

# Calendar No. 57

110TH CONGRESS  
1ST SESSION

## S. 4

To make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

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### IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Mr. REID (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEAHY, Mr. SCHUMER, Ms. CANTWELL, Mr. LAUTENBERG, Ms. STABENOW, Mr. WEBB, Mr. MENENDEZ, Ms. LANDRIEU, Mrs. BOXER, Mr. DORGAN, Mr. BROWN, Ms. KLOBUCHAR, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

FEBRUARY 23, 2007

Reported under authority of the order of the Senate of February 17, 2007,  
by Mr. LIEBERMAN, with an amendment

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

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## A BILL

To make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improving America’s  
3 Security by Implementing Unfinished Recommendations  
4 of the 9/11 Commission Act of 2007”.

5 **SEC. 2. SENSE OF CONGRESS.**

6 It is the sense of Congress that Congress should  
7 enact, and the President should sign, legislation to make  
8 the United States more secure by implementing unfinished  
9 recommendations of the 9/11 Commission to fight the war  
10 on terror more effectively and to improve homeland secu-  
11 rity.

12 **SECTION 1. SHORT TITLE.**

13 *This Act may be cited as the “Improving America’s*  
14 *Security Act of 2007”.*

15 **SEC. 2. DEFINITIONS.**

16 *In this Act:*

17 (1) *DEPARTMENT.*—*The term “Department”*  
18 *means the Department of Homeland Security.*

19 (2) *SECRETARY.*—*The term “Secretary” means*  
20 *the Secretary of Homeland Security.*

21 **SEC. 3. TABLE OF CONTENTS.**

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

*Sec. 1. Short title.*  
*Sec. 2. Definitions.*

*Sec. 3. Table of contents.*

**TITLE I—IMPROVING INTELLIGENCE AND INFORMATION SHARING  
WITHIN THE FEDERAL GOVERNMENT AND WITH STATE, LOCAL,  
AND TRIBAL GOVERNMENTS**

*Subtitle A—Homeland Security Information Sharing Enhancement*

*Sec. 111. Homeland Security Advisory System and information sharing.*

*Sec. 112. Information sharing.*

*Sec. 113. Intelligence training development for State and local government officials.*

*Sec. 114. Information sharing incentives.*

*Subtitle B—Homeland Security Information Sharing Partnerships*

*Sec. 121. State, Local, and Regional Fusion Center Initiative.*

*Sec. 122. Homeland Security Information Sharing Fellows Program.*

*Subtitle C—Interagency Threat Assessment and Coordination Group*

*Sec. 131. Interagency Threat Assessment and Coordination Group.*

**TITLE II—HOMELAND SECURITY GRANTS**

*Sec. 201. Short title.*

*Sec. 202. Homeland Security Grant Program.*

*Sec. 203. Technical and conforming amendments.*

**TITLE III—COMMUNICATIONS OPERABILITY AND  
INTEROPERABILITY**

*Sec. 301. Dedicated funding to achieve emergency communications operability and interoperable communications.*

*Sec. 302. Border Interoperability Demonstration Project.*

**TITLE IV—ENHANCING SECURITY OF INTERNATIONAL TRAVEL**

*Sec. 401. Modernization of the visa waiver program.*

*Sec. 402. Strengthening the capabilities of the Human Smuggling and Trafficking Center.*

*Sec. 403. Enhancements to the Terrorist Travel Program.*

*Sec. 404. Enhanced driver's license.*

*Sec. 405. Western Hemisphere Travel Initiative.*

**TITLE V—PRIVACY AND CIVIL LIBERTIES MATTERS**

*Sec. 501. Modification of authorities relating to Privacy and Civil Liberties Oversight Board.*

*Sec. 502. Privacy and civil liberties officers.*

*Sec. 503. Department Privacy Officer.*

*Sec. 504. Federal Agency Data Mining Reporting Act of 2007.*

**TITLE VI—ENHANCED DEFENSES AGAINST WEAPONS OF MASS  
DESTRUCTION**

*Sec. 601. National Biosurveillance Integration Center.*

*Sec. 602. Biosurveillance efforts.*

*Sec. 603. Interagency coordination to enhance defenses against nuclear and radiological weapons of mass destruction.*

**TITLE VII—PRIVATE SECTOR PREPAREDNESS**

*Sec. 701. Definitions.*

*Sec. 702. Responsibilities of the private sector office of the Department.*

*Sec. 703. Voluntary national preparedness standards compliance; accreditation and certification program for the private sector.*

*Sec. 704. Sense of Congress regarding promoting an international standard for private sector preparedness.*

*Sec. 705. Report to Congress.*

*Sec. 706. Rule of construction.*

**TITLE VIII—TRANSPORTATION SECURITY PLANNING AND INFORMATION SHARING**

*Sec. 801. Transportation security strategic planning.*

*Sec. 802. Transportation security information sharing.*

*Sec. 803. Transportation Security Administration personnel management.*

**TITLE IX—INCIDENT COMMAND SYSTEM**

*Sec. 901. Preidentifying and evaluating multijurisdictional facilities to strengthen incident command; private sector preparedness.*

*Sec. 902. Credentialing and typing to strengthen incident command.*

**TITLE X—CRITICAL INFRASTRUCTURE PROTECTION**

*Sec. 1001. Critical infrastructure protection.*

*Sec. 1002. Risk assessment and report.*

*Sec. 1003. Use of existing capabilities.*

**TITLE XI—CONGRESSIONAL OVERSIGHT OF INTELLIGENCE**

*Sec. 1101. Availability to public of certain intelligence funding information.*

*Sec. 1102. Response of intelligence community to requests from Congress.*

*Sec. 1103. Public Interest Declassification Board.*

**TITLE XII—INTERNATIONAL COOPERATION ON ANTITERRORISM TECHNOLOGIES**

*Sec. 1201. Promoting antiterrorism capabilities through international cooperation.*

*Sec. 1202. Transparency of funds.*

**TITLE XIII—MISCELLANEOUS PROVISIONS**

*Sec. 1301. Deputy Secretary of Homeland Secretary for Management.*

*Sec. 1302. Sense of the Senate regarding combating domestic radicalization.*

*Sec. 1303. Sense of the Senate regarding oversight of homeland security.*

*Sec. 1304. Report regarding border security.*

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

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

9 **SEC. 111. HOMELAND SECURITY ADVISORY SYSTEM AND IN-**  
 10 **FORMATION SHARING.**

11 *(a) ADVISORY SYSTEM AND INFORMATION SHARING.—*

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

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

16 *“(a) REQUIREMENT.—The Secretary shall administer*  
 17 *the Homeland Security Advisory System in accordance*  
 18 *with this section to provide warnings regarding the risk of*  
 19 *terrorist attacks on the homeland to Federal, State, local,*  
 20 *and tribal government authorities and to the people of the*  
 21 *United States, as appropriate. The Secretary shall exercise*  
 22 *primary responsibility for providing such warnings.*

23 *“(b) REQUIRED ELEMENTS.—In administering the*  
 24 *Homeland Security Advisory System, the Secretary shall—*

1           “(1) establish criteria for the issuance and rev-  
2           ocation of such warnings;

3           “(2) develop a methodology, relying on the cri-  
4           teria established under paragraph (1), for the  
5           issuance and revocation of such warnings;

6           “(3) provide, in each such warning, specific in-  
7           formation and advice regarding appropriate protec-  
8           tive measures and countermeasures that may be taken  
9           in response to that risk, at the maximum level of de-  
10          tail practicable to enable individuals, government en-  
11          tities, emergency response providers, and the private  
12          sector to act appropriately; and

13          “(4) whenever possible, limit the scope of each  
14          such warning to a specific region, locality, or eco-  
15          nomic sector believed to be at risk.

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

17          “(a) *INFORMATION SHARING.*—Consistent with section  
18          1016 of the Intelligence Reform and Terrorism Prevention  
19          Act of 2004 (6 U.S.C. 485), the Secretary shall integrate  
20          and standardize the information of the intelligence compo-  
21          nents of the Department, except for any internal protocols  
22          of such intelligence components, to be administered by the  
23          Chief Intelligence Officer.

24          “(b) *INFORMATION SHARING AND KNOWLEDGE MAN-*  
25          *AGEMENT OFFICERS.*—For each intelligence component of

1 *the Department, the Secretary shall designate an informa-*  
2 *tion sharing and knowledge management officer who shall*  
3 *report to the Chief Intelligence Officer regarding coordi-*  
4 *nating the different systems used in the Department to*  
5 *gather and disseminate homeland security information.*

6       “(c) *STATE, LOCAL, AND PRIVATE-SECTOR SOURCES*  
7 *OF INFORMATION.*—

8               “(1) *ESTABLISHMENT OF BUSINESS PROC-*  
9 *ESSES.*—*The Chief Intelligence Officer shall—*

10                       “(A) *establish Department-wide procedures*  
11 *for the review and analysis of information gath-*  
12 *ered from sources in State, local, and tribal gov-*  
13 *ernment and the private sector;*

14                       “(B) *as appropriate, integrate such infor-*  
15 *mation into the information gathered by the De-*  
16 *partment and other departments and agencies of*  
17 *the Federal Government; and*

18                       “(C) *make available such information, as*  
19 *appropriate, within the Department and to other*  
20 *departments and agencies of the Federal Govern-*  
21 *ment.*

22               “(2) *FEEDBACK.*—*The Secretary shall develop*  
23 *mechanisms to provide feedback regarding the anal-*  
24 *ysis and utility of information provided by any enti-*  
25 *ty of State, local, or tribal government or the private*

1        *sector that gathers information and provides such in-*  
 2        *formation to the Department.*

3        “(d) *TRAINING AND EVALUATION OF EMPLOYEES.—*

4                “(1) *TRAINING.—The Chief Intelligence Officer*  
 5        *shall provide to employees of the Department opportu-*  
 6        *nities for training and education to develop an un-*  
 7        *derstanding of—*

8                        “(A) *the definition of homeland security in-*  
 9        *formation; and*

10                      “(B) *how information available to such em-*  
 11        *ployees as part of their duties—*

12                              “(i) *might qualify as homeland secu-*  
 13        *rity information; and*

14                              “(ii) *might be relevant to the intel-*  
 15        *ligence components of the Department.*

16                “(2) *EVALUATIONS.—The Chief Intelligence Offi-*  
 17        *cer shall—*

18                        “(A) *on an ongoing basis, evaluate how em-*  
 19        *ployees of the Office of Intelligence and Analysis*  
 20        *and the intelligence components of the Depart-*  
 21        *ment are utilizing homeland security informa-*  
 22        *tion, sharing information within the Depart-*  
 23        *ment, as described in this subtitle, and partici-*  
 24        *parting in the information sharing environment*  
 25        *established under section 1016 of the Intelligence*



1           *Reform and Terrorism Prevention Act of 2004 (6*  
 2           *U.S.C. 485); and*

3                   “(B) provide a report regarding any eval-  
 4                   uation under subparagraph (A) to the appro-  
 5                   priate component heads.

6   **“SEC. 205. COORDINATION WITH INFORMATION SHARING**  
 7                   **ENVIRONMENT.**

8           *“All activities to comply with sections 203 and 204*  
 9   *shall be—*

10                   “(1) implemented in coordination with the pro-  
 11                   gram manager for the information sharing environ-  
 12                   ment established under section 1016 of the *Intelligence*  
 13                   *Reform and Terrorism Prevention Act of 2004 (6*  
 14                   *U.S.C. 485); and*

15                   “(2) consistent with and support the establish-  
 16                   ment of that environment, and any policies, guide-  
 17                   lines, procedures, instructions, or standards estab-  
 18                   lished by the President or, as appropriate, the pro-  
 19                   gram manager for the implementation and manage-  
 20                   ment of that environment.”.

21                   (2) *TECHNICAL AND CONFORMING AMEND-*  
 22                   *MENTS.—*

23                   (A) *IN GENERAL.—Section 201(d) of the*  
 24                   *Homeland Security Act of 2002 (6 U.S.C.*  
 25                   *121(d)) is amended—*

1                   (i) by striking paragraph (7); and  
 2                   (ii) by redesignating paragraphs (8)  
 3                   through (19) as paragraphs (7) through  
 4                   (18), respectively.

5                   (B) *TABLE OF CONTENTS.*—*The table of*  
 6                   *contents in section 1(b) of the Homeland Secu-*  
 7                   *rity Act of 2002 (6 U.S.C. 101 et seq.) is amend-*  
 8                   *ed by inserting after the item relating to section*  
 9                   *202 the following:*

“Sec. 203. *Homeland Security Advisory System.*

“Sec. 204. *Homeland Security Information Sharing.*

“Sec. 205. *Coordination with information sharing environment.*”.

10                  (b) *INTELLIGENCE COMPONENT DEFINED.*—

11                   (1) *IN GENERAL.*—*Section 2 of the Homeland*  
 12                   *Security Act of 2002 (6 U.S.C. 101) is amended—*

13                   (A) *by redesignating paragraphs (9)*  
 14                   *through (16) as paragraphs (10) through (17),*  
 15                   *respectively; and*

16                   (B) *by inserting after paragraph (8) the fol-*  
 17                   *lowing:*

18                   “(9) *The term ‘intelligence component of the De-*  
 19                   *partment’ means any directorate, agency, or other ele-*  
 20                   *ment or entity of the Department that gathers, re-*  
 21                   *ceives, analyzes, produces, or disseminates homeland*  
 22                   *security information.*”.

23                   (2) *TECHNICAL AND CONFORMING AMEND-*  
 24                   *MENTS.*—

1           (A) *HOMELAND SECURITY ACT OF 2002.*—  
2           Section 501(11) of the Homeland Security Act of  
3           2002 (6 U.S.C. 311(11)) is amended by striking  
4           “section 2(10)(B)” and inserting “section  
5           2(11)(B)”.

6           (B) *OTHER LAW.*—Section 712(a) of title  
7           14, United States Code, is amended by striking  
8           “section 2(15) of the Homeland Security Act of  
9           2002 (6 U.S.C. 101(15))” and inserting “section  
10           2(16) of the Homeland Security Act of 2002 (6  
11           U.S.C. 101(16))”.

12          (c) *RESPONSIBILITIES OF THE UNDER SECRETARY*  
13 *FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PRO-*  
14 *TECTION.*—Section 201(d) of the Homeland Security Act of  
15 2002 (6 U.S.C. 121(d)) is amended—

16           (1) in paragraph (1), by inserting “, in support  
17           of the mission responsibilities of the Department and  
18           consistent with the functions of the National  
19           Counterterrorism Center established under section 119  
20           of the National Security Act of 1947 (50 U.S.C. 50  
21           U.S.C. 404o),” after “and to integrate such informa-  
22           tion”; and

23           (2) by striking paragraph (7), as redesignated by  
24           subsection (a)(2)(A) of this section, and inserting the  
25           following:

1           “(7) To review, analyze, and make recommenda-  
2           tions for improvements in the policies and procedures  
3           governing the sharing of intelligence information, in-  
4           telligence-related information, and other information  
5           relating to homeland security within the Federal Gov-  
6           ernment and among the Federal Government and  
7           State, local, and tribal government agencies and au-  
8           thorities, consistent with the information sharing en-  
9           vironment established under section 1016 of the Intel-  
10          ligence Reform and Terrorism Prevention Act of 2004  
11          (6 U.S.C. 485) and any policies, guidelines, proce-  
12          dures, instructions or standards established by the  
13          President or, as appropriate, the program manager  
14          for the implementation and management of that envi-  
15          ronment.”.

16 **SEC. 112. INFORMATION SHARING.**

17          Section 1016 of the Intelligence Reform and Terrorist  
18          Prevention Act of 2004 (6 U.S.C. 485) is amended—

19               (1) in subsection (a)—

20                       (A) by redesignating paragraphs (1)  
21                       through (4) as paragraphs (2) through (5), re-  
22                       spectively;

23                       (B) by inserting before paragraph (2), as so  
24                       redesignated, the following:

1           “(1) *HOMELAND SECURITY INFORMATION.*—*The*  
2           *term ‘homeland security information’ has the mean-*  
3           *ing given that term in section 892 of the Homeland*  
4           *Security Act of 2002 (6 U.S.C. 482).’;*;

5           *(C) in paragraph (5), as so redesignated—*

6                     *(i) by redesignating subparagraphs (A)*  
7                     *through (D) as clauses (i) through (iv), re-*  
8                     *spectively, and adjusting the margin ac-*  
9                     *cordingly;*

10                    *(ii) by striking “‘terrorism informa-*  
11                    *tion’ means” and inserting the following:*

12                    *“‘terrorism information’—*

13                    *“(A) means”;*

14                    *(iii) in subparagraph (A)(iv), as so re-*  
15                    *designated, by striking the period at the end*  
16                    *and inserting “; and”; and*

17                    *(iv) by adding at the end the following:*

18                    *“(B) includes homeland security informa-*  
19                    *tion and weapons of mass destruction informa-*  
20                    *tion.”; and*

21                    *(D) by adding at the end the following:*

22           “(6) *WEAPONS OF MASS DESTRUCTION INFORMA-*  
23           *TION.*—*The term ‘weapons of mass destruction infor-*  
24           *mation’ means information that could reasonably be*  
25           *expected to assist in the development, proliferation, or*

1        *use of a weapon of mass destruction (including chem-*  
2        *ical, biological, radiological, and nuclear weapons)*  
3        *that could be used by a terrorist or a terrorist organi-*  
4        *zation against the United States, including informa-*  
5        *tion about the location of any stockpile of nuclear*  
6        *materials that could be exploited for use in such a*  
7        *weapon that could be used by a terrorist or a terrorist*  
8        *organization against the United States.”;*

9            *(2) in subsection (b)(2)—*

10            *(A) in subparagraph (H), by striking*  
11            *“and” at the end;*

12            *(B) in subparagraph (I), by striking the pe-*  
13            *riod at the end and inserting a semicolon; and*

14            *(C) by adding at the end the following:*

15            *“(J) integrates the information within the*  
16            *scope of the information sharing environment,*  
17            *including any such information in legacy tech-*  
18            *nologies;*

19            *“(K) integrates technologies, including all*  
20            *legacy technologies, through Internet-based serv-*  
21            *ices;*

22            *“(L) allows the full range of analytic and*  
23            *operational activities without the need to cen-*  
24            *tralize information within the scope of the infor-*  
25            *mation sharing environment;*

1           “(M) permits analysts to collaborate both  
2 independently and in a group (commonly known  
3 as ‘collective and noncollective collaboration’),  
4 and across multiple levels of national security  
5 information and controlled unclassified informa-  
6 tion;

7           “(N) provides a resolution process that en-  
8 ables changes by authorized officials regarding  
9 rules and policies for the access, use, and reten-  
10 tion of information within the scope of the infor-  
11 mation sharing environment; and

12           “(O) incorporates continuous, real-time,  
13 and immutable audit capabilities, to the max-  
14 imum extent practicable.”;

15 (3) in subsection (f)—

16           (A) in paragraph (1)—

17           (i) by striking “during the two-year  
18 period beginning on the date of designation  
19 under this paragraph unless sooner” and  
20 inserting “until”; and

21           (ii) by striking “The program manager  
22 shall have and exercise governmentwide au-  
23 thority.” and inserting “Except as other-  
24 wise expressly provided by law, the program  
25 manager, in consultation with the head of

1           *any affected department or agency, shall*  
2           *have and exercise governmentwide authority*  
3           *over the sharing of information within the*  
4           *scope of the information sharing environ-*  
5           *ment by all Federal departments, agencies,*  
6           *and components, irrespective of the Federal*  
7           *department, agency, or component in which*  
8           *the program manager may be administra-*  
9           *tively located.”; and*

10          *(B) in paragraph (2)(A)—*

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

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

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

18            *“(iii) issue governmentwide procedures,*  
19            *guidelines, instructions, and functional*  
20            *standards, as appropriate, for the manage-*  
21            *ment, development, and proper operation of*  
22            *the ISE;*

23            *“(iv) identify and resolve information*  
24            *sharing disputes between Federal depart-*  
25            *ments, agencies, and components; and”;*



1           (4) in subsection (g)—

2                   (A) in paragraph (1), by striking “during  
3           the two-year period beginning on the date of the  
4           initial designation of the program manager by  
5           the President under subsection (f)(1), unless  
6           sooner” and inserting “until”;

7                   (B) in paragraph (2)—

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

10                           (ii) by redesignating subparagraph (G)  
11           as subparagraph (I); and

12                           (iii) by inserting after subparagraph  
13           (F) the following:

14                           “(G) assist the program manager in identi-  
15           fying and resolving information sharing disputes  
16           between Federal departments, agencies, and com-  
17           ponents;

18                           “(H) identify appropriate personnel for as-  
19           signment to the program manager to support  
20           staffing needs identified by the program man-  
21           ager; and”;

22                   (C) in paragraph (4), by inserting “(in-  
23           cluding any subsidiary group of the Information  
24           Sharing Council)” before “shall not be subject”;  
25           and

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

2                   “(5) *DETAILEES*.—Upon a request by the Direc-  
3                   tor of National Intelligence, the departments and  
4                   agencies represented on the Information Sharing  
5                   Council shall detail to the program manager, on a re-  
6                   imbursable basis, appropriate personnel identified  
7                   under paragraph (2)(H).”;

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

11                  (6) by striking subsection (j) and inserting the  
12                  following:

13                  “(j) *REPORT ON THE INFORMATION SHARING ENVI-*  
14                  *RONMENT*.—

15                  “(1) *IN GENERAL*.—Not later than 180 days  
16                  after the date of enactment of the Improving Amer-  
17                  ica’s Security Act of 2007, the President shall report  
18                  to the Committee on Homeland Security and Govern-  
19                  mental Affairs of the Senate, the Select Committee on  
20                  Intelligence of the Senate, the Committee on Home-  
21                  land Security of the House of Representatives, and  
22                  the Permanent Select Committee on Intelligence of the  
23                  House of Representatives on the feasibility of—

24                  “(A) eliminating the use of any marking or  
25                  process (including ‘Originator Control’) intended

1           to, or having the effect of, restricting the sharing  
2           of information within the scope of the informa-  
3           tion sharing environment between and among  
4           participants in the information sharing environ-  
5           ment, unless the President has—

6                     “(i) specifically exempted categories of  
7                     information from such elimination; and

8                     “(ii) reported that exemption to the  
9                     committees of Congress described in the  
10                    matter preceding this subparagraph; and

11                   “(B) continuing to use Federal agency  
12                   standards in effect on such date of enactment for  
13                   the collection, sharing, and access to information  
14                   within the scope of the information sharing envi-  
15                   ronment relating to citizens and lawful perma-  
16                   nent residents;

17                   “(C) replacing the standards described in  
18                   subparagraph (B) with a standard that would  
19                   allow mission-based or threat-based permission  
20                   to access or share information within the scope  
21                   of the information sharing environment for a  
22                   particular purpose that the Federal Government,  
23                   through an appropriate process, has determined  
24                   to be lawfully permissible for a particular agen-

1           cy, component, or employee (commonly known as  
2           an ‘authorized use’ standard); and

3           “(D) the use of anonymized data by Federal  
4           departments, agencies, or components collecting,  
5           possessing, disseminating, or handling informa-  
6           tion within the scope of the information sharing  
7           environment, in any cases in which—

8                   “(i) the use of such information is rea-  
9                   sonably expected to produce results materi-  
10                  ally equivalent to the use of information  
11                  that is transferred or stored in a non-  
12                  anonymized form; and

13                  “(ii) such use is consistent with any  
14                  mission of that department, agency, or com-  
15                  ponent (including any mission under a  
16                  Federal statute or directive of the President)  
17                  that involves the storage, retention, sharing,  
18                  or exchange of personally identifiable infor-  
19                  mation.

