federal Government.

19 “(2) AGREEMENTS WITH OTHER LAW EN-  
 20 FORCEMENT AUTHORITIES.—Nothing in this sub-  
 21 section shall prevent the Federal Protective Service  
 22 from entering into agreements with other Federal,

1 State, or local law enforcement authorities to provide  
2 security or respond to incidents on property that is  
3 owned, occupied, or secured by the Federal Govern-  
4 ment.”.

5 **SEC. 4. REPORT REQUIREMENT.**

6 Not later than 180 days after the date of enactment  
7 of this Act, the Secretary shall submit to Congress the  
8 following:

9 (1) A strategy for more effectively managing  
10 the contract guard program of the Federal Protec-  
11 tive Service that ensures there is adequate oversight  
12 and monitoring of training for such program.

13 (2) A coordinated strategy for cooperation be-  
14 tween the Under Secretary responsible for critical  
15 infrastructure protection and the Under Secretary  
16 for Science and Technology regarding research, de-  
17 velopment, and deployment of security technology  
18 conducted by the Transportation Security Labora-  
19 tory.

20 (3) A report on retention rates within the Fed-  
21 eral Protective Service contract guard workforce, in-  
22 cluding an assessment of how the retention rate af-  
23 fects the costs and operations of the Federal Protec-  
24 tive Service and the security of facilities.

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