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

1       “(k) *ADDITIONAL POSITIONS.*—*The program manager*  
 2 *is authorized to hire not more than 40 full-time employees*  
 3 *to assist the program manager in—*

4               “(1) *identifying and resolving information shar-*  
 5 *ing disputes between Federal departments, agencies,*  
 6 *and components under subsection (f)(2)(A)(iv); and*

7               “(2) *other activities associated with the imple-*  
 8 *mentation of the information sharing environment,*  
 9 *including—*

10                       “(A) *implementing the requirements under*  
 11 *subsection (b)(2); and*

12                       “(B) *any additional implementation initia-*  
 13 *tives to enhance and expedite the creation of the*  
 14 *information sharing environment.*

15       “(l) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*  
 16 *authorized to be appropriated to carry out this section*  
 17 *\$30,000,000 for each of fiscal years 2008 and 2009.”.*

18 **SEC. 113. INTELLIGENCE TRAINING DEVELOPMENT FOR**

19                       **STATE AND LOCAL GOVERNMENT OFFICIALS.**

20       “(a) *CURRICULUM.*—*The Secretary, acting through the*  
 21 *Chief Intelligence Officer, shall develop curriculum for the*  
 22 *training of State, local, and tribal government officials re-*  
 23 *lating to the handling, review, and development of intel-*  
 24 *ligence material.*

1           (b) *TRAINING.*—*To the extent possible, the Federal*  
2 *Law Enforcement Training Center and other existing Fed-*  
3 *eral entities with the capacity and expertise to train State,*  
4 *local, and tribal government officials based on the cur-*  
5 *riculum developed under subsection (a) shall be used to*  
6 *carry out the training programs created under this section.*  
7 *If such entities do not have the capacity, resources, or capa-*  
8 *bilities to conduct such training, the Secretary may approve*  
9 *another entity to conduct the training.*

10           (c) *CONSULTATION.*—*In carrying out the duties de-*  
11 *scribed in subsection (a), the Chief Intelligence Officer shall*  
12 *consult with the Director of the Federal Law Enforcement*  
13 *Training Center, the Attorney General, the Director of Na-*  
14 *tional Intelligence, the Administrator of the Federal Emer-*  
15 *gency Management Agency, and other appropriate parties,*  
16 *such as private industry, institutions of higher education,*  
17 *nonprofit institutions, and other intelligence agencies of the*  
18 *Federal Government.*

19           (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
20 *authorized to be appropriated such sums as are necessary*  
21 *to carry out this section.*

22 **SEC. 114. INFORMATION SHARING INCENTIVES.**

23           (a) *AWARDS.*—*In making cash awards under chapter*  
24 *45 of title 5, United States Code, the President or the head*  
25 *of an agency, in consultation with the program manager*

1 *designated under section 1016 of the Intelligence Reform*  
2 *and Terrorist Prevention Act of 2004 (6 U.S.C. 485), may*  
3 *consider the success of an employee in sharing information*  
4 *within the scope of the information sharing environment*  
5 *established under that section in a manner consistent with*  
6 *any policies, guidelines, procedures, instructions, or stand-*  
7 *ards established by the President or, as appropriate, the*  
8 *program manager of that environment for the implementa-*  
9 *tion and management of that environment.*

10 (b) *OTHER INCENTIVES.*—*The head of each depart-*  
11 *ment or agency described in section 1016(i) of the Intel-*  
12 *ligence Reform and Terrorist Prevention Act of 2004 (6*  
13 *U.S.C. 485(i)), in consultation with the program manager*  
14 *designated under section 1016 of the Intelligence Reform*  
15 *and Terrorist Prevention Act of 2004 (6 U.S.C. 485), shall*  
16 *adopt best practices regarding effective ways to educate and*  
17 *motivate officers and employees of the Federal Government*  
18 *to engage in the information sharing environment, includ-*  
19 *ing—*

20 (1) *promotions and other nonmonetary awards;*

21 *and*

22 (2) *publicizing information sharing accomplish-*  
23 *ments by individual employees and, where appro-*  
24 *prate, the tangible end benefits that resulted.*

1       ***Subtitle B—Homeland Security***  
2       ***Information Sharing Partnerships***

3       ***SEC. 121. STATE, LOCAL, AND REGIONAL FUSION CENTER***  
4               ***INITIATIVE.***

5           (a) *IN GENERAL.*—*Subtitle A of title II of the Home-*  
6 *land Security Act of 2002 (6 U.S.C. 121 et seq.), as amend-*  
7 *ed by this Act, is amended by adding at the end the fol-*  
8 *lowing:*

9       ***“SEC. 206. STATE, LOCAL, AND REGIONAL FUSION CENTER***  
10               ***INITIATIVE.***

11           “(a) *DEFINITIONS.*—*In this section—*

12               “(1) *the term ‘Chief Intelligence Officer’ means*  
13 *the Chief Intelligence Officer of the Department;*

14               “(2) *the term ‘fusion center’ means a collabo-*  
15 *rative effort of 2 or more Federal, State, local, or trib-*  
16 *al government agencies that combines resources, ex-*  
17 *pertise, or information with the goal of maximizing*  
18 *the ability of such agencies to detect, prevent, inves-*  
19 *tigate, apprehend, and respond to criminal or ter-*  
20 *rorist activity;*

21               “(3) *the term ‘information sharing environment’*  
22 *means the information sharing environment estab-*  
23 *lished under section 1016 of the Intelligence Reform*  
24 *and Terrorism Prevention Act of 2004 (6 U.S.C. 485);*



1           “(4) the term ‘intelligence analyst’ means an in-  
2           dividual who regularly advises, administers, super-  
3           vises, or performs work in the collection, analysis,  
4           evaluation, reporting, production, or dissemination of  
5           information on political, economic, social, cultural,  
6           physical, geographical, scientific, or military condi-  
7           tions, trends, or forces in foreign or domestic areas  
8           that directly or indirectly affect national security;

9           “(5) the term ‘intelligence-led policing’ means  
10          the collection and analysis of information to produce  
11          an intelligence end product designed to inform law  
12          enforcement decision making at the tactical and stra-  
13          tegic levels; and

14          “(6) the term ‘terrorism information’ has the  
15          meaning given that term in section 1016 of the Intel-  
16          ligence Reform and Terrorist Prevention Act of 2004  
17          (6 U.S.C. 485).

18          “(b) *ESTABLISHMENT*.—The Secretary, in consulta-  
19          tion with the program manager of the information sharing  
20          environment established under section 1016 of the Intel-  
21          ligence Reform and Terrorist Prevention Act of 2004 (6  
22          U.S.C. 485), the Attorney General, the Privacy Officer of  
23          the Department, the Officer for Civil Rights and Civil Lib-  
24          erties of the Department, and the Privacy and Civil Lib-  
25          erties Oversight Board established under section 1061 of the

1 *Intelligence Reform and Terrorist Prevention Act of 2004*  
2 *(5 U.S.C. 601 note), shall establish a State, Local, and Re-*  
3 *gional Fusion Center Initiative to establish partnerships*  
4 *with State, local, and regional fusion centers.*

5 “(c) *DEPARTMENT SUPPORT AND COORDINATION.—*  
6 *Through the State, Local, and Regional Fusion Center Ini-*  
7 *tiative, the Secretary shall—*

8 “(1) *coordinate with the principal officer of each*  
9 *State, local, or regional fusion center and the officer*  
10 *designated as the Homeland Security Advisor of the*  
11 *State;*

12 “(2) *provide operational and intelligence advice*  
13 *and assistance to State, local, and regional fusion*  
14 *centers;*

15 “(3) *support efforts to include State, local, and*  
16 *regional fusion centers into efforts to establish an in-*  
17 *formation sharing environment;*

18 “(4) *conduct exercises, including live training*  
19 *exercises, to regularly assess the capability of indi-*  
20 *vidual and regional networks of State, local, and re-*  
21 *gional fusion centers to integrate the efforts of such*  
22 *networks with the efforts of the Department;*

23 “(5) *coordinate with other relevant Federal enti-*  
24 *ties engaged in homeland security-related activities;*

1           “(6) provide analytic and reporting advice and  
2 assistance to State, local, and regional fusion centers;

3           “(7) review homeland security information gath-  
4 ered by State, local, and regional fusion centers and  
5 incorporate relevant information with homeland secu-  
6 rity information of the Department;

7           “(8) provide management assistance to State,  
8 local, and regional fusion centers;

9           “(9) serve as a point of contact to ensure the dis-  
10 semination of relevant homeland security informa-  
11 tion;

12           “(10) facilitate close communication and coordi-  
13 nation between State, local, and regional fusion cen-  
14 ters and the Department;

15           “(11) provide State, local, and regional fusion  
16 centers with expertise on Department resources and  
17 operations;

18           “(12) provide training to State, local, and re-  
19 gional fusion centers and encourage such fusion cen-  
20 ters to participate in terrorist threat-related exercises  
21 conducted by the Department; and

22           “(13) carry out such other duties as the Sec-  
23 retary determines are appropriate.

24           “(d) PERSONNEL ASSIGNMENT.—

1           “(1) *IN GENERAL.*—*The Chief Intelligence Officer*  
2           *may, to the maximum extent practicable, assign offi-*  
3           *cers and intelligence analysts from components of the*  
4           *Department to State, local, and regional fusion cen-*  
5           *ters.*

6           “(2) *PERSONNEL SOURCES.*—*Officers and intel-*  
7           *ligence analysts assigned to fusion centers under this*  
8           *subsection may be assigned from the following De-*  
9           *partment components, in consultation with the re-*  
10           *spective component head:*

11                   “(A) *Office of Intelligence and Analysis, or*  
12                   *its successor.*

13                   “(B) *Office of Infrastructure Protection.*

14                   “(C) *Transportation Security Administra-*  
15                   *tion.*

16                   “(D) *United States Customs and Border*  
17                   *Protection.*

18                   “(E) *United States Immigration and Cus-*  
19                   *toms Enforcement.*

20                   “(F) *United States Coast Guard.*

21                   “(G) *Other intelligence components of the*  
22                   *Department, as determined by the Secretary.*

23           “(3) *PARTICIPATION.*—

24                   “(A) *IN GENERAL.*—*The Secretary may de-*  
25                   *velop qualifying criteria for a fusion center to*

1           *participate in the assigning of Department offi-*  
2           *cers or intelligence analysts under this section.*

3           “(B) *CRITERIA.—Any criteria developed*  
4           *under subparagraph (A) may include—*

5                   “(i) *whether the fusion center, through*  
6                   *its mission and governance structure, fo-*  
7                   *cuses on a broad counterterrorism approach,*  
8                   *and whether that broad approach is perva-*  
9                   *sive through all levels of the organization;*

10                   “(ii) *whether the fusion center has suf-*  
11                   *ficient numbers of adequately trained per-*  
12                   *sonnel to support a broad counterterrorism*  
13                   *mission;*

14                   “(iii) *whether the fusion center has—*

15                           “(I) *access to relevant law enforce-*  
16                           *ment, emergency response, private sec-*  
17                           *tor, open source, and national security*  
18                           *data; and*

19                           “(II) *the ability to share and ana-*  
20                           *lytically exploit that data for author-*  
21                           *ized purposes;*

22                   “(iv) *whether the fusion center is ade-*  
23                   *quately funded by the State, local, or re-*  
24                   *gional government to support its*  
25                   *counterterrorism mission; and*

1                   “(v) the relevancy of the mission of the  
2                   fusion center to the particular source com-  
3                   ponent of Department officers or intelligence  
4                   analysts.

5                   “(4) PREREQUISITE.—

6                   “(A) INTELLIGENCE ANALYSIS, PRIVACY,  
7                   AND CIVIL LIBERTIES TRAINING.—Before being  
8                   assigned to a fusion center under this section, an  
9                   officer or intelligence analyst shall undergo—

10                   “(i) appropriate intelligence analysis  
11                   or information sharing training using an  
12                   intelligence-led policing curriculum that is  
13                   consistent with—

14                   “(I) standard training and edu-  
15                   cation programs offered to Department  
16                   law enforcement and intelligence per-  
17                   sonnel; and

18                   “(II) the Criminal Intelligence  
19                   Systems Operating Policies under part  
20                   23 of title 28, Code of Federal Regula-  
21                   tions (or any corresponding similar  
22                   regulation or ruling);

23                   “(ii) appropriate privacy and civil lib-  
24                   erties training that is developed, supported,  
25                   or sponsored by the Privacy Officer ap-

1            *pointed under section 222 and the Officer*  
2            *for Civil Rights and Civil Liberties of the*  
3            *Department, in partnership with the Pri-*  
4            *vacancy and Civil Liberties Oversight Board*  
5            *established under section 1061 of the Intel-*  
6            *ligence Reform and Terrorism Prevention*  
7            *Act of 2004 (5 U.S.C. 601 note); and*

8            *“(iii) such other training prescribed by*  
9            *the Chief Intelligence Officer.*

10           *“(B) PRIOR WORK EXPERIENCE IN AREA.—*  
11           *In determining the eligibility of an officer or in-*  
12           *telligence analyst to be assigned to a fusion cen-*  
13           *ter under this section, the Chief Intelligence Offi-*  
14           *cer shall consider the familiarity of the officer or*  
15           *intelligence analyst with the State, locality, or*  
16           *region, as determined by such factors as whether*  
17           *the officer or intelligence analyst—*

18           *“(i) has been previously assigned in*  
19           *the geographic area; or*

20           *“(ii) has previously worked with intel-*  
21           *ligence officials or emergency response pro-*  
22           *viders from that State, locality, or region.*

23           *“(5) EXPEDITED SECURITY CLEARANCE PROC-*  
24           *ESSING.—The Chief Intelligence Officer—*

1           “(A) shall ensure that each officer or intel-  
2           ligence analyst assigned to a fusion center under  
3           this section has the appropriate clearance to con-  
4           tribute effectively to the mission of the fusion  
5           center; and

6           “(B) may request that security clearance  
7           processing be expedited for each such officer or  
8           intelligence analyst.

9           “(6) *FURTHER QUALIFICATIONS.*—Each officer  
10          or intelligence analyst assigned to a fusion center  
11          under this section shall satisfy any other qualifica-  
12          tions the Chief Intelligence Officer may prescribe.

13          “(e) *RESPONSIBILITIES.*—An officer or intelligence an-  
14          alyst assigned to a fusion center under this section shall—

15               “(1) assist law enforcement agencies and other  
16               emergency response providers of State, local, and trib-  
17               al governments and fusion center personnel in using  
18               Federal homeland security information to develop a  
19               comprehensive and accurate threat picture;

20               “(2) review homeland security-relevant informa-  
21               tion from law enforcement agencies and other emer-  
22               gency response providers of State, local, and tribal  
23               government;

24               “(3) create intelligence and other information  
25               products derived from such information and other



1 *homeland security-relevant information provided by*  
2 *the Department;*

3 *“(4) assist in the dissemination of such products,*  
4 *under the coordination of the Chief Intelligence Offi-*  
5 *cer, to law enforcement agencies and other emergency*  
6 *response providers of State, local, and tribal govern-*  
7 *ment; and*

8 *“(5) assist in the dissemination of such products*  
9 *to the Chief Intelligence Officer for collection and dis-*  
10 *semination to other fusion centers.*

11 *“(f) DATABASE ACCESS.—In order to fulfill the objec-*  
12 *tives described under subsection (e), each officer or intel-*  
13 *ligence analyst assigned to a fusion center under this sec-*  
14 *tion shall have direct access to all relevant Federal data-*  
15 *bases and information systems, consistent with any policies,*  
16 *guidelines, procedures, instructions, or standards estab-*  
17 *lished by the President or, as appropriate, the program*  
18 *manager of the information sharing environment for the*  
19 *implementation and management of that environment.*

20 *“(g) CONSUMER FEEDBACK.—*

21 *“(1) IN GENERAL.—The Secretary shall create a*  
22 *mechanism for any State, local, or tribal emergency*  
23 *response provider who is a consumer of the intel-*  
24 *ligence or other information products described under*  
25 *subsection (e) to voluntarily provide feedback to the*

1        *Department on the quality and utility of such intel-*  
2        *ligence products.*

3            “(2) *RESULTS.—The results of the voluntary*  
4        *feedback under paragraph (1) shall be provided elec-*  
5        *tronically to Congress and appropriate personnel of*  
6        *the Department.*

7            “(h) *RULE OF CONSTRUCTION.—*

8            “(1) *IN GENERAL.—The authorities granted*  
9        *under this section shall supplement the authorities*  
10       *granted under section 201(d) and nothing in this sec-*  
11       *tion shall be construed to abrogate the authorities*  
12       *granted under section 201(d).*

13           “(2) *PARTICIPATION.—Nothing in this section*  
14       *shall be construed to require a State, local, or regional*  
15       *government or entity to accept the assignment of offi-*  
16       *cers or intelligence analysts of the Department into*  
17       *the fusion center of that State, locality, or region.*

18           “(i) *GUIDELINES.—The Secretary, in consultation*  
19       *with the Attorney General of the United States, shall estab-*  
20       *lish guidelines for fusion centers operated by State and local*  
21       *governments, to include standards that any such fusion cen-*  
22       *ter shall—*

23           “(1) *collaboratively develop a mission statement,*  
24       *identify expectations and goals, measure performance,*  
25       *and determine effectiveness for that fusion center;*

1           “(2) create a representative governance structure  
2           that includes emergency response providers and, as  
3           appropriate, the private sector;

4           “(3) create a collaborative environment for the  
5           sharing of information within the scope of the infor-  
6           mation sharing environment established under section  
7           1016 of the Intelligence Reform and Terrorism Pre-  
8           vention Act of 2004 (6 U.S.C. 485) among Federal,  
9           State, tribal, and local emergency response providers,  
10          the private sector, and the public, consistent with any  
11          policies, guidelines, procedures, instructions, or stand-  
12          ards established by the President or, as appropriate,  
13          the program manager of the information sharing en-  
14          vironment;

15          “(4) leverage the databases, systems, and net-  
16          works available from public and private sector enti-  
17          ties to maximize information sharing;

18          “(5) develop, publish, and adhere to a privacy  
19          and civil liberties policy consistent with Federal,  
20          State, and local law;

21          “(6) ensure appropriate security measures are in  
22          place for the facility, data, and personnel;

23          “(7) select and train personnel based on the  
24          needs, mission, goals, and functions of that fusion  
25          center; and

1           “(8) offer a variety of intelligence services and  
2           products to recipients of fusion center intelligence and  
3           information.

4           “(j) *AUTHORIZATION OF APPROPRIATIONS.*—*Except*  
5 *for subsection (i), there are authorized to be appropriated*  
6 *\$10,000,000 for each of fiscal years 2008 through 2012, to*  
7 *carry out this section, including for hiring officers and in-*  
8 *telligence analysts to replace officers and intelligence ana-*  
9 *lysts who are assigned to fusion centers under this section.”.*

10          (b) *TECHNICAL AND CONFORMING AMENDMENT.*—*The*  
11 *table of contents in section 1(b) of the Homeland Security*  
12 *Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting*  
13 *after the item relating to section 205, as added by this Act,*  
14 *the following:*

          “Sec. 206. *State, Local, and Regional Information Fusion Center Initiative.*”.

15          (c) *REPORTS.*—

16               (1) *CONCEPT OF OPERATIONS.*—*Not later than*  
17 *90 days after the date of enactment of this Act and*  
18 *before the State, Local, and Regional Fusion Center*  
19 *Initiative under section 206 of the Homeland Secu-*  
20 *rity Act of 2002, as added by subsection (a), (in this*  
21 *section referred to as the “program”) has been imple-*  
22 *mented, the Secretary, in consultation with the Pri-*  
23 *vacancy Officer of the Department, the Officer for Civil*  
24 *Rights and Civil Liberties of the Department, and the*  
25 *Privacy and Civil Liberties Oversight Board estab-*

1 *lished under section 1061 of the Intelligence Reform*  
2 *and Terrorist Prevention Act of 2004 (5 U.S.C. 601*  
3 *note), shall submit to the Committee on Homeland*  
4 *Security and Governmental Affairs of the Senate and*  
5 *the Committee on Homeland Security of the House of*  
6 *Representatives a report that contains a concept of*  
7 *operations for the program, which shall—*

8 *(A) include a clear articulation of the pur-*  
9 *poses, goals, and specific objectives for which the*  
10 *program is being developed;*

11 *(B) identify stakeholders in the program*  
12 *and provide an assessment of their needs;*

13 *(C) contain a developed set of quantitative*  
14 *metrics to measure, to the extent possible, pro-*  
15 *gram output;*

16 *(D) contain a developed set of qualitative*  
17 *instruments (including surveys and expert inter-*  
18 *views) to assess the extent to which stakeholders*  
19 *believe their needs are being met; and*

20 *(E) include a privacy and civil liberties im-*  
21 *pact assessment.*

22 *(2) PRIVACY AND CIVIL LIBERTIES.—Not later*  
23 *than 1 year after the date on which the program is*  
24 *implemented, the Privacy and Civil Liberties Over-*  
25 *sight Board established under section 1061 of the In-*

1 *telligence Reform and Terrorist Prevention Act of*  
 2 *2004 (5 U.S.C. 601 note), in consultation with the*  
 3 *Privacy Officer of the Department and the Officer for*  
 4 *Civil Rights and Civil Liberties of the Department,*  
 5 *shall submit to Congress, the Secretary, and the Chief*  
 6 *Intelligence Officer of the Department a report on the*  
 7 *privacy and civil liberties impact of the program.*

8 **SEC. 122. HOMELAND SECURITY INFORMATION SHARING**  
 9 **FELLOWS PROGRAM.**

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

14 **“SEC. 207. HOMELAND SECURITY INFORMATION SHARING**  
 15 **FELLOWS PROGRAM.**

16 *“(a) ESTABLISHMENT.—*

17 *“(1) IN GENERAL.—The Secretary, acting*  
 18 *through the Chief Intelligence Officer, and in con-*  
 19 *sultation with the Chief Human Capital Officer, shall*  
 20 *establish a fellowship program in accordance with*  
 21 *this section for the purpose of—*

22 *“(A) detailing State, local, and tribal law*  
 23 *enforcement officers and intelligence analysts to*  
 24 *the Department in accordance with subchapter*  
 25 *VI of chapter 33 of title 5, United States Code,*

1           to participate in the work of the Office of Intel-  
2           ligence and Analysis in order to become familiar  
3           with—

4                   “(i) the relevant missions and capa-  
5                   bilities of the Department and other Federal  
6                   agencies; and

7                   “(ii) the role, programs, products, and  
8                   personnel of the Office of Intelligence and  
9                   Analysis; and

10           “(B) promoting information sharing be-  
11           tween the Department and State, local, and trib-  
12           al law enforcement officers and intelligence ana-  
13           lysts by assigning such officers and analysts to—

14                   “(i) serve as a point of contact in the  
15                   Department to assist in the representation  
16                   of State, local, and tribal homeland security  
17                   information needs;

18                   “(ii) identify homeland security infor-  
19                   mation of interest to State, local, and tribal  
20                   law enforcement officers, emergency response  
21                   providers, and intelligence analysts; and

22                   “(iii) assist Department analysts in  
23                   preparing and disseminating terrorism-re-  
24                   lated products that are tailored to State,  
25                   local, and tribal emergency response pro-

1                    *viders, law enforcement officers, and intel-*  
2                    *ligence analysts and designed to prepare for*  
3                    *and thwart terrorist attacks.*

4                    “(2) *PROGRAM NAME.*—*The program under this*  
5                    *section shall be known as the ‘Homeland Security In-*  
6                    *formation Sharing Fellows Program’.*

7                    “(b) *ELIGIBILITY.*—

8                    “(1) *IN GENERAL.*—*In order to be eligible for se-*  
9                    *lection as an Information Sharing Fellow under the*  
10                   *program under this section, an individual shall—*

11                   “(A) *have homeland security-related respon-*  
12                   *sibilities;*

13                   “(B) *be eligible for an appropriate national*  
14                   *security clearance;*

15                   “(C) *possess a valid need for access to clas-*  
16                   *sified information, as determined by the Chief*  
17                   *Intelligence Officer;*

18                   “(D) *be an employee of an eligible entity;*  
19                   *and*

20                   “(E) *have undergone appropriate privacy*  
21                   *and civil liberties training that is developed,*  
22                   *supported, or sponsored by the Privacy Officer*  
23                   *and the Officer for Civil Rights and Civil Lib-*  
24                   *erties, in partnership with the Privacy and Civil*  
25                   *Liberties Oversight Board established under sec-*



1            *tion 1061 of the Intelligence Reform and Ter-*  
2            *rorist Prevention Act of 2004 (5 U.S.C. 601*  
3            *note).*

4            “(2) *ELIGIBLE ENTITIES.—In this subsection,*  
5            *the term ‘eligible entity’ means—*

6                    “(A) *a State, local, or regional fusion cen-*  
7                    *ter;*

8                    “(B) *a State or local law enforcement or*  
9                    *other government entity that serves a major met-*  
10                   *ropolitan area, suburban area, or rural area, as*  
11                   *determined by the Secretary;*

12                   “(C) *a State or local law enforcement or*  
13                   *other government entity with port, border, or ag-*  
14                   *ricultural responsibilities, as determined by the*  
15                   *Secretary;*

16                   “(D) *a tribal law enforcement or other au-*  
17                   *thority; or*

18                   “(E) *such other entity as the Secretary de-*  
19                   *termines is appropriate.*

20            “(c) *OPTIONAL PARTICIPATION.—No State, local, or*  
21            *tribal law enforcement or other government entity shall be*  
22            *required to participate in the Homeland Security Informa-*  
23            *tion Sharing Fellows Program.*

24            “(d) *PROCEDURES FOR NOMINATION AND SELEC-*  
25            *TION.—*

1           “(1) *IN GENERAL.*—*The Chief Intelligence Officer*  
2           *shall establish procedures to provide for the nomina-*  
3           *tion and selection of individuals to participate in the*  
4           *Homeland Security Information Sharing Fellows*  
5           *Program.*

6           “(2) *LIMITATIONS.*—*The Chief Intelligence Offi-*  
7           *cer shall—*

8                   “(A) *select law enforcement officers and in-*  
9                   *telligence analysts representing a broad cross-sec-*  
10                   *tion of State, local, and tribal agencies; and*

11                   “(B) *ensure that the number of Information*  
12                   *Sharing Fellows selected does not impede the ac-*  
13                   *tivities of the Office of Intelligence and Analysis.*

14           “(e) *DEFINITIONS.*—*In this section—*

15                   “(1) *the term ‘Chief Intelligence Officer’ means*  
16                   *the Chief Intelligence Officer of the Department; and*

17                   “(2) *the term ‘Office of Intelligence and Anal-*  
18                   *ysis’ means the office of the Chief Intelligence Offi-*  
19                   *cer.’.*”.

20           “(b) *TECHNICAL AND CONFORMING AMENDMENT.*—*The*  
21           *table of contents in section 1(b) of the Homeland Security*  
22           *Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting*  
23           *after the item relating to section 206, as added by this Act,*  
24           *the following:*

          “Sec. 207. *Homeland Security Information Sharing Fellows Program.*”.

25           “(c) *REPORTS.*—

1           (1) *CONCEPT OF OPERATIONS.*—Not later than  
2           90 days after the date of enactment of this Act, and  
3           before the implementation of the Homeland Security  
4           Information Sharing Fellows Program under section  
5           207 of the Homeland Security Act of 2002, as added  
6           by subsection (a), (in this section referred to as the  
7           “Program”) the Secretary, in consultation with the  
8           Privacy Officer of the Department, the Officer for  
9           Civil Rights and Civil Liberties of the Department,  
10          and the Privacy and Civil Liberties Oversight Board  
11          established under section 1061 of the Intelligence Re-  
12          form and Terrorist Prevention Act of 2004 (5 U.S.C.  
13          601 note), shall submit to the Committee on Home-  
14          land Security and Governmental Affairs of the Senate  
15          and the Committee on Homeland Security of the  
16          House of Representatives a report that contains a  
17          concept of operations for the Program, which shall in-  
18          clude a privacy and civil liberties impact assessment.

19          (2) *REVIEW OF PRIVACY IMPACT.*—Not later than  
20          1 year after the date on which the Program is imple-  
21          mented, the Privacy and Civil Liberties Oversight  
22          Board established under section 1061 of the Intel-  
23          ligence Reform and Terrorist Prevention Act of 2004  
24          (5 U.S.C. 601 note), in consultation with the Privacy  
25          Officer of the Department and the Officer for Civil

1 *Rights and Civil Liberties of the Department, shall*  
2 *submit to Congress, the Secretary, and the Chief Intel-*  
3 *ligence Officer of the Department a report on the pri-*  
4 *vacy and civil liberties impact of the Program.*

5 ***Subtitle C—Interagency Threat As-***  
6 ***essment and Coordination***  
7 ***Group***

8 ***SEC. 131. INTERAGENCY THREAT ASSESSMENT AND CO-***  
9 ***ORDINATION GROUP.***

10 *(a) IN GENERAL.—As part of efforts to establish the*  
11 *information sharing environment established under section*  
12 *1016 of the Intelligence Reform and Terrorism Prevention*  
13 *Act of 2004 (6 U.S.C. 485), the program manager shall*  
14 *oversee and coordinate the creation and ongoing operation*  
15 *of an Interagency Threat Assessment and Coordination*  
16 *Group (in this section referred to as the “ITACG”).*

17 *(b) RESPONSIBILITIES.—The ITACG shall facilitate*  
18 *the production of federally coordinated products derived*  
19 *from information within the scope of the information shar-*  
20 *ing environment established under section 1016 of the Intel-*  
21 *ligence Reform and Terrorism Prevention Act of 2004 (6*  
22 *U.S.C. 485) and intended for distribution to State, local,*  
23 *and tribal government officials and the private sector.*

24 *(c) OPERATIONS.—*

1           (1) *IN GENERAL.*—*The ITACG shall be located at*  
2 *the facilities of the National Counterterrorism Center*  
3 *of the Office of the Director of National Intelligence.*

4           (2) *MANAGEMENT.*—

5           (A) *IN GENERAL.*—*The Secretary shall as-*  
6 *sign a senior level officer to manage and direct*  
7 *the administration of the ITACG.*

8           (B) *DISTRIBUTION.*—*The Secretary, in con-*  
9 *sultation with the Attorney General and the*  
10 *heads of other agencies, as appropriate, shall de-*  
11 *termine how specific products shall be distrib-*  
12 *uted to State, local, and tribal officials and pri-*  
13 *vate sector partners under this section.*

14           (C) *STANDARDS FOR ADMISSION.*—*The Sec-*  
15 *retary, acting through the Chief Intelligence Offi-*  
16 *cer and in consultation with the Director of Na-*  
17 *tional Intelligence, the Attorney General, and the*  
18 *program manager of the information sharing en-*  
19 *vironment established under section 1016 of the*  
20 *Intelligence Reform and Terrorist Prevention Act*  
21 *of 2004 (6 U.S.C. 485), shall establish standards*  
22 *for the admission of law enforcement and intel-*  
23 *ligence officials from a State, local, or tribal gov-*  
24 *ernment into the ITACG.*

25           (d) *MEMBERSHIP.*—

1           (1) *IN GENERAL.*—*The ITACG shall include rep-*  
2           *resentatives of—*

3                     (A) *the Department;*

4                     (B) *the Federal Bureau of Investigation;*

5                     (C) *the Department of Defense;*

6                     (D) *the Department of Energy;*

7                     (E) *law enforcement and intelligence offi-*  
8                     *cials from State, local, and tribal governments,*  
9                     *as appropriate; and*

10                    (F) *other Federal entities as appropriate.*

11           (2) *CRITERIA.*—*The program manager for the*  
12           *information sharing environment, in consultation*  
13           *with the Secretary of Defense, the Secretary, the Di-*  
14           *rector of National Intelligence, and the Director of the*  
15           *Federal Bureau of Investigation shall develop quali-*  
16           *fying criteria and establish procedures for selecting*  
17           *personnel assigned to the ITACG and for the proper*  
18           *handling and safeguarding of information related to*  
19           *terrorism.*

20           (e) *INAPPLICABILITY OF THE FEDERAL ADVISORY*  
21           *COMMITTEE ACT.*—*The ITACG and any subsidiary groups*  
22           *thereof shall not be subject to the requirements of the Federal*  
23           *Advisory Committee Act (5 U.S.C. App.).*

1 **TITLE II—HOMELAND SECURITY**  
 2 **GRANTS**

3 **SEC. 201. SHORT TITLE.**

4 *This title may be cited as the “Homeland Security*  
 5 *Grant Enhancement Act of 2007”.*

6 **SEC. 202. HOMELAND SECURITY GRANT PROGRAM.**

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

9 **“TITLE XX—HOMELAND**  
 10 **SECURITY GRANTS**

11 **“SEC. 2001. DEFINITIONS.**

12 *“In this title, the following definitions shall apply:*

13 *“(1) ADMINISTRATOR.—The term ‘Adminis-*  
 14 *trator’ means the Administrator of the Federal Emer-*  
 15 *gency Management Agency.*

16 *“(2) COMBINED STATISTICAL AREA.—The term*  
 17 *‘combined statistical area’ means a combined statis-*  
 18 *tical area, as defined by the Office of Management*  
 19 *and Budget.*

20 *“(3) DIRECTLY ELIGIBLE TRIBE.—The term ‘di-*  
 21 *rectly eligible tribe’ means—*

22 *“(A) any Indian tribe that—*

23 *“(i) is located in the continental*  
 24 *United States;*

1           “(ii) operates a law enforcement or  
2           emergency response agency with the capac-  
3           ity to respond to calls for law enforcement  
4           or emergency services;

5           “(iii) is located—

6                   “(I) on, or within 50 miles of, an  
7                   international border or a coastline bor-  
8                   dering an ocean or international wa-  
9                   ters;

10                   “(II) within 10 miles of critical  
11                   infrastructure or has critical infra-  
12                   structure within its territory; or

13                   “(III) within or contiguous to 1 of  
14                   the 50 largest metropolitan statistical  
15                   areas in the United States; and

16           “(iv) certifies to the Secretary that a  
17           State is not making funds distributed under  
18           this title available to the Indian tribe or  
19           consortium of Indian tribes for the purpose  
20           for which the Indian tribe or consortium of  
21           Indian tribes is seeking grant funds; and

22           “(B) a consortium of Indian tribes, if each  
23           tribe satisfies the requirements of subparagraph  
24           (A).



1           “(4) *ELIGIBLE METROPOLITAN AREA.*—*The term*  
2           *‘eligible metropolitan area’ means the following:*

3                   “(A) *IN GENERAL.*—*A combination of 2 or*  
4                   *more incorporated municipalities, counties, par-*  
5                   *ishes, or Indian tribes that—*

6                           “(i) *is within—*

7                                   “(I) *any of the 100 largest metro-*  
8                                   *politan statistical areas in the United*  
9                                   *States; or*

10                                   “(II) *any combined statistical*  
11                                   *area, of which any metropolitan statis-*  
12                                   *tical area described in subparagraph*  
13                                   *(A) is a part; and*

14                                   “(ii) *includes the city with the largest*  
15                                   *population in that metropolitan statistical*  
16                                   *area.*

17                   “(B) *OTHER COMBINATIONS.*—*Any other*  
18                   *combination of contiguous local or tribal govern-*  
19                   *ments that are formally certified by the Admin-*  
20                   *istrator as an eligible metropolitan area for pur-*  
21                   *poses of this title with the consent of the State*  
22                   *or States in which such local or tribal govern-*  
23                   *ments are located.*

24                   “(C) *INCLUSION OF ADDITIONAL LOCAL*  
25                   *GOVERNMENTS.*—*An eligible metropolitan area*

1           *may include additional local or tribal govern-*  
2           *ments outside the relevant metropolitan statis-*  
3           *tical area or combined statistical area that are*  
4           *likely to be affected by, or be called upon to re-*  
5           *spond to, a terrorist attack within the metropoli-*  
6           *tan statistical area.*

7           “(5) *INDIAN TRIBE.*—*The term ‘Indian tribe’ has*  
8           *the meaning given that term in section 4(e) of the In-*  
9           *dian Self-Determination Act (25 U.S.C. 450b(e)).*

10           “(6) *METROPOLITAN STATISTICAL AREA.*—*The*  
11           *term ‘metropolitan statistical area’ means a metro-*  
12           *politan statistical area, as defined by the Office of*  
13           *Management and Budget.*

14           “(7) *NATIONAL SPECIAL SECURITY EVENT.*—*The*  
15           *term ‘National Special Security Event’ means a des-*  
16           *ignated event that, by virtue of its political, economic,*  
17           *social, or religious significance, may be the target of*  
18           *terrorism or other criminal activity.*

19           “(8) *POPULATION.*—*The term ‘population’*  
20           *means population according to the most recent United*  
21           *States census population estimates available at the*  
22           *start of the relevant fiscal year.*

23           “(9) *POPULATION DENSITY.*—*The term ‘popu-*  
24           *lation density’ means population divided by land*  
25           *area in square miles.*

1           “(10) *TARGET CAPABILITIES.*—*The term ‘target*  
2 *capabilities’ means the target capabilities for Federal,*  
3 *State, local, and tribal government preparedness for*  
4 *which guidelines are required to be established under*  
5 *section 646(a) of the Post-Katrina Emergency Man-*  
6 *agement Reform Act of 2006 (6 U.S.C. 746(a)).*

7           “(11) *TRIBAL GOVERNMENT.*—*The term ‘tribal*  
8 *government’ means the government of an Indian*  
9 *tribe.*

10 **“SEC. 2002. HOMELAND SECURITY GRANT PROGRAM.**

11           “(a) *ESTABLISHMENT.*—*There is established a Home-*  
12 *land Security Grant Program, which shall consist of—*

13           “(1) *the Urban Area Security Initiative estab-*  
14 *lished under section 2003, or any successor thereto;*

15           “(2) *the State Homeland Security Grant Pro-*  
16 *gram established under section 2004, or any successor*  
17 *thereto;*

18           “(3) *the Emergency Management Performance*  
19 *Grant Program established under section 2005 or any*  
20 *successor thereto; and*

21           “(4) *the Emergency Communications and Inter-*  
22 *operability Grants Program established under section*  
23 *1809, or any successor thereto.*

24           “(b) *GRANTS AUTHORIZED.*—*The Secretary, through*  
25 *the Administrator, may award grants to State, local, and*

1 *tribal governments under the Homeland Security Grant*  
2 *Program for the purposes of this title.*

3 “(c) *PROGRAMS NOT AFFECTED.—This title shall not*  
4 *be construed to affect any authority to award grants under*  
5 *any of the following Federal programs:*

6 “(1) *The firefighter assistance programs author-*  
7 *ized under section 33 and 34 of the Federal Fire Pre-*  
8 *vention and Control Act of 1974 (15 U.S.C. 2229 and*  
9 *2229a).*

10 “(2) *Except as provided in subsection (d), all*  
11 *grant programs authorized under the Robert T. Staf-*  
12 *ford Disaster Relief and Emergency Assistance Act*  
13 *(42 U.S.C. 5121 et seq.), including the Urban Search*  
14 *and Rescue Grant Program.*

15 “(3) *Grants to protect critical infrastructure, in-*  
16 *cluding port security grants authorized under section*  
17 *70107 of title 46, United States Code.*

18 “(4) *The Metropolitan Medical Response System*  
19 *authorized under section 635 of the Post-Katrina*  
20 *Emergency Management Reform Act of 2006 (6*  
21 *U.S.C. 723).*

22 “(5) *Grant programs other than those adminis-*  
23 *tered by the Department.*

24 “(d) *RELATIONSHIP TO OTHER LAWS.—*

1           “(1) *IN GENERAL.*—*The Homeland Security*  
2 *Grant Program shall supercede—*

3           “(A) *all grant programs authorized under*  
4 *section 1014 of the USA PATRIOT Act (42*  
5 *U.S.C. 3714); and*

6           “(B) *the Emergency Management Perform-*  
7 *ance Grant authorized under the Robert T. Staf-*  
8 *ford Disaster Relief and Emergency Assistance*  
9 *Act (42 U.S.C. 5121 et seq.) and section 662 of*  
10 *the Post-Katrina Emergency Management Re-*  
11 *form Act of 2006 (6 U.S.C. 762).*

12           “(2) *PROGRAM INTEGRITY.*—*Each grant pro-*  
13 *gram described under paragraphs (1) through (4) of*  
14 *subsection (a) shall include, consistent with the Im-*  
15 *proper Payments Information Act of 2002 (31 U.S.C.*  
16 *3321 note), policies and procedures for—*

17           “(A) *identifying activities funded under the*  
18 *Homeland Security Grant Program that are sus-*  
19 *ceptible to significant improper payments; and*

20           “(B) *reporting the incidence of improper*  
21 *payments to the Department.*

22           “(3) *ALLOCATION.*—*Except as provided under*  
23 *paragraph (2) of this subsection, the allocation of*  
24 *grants authorized under this title shall be governed by*

1 *the terms of this title and not by any other provision*  
2 *of law.*

3 “(e) *MINIMUM PERFORMANCE REQUIREMENTS.*—

4 “(1) *IN GENERAL.*—*The Administrator shall—*

5 “(A) *establish minimum performance re-*  
6 *quirements for entities that receive homeland se-*  
7 *curity grants;*

8 “(B) *conduct, in coordination with State,*  
9 *regional, local, and tribal governments receiving*  
10 *grants under the Homeland Security Grant Pro-*  
11 *gram, simulations and exercises to test the min-*  
12 *imum performance requirements established*  
13 *under subparagraph (A) for—*

14 “(i) *emergencies (as that term is de-*  
15 *fined in section 102 of the Robert T. Staf-*  
16 *ford Disaster Relief and Emergency Assist-*  
17 *ance Act (42 U.S.C. 5122)) and major dis-*  
18 *asters not less than twice each year; and*

19 “(ii) *catastrophic incidents (as that*  
20 *term is defined in section 501) not less than*  
21 *once each year; and*

22 “(C) *ensure that entities that the Adminis-*  
23 *trator determines are failing to demonstrate*  
24 *minimum performance requirements established*  
25 *under subparagraph (A) shall remedy the areas*

1           of failure, not later than the end of the second  
2           full fiscal year after the date of such determina-  
3           tion by—

4                   “(i) establishing a plan for the achieve-  
5                   ment of the minimum performance require-  
6                   ments under subparagraph (A), including—

7                           “(I) developing intermediate indi-  
8                           cators for the 2 fiscal years following  
9                           the date of such determination; and

10                           “(II) conducting additional sim-  
11                           ulations and exercises; and

12                           “(ii) revising an entity’s homeland se-  
13                           curity plan, if necessary, to achieve the  
14                           minimum performance requirements under  
15                           subparagraph (A).

16                   “(2) *WAIVER*.—At the discretion of the Adminis-  
17                   trator, the occurrence of an actual emergency, major  
18                   disaster, or catastrophic incident in an area may be  
19                   deemed as a simulation under paragraph (1)(B).

20                   “(3) *REPORT TO CONGRESS*.—Not later than the  
21                   end of the first full fiscal year after the date of enact-  
22                   ment of the Improving America’s Security Act of  
23                   2007, and each fiscal year thereafter, the Adminis-  
24                   trator shall submit to the Committee on Homeland  
25                   Security and Governmental Affairs of the Senate and

1       to the Committee on Homeland Security of the House  
2       of Representatives a report describing—

3               “(A) the performance of grantees under  
4               paragraph (1)(A);

5               “(B) lessons learned through the simulations  
6               and exercises under paragraph (1)(B); and

7               “(C) efforts being made to remedy failed  
8               performance under paragraph (1)(C).

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

10       “(a) *ESTABLISHMENT.*—There is established an Urban  
11       Area Security Initiative to provide grants to assist high-  
12       risk metropolitan areas in preventing, preparing for, pro-  
13       tecting against, responding to, and recovering from acts of  
14       terrorism.

15       “(b) *APPLICATION.*—

16               “(1) *IN GENERAL.*—An eligible metropolitan  
17       area may apply for grants under this section.

18               “(2) *ANNUAL APPLICATIONS.*—Applicants for  
19       grants under this section shall apply or reapply on  
20       an annual basis for grants distributed under the pro-  
21       gram.

22               “(3) *INFORMATION.*—In an application for a  
23       grant under this section, an eligible metropolitan area  
24       shall submit—



1           “(A) a plan describing the proposed divi-  
2           sion of responsibilities and distribution of fund-  
3           ing among the local and tribal governments in  
4           the eligible metropolitan area;

5           “(B) the name of an individual to serve as  
6           a metropolitan area liaison with the Department  
7           and among the various jurisdictions in the met-  
8           ropolitan area; and

9           “(C) such information in support of the ap-  
10          plication as the Administrator may reasonably  
11          require.

12       “(c) *STATE REVIEW AND TRANSMISSION.*—

13           “(1) *IN GENERAL.*—To ensure consistency with  
14          State homeland security plans, an eligible metropoli-  
15          tan area applying for a grant under this section shall  
16          submit its application to each State within which  
17          any part of the eligible metropolitan area is located  
18          for review before submission of such application to the  
19          Department.

20           “(2) *DEADLINE.*—Not later than 30 days after  
21          receiving an application from an eligible metropoli-  
22          tan area under paragraph (1), each such State shall  
23          transmit the application to the Department.

24           “(3) *STATE DISAGREEMENT.*—If the Governor of  
25          any such State determines that an application of an

1 *eligible metropolitan area is inconsistent with the*  
2 *State homeland security plan of that State, or other-*  
3 *wise does not support the application, the Governor*  
4 *shall—*

5 *“(A) notify the Administrator, in writing,*  
6 *of that fact; and*

7 *“(B) provide an explanation of the reason*  
8 *for not supporting the application at the time of*  
9 *transmission of the application.*

10 *“(d) PRIORITIZATION.—In allocating funds among*  
11 *metropolitan areas applying for grants under this section,*  
12 *the Administrator shall consider—*

13 *“(1) the relative threat, vulnerability, and con-*  
14 *sequences faced by the eligible metropolitan area from*  
15 *a terrorist attack, including consideration of—*

16 *“(A) the population of the eligible metro-*  
17 *politan area, including appropriate consider-*  
18 *ation of military, tourist, and commuter popu-*  
19 *lations;*

20 *“(B) the population density of the eligible*  
21 *metropolitan area;*

22 *“(C) the history of threats faced by the eligi-*  
23 *ble metropolitan area, including—*

1           “(i) whether there has been a prior ter-  
2           rorist attack in the eligible metropolitan  
3           area; and

4           “(ii) whether any part of the eligible  
5           metropolitan area, or any critical infra-  
6           structure or key resource within the eligible  
7           metropolitan area, has ever experienced a  
8           higher threat level under the Homeland Se-  
9           curity Advisory System than other parts of  
10          the United States;

11          “(D) the degree of threat, vulnerability, and  
12          consequences to the eligible metropolitan area re-  
13          lated to critical infrastructure or key resources  
14          identified by the Secretary or the State homeland  
15          security plan, including threats, vulnerabilities,  
16          and consequences from critical infrastructure in  
17          nearby jurisdictions;

18          “(E) whether the eligible metropolitan area  
19          is located at or near an international border;

20          “(F) whether the eligible metropolitan area  
21          has a coastline bordering ocean or international  
22          waters;

23          “(G) threats, vulnerabilities, and con-  
24          sequences faced by the eligible metropolitan area  
25          related to at-risk sites or activities in nearby ju-

1           *risdictions, including the need to respond to ter-*  
2           *rorist attacks arising in those jurisdictions;*

3           “(H) *the most current threat assessments*  
4           *available to the Department;*

5           “(I) *the extent to which the eligible metro-*  
6           *politan area has unmet target capabilities;*

7           “(J) *the extent to which the eligible metro-*  
8           *politan area includes—*

9                   “(i) *all incorporated municipalities,*  
10                   *counties, parishes, and Indian tribes within*  
11                   *the relevant metropolitan statistical area or*  
12                   *combined statistical area; and*

13                   “(ii) *other local governments and tribes*  
14                   *that are likely to be called upon to respond*  
15                   *to a terrorist attack within the eligible met-*  
16                   *ropolitan area; and*

17           “(K) *such other factors as are specified in*  
18           *writing by the Administrator; and*

19           “(2) *the anticipated effectiveness of the proposed*  
20           *spending plan for the eligible metropolitan area in*  
21           *increasing the ability of that eligible metropolitan*  
22           *area to prevent, prepare for, protect against, respond*  
23           *to, and recover from terrorism, to meet its target ca-*  
24           *pabilities, and to otherwise reduce the overall risk to*  
25           *the metropolitan area, the State, and the Nation.*

1       “(e) *OPPORTUNITY TO AMEND.*—*In considering appli-*  
2 *cations for grants under this section, the Administrator*  
3 *shall provide applicants with a reasonable opportunity to*  
4 *correct defects in the application, if any, before making*  
5 *final awards.*

6       “(f) *ALLOWABLE USES.*—*Grants awarded under this*  
7 *section may be used to achieve target capabilities, consistent*  
8 *with a State homeland security plan and relevant local and*  
9 *regional homeland security plans, through—*

10           “(1) *developing and enhancing State, local, or*  
11 *regional plans, risk assessments, or mutual aid agree-*  
12 *ments;*

13           “(2) *purchasing, upgrading, storing, or main-*  
14 *taining equipment;*

15           “(3) *designing, conducting, and evaluating*  
16 *training and exercises, including exercises of mass*  
17 *evacuation plans under section 512 and including the*  
18 *payment of overtime and backfill costs in support of*  
19 *such activities;*

20           “(4) *responding to an increase in the threat level*  
21 *under the Homeland Security Advisory System, or to*  
22 *the needs resulting from a National Special Security*  
23 *Event, including payment of overtime and backfill*  
24 *costs;*

1           “(5) *establishing, enhancing, and staffing with*  
2           *appropriately qualified personnel State and local fu-*  
3           *sion centers that comply with the guidelines estab-*  
4           *lished under section 206(i);*

5           “(6) *protecting critical infrastructure and key*  
6           *resources identified in the Critical Infrastructure List*  
7           *established under section 1001 of the Improving*  
8           *America’s Security Act of 2007, including the pay-*  
9           *ment of appropriate personnel costs;*

10           “(7) *any activity permitted under the Fiscal*  
11           *Year 2007 Program Guidance of the Department for*  
12           *the Urban Area Security Initiative or the Law En-*  
13           *forcement Terrorism Prevention Grant Program, in-*  
14           *cluding activities permitted under the full-time*  
15           *counterterrorism staffing pilot; and*

16           “(8) *any other activity relating to achieving tar-*  
17           *get capabilities approved by the Administrator.*

18           “(g) *DISTRIBUTION OF AWARDS TO METROPOLITAN*  
19           *AREAS.—*

20           “(1) *IN GENERAL.—If the Administrator ap-*  
21           *proves the application of an eligible metropolitan*  
22           *area for a grant under this section, the Administrator*  
23           *shall distribute the grant funds to the State or States*  
24           *in which the eligible metropolitan area is located.*

1           “(2) *STATE DISTRIBUTION OF FUNDS.*—Each  
2           *State shall provide the eligible metropolitan area not*  
3           *less than 80 percent of the grant funds. Any funds re-*  
4           *tained by a State shall be expended on items or serv-*  
5           *ices approved by the Administrator that benefit the el-*  
6           *igible metropolitan area.*

7           “(3) *MULTISTATE REGIONS.*—If parts of an eli-  
8           *gible metropolitan area awarded a grant are located*  
9           *in 2 or more States, the Secretary shall distribute to*  
10          *each such State—*

11                   “(A) *a portion of the grant funds in accord-*  
12                   *ance with the proposed distribution set forth in*  
13                   *the application; or*

14                   “(B) *if no agreement on distribution has*  
15                   *been reached, a portion of the grant funds in*  
16                   *proportion to each State’s share of the popu-*  
17                   *lation of the eligible metropolitan area.*

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

19           “(a) *ESTABLISHMENT.*—There is established a State  
20           *Homeland Security Grant Program to assist State, local,*  
21           *and tribal governments in preventing, preparing for, pro-*  
22           *tecting against, responding to, and recovering from acts of*  
23           *terrorism.*

24           “(b) *APPLICATION.*—

1           “(1) *IN GENERAL.*—*Each State may apply for a*  
2           *grant under this section, and shall submit such infor-*  
3           *mation in support of the application as the Adminis-*  
4           *trator may reasonably require.*

5           “(2) *ANNUAL APPLICATIONS.*—*Applicants for*  
6           *grants under this section shall apply or reapply on*  
7           *an annual basis for grants distributed under the pro-*  
8           *gram.*

9           “(c) *PRIORITIZATION.*—*In allocating funds among*  
10          *States applying for grants under this section, the Adminis-*  
11          *trator shall consider—*

12           “(1) *the relative threat, vulnerability, and con-*  
13          *sequences faced by a State from a terrorist attack, in-*  
14          *cluding consideration of—*

15           “(A) *the size of the population of the State,*  
16          *including appropriate consideration of military,*  
17          *tourist, and commuter populations;*

18           “(B) *the population density of the State;*

19           “(C) *the history of threats faced by the*  
20          *State, including—*

21           “(i) *whether there has been a prior ter-*  
22          *rorist attack in an urban area that is whol-*  
23          *ly or partly in the State, or in the State*  
24          *itself; and*



1                   “(ii) whether any part of the State, or  
2                   any critical infrastructure or key resource  
3                   within the State, has ever experienced a  
4                   higher threat level under the Homeland Se-  
5                   curity Advisory System than other parts of  
6                   the United States;

7                   “(D) the degree of threat, vulnerability, and  
8                   consequences related to critical infrastructure or  
9                   key resources identified by the Secretary or the  
10                  State homeland security plan;

11                  “(E) whether the State has an international  
12                  border;

13                  “(F) whether the State has a coastline bor-  
14                  dering ocean or international waters;

15                  “(G) threats, vulnerabilities, and con-  
16                  sequences faced by a State related to at-risk sites  
17                  or activities in adjacent States, including the  
18                  State’s need to respond to terrorist attacks aris-  
19                  ing in adjacent States;

20                  “(H) the most current threat assessments  
21                  available to the Department;

22                  “(I) the extent to which the State has unmet  
23                  target capabilities; and

24                  “(J) such other factors as are specified in  
25                  writing by the Administrator;

1           “(2) *the anticipated effectiveness of the proposed*  
2           *spending plan of the State in increasing the ability*  
3           *of the State to—*

4                   “(A) *prevent, prepare for, protect against,*  
5                   *respond to, and recover from terrorism;*

6                   “(B) *meet the target capabilities of the*  
7                   *State; and*

8                   “(C) *otherwise reduce the overall risk to the*  
9                   *State and the Nation; and*

10           “(3) *the need to balance the goal of ensuring the*  
11           *target capabilities of the highest risk areas are*  
12           *achieved quickly and the goal of ensuring that basic*  
13           *levels of preparedness, as measured by the attainment*  
14           *of target capabilities, are achieved nationwide.*

15           “(d) *MINIMUM ALLOCATION.—In allocating funds*  
16           *under subsection (c), the Administrator shall ensure that,*  
17           *for each fiscal year—*

18                   “(1) *except as provided for in paragraph (2), no*  
19                   *State receives less than an amount equal to 0.45 per-*  
20                   *cent of the total funds appropriated for the State*  
21                   *Homeland Security Grant Program; and*

22                   “(2) *American Samoa, the Commonwealth of the*  
23                   *Northern Mariana Islands, Guam, and the Virgin Is-*  
24                   *lands each receive not less than 0.08 percent of the*

1        *amounts appropriated for the State Homeland Security Grant Program.*

2        *“(e) MULTISTATE PARTNERSHIPS.—*

3                *“(1) IN GENERAL.—Instead of, or in addition to,*  
4                *any application for funds under subsection (b), 2 or*  
5                *more States may submit an application under this*  
6                *paragraph for multistate efforts to prevent, prepare*  
7                *for, protect against, respond to, or recover from acts*  
8                *of terrorism.*

9                *“(2) GRANTEES.—Multistate grants may be*  
10                *awarded to either—*

11                        *“(A) an individual State acting on behalf of*  
12                        *a consortium or partnership of States with the*  
13                        *consent of all member States; or*

14                        *“(B) a group of States applying as a con-*  
15                        *sortium or partnership.*

16                *“(3) ADMINISTRATION OF GRANT.—If a group of*  
17                *States apply as a consortium or partnership such*  
18                *States shall submit to the Secretary at the time of ap-*  
19                *plication a plan describing—*

20                        *“(A) the division of responsibilities for ad-*  
21                        *ministering the grant; and*

22                        *“(B) the distribution of funding among the*  
23                        *various States and entities that are party to the*  
24                        *application.*

1       “(f) *FUNDING FOR LOCAL AND TRIBAL GOVERN-*  
2 *MENTS.—*

3               “(1) *IN GENERAL.—The Administrator shall re-*  
4 *quire that, not later than 60 days after receiving*  
5 *grant funding, any State receiving a grant under this*  
6 *section shall make available to local and tribal gov-*  
7 *ernments and emergency response providers, con-*  
8 *sistent with the applicable State homeland security*  
9 *plan—*

10               “(A) *not less than 80 percent of the grant*  
11 *funds;*

12               “(B) *with the consent of local and tribal*  
13 *governments, the resources purchased with such*  
14 *grant funds having a value equal to not less than*  
15 *80 percent of the amount of the grant; or*

16               “(C) *grant funds combined with resources*  
17 *purchased with the grant funds having a value*  
18 *equal to not less than 80 percent of the amount*  
19 *of the grant.*

20               “(2) *EXTENSION OF PERIOD.—The Governor of a*  
21 *State may request in writing that the Administrator*  
22 *extend the period under paragraph (1) for an addi-*  
23 *tional period of time. The Administrator may ap-*  
24 *prove such a request, and may extend such period for*  
25 *an additional period, if the Administrator determines*

1       *that the resulting delay in providing grant funding to*  
2       *the local and tribal governments and emergency re-*  
3       *sponse providers is necessary to promote effective in-*  
4       *vestments to prevent, prepare for, protect against, re-*  
5       *spond to, and recover from terrorism, or to meet the*  
6       *target capabilities of the State.*

7               “(3) *INDIAN TRIBES.*—*States shall be responsible*  
8       *for allocating grant funds received under this section*  
9       *to tribal governments in order to help those tribal*  
10       *communities achieve target capabilities. Indian tribes*  
11       *shall be eligible for funding directly from the States,*  
12       *and shall not be required to seek funding from any*  
13       *local government.*

14               “(4) *EXCEPTION.*—*Paragraph (1) shall not*  
15       *apply to the District of Columbia, the Commonwealth*  
16       *of Puerto Rico, American Samoa, the Commonwealth*  
17       *of the Northern Mariana Islands, Guam, or the Vir-*  
18       *gin Islands.*

19               “(g) *GRANTS TO DIRECTLY ELIGIBLE TRIBES.*—

20               “(1) *IN GENERAL.*—*Notwithstanding subsection*  
21       *(b), the Secretary may award grants to directly eligi-*  
22       *ble tribes under this section.*

23               “(2) *TRIBAL APPLICATIONS.*—*A directly eligible*  
24       *tribe may apply for a grant under this section by*  
25       *submitting an application to the Administrator that*

1 *includes the information required for an application*  
2 *by a State under subsection (b).*

3 *“(3) STATE REVIEW.—*

4 *“(A) IN GENERAL.—To ensure consistency*  
5 *with State homeland security plans, a directly*  
6 *eligible tribe applying for a grant under this sec-*  
7 *tion shall submit its application to each State*  
8 *within which any part of the tribe is located for*  
9 *review before submission of such application to*  
10 *the Department.*

11 *“(B) DEADLINE.—Not later than 30 days*  
12 *after receiving an application from a directly el-*  
13 *igible tribe under subparagraph (A), each such*  
14 *State shall transmit the application to the De-*  
15 *partment.*

16 *“(C) STATE DISAGREEMENT.—If the Gov-*  
17 *ernor of any such State determines that the ap-*  
18 *plication of a directly eligible tribe is incon-*  
19 *sistent with the State homeland security plan of*  
20 *that State, or otherwise does not support the ap-*  
21 *plication, the Governor shall—*

22 *“(i) notify the Administrator, in writ-*  
23 *ing, of that fact; and*

1                   “(ii) provide an explanation of the rea-  
2                   son for not supporting the application at  
3                   the time of transmission of the application.

4                   “(4) *DISTRIBUTION OF AWARDS TO DIRECTLY*  
5                   *ELIGIBLE TRIBES.*—If the Administrator awards  
6                   funds to a directly eligible tribe under this section, the  
7                   Administrator shall distribute the grant funds di-  
8                   rectly to the directly eligible tribe. The funds shall not  
9                   be distributed to the State or States in which the di-  
10                  rectly eligible tribe is located.

11                  “(5) *TRIBAL LIAISON.*—A directly eligible tribe  
12                  applying for a grant under this section shall des-  
13                  ignate a specific individual to serve as the tribal liai-  
14                  son who shall—

15                         “(A) coordinate with Federal, State, local,  
16                         regional, and private officials concerning ter-  
17                         rorism preparedness;

18                         “(B) develop a process for receiving input  
19                         from Federal, State, local, regional, and private  
20                         officials to assist in the development of the appli-  
21                         cation of such tribe and to improve the access of  
22                         such tribe to grants; and

23                         “(C) administer, in consultation with State,  
24                         local, regional, and private officials, grants  
25                         awarded to such tribe.

1           “(6) *TRIBES RECEIVING DIRECT GRANTS.*—A di-  
2           *rectly eligible tribe that receives a grant directly*  
3           *under this section is eligible to receive funds for other*  
4           *purposes under a grant from the State or States with-*  
5           *in the boundaries of which any part of such tribe is*  
6           *located, consistent with the homeland security plan of*  
7           *the State.*

8           “(7) *RULE OF CONSTRUCTION.*—*Nothing in this*  
9           *section shall be construed to affect the authority of an*  
10          *Indian tribe that receives funds under this section.*

11          “(h) *OPPORTUNITY TO AMEND.*—*In considering appli-*  
12          *cations for grants under this section, the Administrator*  
13          *shall provide applicants with a reasonable opportunity to*  
14          *correct defects in the application, if any, before making*  
15          *final awards.*

16          “(i) *ALLOWABLE USES.*—*Grants awarded under this*  
17          *section may be used to achieve target capabilities, consistent*  
18          *with a State homeland security plan, through—*

19                  “(1) *developing and enhancing State, local, trib-*  
20                  *al, or regional plans, risk assessments, or mutual aid*  
21                  *agreements;*

22                  “(2) *purchasing, upgrading, storing, or main-*  
23                  *taining equipment;*

24                  “(3) *designing, conducting, and evaluating*  
25                  *training and exercises, including exercises of mass*



1       *evacuation plans under section 512 and including the*  
2       *payment of overtime and backfill costs in support of*  
3       *such activities;*

4               “(4) *responding to an increase in the threat level*  
5       *under the Homeland Security Advisory System, in-*  
6       *cluding payment of overtime and backfill costs;*

7               “(5) *establishing, enhancing, and staffing with*  
8       *appropriately qualified personnel State and local fu-*  
9       *sion centers, that comply with the guidelines estab-*  
10       *lished under section 206(i);*

11               “(6) *protecting critical infrastructure and key*  
12       *resources identified in the Critical Infrastructure List*  
13       *established under section 1001 of the Improving*  
14       *America’s Security Act of 2007, including the pay-*  
15       *ment of appropriate personnel costs;*

16               “(7) *any activity permitted under the Fiscal*  
17       *Year 2007 Program Guidance of the Department for*  
18       *the State Homeland Security Grant Program or the*  
19       *Law Enforcement Terrorism Prevention Grant Pro-*  
20       *gram, including activities permitted under the full-*  
21       *time counterterrorism staffing pilot; and*

22               “(8) *any other activity relating to achieving tar-*  
23       *get capabilities approved by the Administrator.*

1 **“SEC. 2005. EMERGENCY MANAGEMENT PERFORMANCE**  
2 **GRANTS PROGRAM.**

3 “(a) *ESTABLISHMENT.*—*There is established an Emer-*  
4 *gency Management Performance Grants Program to make*  
5 *grants to States to assist State, local, and tribal govern-*  
6 *ments in preventing, preparing for, protecting against, re-*  
7 *sponding to, recovering from, and mitigating against all*  
8 *hazards, including natural disasters, acts of terrorism, and*  
9 *other man-made disasters.*

10 “(b) *APPLICATION.*—

11 “(1) *IN GENERAL.*—*Each State may apply for a*  
12 *grant under this section, and shall submit such infor-*  
13 *mation in support of an application as the Adminis-*  
14 *trator may reasonably require.*

15 “(2) *ANNUAL APPLICATIONS.*—*Applicants for*  
16 *grants under this section shall apply or reapply on*  
17 *an annual basis for grants distributed under the pro-*  
18 *gram.*

19 “(c) *ALLOCATION.*—*Funds available under the Emer-*  
20 *gency Management Performance Grants Program shall be*  
21 *allocated as follows:*

22 “(1) *BASELINE AMOUNT.*—

23 “(A) *IN GENERAL.*—*Except as provided in*  
24 *subparagraph (B), each State shall receive an*  
25 *amount equal to 0.75 percent of the total funds*  
26 *appropriated for grants under this section.*

1           “(B) *TERRITORIES.*—*American Samoa, the*  
2           *Commonwealth of the Northern Mariana Islands,*  
3           *Guam, and the Virgin Islands each shall receive*  
4           *an amount equal to 0.25 percent of the amounts*  
5           *appropriated for grants under this section.*

6           “(2) *PER CAPITA ALLOCATION.*—*The funds re-*  
7           *maining for grants under this section after allocation*  
8           *of the baseline amounts under paragraph (1) shall be*  
9           *allocated to each State in proportion to its popu-*  
10          *lation.*

11          “(d) *ALLOWABLE USES.*—*Grants awarded under this*  
12          *section may be used to achieve target capabilities, consistent*  
13          *with a State homeland security plan or a catastrophic inci-*  
14          *dent annex developed under section 613 of the Robert T.*  
15          *Stafford Disaster Relief and Emergency Assistance Act (42*  
16          *U.S.C. 5196b) through—*

17                 “(1) *any activity permitted under the Fiscal*  
18                 *Year 2007 Program Guidance of the Department for*  
19                 *Emergency Management Performance Grants; and*

20                 “(2) *any other activity approved by the Admin-*  
21                 *istrator that will improve the capability of a State,*  
22                 *local, or tribal government in preventing, preparing*  
23                 *for, protecting against, responding to, recovering*  
24                 *from, or mitigating against all hazards, including*

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

3 “(e) *COST SHARING.*—

4 “(1) *IN GENERAL.*—*The Federal share of the*  
5 *costs of an activity carried out with a grant under*  
6 *this section shall not exceed 75 percent.*

7 “(2) *IN-KIND MATCHING.*—*Each recipient of a*  
8 *grant under this section may meet the matching re-*  
9 *quirement under paragraph (1) by making in-kind*  
10 *contributions of goods or services that are directly*  
11 *linked with the purpose for which the grant is made.*

12 “(f) *LOCAL AND TRIBAL GOVERNMENTS.*—

13 “(1) *IN GENERAL.*—*In allocating grant funds re-*  
14 *ceived under this section, a State shall take into ac-*  
15 *count the needs of local and tribal governments.*

16 “(2) *INDIAN TRIBES.*—*States shall be responsible*  
17 *for allocating grant funds received under this section*  
18 *to tribal governments in order to help those tribal*  
19 *communities improve their capabilities in preventing,*  
20 *preparing for, protecting against, responding to, re-*  
21 *covering from, or mitigating against all hazards, in-*  
22 *cluding natural disasters, acts of terrorism, and other*  
23 *man-made disasters. Indian tribes shall be eligible for*  
24 *funding directly from the States, and shall not be re-*  
25 *quired to seek funding from any local government.*

1 **“SEC. 2006. TERRORISM PREVENTION.**

2       “(a) *LAW ENFORCEMENT TERRORISM PREVENTION*  
3 *PROGRAM.—*

4               “(1) *IN GENERAL.—The Administrator shall des-*  
5 *ignate not less than 25 percent of the combined*  
6 *amount appropriated for grants under sections 2003*  
7 *and 2004 to be used for law enforcement terrorism*  
8 *prevention activities.*

9               “(2) *USE OF FUNDS.—Grants awarded under*  
10 *this subsection may be used for—*

11                       “(A) *information sharing to preempt ter-*  
12 *rorist attacks;*

13                       “(B) *target hardening to reduce the vulner-*  
14 *ability of selected high value targets;*

15                       “(C) *threat recognition to recognize the po-*  
16 *tential or development of a threat;*

17                       “(D) *intervention activities to interdict ter-*  
18 *rorists before they can execute a threat;*

19                       “(E) *overtime expenses related to a State*  
20 *homeland security plan, including overtime costs*  
21 *associated with providing enhanced law enforce-*  
22 *ment operations in support of Federal agencies*  
23 *for increased border security and border crossing*  
24 *enforcement;*

25                       “(F) *establishing, enhancing, and staffing*  
26 *with appropriately qualified personnel State and*

1           *local fusion centers that comply with the guide-*  
2           *lines established under section 206(i);*

3           “(G) *any other activity permitted under the*  
4           *Fiscal Year 2007 Program Guidance of the De-*  
5           *partment for the Law Enforcement Terrorism*  
6           *Prevention Program; and*

7           “(H) *any other terrorism prevention activ-*  
8           *ity authorized by the Administrator.*

9           “(b) *OFFICE FOR THE PREVENTION OF TERRORISM.—*

10           “(1) *ESTABLISHMENT.—There is established in*  
11           *the Department an Office for the Prevention of Ter-*  
12           *rorism, which shall be headed by a Director.*

13           “(2) *DIRECTOR.—*

14           “(A) *REPORTING.—The Director of the Of-*  
15           *fice for the Prevention of Terrorism shall report*  
16           *directly to the Secretary.*

17           “(B) *QUALIFICATIONS.—The Director of the*  
18           *Office for the Prevention of Terrorism shall have*  
19           *an appropriate background with experience in*  
20           *law enforcement, intelligence, or other*  
21           *antiterrorist functions.*

22           “(3) *ASSIGNMENT OF PERSONNEL.—*

23           “(A) *IN GENERAL.—The Secretary shall as-*  
24           *sign to the Office for the Prevention of Terrorism*  
25           *permanent staff and other appropriate personnel*

1           *detailed from other components of the Depart-*  
2           *ment to carry out the responsibilities under this*  
3           *section.*

4           “(B) *LIAISONS.*—*The Secretary shall des-*  
5           *ignate senior employees from each component of*  
6           *the Department that has significant*  
7           *antiterrorism responsibilities to act as liaisons*  
8           *between that component and the Office for the*  
9           *Prevention of Terrorism.*

10          “(4) *RESPONSIBILITIES.*—*The Director of the Of-*  
11          *fice for the Prevention of Terrorism shall—*

12               “(A) *coordinate policy and operations be-*  
13               *tween the Department and State, local, and trib-*  
14               *al government agencies relating to preventing*  
15               *acts of terrorism within the United States;*

16               “(B) *serve as a liaison between State, local,*  
17               *and tribal law enforcement agencies and the De-*  
18               *partment;*

19               “(C) *in coordination with the Office of In-*  
20               *telligence and Analysis, develop better methods*  
21               *for the sharing of intelligence with State, local,*  
22               *and tribal law enforcement agencies;*

23               “(D) *work with the Administrator to ensure*  
24               *that homeland security grants to State, local,*  
25               *and tribal government agencies, including grants*

1           *under this title, the Commercial Equipment Di-*  
2           *rect Assistance Program, and grants to support*  
3           *fusion centers and other law enforcement-ori-*  
4           *ented programs are adequately focused on ter-*  
5           *rorism prevention activities; and*

6           “(E) *coordinate with the Federal Emer-*  
7           *gency Management Agency, the Department of*  
8           *Justice, the National Institute of Justice, law en-*  
9           *forcement organizations, and other appropriate*  
10           *entities to support the development, promulga-*  
11           *tion, and updating, as necessary, of national vol-*  
12           *untary consensus standards for training and*  
13           *personal protective equipment to be used in a*  
14           *tactical environment by law enforcement officers.*

15           “(5) *PILOT PROJECT.—*

16           “(A) *IN GENERAL.—The Director of the Of-*  
17           *fice for the Prevention of Terrorism, in coordina-*  
18           *tion with the Administrator, shall establish a*  
19           *pilot project to determine the efficacy and feasi-*  
20           *bility of establishing law enforcement deployment*  
21           *teams.*

22           “(B) *FUNCTION.—The law enforcement de-*  
23           *ployment teams participating in the pilot pro-*  
24           *gram under this paragraph shall form the basis*  
25           *of a national network of standardized law en-*



1           *forcement resources to assist State, local, and*  
2           *tribal governments in responding to natural dis-*  
3           *asters, acts of terrorism, or other man-made dis-*  
4           *aster.*

5           “(6) *CONSTRUCTION.*—*Nothing in this section*  
6           *may be construed to affect the roles or responsibilities*  
7           *of the Department of Justice.*

8   **“SEC. 2007. RESTRICTIONS ON USE OF FUNDS.**

9           “(a) *LIMITATIONS ON USE.*—

10           “(1) *CONSTRUCTION.*—

11                   “(A) *IN GENERAL.*—*Grants awarded under*  
12                   *this title may not be used to acquire land or to*  
13                   *construct buildings or other physical facilities.*

14                   “(B) *EXCEPTIONS.*—

15                           “(i) *IN GENERAL.*—*Notwithstanding*  
16                           *subparagraph (A), nothing in this para-*  
17                           *graph shall prohibit the use of grants*  
18                           *awarded under this title to achieve target*  
19                           *capabilities through—*

20                                   “(I) *the construction of facilities*  
21                                   *described in section 611 of the Robert*  
22                                   *T. Stafford Disaster Relief and Emer-*  
23                                   *gency Assistance Act (42 U.S.C. 5196);*  
24                                   *or*

1           “(II) *the alteration or remodeling*  
2           *of existing buildings for the purpose of*  
3           *making such buildings secure against*  
4           *terrorist attacks or able to withstand*  
5           *or protect against chemical, radio-*  
6           *logical, or biological attacks.*

7           “(i) *REQUIREMENTS FOR EXCEP-*  
8           *TION.—No grant awards may be used for*  
9           *the purposes under clause (i) unless—*

10           “(I) *specifically approved by the*  
11           *Administrator;*

12           “(II) *the construction occurs*  
13           *under terms and conditions consistent*  
14           *with the requirements under section*  
15           *611(j)(8) of the Robert T. Stafford Dis-*  
16           *aster Relief and Emergency Assistance*  
17           *Act (42 U.S.C. 5196(j)(8)); and*

18           “(III) *the amount allocated for*  
19           *purposes under clause (i) does not ex-*  
20           *ceed 20 percent of the grant award.*

21           “(2) *PERSONNEL.—*

22           “(A) *IN GENERAL.—For any grant awarded*  
23           *under section 2003 or 2004—*

24           “(i) *not more than 25 percent of the*  
25           *amount awarded to a grant recipient may*

1           *be used to pay overtime and backfill costs;*  
2           *and*

3                   “(ii) *not more than 25 percent of the*  
4                   *amount awarded to the grant recipient may*  
5                   *be used to pay personnel costs not described*  
6                   *in clause (i).*

7                   “(B) *WAIVER.—At the request of the recipi-*  
8                   *ent of a grant under section 2003 or section*  
9                   *2004, the Administrator may grant a waiver of*  
10                   *any limitation under subparagraph (A).*

11                   “(3) *RECREATION.—Grants awarded under this*  
12                   *title may not be used for recreational or social pur-*  
13                   *poses.*

14                   “(b) *MULTIPLE-PURPOSE FUNDS.—Nothing in this*  
15                   *title shall be construed to prohibit State, local, or tribal gov-*  
16                   *ernments from using grant funds under sections 2003 and*  
17                   *2004 in a manner that enhances preparedness for disasters*  
18                   *unrelated to acts of terrorism, if such use assists such gov-*  
19                   *ernments in achieving capabilities for terrorism prepared-*  
20                   *ness established by the Administrator.*

21                   “(c) *EQUIPMENT STANDARDS.—If an applicant for a*  
22                   *grant under this title proposes to upgrade or purchase, with*  
23                   *assistance provided under that grant, new equipment or*  
24                   *systems that do not meet or exceed any applicable national*  
25                   *voluntary consensus standards developed under section 647*

1 *of the Post-Katrina Emergency Management Reform Act of*  
2 *2006 (6 U.S.C. 747), the applicant shall include in its ap-*  
3 *plication an explanation of why such equipment or systems*  
4 *will serve the needs of the applicant better than equipment*  
5 *or systems that meet or exceed such standards.*

6       “(d) *SUPPLEMENT NOT SUPPLANT.*—*Amounts appro-*  
7 *priated for grants under this title shall be used to supple-*  
8 *ment and not supplant other State, local, and tribal govern-*  
9 *ment public funds obligated for the purposes provided under*  
10 *this title.*

11 **“SEC. 2008. ADMINISTRATION AND COORDINATION.**

12       “(a) *ADMINISTRATOR.*—*The Administrator shall, in*  
13 *consultation with other appropriate offices within the De-*  
14 *partment, have responsibility for administering all home-*  
15 *land security grant programs administered by the Depart-*  
16 *ment and for ensuring coordination among those programs*  
17 *and consistency in the guidance issued to recipients across*  
18 *those programs.*

19       “(b) *NATIONAL ADVISORY COUNCIL.*—*To ensure input*  
20 *from and coordination with State, local, and tribal govern-*  
21 *ments and emergency response providers, the Administrator*  
22 *shall regularly consult and work with the National Advi-*  
23 *sory Council established under section 508 on the adminis-*  
24 *tration and assessment of grant programs administered by*  
25 *the Department, including with respect to the development*

1 of program guidance and the development and evaluation  
2 of risk-assessment methodologies.

3 “(c) *REGIONAL COORDINATION.*—*The Administrator*  
4 *shall ensure that—*

5 “(1) *all recipients of homeland security grants*  
6 *administered by the Department, as a condition of re-*  
7 *ceiving those grants, coordinate their prevention, pre-*  
8 *paredness, and protection efforts with neighboring*  
9 *State, local, and tribal governments, as appropriate;*  
10 *and*

11 “(2) *all metropolitan areas and other recipients*  
12 *of homeland security grants administered by the De-*  
13 *partment that include or substantially affect parts or*  
14 *all of more than 1 State, coordinate across State*  
15 *boundaries, including, where appropriate, through the*  
16 *use of regional working groups and requirements for*  
17 *regional plans, as a condition of receiving Depart-*  
18 *mentally administered homeland security grants.*

19 “(d) *PLANNING COMMITTEES.*—

20 “(1) *IN GENERAL.*—*Any State or metropolitan*  
21 *area receiving grants under this title shall establish a*  
22 *planning committee to assist in preparation and revi-*  
23 *sion of the State, regional, or local homeland security*  
24 *plan and to assist in determining effective funding*  
25 *priorities.*

1           “(2) *COMPOSITION.*—

2                   “(A) *IN GENERAL.*—*The planning com-*  
3                   *mittee shall include representatives of significant*  
4                   *stakeholders, including—*

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

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

11                   “(B) *GEOGRAPHIC REPRESENTATION.*—*The*  
12                   *members of the planning committee shall be a*  
13                   *representative group of individuals from the*  
14                   *counties, cities, towns, and Indian tribes within*  
15                   *the State or metropolitan areas, including, as*  
16                   *appropriate, representatives of rural, high-popu-*  
17                   *lation, and high-threat jurisdictions.*

18                   “(e) *INTERAGENCY COORDINATION.*—*The Secretary,*  
19                   *through the Administrator, in coordination with the Attor-*  
20                   *ney General, the Secretary of Health and Human Services,*  
21                   *and other agencies providing assistance to State, local, and*  
22                   *tribal governments for preventing, preparing for, protecting*  
23                   *against, responding to, and recovering from natural disas-*  
24                   *ters, acts of terrorism, and other man-made disasters, and*

1 *not later than 12 months after the date of enactment of the*  
2 *Improving America’s Security Act of 2007, shall—*

3           “(1) *compile a comprehensive list of Federal pro-*  
4 *grams that provide assistance to State, local, and*  
5 *tribal governments for preventing, preparing for, and*  
6 *responding to, natural disasters, acts of terrorism,*  
7 *and other man-made disasters;*

8           “(2) *develop a proposal to coordinate, to the*  
9 *greatest extent practicable, the planning, reporting,*  
10 *application, and other requirements and guidance for*  
11 *homeland security assistance programs to—*

12                   “(A) *eliminate redundant and duplicative*  
13 *requirements, including onerous application and*  
14 *ongoing reporting requirements;*

15                   “(B) *ensure accountability of the programs*  
16 *to the intended purposes of such programs;*

17                   “(C) *coordinate allocation of grant funds to*  
18 *avoid duplicative or inconsistent purchases by*  
19 *the recipients; and*

20                   “(D) *make the programs more accessible*  
21 *and user friendly to applicants; and*

22           “(3) *submit the information and proposals under*  
23 *paragraphs (1) and (2) to the Committee on Home-*  
24 *land Security and Governmental Affairs of the Senate*

1       *and the Committee on Homeland Security of the*  
2       *House of Representatives.*

3       **“SEC. 2009. ACCOUNTABILITY.**

4       “(a) *REPORTS TO CONGRESS.*—

5               “(1) *FUNDING EFFICACY.*—*The Administrator*  
6       *shall submit to Congress, as a component of the an-*  
7       *nuual Federal Preparedness Report required under sec-*  
8       *tion 652 of the Post-Katrina Emergency Management*  
9       *Reform Act of 2006 (6 U.S.C. 752), an evaluation of*  
10       *the extent to which grants Administered by the De-*  
11       *partment, including the grants established by this*  
12       *title—*

13               “(A) *have contributed to the progress of*  
14       *State, local, and tribal governments in achieving*  
15       *target capabilities; and*

16               “(B) *have led to the reduction of risk na-*  
17       *tionally and in State, local, and tribal jurisdic-*  
18       *tions.*

19       “(2) *RISK ASSESSMENT.*—

20               “(A) *IN GENERAL.*—*For each fiscal year,*  
21       *the Administrator shall provide to the Committee*  
22       *on Homeland Security and Governmental Af-*  
23       *airs of the Senate and the Committee on Home-*  
24       *land Security of the House of Representatives a*  
25       *detailed and comprehensive explanation of the*



1           *methodology used to calculate risk and compute*  
2           *the allocation of funds under sections 2003 and*  
3           *2004 of this title, including—*

4                     “(i) *all variables included in the risk*  
5                     *assessment and the weights assigned to each;*

6                     “(ii) *an explanation of how each such*  
7                     *variable, as weighted, correlates to risk, and*  
8                     *the basis for concluding there is such a cor-*  
9                     *relation; and*

10                    “(iii) *any change in the methodology*  
11                    *from the previous fiscal year, including*  
12                    *changes in variables considered, weighting*  
13                    *of those variables, and computational meth-*  
14                    *ods.*

15                    “(B) *CLASSIFIED ANNEX.—The information*  
16                    *required under subparagraph (A) shall be pro-*  
17                    *vided in unclassified form to the greatest extent*  
18                    *possible, and may include a classified annex if*  
19                    *necessary.*

20                    “(C) *DEADLINE.—For each fiscal year, the*  
21                    *information required under subparagraph (A)*  
22                    *shall be provided on the earlier of—*

23                             “(i) *October 31; or*

1                   “(ii) 30 days before the issuance of any  
2                   program guidance for grants under sections  
3                   2003 and 2004.

4                   “(b) *REVIEWS AND AUDITS.*—

5                   “(1) *DEPARTMENT REVIEW.*—*The Administrator*  
6                   *shall conduct periodic reviews of grants made under*  
7                   *this title to ensure that recipients allocate funds con-*  
8                   *sistent with the guidelines established by the Depart-*  
9                   *ment.*

10                  “(2) *GOVERNMENT ACCOUNTABILITY OFFICE.*—

11                  “(A) *ACCESS TO INFORMATION.*—*Each re-*  
12                  *recipient of a grant under this title and the De-*  
13                  *partment shall provide the Government Account-*  
14                  *ability Office with full access to information re-*  
15                  *garding the activities carried out under this*  
16                  *title.*

17                  “(B) *AUDITS AND REPORTS.*—

18                  “(i) *AUDIT.*—*Not later than 12 months*  
19                  *after the date of enactment of the Improving*  
20                  *America’s Security Act of 2007, and peri-*  
21                  *odically thereafter, the Comptroller General*  
22                  *of the United States shall conduct an audit*  
23                  *of the Homeland Security Grant Program.*

24                  “(ii) *REPORT.*—*The Comptroller Gen-*  
25                  *eral of the United States shall submit a re-*

1            *port to the Committee on Homeland Secu-*  
2            *rity and Governmental Affairs of the Senate*  
3            *and the Committee on Homeland Security*  
4            *of the House of Representatives on—*

5            *“(I) the results of any audit con-*  
6            *ducted under clause (i), including an*  
7            *analysis of the purposes for which the*  
8            *grant funds authorized under this title*  
9            *are being spent; and*

10           *“(II) whether the grant recipients*  
11           *have allocated funding consistent with*  
12           *the State homeland security plan and*  
13           *the guidelines established by the De-*  
14           *partment.*

15           *“(3) AUDIT REQUIREMENT.—Grant recipients*  
16           *that expend \$500,000 or more in grant funds received*  
17           *under this title during any fiscal year shall submit*  
18           *to the Administrator an organization-wide financial*  
19           *and compliance audit report in conformance with the*  
20           *requirements of chapter 75 of title 31, United States*  
21           *Code.*

22           *“(4) RECOVERY AUDITS.—The Secretary shall*  
23           *conduct a recovery audit (as that term is defined by*  
24           *the Director of the Office of Management and Budget*  
25           *under section 3561 of title 31, United States Code) for*

1     *any grant administered by the Department with a*  
2     *total value of \$1,000,000 or greater.*

3     “(c) *REMEDIES FOR NONCOMPLIANCE.*—

4             “(1) *IN GENERAL.*—*If the Administrator finds,*  
5     *after reasonable notice and an opportunity for a*  
6     *hearing, that a recipient of a grant under this title*  
7     *has failed to substantially comply with any provision*  
8     *of this title, or with any regulations or guidelines of*  
9     *the Department regarding eligible expenditures, the*  
10    *Administrator shall—*

11             “(A) *terminate any payment of grant funds*  
12     *to be made to the recipient under this title;*

13             “(B) *reduce the amount of payment of*  
14     *grant funds to the recipient by an amount equal*  
15     *to the amount of grants funds that were not ex-*  
16     *pended by the recipient in accordance with this*  
17     *title; or*

18             “(C) *limit the use of grant funds received*  
19     *under this title to programs, projects, or activi-*  
20     *ties not affected by the failure to comply.*

21             “(2) *DURATION OF PENALTY.*—*The Adminis-*  
22     *trator shall apply an appropriate penalty under*  
23     *paragraph (1) until such time as the Secretary deter-*  
24     *mines that the grant recipient is in full compliance*

1 *with this title or with applicable guidelines or regula-*  
2 *tions of the Department.*

3 “(3) *DIRECT FUNDING.*—*If a State fails to sub-*  
4 *stantially comply with any provision of this title or*  
5 *with applicable guidelines or regulations of the De-*  
6 *partment, including failing to provide local or tribal*  
7 *governments with grant funds or resources purchased*  
8 *with grant funds in a timely fashion, a local or tribal*  
9 *government entitled to receive such grant funds or re-*  
10 *sources may petition the Administrator, at such time*  
11 *and in such manner as determined by the Adminis-*  
12 *trator, to request that grant funds or resources be pro-*  
13 *vided directly to the local or tribal government.*

14 **“SEC. 2010. AUDITING.**

15 “(a) *AUDIT OF GRANTS UNDER THIS TITLE.*—

16 “(1) *IN GENERAL.*—*Not later than the date de-*  
17 *scribed in paragraph (2), and every 2 years there-*  
18 *after, the Inspector General of the Department shall*  
19 *conduct an audit of each entity that receives a grant*  
20 *under the Urban Area Security Initiative, the State*  
21 *Homeland Security Grant Program, or the Emer-*  
22 *gency Management Performance Grant Program to*  
23 *evaluate the use of funds under such grant program*  
24 *by such entity.*

1           “(2) *TIMING.*—*The date described in this para-*  
2 *graph is the later of 2 years after—*

3                   “(A) *the date of enactment of the Improving*  
4 *America’s Security Act of 2007; and*

5                   “(B) *the date that an entity first receives a*  
6 *grant under the Urban Area Security Initiative,*  
7 *the State Homeland Security Grant Program, or*  
8 *the Emergency Management Performance Grant*  
9 *Program, as the case may be.*

10           “(3) *CONTENTS.*—*Each audit under this sub-*  
11 *section shall evaluate—*

12                   “(A) *the use of funds under the relevant*  
13 *grant program by an entity during the 2 full fis-*  
14 *cal years before the date of that audit;*

15                   “(B) *whether funds under that grant pro-*  
16 *gram were used by that entity as required by*  
17 *law; and*

18                   “(C)(i) *for each grant under the Urban*  
19 *Area Security Initiative or the State Homeland*  
20 *Security Grant Program, the extent to which*  
21 *funds under that grant were used to prepare for,*  
22 *protect against, respond to, or recover from acts*  
23 *of terrorism; and*

24                   “(ii) *for each grant under the Emergency*  
25 *Management Performance Grant Program, the*

1           *extent to which funds under that grant were used*  
2           *to prevent, prepare for, protect against, respond*  
3           *to, recover from, or mitigate against all hazards,*  
4           *including natural disasters, acts of terrorism,*  
5           *and other man-made disasters.*

6           “(4) *PUBLIC AVAILABILITY ON WEBSITE.—The*  
7           *Inspector General of the Department shall make each*  
8           *audit under this subsection available on the website of*  
9           *the Inspector General.*

10          “(5) *REPORTING.—*

11                 “(A) *IN GENERAL.—Not later than 2 years*  
12                 *and 60 days after the date of enactment of the*  
13                 *Improving America’s Security Act of 2007, and*  
14                 *annually thereafter, the Inspector General of the*  
15                 *Department shall submit to Congress a consoli-*  
16                 *dated report regarding the audits conducted*  
17                 *under this subsection.*

18                 “(B) *CONTENTS.—Each report submitted*  
19                 *under this paragraph shall describe—*

20                         “(i)(I) *for the first such report, the au-*  
21                         *ditions conducted under this subsection during*  
22                         *the 2-year period beginning on the date of*  
23                         *enactment of the Improving America’s Secu-*  
24                         *rity Act of 2007; and*

1           “(II) for each subsequent such report,  
2           the audits conducted under this subsection  
3           during the fiscal year before the date of the  
4           submission of that report;

5           “(ii) whether funds under each grant  
6           audited during the period described in  
7           clause (i) that is applicable to such report  
8           were used as required by law; and

9           “(iii)(I) for grants under the Urban  
10          Area Security Initiative or the State Home-  
11          land Security Grant Program audited, the  
12          extent to which, during the period described  
13          in clause (i) that is applicable to such re-  
14          port, funds under such grants were used to  
15          prepare for, protect against, respond to, or  
16          recover from acts of terrorism; and

17          “(II) for grants under the Emergency  
18          Management Performance Grant Program  
19          audited, the extent to which funds under  
20          such grants were used during the period de-  
21          scribed in clause (i) applicable to such re-  
22          port to prevent, prepare for, protect against,  
23          respond to, recover from, or mitigate  
24          against all hazards, including natural dis-



1                   asters, acts of terrorism, and other man-  
2                   made disasters.

3                   “(b) *AUDIT OF OTHER PREPAREDNESS GRANTS.*—

4                   “(1) *IN GENERAL.*—Not later than the date de-  
5                   scribed in paragraph (2), the Inspector General of the  
6                   Department shall conduct an audit of each entity that  
7                   receives a grant under the Urban Area Security Ini-  
8                   tiative, the State Homeland Security Grant Program,  
9                   or the Emergency Management Performance Grant  
10                  Program to evaluate the use by that entity of any  
11                  grant for preparedness administered by the Depart-  
12                  ment that was awarded before the date of enactment  
13                  of the Improving America’s Security Act of 2007.

14                  “(2) *TIMING.*—The date described in this para-  
15                  graph is the later of 2 years after—

16                  “(A) the date of enactment of the Improving  
17                  America’s Security Act of 2007; and

18                  “(B) the date that an entity first receives a  
19                  grant under the Urban Area Security Initiative,  
20                  the State Homeland Security Grant Program, or  
21                  the Emergency Management Performance Grant  
22                  Program, as the case may be.

23                  “(3) *CONTENTS.*—Each audit under this sub-  
24                  section shall evaluate—

1           “(A) *the use of funds by an entity under*  
2           *any grant for preparedness administered by the*  
3           *Department that was awarded before the date of*  
4           *enactment of the Improving America’s Security*  
5           *Act of 2007;*

6           “(B) *whether funds under each such grant*  
7           *program were used by that entity as required by*  
8           *law; and*

9           “(C) *the extent to which such funds were*  
10          *used to enhance preparedness.*

11          “(4) *PUBLIC AVAILABILITY ON WEBSITE.—The*  
12          *Inspector General of the Department shall make each*  
13          *audit under this subsection available on the website of*  
14          *the Inspector General.*

15          “(5) *REPORTING.—*

16                 “(A) *IN GENERAL.—Not later than 2 years*  
17                 *and 60 days after the date of enactment of the*  
18                 *Improving America’s Security Act of 2007, and*  
19                 *annually thereafter, the Inspector General of the*  
20                 *Department shall submit to Congress a consoli-*  
21                 *dated report regarding the audits conducted*  
22                 *under this subsection.*

23                 “(B) *CONTENTS.—Each report submitted*  
24                 *under this paragraph shall describe—*

1           “(i)(I) for the first such report, the au-  
2           dits conducted under this subsection during  
3           the 2-year period beginning on the date of  
4           enactment of the Improving America’s Secu-  
5           rity Act of 2007; and

6           “(II) for each subsequent such report,  
7           the audits conducted under this subsection  
8           during the fiscal year before the date of the  
9           submission of that report;

10          “(ii) whether funds under each grant  
11          audited were used as required by law; and

12          “(iii) the extent to which funds under  
13          each grant audited were used to enhance  
14          preparedness.

15          “(c) *FUNDING FOR AUDITS.*—

16               “(1) *IN GENERAL.*—The Administrator shall  
17               withhold 1 percent of the total amount of each grant  
18               under the Urban Area Security Initiative, the State  
19               Homeland Security Grant Program, and the Emer-  
20               gency Management Performance Grant Program for  
21               audits under this section.

22               “(2) *AVAILABILITY OF FUNDS.*—The Adminis-  
23               trator shall make amounts withheld under this sub-  
24               section available as follows:

1           “(A) Amounts withheld from grants under  
2           the Urban Area Security Initiative shall be  
3           made available for audits under this section of  
4           entities receiving grants under the Urban Area  
5           Security Initiative.

6           “(B) Amounts withheld from grants under  
7           the State Homeland Security Grant Program  
8           shall be made available for audits under this sec-  
9           tion of entities receiving grants under the State  
10          Homeland Security Grant Program.

11          “(C) Amounts withheld from grants under  
12          the Emergency Management Performance Grant  
13          Program shall be made available for audits  
14          under this section of entities receiving grants  
15          under the Emergency Management Performance  
16          Grant Program.

17 **“SEC. 2011. AUTHORIZATION OF APPROPRIATIONS.**

18          “(a) GRANTS.—

19                 “(1) IN GENERAL.—There is authorized to be ap-  
20                 propriated for the Homeland Security Grant Pro-  
21                 gram established under section 2002 of this title for  
22                 each of fiscal years 2008, 2009, and 2010,  
23                 \$3,105,000,000, to be allocated as follows:

1           “(A) For grants under the Urban Area Se-  
2           curity Initiative under section 2003,  
3           \$1,278,639,000.

4           “(B) For grants under the State Homeland  
5           Security Grant Program established under sec-  
6           tion 2004, \$913,180,500.

7           “(C) For grants under the Emergency Man-  
8           agement Performance Grant Program established  
9           under section 2005, \$913,180,500.

10          “(2) *SUBSEQUENT YEARS.*—There is authorized  
11          to be appropriated for the Homeland Security Grant  
12          Program established under section 2002 of this title  
13          such sums as are necessary for fiscal year 2011 and  
14          each fiscal year thereafter.

15          “(b) *PROPORTIONATE ALLOCATION.*—Regardless of the  
16          amount appropriated for the Homeland Security Grant  
17          Program in any fiscal year, the appropriated amount shall,  
18          in each fiscal year, be allocated among the grant programs  
19          under sections 2003, 2004, and 2005 in direct proportion  
20          to the amounts allocated under paragraph (a)(1) of this sec-  
21          tion.”.

22          **SEC. 203. TECHNICAL AND CONFORMING AMENDMENTS.**

23          (a) *IN GENERAL.*—The Homeland Security Act of  
24          2002 (6 U.S.C. 101 et seq.) is amended—

1           (1) by redesignating title XVIII, as added by the  
2     *SAFE Port Act (Public Law 109–347; 120 Stat.*  
3     *1884), as title XIX;*

4           (2) by redesignating sections 1801 through 1806,  
5     *as added by the SAFE Port Act (Public Law 109–*  
6     *347; 120 Stat. 1884), as sections 1901 through 1906,*  
7     *respectively;*

8           (3) in section 1904(a), as so redesignated, by  
9     *striking “section 1802” and inserting “section 1902”;*  
10    *and*

11          (4) in section 1906, as so redesignated, by strik-  
12    *ing “section 1802(a)” each place that term appears*  
13    *and inserting “section 1902(a)”.*

14    (b) *TABLE OF CONTENTS.—The table of contents in*  
15    *section 1(b) of the Homeland Security Act of 2002 (6 U.S.C.*  
16    *101 note) is amended by striking the items relating to title*  
17    *XVIII and sections 1801 through 1806, as added by the*  
18    *SAFE Port Act (Public Law 109–347; 120 Stat. 1884), and*  
19    *inserting the following:*

*“TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE*

*“Sec. 1901. Domestic Nuclear Detection Office.*

*“Sec. 1902. Mission of Office.*

*“Sec. 1903. Hiring authority.*

*“Sec. 1904. Testing authority.*

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

*“Sec. 1906. Contracting and grant making authorities.*

*“TITLE XX—HOMELAND SECURITY GRANTS*

*“Sec. 2001. Definitions.*

*“Sec. 2002. Homeland Security Grant Program.*

*“Sec. 2003. Urban Area Security Initiative.*

*“Sec. 2004. State Homeland Security Grant Program.*

“Sec. 2005. *Emergency Management Performance Grants Program.*

“Sec. 2006. *Terrorism prevention.*

“Sec. 2007. *Restrictions on use of funds.*

“Sec. 2008. *Administration and coordination.*

“Sec. 2009. *Accountability.*

“Sec. 2010. *Auditing.*

“Sec. 2011. *Authorization of appropriations.*”.

1 **TITLE III—COMMUNICATIONS**  
 2 **OPERABILITY AND INTER-**  
 3 **OPERABILITY**

4 **SEC. 301. DEDICATED FUNDING TO ACHIEVE EMERGENCY**  
 5 **COMMUNICATIONS OPERABILITY AND INTER-**  
 6 **OPERABLE COMMUNICATIONS.**

7 (a) *EMERGENCY COMMUNICATIONS OPERABILITY AND*  
 8 *INTEROPERABLE COMMUNICATIONS.—*

9 (1) *IN GENERAL.—Title XVIII of the Homeland*  
 10 *Security Act of 2002 (6 U.S.C. 571 et seq.) (relating*  
 11 *to emergency communications) is amended by adding*  
 12 *at the end the following:*

13 **“SEC. 1809. EMERGENCY COMMUNICATIONS OPERABILITY**  
 14 **AND INTEROPERABLE COMMUNICATIONS**  
 15 **GRANTS.**

16 “(a) *DEFINITIONS.—In this section:*

17 “(1) *ADMINISTRATOR.—The term ‘Adminis-*  
 18 *trator’ means the Administrator of the Federal Emer-*  
 19 *gency Management Agency.*

20 “(2) *EMERGENCY COMMUNICATIONS OPER-*  
 21 *ABILITY.—The term ‘emergency communications oper-*  
 22 *ability’ means the ability to provide and maintain,*

1       *throughout an emergency response operation, a con-*  
2       *tinuous flow of information among emergency re-*  
3       *sponse providers, agencies, and government officers*  
4       *from multiple disciplines and jurisdictions and at all*  
5       *levels of government, in the event of a natural dis-*  
6       *aster, act of terrorism, or other man-made disaster,*  
7       *including where there has been significant damage to,*  
8       *or destruction of, critical infrastructure, including*  
9       *substantial loss of ordinary telecommunications infra-*  
10       *structure and sustained loss of electricity.*

11       “(b) *IN GENERAL.—The Administrator shall make*  
12       *grants to States for initiatives necessary to achieve, main-*  
13       *tain, or enhance Statewide, regional, national and, as ap-*  
14       *propriate, international emergency communications oper-*  
15       *ability and interoperable communications.*

16       “(c) *STATEWIDE INTEROPERABLE COMMUNICATIONS*  
17       *PLANS.—*

18               “(1) *SUBMISSION OF PLANS.—The Administrator*  
19       *shall require any State applying for a grant under*  
20       *this section to submit a Statewide Interoperable Com-*  
21       *munications Plan as described under section 7303(f)*  
22       *of the Intelligence Reform and Terrorism Prevention*  
23       *Act of 2004 (6 U.S.C. 194(f)).*



1           “(2) *COORDINATION AND CONSULTATION.*—*The*  
2           *Statewide plan submitted under paragraph (1) shall*  
3           *be developed—*

4                   “(A) *in coordination with local and tribal*  
5                   *governments, emergency response providers, and*  
6                   *other relevant State officers; and*

7                   “(B) *in consultation with and subject to ap-*  
8                   *propriate comment by the applicable Regional*  
9                   *Emergency Communications Coordination Work-*  
10                  *ing Group as described under section 1805.*

11           “(3) *APPROVAL.*—*The Administrator may not*  
12           *award a grant to a State unless the Administrator,*  
13           *in consultation with the Director for Emergency*  
14           *Communications, has approved the applicable State-*  
15           *wide plan.*

16           “(4) *REVISIONS.*—*A State may revise the appli-*  
17           *cable Statewide plan approved by the Administrator*  
18           *under this subsection, subject to approval of the revi-*  
19           *sion by the Administrator.*

20           “(d) *CONSISTENCY.*—*The Administrator shall ensure*  
21           *that each grant is used to supplement and support, in a*  
22           *consistent and coordinated manner, any applicable State,*  
23           *regional, or urban area homeland security plan.*

24           “(e) *USE OF GRANT FUNDS.*—*Grants awarded under*  
25           *subsection (b) may be used for initiatives to achieve, main-*

1 *tain, or enhance emergency communications operability*  
2 *and interoperable communications, including—*

3           “(1) *Statewide or regional communications*  
4 *planning, including governance related activities;*

5           “(2) *system design and engineering;*

6           “(3) *system procurement and installation;*

7           “(4) *exercises;*

8           “(5) *modeling and simulation exercises for oper-*  
9 *ational command and control functions;*

10          “(6) *technical assistance;*

11          “(7) *training; and*

12          “(8) *other appropriate activities determined by*  
13 *the Administrator to be integral to achieve, maintain,*  
14 *or enhance emergency communications operability*  
15 *and interoperable communications.*

16          “(f) *APPLICATION.—*

17           “(1) *IN GENERAL.—A State desiring a grant*  
18 *under this section shall submit an application at such*  
19 *time, in such manner, and accompanied by such in-*  
20 *formation as the Administrator may reasonably re-*  
21 *quire.*

22           “(2) *MINIMUM CONTENTS.—At a minimum, each*  
23 *application submitted under paragraph (1) shall—*

24           “(A) *identify the critical aspects of the com-*  
25 *munications life cycle, including planning, sys-*

1           *tem design and engineering, procurement and*  
2           *installation, and training for which funding is*  
3           *requested;*

4           “(B) describe how—

5                 “(i) the proposed use of funds—

6                         “(I) would be consistent with and  
7                         address the goals in any applicable  
8                         State, regional, or urban homeland se-  
9                         curity plan; and

10                        “(II) unless the Administrator de-  
11                        termines otherwise, are—

12                                 “(aa) consistent with the Na-  
13                                 tional Emergency Communica-  
14                                 tions Plan under section 1802;  
15                                 and

16                                 “(bb) compatible with the na-  
17                                 tional infrastructure and national  
18                                 voluntary consensus standards;

19                         “(ii) the applicant intends to spend  
20                         funds under the grant, to administer such  
21                         funds, and to allocate such funds among  
22                         participating local and tribal governments  
23                         and emergency response providers;

24                         “(iii) the State plans to allocate the  
25                         grant funds on the basis of risk and effec-

1            *tiveness to regions, local and tribal govern-*  
2            *ments to promote meaningful investments*  
3            *for achieving, maintaining, or enhancing*  
4            *emergency communications operability and*  
5            *interoperable communications;*

6            *“(iv) the State intends to address the*  
7            *emergency communications operability and*  
8            *interoperable communications needs at the*  
9            *city, county, regional, State, and interstate*  
10           *level; and*

11           *“(v) the State plans to emphasize re-*  
12           *gional planning and cooperation, both with-*  
13           *in the jurisdictional borders of that State*  
14           *and with neighboring States;*

15           *“(C) be consistent with the Statewide Inter-*  
16           *operable Communications Plan required under*  
17           *section 7303(f) of the Intelligence Reform and*  
18           *Terrorism Prevention Act of 2004 (6 U.S.C.*  
19           *194(f)); and*

20           *“(D) include a capital budget and timeline*  
21           *showing how the State intends to allocate and*  
22           *expend the grant funds.*

23           *“(g) AWARD OF GRANTS.—*

1           “(1) *CONSIDERATIONS.*—*In approving applica-*  
2           *tions and awarding grants under this section, the Ad-*  
3           *ministrator shall consider—*

4                   “(A) *the nature of the threat to the State*  
5                   *from a natural disaster, act of terrorism, or*  
6                   *other man-made disaster;*

7                   “(B) *the location, risk, or vulnerability of*  
8                   *critical infrastructure and key national assets,*  
9                   *including the consequences from damage to crit-*  
10                   *ical infrastructure in nearby jurisdictions as a*  
11                   *result of natural disasters, acts of terrorism, or*  
12                   *other man-made disasters;*

13                   “(C) *the size of the population of the State,*  
14                   *including appropriate consideration of military,*  
15                   *tourist, and commuter populations;*

16                   “(D) *the population density of the State;*

17                   “(E) *the extent to which grants will be uti-*  
18                   *lized to implement emergency communications*  
19                   *operability and interoperable communications*  
20                   *solutions—*

21                           “(i) *consistent with the National*  
22                           *Emergency Communications Plan under*  
23                           *section 1802 and compatible with the na-*  
24                           *tional infrastructure and national vol-*  
25                           *untary consensus standards; and*

1           “(ii) more efficient and cost effective  
2           than current approaches;

3           “(F) the extent to which a grant would ex-  
4           pedite the achievement, maintenance, or enhance-  
5           ment of emergency communications operability  
6           and interoperable communications in the State  
7           with Federal, State, local, and tribal govern-  
8           ments;

9           “(G) the extent to which a State, given its  
10          financial capability, demonstrates its commit-  
11          ment to achieve, maintain, or enhance emergency  
12          communications operability and interoperable  
13          communications by supplementing Federal funds  
14          with non-Federal funds;

15          “(H) whether the State is on or near an  
16          international border;

17          “(I) whether the State encompasses an eco-  
18          nomically significant border crossing;

19          “(J) whether the State has a coastline bor-  
20          dering an ocean, a major waterway used for  
21          interstate commerce, or international waters;

22          “(K) the extent to which geographic barriers  
23          pose unusual obstacles to achieving, maintain-  
24          ing, or enhancing emergency communications  
25          operability or interoperable communications;

1           “(L) *the threats, vulnerabilities, and con-*  
2 *sequences faced by the State related to at-risk*  
3 *sites or activities in nearby jurisdictions, includ-*  
4 *ing the need to respond to natural disasters, acts*  
5 *of terrorism, and other man-made disasters aris-*  
6 *ing in those jurisdictions;*

7           “(M) *the need to achieve, maintain, or en-*  
8 *hance nationwide emergency communications*  
9 *operability and interoperable communications,*  
10 *consistent with the National Emergency Commu-*  
11 *nications Plan under section 1802;*

12           “(N) *whether the activity for which a grant*  
13 *is requested is being funded under another Fed-*  
14 *eral or State emergency communications grant*  
15 *program; and*

16           “(O) *such other factors as are specified by*  
17 *the Administrator in writing.*

18           “(2) *REVIEW PANEL.—*

19           “(A) *IN GENERAL.—The Secretary shall es-*  
20 *tablish a review panel under section 871(a) to*  
21 *assist in reviewing grant applications under this*  
22 *section.*

23           “(B) *RECOMMENDATIONS.—The review*  
24 *panel established under subparagraph (A) shall*  
25 *make recommendations to the Administrator re-*

1           *garding applications for grants under this sec-*  
2           *tion.*

3           “(C) *MEMBERSHIP.*—*The review panel es-*  
4           *tablished under subparagraph (A) shall in-*  
5           *clude—*

6                   “(i) *individuals with technical exper-*  
7                   *tise in emergency communications oper-*  
8                   *ability and interoperable communications;*

9                   “(ii) *emergency response providers;*  
10                  *and*

11                  “(iii) *other relevant State and local of-*  
12                  *ficers.*

13           “(3) *MINIMUM GRANT AMOUNTS.*—*The Adminis-*  
14           *trator shall ensure that for each fiscal year—*

15                   “(A) *no State receives less than an amount*  
16                   *equal to 0.75 percent of the total funds appro-*  
17                   *priated for grants under this section; and*

18                   “(B) *American Samoa, the Commonwealth*  
19                   *of the Northern Mariana Islands, Guam, and the*  
20                   *Virgin Islands each receive no less than 0.25 per-*  
21                   *cent of the amounts appropriated for grants*  
22                   *under this section.*

23           “(4) *AVAILABILITY OF FUNDS.*—*Any grant funds*  
24           *awarded that may be used to support emergency com-*  
25           *munications operability or interoperable communica-*



1        *tions shall, as the Administrator may determine, re-*  
2        *main available for up to 3 years, consistent with sec-*  
3        *tion 7303(e) of the Intelligence Reform and Terrorism*  
4        *Prevention Act of 2004 (6 U.S.C. 194(e)).*

5        *“(h) STATE RESPONSIBILITIES.—*

6                *“(1) PASS-THROUGH OF FUNDS TO LOCAL AND*  
7        *TRIBAL GOVERNMENTS.—The Administrator shall de-*  
8        *termine a date by which a State that receives a grant*  
9        *shall obligate or otherwise make available to local and*  
10        *tribal governments and emergency response pro-*  
11        *viders—*

12                *“(A) not less than 80 percent of the funds*  
13        *of the amount of the grant;*

14                *“(B) resources purchased with the grant*  
15        *funds having a value equal to not less than 80*  
16        *percent of the total amount of the grant; or*

17                *“(C) grant funds combined with resources*  
18        *purchased with the grant funds having a value*  
19        *equal to not less than 80 percent of the total*  
20        *amount of the grant.*

21                *“(2) CERTIFICATIONS REGARDING DISTRIBUTION*  
22        *OF GRANT FUNDS TO LOCAL AND TRIBAL GOVERN-*  
23        *MENTS.—Any State that receives a grant shall certify*  
24        *to the Administrator, by not later than 30 days after*  
25        *the date described under paragraph (1) with respect*

1       to the grant, that the State has made available for ex-  
2       penditure by local or tribal governments and emer-  
3       gency response providers the required amount of  
4       grant funds under paragraph (1).

5               “(3) *REPORT ON GRANT SPENDING.*—

6               “(A) *IN GENERAL.*—Any State that receives  
7       a grant shall submit a spending report to the  
8       Administrator at such time, in such manner,  
9       and accompanied by such information as the Ad-  
10      ministrators may reasonably require.

11              “(B) *MINIMUM CONTENTS.*—At a minimum,  
12      each report under this paragraph shall include—

13              “(i) the amount, ultimate recipients,  
14      and dates of receipt of all funds received  
15      under the grant;

16              “(ii) the amount and the dates of dis-  
17      bursements of all such funds expended in  
18      compliance with paragraph (1) or under  
19      mutual aid agreements or other intrastate  
20      and interstate sharing arrangements, as ap-  
21      plicable;

22              “(iii) how the funds were used by each  
23      ultimate recipient or beneficiary;

24              “(iv) the extent to which emergency  
25      communications operability and interoper-

1            *able communications identified in the ap-*  
2            *plicable Statewide plan and application*  
3            *have been achieved, maintained, or en-*  
4            *hanced as the result of the expenditure of*  
5            *grant funds; and*

6            *“(v) the extent to which emergency*  
7            *communications operability and interoper-*  
8            *able communications identified in the ap-*  
9            *plicable Statewide plan and application re-*  
10           *main unmet.*

11           *“(C) PUBLIC AVAILABILITY ON WEBSITE.—*  
12           *The Administrator shall make each report sub-*  
13           *mitted under subparagraph (A) publicly avail-*  
14           *able on the website of the Federal Emergency*  
15           *Management Agency. The Administrator may re-*  
16           *dact such information from the reports as the*  
17           *Administrator determines necessary to protect*  
18           *national security.*

19           *“(4) PENALTIES FOR REPORTING DELAY.—If a*  
20           *State fails to provide the information required by the*  
21           *Administrator under paragraph (3), the Adminis-*  
22           *trator may—*

23           *“(A) reduce grant payments to the State*  
24           *from the portion of grant funds that are not re-*

1           *quired to be passed through under paragraph*  
2           *(1);*

3           *“(B) terminate payment of funds under the*  
4           *grant to the State, and transfer the appropriate*  
5           *portion of those funds directly to local and tribal*  
6           *governments and emergency response providers*  
7           *that were intended to receive funding under that*  
8           *grant; or*

9           *“(C) impose additional restrictions or bur-*  
10          *dens on the use of funds by the State under the*  
11          *grant, which may include—*

12            *“(i) prohibiting use of such funds to*  
13            *pay the grant-related expenses of the State;*  
14            *or*

15            *“(ii) requiring the State to distribute*  
16            *to local and tribal government and emer-*  
17            *gency response providers all or a portion of*  
18            *grant funds that are not required to be*  
19            *passed through under paragraph (1).*

20          *“(i) PROHIBITED USES.—Grants awarded under this*  
21          *section may not be used for recreational or social purposes.*

22          *“(j) AUTHORIZATION OF APPROPRIATIONS.—There are*  
23          *authorized to be appropriated for grants under this sec-*  
24          *tion—*

25            *“(1) \$400,000,000 for fiscal year 2008;*

1           “(2) \$500,000,000 for fiscal year 2009;  
 2           “(3) \$600,000,000 for fiscal year 2010;  
 3           “(4) \$800,000,000 for fiscal year 2011;  
 4           “(5) \$1,000,000,000 for fiscal year 2012; and  
 5           “(6) such sums as necessary for each fiscal year  
 6           thereafter.”.

7           (2) *TECHNICAL AND CONFORMING AMEND-*  
 8           *MENT.*—*The table of contents under section 1(b) of the*  
 9           *Homeland Security Act of 2002 (6 U.S.C. 101) is*  
 10           *amended by inserting after the item relating to sec-*  
 11           *tion 1808 the following:*

          “*Sec. 1809. Emergency communications operability and interoperable commu-*  
           *nications grants.*”.

12           (b) *INTEROPERABLE COMMUNICATIONS PLANS.*—*Sec-*  
 13           *tion 7303 of the Intelligence Reform and Terrorist Preven-*  
 14           *tion Act of 2004 (6 U.S.C. 194) is amended—*

15           (1) *in subsection (f)—*

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

18           (B) *in paragraph (5), by striking the period*  
 19           *at the end and inserting a semicolon; and*

20           (C) *by adding at the end the following:*

21           “(6) *include information on the governance*  
 22           *structure used to develop the plan, such as all agen-*  
 23           *cies and organizations that participated in devel-*

1 *oping the plan and the scope and timeframe of the*  
2 *plan; and*

3 *“(7) describe the method by which multi-jurisdic-*  
4 *tional, multi-disciplinary input was provided from*  
5 *all regions of the jurisdiction and the process for con-*  
6 *tinuing to incorporate such input.”; and*

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

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

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

14 *(2) in paragraph (9), by striking the period at*  
15 *the end and inserting a semicolon; and*

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

17 *“(10) set a date, including interim benchmarks,*  
18 *as appropriate, by which State, local, and tribal gov-*  
19 *ernments, Federal departments and agencies, emer-*  
20 *gency response providers, and the private sector will*  
21 *achieve interoperable communications as that term is*  
22 *defined under section 7303(g)(1) of the Intelligence*  
23 *Reform and Terrorism Prevention Act of 2004 (6*  
24 *U.S.C. 194(g)(1)).”.*

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

3 (a) *IN GENERAL.*—

4 (1) *ESTABLISHMENT.*—*There is established in*  
5 *the Department an International Border Community*  
6 *Interoperable Communications Demonstration Project*  
7 *(referred to in this section as “demonstration*  
8 *project”).*

9 (2) *MINIMUM NUMBER OF COMMUNITIES.*—*The*  
10 *Secretary shall select no fewer than 6 communities to*  
11 *participate in a demonstration project.*

12 (3) *LOCATION OF COMMUNITIES.*—*No fewer than*  
13 *3 of the communities selected under paragraph (2)*  
14 *shall be located on the northern border of the United*  
15 *States and no fewer than 3 of the communities se-*  
16 *lected under paragraph (2) shall be located on the*  
17 *southern border of the United States.*

18 (b) *PROGRAM REQUIREMENTS.*—*The demonstration*  
19 *projects shall—*

20 (1) *address the interoperable communications*  
21 *needs of emergency response providers and the Na-*  
22 *tional Guard;*

23 (2) *foster interoperable emergency communica-*  
24 *tions systems—*

25 (A) *among Federal, State, local, and tribal*  
26 *government agencies in the United States in-*

1           *involved in preventing or responding to a natural*  
2           *disaster, act of terrorism, or other man-made*  
3           *disaster; and*

4                   *(B) with similar agencies in Canada or*  
5           *Mexico;*

6           *(3) identify common international cross-border*  
7           *frequencies for communications equipment, including*  
8           *radio or computer messaging equipment;*

9           *(4) foster the standardization of interoperable*  
10          *emergency communications equipment;*

11          *(5) identify solutions that will facilitate inter-*  
12          *operable communications across national borders ex-*  
13          *peditiously;*

14          *(6) ensure that emergency response providers can*  
15          *communicate with each other and the public at dis-*  
16          *aster sites;*

17          *(7) provide training and equipment to enable*  
18          *emergency response providers to deal with threats and*  
19          *contingencies in a variety of environments; and*

20          *(8) identify and secure appropriate joint-use*  
21          *equipment to ensure communications access.*

22          *(c) DISTRIBUTION OF FUNDS.—*

23                  *(1) IN GENERAL.—The Secretary shall distribute*  
24          *funds under this section to each community partici-*



1        *participating in a demonstration project through the State,*  
2        *or States, in which each community is located.*

3            (2) *OTHER PARTICIPANTS.*—*Not later than 60*  
4        *days after receiving funds under paragraph (1), a*  
5        *State shall make the funds available to the local and*  
6        *tribal governments and emergency response providers*  
7        *selected by the Secretary to participate in a dem-*  
8        *onstration project.*

9        (d) *REPORTING.*—

10           (1) *IN GENERAL.*—*Not later than December 31,*  
11        *2007, and each year thereafter in which funds are ap-*  
12        *propriated for a demonstration project, the Secretary*  
13        *shall submit to the Committee on Homeland Security*  
14        *and Governmental Affairs of the Senate and the Com-*  
15        *mittee on Homeland Security of the House of Rep-*  
16        *resentatives a report on the demonstration projects.*

17           (2) *CONTENTS.*—*Each report under this sub-*  
18        *section shall contain the following:*

19                    (A) *The name and location of all commu-*  
20                    *nities involved in the demonstration project.*

21                    (B) *The amount of funding provided to each*  
22                    *State for the demonstration project.*

23                    (C) *An evaluation of the usefulness of the*  
24                    *demonstration project towards developing an ef-*

1        *fective interoperable communications system at*  
 2        *the borders.*

3                *(D) The factors that were used in deter-*  
 4        *mining how to distribute the funds in a risk-*  
 5        *based manner.*

6                *(E) The specific risks inherent to a border*  
 7        *community that make interoperable communica-*  
 8        *tions more difficult than in non-border commu-*  
 9        *nities.*

10               *(F) The optimal ways to prioritize funding*  
 11        *for interoperable communication systems based*  
 12        *upon risk.*

13        *(e) AUTHORIZATION OF APPROPRIATIONS.—There are*  
 14        *authorized to be appropriated such sums as are necessary*  
 15        *in each of fiscal years 2007, 2008, and 2009 to carry out*  
 16        *this section.*

17        **TITLE IV—ENHANCING SECURITY OF INTERNATIONAL**  
 18        **TRAVEL**

20        **SEC. 401. MODERNIZATION OF THE VISA WAIVER PROGRAM.**

21               *(a) SHORT TITLE.—This section may be cited as the*  
 22        *“Secure Travel and Counterterrorism Partnership Act”.*

23               *(b) SENSE OF CONGRESS.—It is the sense of Congress*  
 24        *that—*

1           (1) *the United States should modernize the visa*  
2 *waiver program by simultaneously—*

3                 (A) *enhancing program security require-*  
4 *ments; and*

5                 (B) *extending visa-free travel privileges to*  
6 *nationals of foreign countries that are allies in*  
7 *the war on terrorism; and*

8           (2) *the expansion described in paragraph (1)*  
9 *will—*

10                (A) *enhance bilateral cooperation on critical*  
11 *counterterrorism and information sharing ini-*  
12 *tiatives;*

13                (B) *support and expand tourism and busi-*  
14 *ness opportunities to enhance long-term economic*  
15 *competitiveness; and*

16                (C) *strengthen bilateral relationships.*

17           (c) *DISCRETIONARY VISA WAIVER PROGRAM EXPAN-*  
18 *SION.—Section 217(c) of the Immigration and Nationality*  
19 *Act (8 U.S.C. 1187(c)) is amended by adding at the end*  
20 *the following:*

21                “(8) *NONIMMIGRANT VISA REFUSAL RATE FLEXI-*  
22 *BILITY.—*

23                “(A) *CERTIFICATION.—On the date on*  
24 *which an air exit system is in place that can*  
25 *verify the departure of not less than 97 percent*

1           *of foreign nationals that exit through airports of*  
2           *the United States, the Secretary of Homeland*  
3           *Security shall certify to Congress that such air*  
4           *exit system is in place.*

5           “(B) *WAIVER.*—*After certification by the*  
6           *Secretary under subparagraph (A), the Secretary*  
7           *of Homeland Security, in consultation with the*  
8           *Secretary of State, may waive the application of*  
9           *paragraph (2)(A) for a country if—*

10            “(i) *the country meets all security re-*  
11            *quirements of this section;*

12            “(ii) *the Secretary of Homeland Secu-*  
13            *rity determines that the totality of the coun-*  
14            *try’s security risk mitigation measures pro-*  
15            *vide assurance that the country’s participa-*  
16            *tion in the program would not compromise*  
17            *the law enforcement, security interests, or*  
18            *enforcement of the immigration laws of the*  
19            *United States;*

20            “(iii) *there has been a sustained reduc-*  
21            *tion in visa refusal rates for aliens from the*  
22            *country and conditions exist to continue*  
23            *such reduction; and*

24            “(iv) *the country cooperated with the*  
25            *Government of the United States on*

1           *counterterrorism initiatives and informa-*  
2           *tion sharing before the date of its designa-*  
3           *tion as a program country, and the Sec-*  
4           *retary of Homeland Security and the Sec-*  
5           *retary of State expect such cooperation will*  
6           *continue.*

7           “(9) *DISCRETIONARY SECURITY-RELATED CON-*  
8           *SIDERATIONS.—*

9           “(A) *IN GENERAL.—In determining whether*  
10          *to waive the application of paragraph (2)(A) for*  
11          *a country, pursuant to paragraph (8), the Sec-*  
12          *retary of Homeland Security, in consultation*  
13          *with the Secretary of State, shall take into con-*  
14          *sideration other factors affecting the security of*  
15          *the United States, including—*

16               “(i) *airport security standards in the*  
17               *country;*

18               “(ii) *whether the country assists in the*  
19               *operation of an effective air marshal pro-*  
20               *gram;*

21               “(iii) *the standards of passports and*  
22               *travel documents issued by the country; and*

23               “(iv) *other security-related factors.*

24           “(B) *OVERSTAY RATES.—In determining*  
25          *whether to permit a country to participate in the*

1           *program, the Secretary of Homeland Security*  
2           *shall consider the estimated rate at which na-*  
3           *tionals of the country violate the terms of their*  
4           *visas by remaining in the United States after the*  
5           *expiration of such visas.”.*

6           *(d) SECURITY ENHANCEMENTS TO THE VISA WAIVER*  
7           *PROGRAM.—*

8                   *(1) IN GENERAL.—Section 217 of the Immigra-*  
9           *tion and Nationality Act (8 U.S.C. 1187) is amend-*  
10          *ed—*

11                           *(A) in subsection (a)—*

12                                   *(i) by striking “Operators of aircraft”*  
13                                   *and inserting the following:*

14   *“(10) ELECTRONIC TRANSMISSION OF IDENTI-*  
15           *FICATION INFORMATION.—Operators of aircraft”;* and

16   *(ii) by adding at the end the following:*

17   *“(11) ELIGIBILITY DETERMINATION UNDER THE*  
18           *ELECTRONIC TRAVEL AUTHORIZATION SYSTEM.—Be-*  
19           *ginning on the date on which the electronic travel au-*  
20           *thorization system developed under subsection (h)(3)*  
21           *is fully operational, each alien traveling under the*  
22           *program shall, before applying for admission, elec-*  
23           *tronically provide basic biographical information to*  
24           *the system. Upon review of such biographical infor-*  
25           *mation, the Secretary of Homeland Security shall de-*

1 *termine whether the alien is eligible to travel to the*  
2 *United States under the program.”;*

3 *(B) in subsection (c), as amended by sub-*  
4 *section (c) of this section—*

5 *(i) in paragraph (2)—*

6 *(I) by amending subparagraph*

7 *(D) to read as follows:*

8 *“(D) REPORTING LOST AND STOLEN PASS-*  
9 *PORTS.—The government of the country enters*  
10 *into an agreement with the United States to re-*  
11 *port, or make available through Interpol, to the*  
12 *United States Government information about the*  
13 *theft or loss of passports within a strict time*  
14 *limit and in a manner specified in the agree-*  
15 *ment.”; and*

16 *(II) by adding at the end the fol-*  
17 *lowing:*

18 *“(E) REPATRIATION OF ALIENS.—The gov-*  
19 *ernment of a country accepts for repatriation*  
20 *any citizen, former citizen, or national against*  
21 *whom a final executable order of removal is*  
22 *issued not later than 3 weeks after the issuance*  
23 *of the final order of removal. Nothing in this*  
24 *subparagraph creates any duty for the United*  
25 *States or any right for any alien with respect to*

1           *removal or release. Nothing in this subparagraph*  
 2           *gives rise to any cause of action or claim under*  
 3           *this paragraph or any other law against any of-*  
 4           *ficial of the United States or of any State to*  
 5           *compel the release, removal, or consideration for*  
 6           *release or removal of any alien.*

7           “(F)    *PASSENGER    INFORMATION    EX-*  
 8           *CHANGE.—The government of the country enters*  
 9           *into an agreement with the United States to*  
 10          *share information regarding whether nationals of*  
 11          *that country traveling to the United States rep-*  
 12          *resent a threat to the security or welfare of the*  
 13          *United States or its citizens.”;*

14           *(ii) in paragraph (5)—*

15                   *(I) by striking “Attorney Gen-*  
 16                   *eral” each place it appears and insert-*  
 17                   *ing “Secretary of Homeland Security”;*  
 18                   *and*

19                   *(II) in subparagraph (A)(i)—*

20                           *(aa) in subclause (II), by*  
 21                           *striking “and” at the end;*

22                           *(bb) in subclause (III), by*  
 23                           *striking the period at the end and*  
 24                           *inserting “; and”; and*



1                                   (cc) by adding at the end the  
2                                   following:

3                                   “(IV) shall submit to Congress a  
4                                   report regarding the implementation of  
5                                   the electronic travel authorization sys-  
6                                   tem under subsection (h)(3) and the  
7                                   participation of new countries in the  
8                                   program through a waiver under para-  
9                                   graph (8).”; and

10                                  (iii) by adding at the end the fol-  
11                                  lowing:

12                                  “(10) *TECHNICAL ASSISTANCE.*—The Secretary  
13                                  of Homeland Security, in consultation with the Sec-  
14                                  retary of State, shall provide technical assistance to  
15                                  program countries to assist those countries in meeting  
16                                  the requirements under this section.”;

17                                  (C) in subsection (f)(5), by striking “of  
18                                  blank” and inserting “or loss of”; and

19                                  (D) in subsection (h), by adding at the end  
20                                  the following:

21                                  “(3) *ELECTRONIC TRAVEL AUTHORIZATION SYS-*  
22                                  *TEM.*—

23                                  “(A) *SYSTEM.*—The Secretary of Homeland  
24                                  Security, in consultation with the Secretary of  
25                                  State, is authorized to develop and implement a

1       *fully automated electronic travel authorization*  
2       *system (referred to in this paragraph as the*  
3       *‘System’) to collect such basic biographical infor-*  
4       *mation as the Secretary of Homeland Security*  
5       *determines to be necessary to determine, in ad-*  
6       *vance of travel, the eligibility of an alien to trav-*  
7       *el to the United States under the program.*

8               “(B) *FEES.*—*The Secretary of Homeland*  
9       *Security may charge a fee for the use of the Sys-*  
10       *tem, which shall be—*

11                   “(i) *set at a level that will ensure re-*  
12       *covery of the full costs of providing and ad-*  
13       *ministering the System; and*

14                   “(ii) *available to pay the costs in-*  
15       *curring to administer the System.*

16               “(C) *VALIDITY.*—

17                   “(i) *PERIOD.*—*The Secretary of Home-*  
18       *land Security, in consultation with the Sec-*  
19       *retary of State shall prescribe regulations*  
20       *that provide for a period, not to exceed 3*  
21       *years, during which a determination of eli-*  
22       *gibility to travel under the program will be*  
23       *valid. Notwithstanding any other provision*  
24       *under this section, the Secretary of Home-*

1           *land Security may revoke any such deter-*  
2           *mination at any time and for any reason.*

3           “(ii) *LIMITATION.*—*A determination*  
4           *that an alien is eligible to travel to the*  
5           *United States under the program is not a*  
6           *determination that the alien is admissible*  
7           *to the United States.*

8           “(iii) *JUDICIAL REVIEW.*—*Notwith-*  
9           *standing any other provision of law, no*  
10          *court shall have jurisdiction to review an*  
11          *eligibility determination under the System.*

12          “(D) *REPORT.*—*Not later than 60 days be-*  
13          *fore publishing notice regarding the implementa-*  
14          *tion of the System in the Federal Register, the*  
15          *Secretary of Homeland Security shall submit a*  
16          *report regarding the implementation of the Sys-*  
17          *tem to—*

18                 “(i) *the Committee on Homeland Secu-*  
19                 *riety and Governmental Affairs of the Sen-*  
20                 *ate;*

21                 “(ii) *the Committee on the Judiciary*  
22                 *of the Senate;*

23                 “(iii) *the Select Committee on Intel-*  
24                 *ligence of the Senate;*

1                   “(iv) the Committee on Appropriations  
2                   of the Senate;

3                   “(v) the Committee on Homeland Secu-  
4                   rity of the House of Representatives;

5                   “(vi) the Committee on the Judiciary  
6                   of the House of Representatives;

7                   “(vii) the Permanent Select Committee  
8                   on Intelligence of the House of Representa-  
9                   tives; and

10                  “(viii) the Committee on Appropria-  
11                  tions of the House of Representatives.”.

12                  (2) *EFFECTIVE DATE.*—Section 217(a)(11) of the  
13                  Immigration and Nationality Act, as added by para-  
14                  graph (1)(A)(ii) shall take effect on the date which is  
15                  60 days after the date on which the Secretary of  
16                  Homeland Security publishes notice in the Federal  
17                  Register of the requirement under such paragraph.

18                  (e) *EXIT SYSTEM.*—

19                  (1) *IN GENERAL.*—Not later than 1 year after  
20                  the date of enactment of this Act, the Secretary of  
21                  Homeland Security shall establish an exit system that  
22                  records the departure on a flight leaving the United  
23                  States of every alien participating in the visa waiver  
24                  program established under section 217 of the Immi-  
25                  gration and Nationality Act (8 U.S.C. 1187).

1           (2) *SYSTEM REQUIREMENTS.*—*The system estab-*  
2           *lished under paragraph (1) shall—*

3                   (A) *match biometric information of the*  
4                   *alien against relevant watch lists and immigra-*  
5                   *tion information; and*

6                   (B) *compare such biometric information*  
7                   *against manifest information collected by air*  
8                   *carriers on passengers departing the United*  
9                   *States to confirm such individuals have departed*  
10                  *the United States.*

11           (3) *REPORT.*—*Not later than 180 days after the*  
12           *date of enactment of this Act, the Secretary shall sub-*  
13           *mit a report to Congress that describes—*

14                   (A) *the progress made in developing and de-*  
15                   *ploying the exit system established under this*  
16                   *subsection; and*

17                   (B) *the procedures by which the Secretary*  
18                   *will improve the manner of calculating the rates*  
19                   *of nonimmigrants who violate the terms of their*  
20                   *visas by remaining in the United States after the*  
21                   *expiration of such visas.*

22           (f) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
23           *authorized to be appropriated such sums as may be nec-*  
24           *essary to carry out this section and the amendments made*  
25           *by this section.*

1 **SEC. 402. STRENGTHENING THE CAPABILITIES OF THE**  
2 **HUMAN SMUGGLING AND TRAFFICKING CEN-**  
3 **TER.**

4 (a) *IN GENERAL.*—Section 7202 of the Intelligence Re-  
5 form and Terrorism Prevention Act of 2004 (8 U.S.C. 1777)  
6 is amended—

7 (1) in subsection (c)(1), by striking “address”  
8 and inserting “integrate and disseminate intelligence  
9 and information related to”;

10 (2) by redesignating subsections (d) and (e) as  
11 subsections (g) and (h), respectively; and

12 (3) by inserting after subsection (c) the following  
13 new subsections:

14 “(d) *DIRECTOR.*—The Secretary of Homeland Security  
15 shall nominate an official of the Government of the United  
16 States to serve as the Director of the Center, in accordance  
17 with the requirements of the memorandum of understanding  
18 entitled the ‘Human Smuggling and Trafficking Center  
19 (HSTC) Charter’.

20 “(e) *STAFFING OF THE CENTER.*—

21 “(1) *IN GENERAL.*—The Secretary of Homeland  
22 Security, in cooperation with heads of other relevant  
23 agencies and departments, shall ensure that the Cen-  
24 ter is staffed with not fewer than 40 full-time equiva-  
25 lent positions, including, as appropriate, detailees  
26 from the following:

1           “(A) *The Office of Intelligence and Anal-*  
2           *ysis.*

3           “(B) *The Transportation Security Adminis-*  
4           *tration.*

5           “(C) *The United States Citizenship and Im-*  
6           *migration Services.*

7           “(D) *The United States Customs and Bor-*  
8           *der Protection.*

9           “(E) *The United States Coast Guard.*

10          “(F) *The United States Immigration and*  
11          *Customs Enforcement.*

12          “(G) *The Central Intelligence Agency.*

13          “(H) *The Department of Defense.*

14          “(I) *The Department of the Treasury.*

15          “(J) *The National Counterterrorism Center.*

16          “(K) *The National Security Agency.*

17          “(L) *The Department of Justice.*

18          “(M) *The Department of State.*

19          “(N) *Any other relevant agency or depart-*  
20          *ment.*

21          “(2) *EXPERTISE OF DETAILEES.—The Secretary*  
22          *of Homeland Security, in cooperation with the head*  
23          *of each agency, department, or other entity set out*  
24          *under paragraph (1), shall ensure that the detailees*  
25          *provided to the Center under paragraph (1) include*

1        *an adequate number of personnel with experience in*  
2        *the area of—*

3                *“(A) consular affairs;*

4                *“(B) counterterrorism;*

5                *“(C) criminal law enforcement;*

6                *“(D) intelligence analysis;*

7                *“(E) prevention and detection of document*  
8        *fraud;*

9                *“(F) border inspection; or*

10               *“(G) immigration enforcement.*

11                *“(3) REIMBURSEMENT FOR DETAILEES.—To the*  
12        *extent that funds are available for such purpose, the*  
13        *Secretary of Homeland Security shall provide reim-*  
14        *bursement to each agency or department that provides*  
15        *a detailee to the Center, in such amount or propor-*  
16        *tion as is appropriate for costs associated with the*  
17        *provision of such detailee, including costs for travel*  
18        *by, and benefits provided to, such detailee.*

19                *“(f) ADMINISTRATIVE SUPPORT AND FUNDING.—The*  
20        *Secretary of Homeland Security shall provide to the Center*  
21        *the administrative support and funding required for its*  
22        *maintenance, including funding for personnel, leasing of of-*  
23        *fice space, supplies, equipment, technology, training, and*  
24        *travel expenses necessary for the Center to carry out its*  
25        *functions.”.*



1           **(b) REPORT.**—Subsection (g) of section 7202 of the In-  
2 *telligence Reform and Terrorism Prevention Act of 2004* (8  
3 *U.S.C. 1777*), as redesignated by subsection (a)(2), is  
4 amended—

5           (1) in the heading, by striking “**REPORT**” and  
6 inserting “**INITIAL REPORT**”;

7           (2) by redesignating such subsection (g) as para-  
8 graph (1);

9           (3) by indenting such paragraph, as so des-  
10 ignated, four ems from the left margin;

11           (4) by inserting before such paragraph, as so des-  
12 ignated, the following:

13 “(g) **REPORT.**—”; and

14           (5) by inserting after such paragraph, as so des-  
15 ignated, the following new paragraph:

16           “(2) **FOLLOW-UP REPORT.**—Not later than 180  
17 days after the date of enactment of the *Improving*  
18 *America’s Security Act of 2007*, the President shall  
19 transmit to Congress a report regarding the operation  
20 of the Center and the activities carried out by the  
21 Center, including a description of—

22           “(A) the roles and responsibilities of each  
23 agency or department that is participating in  
24 the Center;

1           “(B) the mechanisms used to share informa-  
 2           tion among each such agency or department;

3           “(C) the staff provided to the Center by each  
 4           such agency or department;

5           “(D) the type of information and reports  
 6           being disseminated by the Center; and

7           “(E) any efforts by the Center to create a  
 8           centralized Federal Government database to store  
 9           information related to illicit travel of foreign na-  
 10          tionals, including a description of any such  
 11          database and of the manner in which informa-  
 12          tion utilized in such a database would be col-  
 13          lected, stored, and shared.”.

14          (c) *AUTHORIZATION OF APPROPRIATIONS.*—There are  
 15          authorized to be appropriated to the Secretary to carry out  
 16          section 7202 of the Intelligence Reform and Terrorism Pre-  
 17          vention Act of 2004 (8 U.S.C. 1777), as amended by this  
 18          section, \$20,000,000 for fiscal year 2008.

19          ***SEC. 403. ENHANCEMENTS TO THE TERRORIST TRAVEL***  
 20                                        ***PROGRAM.***

21          Section 7215 of the Intelligence Reform and Terrorism  
 22          Prevention Act of 2004 (6 U.S.C. 123) is amended to read  
 23          as follows:

1 **“SEC. 7215. TERRORIST TRAVEL PROGRAM.**

2       “(a) *REQUIREMENT TO ESTABLISH.*—Not later than  
3 90 days after the date of enactment of the Improving Amer-  
4 ica’s Security Act of 2007, the Secretary of Homeland Secu-  
5 rity, in consultation with the Director of the National  
6 Counterterrorism Center and consistent with the strategy  
7 developed under section 7201, shall establish a program to  
8 oversee the implementation of the Secretary’s responsibil-  
9 ities with respect to terrorist travel.

10       “(b) *HEAD OF THE PROGRAM.*—The Secretary of  
11 Homeland Security shall designate an official of the De-  
12 partment of Homeland Security to be responsible for car-  
13 rying out the program. Such official shall be—

14               “(1) the Assistant Secretary for Policy of the De-  
15 partment of Homeland Security; or

16               “(2) an official appointed by the Secretary who  
17 reports directly to the Secretary.

18       “(c) *DUTIES.*—The official designated under sub-  
19 section (b) shall assist the Secretary of Homeland Security  
20 in improving the Department’s ability to prevent terrorists  
21 from entering the United States or remaining in the United  
22 States undetected by—

23               “(1) developing relevant strategies and policies;

24               “(2) reviewing the effectiveness of existing pro-  
25 grams and recommending improvements, if necessary;

1           “(3) making recommendations on budget requests  
2           and on the allocation of funding and personnel;

3           “(4) ensuring effective coordination, with respect  
4           to policies, programs, planning, operations, and dis-  
5           semination of intelligence and information related to  
6           terrorist travel—

7           “(A) among appropriate subdivisions of the  
8           Department of Homeland Security, as deter-  
9           mined by the Secretary and including—

10           “(i) the United States Customs and  
11           Border Protection;

12           “(ii) the United States Immigration  
13           and Customs Enforcement;

14           “(iii) the United States Citizenship  
15           and Immigration Services;

16           “(iv) the Transportation Security Ad-  
17           ministration; and

18           “(v) the United States Coast Guard;  
19           and

20           “(B) between the Department of Homeland  
21           Security and other appropriate Federal agencies;  
22           and

23           “(5) serving as the Secretary’s primary point of  
24           contact with the National Counterterrorism Center for  
25           implementing initiatives related to terrorist travel

1       *and ensuring that the recommendations of the Center*  
2       *related to terrorist travel are carried out by the De-*  
3       *partment.*

4       “(d) *REPORT.*—Not later than 180 days after the date  
5       of enactment of the *Improving America’s Security Act of*  
6       2007, the Secretary of Homeland Security shall submit to  
7       the Committee on Homeland Security and Governmental  
8       Affairs of the Senate and the Committee on Homeland Se-  
9       curity of the House of Representatives a report on the im-  
10      plementation of this section.”.

11      **SEC. 404. ENHANCED DRIVER’S LICENSE.**

12      Section 7209(b)(1) of the *Intelligence Reform and Ter-*  
13      rorism Prevention Act of 2004 (8 U.S.C. 1185 note) is  
14      amended—

15              (1) in subparagraph (B)—

16                      (A) in clause (vi), by striking “and” at the  
17                      end;

18                      (B) in clause (vii), by striking the period at  
19                      the end and inserting “; and”; and

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

21                              “(viii) the signing of a memorandum  
22                              of agreement to initiate a pilot program  
23                              with not less than 1 State to determine if  
24                              an enhanced driver’s license, which is ma-  
25                              chine-readable and tamper proof, not valid

1           *for certification of citizenship for any pur-*  
2           *pose other than admission into the United*  
3           *States from Canada, and issued by such*  
4           *State to an individual, may permit the in-*  
5           *dividual to use the driver's license to meet*  
6           *the documentation requirements under sub-*  
7           *paragraph (A) for entry into the United*  
8           *States from Canada at the land and sea*  
9           *ports of entry.”; and*

10          (2) *by adding at the end the following:*

11           “(C) *REPORT.—Not later than 180 days*  
12           *after the initiation of the pilot program de-*  
13           *scribed in subparagraph (B)(viii), the Secretary*  
14           *of Homeland Security and Secretary of State*  
15           *shall submit to the appropriate congressional*  
16           *committees a report, which includes—*

17                   “(i) *an analysis of the impact of the*  
18                   *pilot program on national security;*

19                   “(ii) *recommendations on how to ex-*  
20                   *pand the pilot program to other States;*

21                   “(iii) *any appropriate statutory*  
22                   *changes to facilitate the expansion of the*  
23                   *pilot program to additional States and to*  
24                   *citizens of Canada;*

1           “(iv) a plan to scan individuals par-  
2           ticipating in the pilot program against  
3           United States terrorist watch lists; and

4           “(v) a recommendation for the type of  
5           machine-readable technology that should be  
6           used in enhanced driver’s licenses, based on  
7           individual privacy considerations and the  
8           costs and feasibility of incorporating any  
9           new technology into existing driver’s li-  
10          censes.”.

11 **SEC. 405. WESTERN HEMISPHERE TRAVEL INITIATIVE.**

12         *Before publishing a final rule in the Federal Register,*  
13 *the Secretary shall conduct—*

14           (1) *a complete cost-benefit analysis of the West-*  
15 *ern Hemisphere Travel Initiative, authorized under*  
16 *section 7209 of the Intelligence Reform and Terrorism*  
17 *Prevention Act of 2004 (Public Law 108–458; 8*  
18 *U.S.C. 1185 note); and*

19           (2) *a study of the mechanisms by which the exe-*  
20 *cution fee for a PASS Card could be reduced, consid-*  
21 *ering the potential increase in the number of applica-*  
22 *tions.*

1       **TITLE V—PRIVACY AND CIVIL**  
2                   **LIBERTIES MATTERS**

3       **SEC. 501. MODIFICATION OF AUTHORITIES RELATING TO**  
4                   **PRIVACY AND CIVIL LIBERTIES OVERSIGHT**  
5                   **BOARD.**

6           (a) *MODIFICATION OF AUTHORITIES.*—Section 1061 of  
7 *the National Security Intelligence Reform Act of 2004 (title*  
8 *I of Public Law 108–458; 5 U.S.C. 601 note) is amended*  
9 *to read as follows:*

10       **“SEC. 1061. PRIVACY AND CIVIL LIBERTIES OVERSIGHT**  
11                   **BOARD.**

12           “(a) *IN GENERAL.*—There is established within the  
13 *Executive Office of the President a Privacy and Civil Lib-*  
14 *erties Oversight Board (referred to in this section as the*  
15 *‘Board’).*

16           “(b) *FINDINGS.*—Consistent with the report of the Na-  
17 *tional Commission on Terrorist Attacks Upon the United*  
18 *States, Congress makes the following findings:*

19                   “(1) *In conducting the war on terrorism, the*  
20 *Government may need additional powers and may*  
21 *need to enhance the use of its existing powers.*

22                   “(2) *This shift of power and authority to the*  
23 *Government calls for an enhanced system of checks*  
24 *and balances to protect the precious liberties that are*  
25 *vital to our way of life and to ensure that the Govern-*



1 *ment uses its powers for the purposes for which the*  
2 *powers were given.*

3 “(c) *PURPOSE.—The Board shall—*

4 *“(1) analyze and review actions the executive*  
5 *branch takes to protect the Nation from terrorism, en-*  
6 *sureing that the need for such actions is balanced with*  
7 *the need to protect privacy and civil liberties; and*

8 *“(2) ensure that liberty concerns are appro-*  
9 *priately considered in the development and imple-*  
10 *mentation of laws, regulations, and policies related to*  
11 *efforts to protect the Nation against terrorism.*

12 “(d) *FUNCTIONS.—*

13 *“(1) ADVICE AND COUNSEL ON POLICY DEVELOP-*  
14 *MENT AND IMPLEMENTATION.—The Board shall—*

15 *“(A) review proposed legislation, regula-*  
16 *tions, and policies related to efforts to protect the*  
17 *Nation from terrorism, including the develop-*  
18 *ment and adoption of information sharing*  
19 *guidelines under subsections (d) and (f) of sec-*  
20 *tion 1016;*

21 *“(B) review the implementation of new and*  
22 *existing legislation, regulations, and policies re-*  
23 *lated to efforts to protect the Nation from ter-*  
24 *rorism, including the implementation of infor-*

1            *mation sharing guidelines under subsections (d)*  
2            *and (f) of section 1016;*

3            *“(C) advise the President and the depart-*  
4            *ments, agencies, and elements of the executive*  
5            *branch to ensure that privacy and civil liberties*  
6            *are appropriately considered in the development*  
7            *and implementation of such legislation, regula-*  
8            *tions, policies, and guidelines; and*

9            *“(D) in providing advice on proposals to*  
10           *retain or enhance a particular governmental*  
11           *power, consider whether the department, agency,*  
12           *or element of the executive branch has estab-*  
13           *lished—*

14           *“(i) that the need for the power is bal-*  
15           *anced with the need to protect privacy and*  
16           *civil liberties;*

17           *“(ii) that there is adequate supervision*  
18           *of the use by the executive branch of the*  
19           *power to ensure protection of privacy and*  
20           *civil liberties; and*

21           *“(iii) that there are adequate guide-*  
22           *lines and oversight to properly confine its*  
23           *use.*

24           *“(2) OVERSIGHT.—The Board shall continually*  
25           *review—*

1           “(A) *the regulations, policies, and proce-*  
2 *dures, and the implementation of the regulations,*  
3 *policies, and procedures, of the departments,*  
4 *agencies, and elements of the executive branch to*  
5 *ensure that privacy and civil liberties are pro-*  
6 *tected;*

7           “(B) *the information sharing practices of*  
8 *the departments, agencies, and elements of the*  
9 *executive branch to determine whether they ap-*  
10 *propriately protect privacy and civil liberties*  
11 *and adhere to the information sharing guidelines*  
12 *issued or developed under subsections (d) and (f)*  
13 *of section 1016 and to other governing laws, reg-*  
14 *ulations, and policies regarding privacy and*  
15 *civil liberties; and*

16           “(C) *other actions by the executive branch*  
17 *related to efforts to protect the Nation from ter-*  
18 *rorism to determine whether such actions—*

19                   “(i) *appropriately protect privacy and*  
20 *civil liberties; and*

21                   “(ii) *are consistent with governing*  
22 *laws, regulations, and policies regarding*  
23 *privacy and civil liberties.*

24           “(3) *RELATIONSHIP WITH PRIVACY AND CIVIL*  
25 *LIBERTIES OFFICERS.—The Board shall—*

1           “(A) review and assess reports and other in-  
2 formation from privacy officers and civil lib-  
3 erties officers under section 1062;

4           “(B) when appropriate, make recommenda-  
5 tions to such privacy officers and civil liberties  
6 officers regarding their activities; and

7           “(C) when appropriate, coordinate the ac-  
8 tivities of such privacy officers and civil liberties  
9 officers on relevant interagency matters.

10          “(4) TESTIMONY.—The members of the Board  
11 shall appear and testify before Congress upon request.

12          “(e) REPORTS.—

13           “(1) IN GENERAL.—The Board shall—

14           “(A) receive and review reports from pri-  
15 vacy officers and civil liberties officers under sec-  
16 tion 1062; and

17           “(B) periodically submit, not less than  
18 semiannually, reports—

19           “(i)(I) to the appropriate committees  
20 of Congress, including the Committee on the  
21 Judiciary of the Senate, the Committee on  
22 the Judiciary of the House of Representa-  
23 tives, the Committee on Homeland Security  
24 and Governmental Affairs of the Senate, the  
25 Committee on Oversight and Government

1           *Reform of the House of Representatives, the*  
2           *Select Committee on Intelligence of the Sen-*  
3           *ate, and the Permanent Select Committee*  
4           *on Intelligence of the House of Representa-*  
5           *tives; and*

6                   *“(II) to the President; and*

7                   *“(ii) which shall be in unclassified*  
8                   *form to the greatest extent possible, with a*  
9                   *classified annex where necessary.*

10           “(2) *CONTENTS.—Not less than 2 reports sub-*  
11           *mitted each year under paragraph (1)(B) shall in-*  
12           *clude—*

13                   *“(A) a description of the major activities of*  
14                   *the Board during the preceding period;*

15                   *“(B) information on the findings, conclu-*  
16                   *sions, and recommendations of the Board result-*  
17                   *ing from its advice and oversight functions*  
18                   *under subsection (d);*

19                   *“(C) the minority views on any findings,*  
20                   *conclusions, and recommendations of the Board*  
21                   *resulting from its advice and oversight functions*  
22                   *under subsection (d);*

23                   *“(D) each proposal reviewed by the Board*  
24                   *under subsection (d)(1) that—*

1                   “(i) the Board advised against imple-  
2                   mentation; and

3                   “(ii) notwithstanding such advice, ac-  
4                   tions were taken to implement; and

5                   “(E) for the preceding period, any requests  
6                   submitted under subsection (g)(1)(D) for the  
7                   issuance of subpoenas that were modified or de-  
8                   nied by the Attorney General.

9                   “(f) *INFORMING THE PUBLIC.*—The Board shall—

10                   “(1) make its reports, including its reports to  
11                   Congress, available to the public to the greatest extent  
12                   that is consistent with the protection of classified in-  
13                   formation and applicable law; and

14                   “(2) hold public hearings and otherwise inform  
15                   the public of its activities, as appropriate and in a  
16                   manner consistent with the protection of classified in-  
17                   formation and applicable law.

18                   “(g) *ACCESS TO INFORMATION.*—

19                   “(1) *AUTHORIZATION.*—If determined by the  
20                   Board to be necessary to carry out its responsibilities  
21                   under this section, the Board is authorized to—

22                   “(A) have access from any department,  
23                   agency, or element of the executive branch, or  
24                   any Federal officer or employee, to all relevant  
25                   records, reports, audits, reviews, documents, pa-

1           *pers, recommendations, or other relevant mate-*  
2           *rial, including classified information consistent*  
3           *with applicable law;*

4           “(B) *interview, take statements from, or*  
5           *take public testimony from personnel of any de-*  
6           *partment, agency, or element of the executive*  
7           *branch, or any Federal officer or employee;*

8           “(C) *request information or assistance from*  
9           *any State, tribal, or local government; and*

10          “(D) *at the direction of a majority of the*  
11          *members of the Board, submit a written request*  
12          *to the Attorney General of the United States that*  
13          *the Attorney General require, by subpoena, per-*  
14          *sons (other than departments, agencies, and ele-*  
15          *ments of the executive branch) to produce any*  
16          *relevant information, documents, reports, an-*  
17          *swers, records, accounts, papers, and other docu-*  
18          *mentary or testimonial evidence.*

19          “(2) *REVIEW OF SUBPOENA REQUEST.—*

20          “(A) *IN GENERAL.—Not later than 30 days*  
21          *after the date of receipt of a request by the Board*  
22          *under paragraph (1)(D), the Attorney General*  
23          *shall—*

24                 “(i) *issue the subpoena as requested; or*

1           “(ii) provide the Board, in writing,  
2           with an explanation of the grounds on  
3           which the subpoena request has been modi-  
4           fied or denied.

5           “(B) NOTIFICATION.—If a subpoena request  
6           is modified or denied under subparagraph  
7           (A)(ii), the Attorney General shall, not later  
8           than 30 days after the date of that modification  
9           or denial, notify the Committee on the Judiciary  
10          of the Senate and the Committee on the Judici-  
11          ary of the House of Representatives.

12          “(3) ENFORCEMENT OF SUBPOENA.—In the case  
13          of contumacy or failure to obey a subpoena issued  
14          pursuant to paragraph (1)(D), the United States dis-  
15          trict court for the judicial district in which the sub-  
16          poenaed person resides, is served, or may be found  
17          may issue an order requiring such person to produce  
18          the evidence required by such subpoena.

19          “(4) AGENCY COOPERATION.—Whenever informa-  
20          tion or assistance requested under subparagraph (A)  
21          or (B) of paragraph (1) is, in the judgment of the  
22          Board, unreasonably refused or not provided, the  
23          Board shall report the circumstances to the head of  
24          the department, agency, or element concerned without  
25          delay. The head of the department, agency, or element



1        *concerned shall ensure that the Board is given access*  
2        *to the information, assistance, material, or personnel*  
3        *the Board determines to be necessary to carry out its*  
4        *functions.*

5        “(h) *MEMBERSHIP.*—

6                “(1) *MEMBERS.*—*The Board shall be composed of*  
7        *a full-time chairman and 4 additional members, who*  
8        *shall be appointed by the President, by and with the*  
9        *advice and consent of the Senate.*

10              “(2) *QUALIFICATIONS.*—*Members of the Board*  
11        *shall be selected solely on the basis of their profes-*  
12        *sional qualifications, achievements, public stature, ex-*  
13        *pertise in civil liberties and privacy, and relevant ex-*  
14        *perience, and without regard to political affiliation,*  
15        *but in no event shall more than 3 members of the*  
16        *Board be members of the same political party.*

17              “(3) *INCOMPATIBLE OFFICE.*—*An individual ap-*  
18        *pointed to the Board may not, while serving on the*  
19        *Board, be an elected official, officer, or employee of*  
20        *the Federal Government, other than in the capacity*  
21        *as a member of the Board.*

22              “(4) *TERM.*—*Each member of the Board shall*  
23        *serve a term of 6 years, except that—*

24                      “(A) *a member appointed to a term of office*  
25        *after the commencement of such term may serve*

1           *under such appointment only for the remainder*  
2           *of such term;*

3           “(B) *upon the expiration of the term of of-*  
4           *fice of a member, the member shall continue to*  
5           *serve until the member’s successor has been ap-*  
6           *pointed and qualified, except that no member*  
7           *may serve under this subparagraph—*

8                   “(i) *for more than 60 days when Con-*  
9                   *gress is in session unless a nomination to*  
10                  *fill the vacancy shall have been submitted to*  
11                  *the Senate; or*

12                   “(ii) *after the adjournment sine die of*  
13                  *the session of the Senate in which such*  
14                  *nomination is submitted; and*

15           “(C) *the members first appointed under this*  
16           *subsection after the date of enactment of the Im-*  
17           *proving America’s Security Act of 2007 shall*  
18           *serve terms of two, three, four, five, and six*  
19           *years, respectively, with the term of each such*  
20           *member to be designated by the President.*

21           “(5) *QUORUM AND MEETINGS.—After its initial*  
22           *meeting, the Board shall meet upon the call of the*  
23           *chairman or a majority of its members. Three mem-*  
24           *bers of the Board shall constitute a quorum.*

25           “(i) *COMPENSATION AND TRAVEL EXPENSES.—*

1           “(1) *COMPENSATION.*—

2                   “(A) *CHAIRMAN.*—*The chairman of the*  
3                   *Board shall be compensated at the rate of pay*  
4                   *payable for a position at level III of the Execu-*  
5                   *utive Schedule under section 5314 of title 5,*  
6                   *United States Code.*

7                   “(B) *MEMBERS.*—*Each member of the*  
8                   *Board shall be compensated at a rate of pay*  
9                   *payable for a position at level IV of the Execu-*  
10                   *utive Schedule under section 5315 of title 5,*  
11                   *United States Code, for each day during which*  
12                   *that member is engaged in the actual perform-*  
13                   *ance of the duties of the Board.*

14                   “(2) *TRAVEL EXPENSES.*—*Members of the Board*  
15                   *shall be allowed travel expenses, including per diem*  
16                   *in lieu of subsistence, at rates authorized for persons*  
17                   *employed intermittently by the Government under*  
18                   *section 5703(b) of title 5, United States Code, while*  
19                   *away from their homes or regular places of business*  
20                   *in the performance of services for the Board.*

21                   “(j) *STAFF.*—

22                   “(1) *APPOINTMENT AND COMPENSATION.*—*The*  
23                   *chairman of the Board, in accordance with rules*  
24                   *agreed upon by the Board, shall appoint and fix the*  
25                   *compensation of a full-time executive director and*

1     *such other personnel as may be necessary to enable*  
2     *the Board to carry out its functions, without regard*  
3     *to the provisions of title 5, United States Code, gov-*  
4     *erning appointments in the competitive service, and*  
5     *without regard to the provisions of chapter 51 and*  
6     *subchapter III of chapter 53 of such title relating to*  
7     *classification and General Schedule pay rates, except*  
8     *that no rate of pay fixed under this subsection may*  
9     *exceed the equivalent of that payable for a position at*  
10    *level V of the Executive Schedule under section 5316*  
11    *of title 5, United States Code.*

12           “(2) *DETAILEES.*—*Any Federal employee may*  
13    *be detailed to the Board without reimbursement from*  
14    *the Board, and such detailee shall retain the rights,*  
15    *status, and privileges of the detailee’s regular employ-*  
16    *ment without interruption.*

17           “(3) *CONSULTANT SERVICES.*—*The Board may*  
18    *procure the temporary or intermittent services of ex-*  
19    *perts and consultants in accordance with section 3109*  
20    *of title 5, United States Code, at rates that do not ex-*  
21    *ceed the daily rate paid a person occupying a posi-*  
22    *tion at level IV of the Executive Schedule under sec-*  
23    *tion 5315 of such title.*

24           “(k) *SECURITY CLEARANCES.*—*The appropriate de-*  
25    *partments, agencies, and elements of the executive branch*

1 *shall cooperate with the Board to expeditiously provide the*  
 2 *Board members and staff with appropriate security clear-*  
 3 *ances to the extent possible under existing procedures and*  
 4 *requirements.*

5       “(l) *TREATMENT AS AGENCY, NOT AS ADVISORY COM-*  
 6 *MITTEE.—The Board—*

7           “(1) *is an agency (as defined in section 551(1)*  
 8 *of title 5, United States Code); and*

9           “(2) *is not an advisory committee (as defined in*  
 10 *section 3(2) of the Federal Advisory Committee Act (5*  
 11 *U.S.C. App.)).*

12       “(m) *AUTHORIZATION OF APPROPRIATIONS.—There*  
 13 *are authorized to be appropriated to carry out this section*  
 14 *amounts as follows:*

15           “(1) *For fiscal year 2008, \$5,000,000.*

16           “(2) *For fiscal year 2009, \$6,650,000.*

17           “(3) *For fiscal year 2010, \$8,300,000.*

18           “(4) *For fiscal year 2011, \$10,000,000.*

19           “(5) *For fiscal year 2012, and each fiscal year*  
 20 *thereafter, such sums as may be necessary.”.*

21       “(b) *CONTINUATION OF SERVICE OF CURRENT MEM-*  
 22 *BERS OF PRIVACY AND CIVIL LIBERTIES BOARD.—The*  
 23 *members of the Privacy and Civil Liberties Oversight Board*  
 24 *as of the date of enactment of this Act may continue to*  
 25 *serve as members of that Board after that date, and to carry*

1 *out the functions and exercise the powers of that Board as*  
2 *specified in section 1061 of the National Security Intel-*  
3 *ligence Reform Act of 2004 (as amended by subsection (a)),*  
4 *until—*

5           (1) *in the case of any individual serving as a*  
6 *member of the Board under an appointment by the*  
7 *President, by and with the advice and consent of the*  
8 *Senate, the expiration of a term designated by the*  
9 *President under section 1061(h)(4)(C) of such Act (as*  
10 *so amended);*

11           (2) *in the case of any individual serving as a*  
12 *member of the Board other than under an appoint-*  
13 *ment by the President, by and with the advice and*  
14 *consent of the Senate, the confirmation or rejection by*  
15 *the Senate of that member's nomination to the Board*  
16 *under such section 1061 (as so amended), except that*  
17 *no such individual may serve as a member under this*  
18 *paragraph—*

19                   (A) *for more than 60 days when Congress is*  
20 *in session unless a nomination of that indi-*  
21 *vidual to be a member of the Board has been*  
22 *submitted to the Senate; or*

23                   (B) *after the adjournment sine die of the*  
24 *session of the Senate in which such nomination*  
25 *is submitted; or*

1           (3) *the appointment of members of the Board*  
2           *under such section 1061 (as so amended), except that*  
3           *no member may serve under this paragraph—*

4                   (A) *for more than 60 days when Congress is*  
5                   *in session unless a nomination to fill the posi-*  
6                   *tion on the Board shall have been submitted to*  
7                   *the Senate; or*

8                   (B) *after the adjournment sine die of the*  
9                   *session of the Senate in which such nomination*  
10                  *is submitted.*

11 **SEC. 502. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

12           (a) *IN GENERAL.*—*Section 1062 of the National Secu-*  
13 *rity Intelligence Reform Act of 2004 (title I of Public Law*  
14 *108–458; 118 Stat. 3688) is amended to read as follows:*

15 **“SEC. 1062. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

16           “(a) *DESIGNATION AND FUNCTIONS.*—*The Attorney*  
17 *General, the Secretary of Defense, the Secretary of State,*  
18 *the Secretary of the Treasury, the Secretary of Health and*  
19 *Human Services, the Secretary of Homeland Security, the*  
20 *Director of National Intelligence, the Director of the Central*  
21 *Intelligence Agency, and the head of any other department,*  
22 *agency, or element of the executive branch designated by*  
23 *the Privacy and Civil Liberties Oversight Board under sec-*  
24 *tion 1061 to be appropriate for coverage under this section*  
25 *shall designate not less than 1 senior officer to—*

1           “(1) assist the head of such department, agency,  
2           or element and other officials of such department,  
3           agency, or element in appropriately considering pri-  
4           vacy and civil liberties concerns when such officials  
5           are proposing, developing, or implementing laws, reg-  
6           ulations, policies, procedures, or guidelines related to  
7           efforts to protect the Nation against terrorism;

8           “(2) periodically investigate and review depart-  
9           ment, agency, or element actions, policies, procedures,  
10          guidelines, and related laws and their implementa-  
11          tion to ensure that such department, agency, or ele-  
12          ment is adequately considering privacy and civil lib-  
13          erties in its actions;

14          “(3) ensure that such department, agency, or ele-  
15          ment has adequate procedures to receive, investigate,  
16          respond to, and redress complaints from individuals  
17          who allege such department, agency, or element has  
18          violated their privacy or civil liberties; and

19          “(4) in providing advice on proposals to retain  
20          or enhance a particular governmental power the offi-  
21          cer shall consider whether such department, agency,  
22          or element has established—

23                  “(A) that the need for the power is balanced  
24                  with the need to protect privacy and civil lib-  
25                  erties;



1           “(B) that there is adequate supervision of  
2           the use by such department, agency, or element  
3           of the power to ensure protection of privacy and  
4           civil liberties; and

5           “(C) that there are adequate guidelines and  
6           oversight to properly confine its use.

7           “(b) EXCEPTION TO DESIGNATION AUTHORITY.—

8           “(1) PRIVACY OFFICERS.—In any department,  
9           agency, or element referred to in subsection (a) or des-  
10          ignated by the Privacy and Civil Liberties Oversight  
11          Board, which has a statutorily created privacy officer,  
12          such officer shall perform the functions specified in  
13          subsection (a) with respect to privacy.

14          “(2) CIVIL LIBERTIES OFFICERS.—In any de-  
15          partment, agency, or element referred to in subsection  
16          (a) or designated by the Board, which has a statu-  
17          torily created civil liberties officer, such officer shall  
18          perform the functions specified in subsection (a) with  
19          respect to civil liberties.

20          “(c) SUPERVISION AND COORDINATION.—Each pri-  
21          vacy officer or civil liberties officer described in subsection  
22          (a) or (b) shall—

23                 “(1) report directly to the head of the depart-  
24                 ment, agency, or element concerned; and

1           “(2) coordinate their activities with the Inspector  
2           General of such department, agency, or element to  
3           avoid duplication of effort.

4           “(d) AGENCY COOPERATION.—The head of each de-  
5           partment, agency, or element shall ensure that each privacy  
6           officer and civil liberties officer—

7           “(1) has the information, material, and resources  
8           necessary to fulfill the functions of such officer;

9           “(2) is advised of proposed policy changes;

10          “(3) is consulted by decision makers; and

11          “(4) is given access to material and personnel  
12          the officer determines to be necessary to carry out the  
13          functions of such officer.

14          “(e) REPRISAL FOR MAKING COMPLAINT.—No action  
15          constituting a reprisal, or threat of reprisal, for making a  
16          complaint or for disclosing information to a privacy officer  
17          or civil liberties officer described in subsection (a) or (b),  
18          or to the Privacy and Civil Liberties Oversight Board, that  
19          indicates a possible violation of privacy protections or civil  
20          liberties in the administration of the programs and oper-  
21          ations of the Federal Government relating to efforts to pro-  
22          tect the Nation from terrorism shall be taken by any Federal  
23          employee in a position to take such action, unless the com-  
24          plaint was made or the information was disclosed with the

1 *knowledge that it was false or with willful disregard for*  
2 *its truth or falsity.*

3 “(f) *PERIODIC REPORTS.*—

4 “(1) *IN GENERAL.*—*The privacy officers and*  
5 *civil liberties officers of each department, agency, or*  
6 *element referred to or described in subsection (a) or*  
7 *(b) shall periodically, but not less than quarterly, sub-*  
8 *mit a report on the activities of such officers—*

9 “(A)(i) *to the appropriate committees of*  
10 *Congress, including the Committee on the Judici-*  
11 *ary of the Senate, the Committee on the Judici-*  
12 *ary of the House of Representatives, the Com-*  
13 *mittee on Homeland Security and Governmental*  
14 *Affairs of the Senate, the Committee on Over-*  
15 *sight and Government Reform of the House of*  
16 *Representatives, the Select Committee on Intel-*  
17 *ligence of the Senate, and the Permanent Select*  
18 *Committee on Intelligence of the House of Rep-*  
19 *resentatives;*

20 “(ii) *to the head of such department, agen-*  
21 *cy, or element; and*

22 “(iii) *to the Privacy and Civil Liberties*  
23 *Oversight Board; and*

1           “(B) which shall be in unclassified form to  
2           the greatest extent possible, with a classified  
3           annex where necessary.

4           “(2) CONTENTS.—Each report submitted under  
5           paragraph (1) shall include information on the dis-  
6           charge of each of the functions of the officer concerned,  
7           including—

8           “(A) information on the number and types  
9           of reviews undertaken;

10           “(B) the type of advice provided and the re-  
11           sponse given to such advice;

12           “(C) the number and nature of the com-  
13           plaints received by the department, agency, or  
14           element concerned for alleged violations; and

15           “(D) a summary of the disposition of such  
16           complaints, the reviews and inquiries conducted,  
17           and the impact of the activities of such officer.

18           “(g) INFORMING THE PUBLIC.—Each privacy officer  
19           and civil liberties officer shall—

20           “(1) make the reports of such officer, including  
21           reports to Congress, available to the public to the  
22           greatest extent that is consistent with the protection  
23           of classified information and applicable law; and

24           “(2) otherwise inform the public of the activities  
25           of such officer, as appropriate and in a manner con-

1        *sistent with the protection of classified information*  
 2        *and applicable law.*

3        “(h) *SAVINGS CLAUSE.*—*Nothing in this section shall*  
 4        *be construed to limit or otherwise supplant any other au-*  
 5        *thorities or responsibilities provided by law to privacy offi-*  
 6        *cers or civil liberties officers.”.*

7        (b) *CLERICAL AMENDMENT.*—*The table of contents for*  
 8        *the Intelligence Reform and Terrorism Prevention Act of*  
 9        *2004 (Public Law 108–458) is amended by striking the*  
 10        *item relating to section 1062 and inserting the following*  
 11        *new item:*

      “*Sec. 1062. Privacy and civil liberties officers.*”.

12        **SEC. 503. DEPARTMENT PRIVACY OFFICER.**

13        *Section 222 of the Homeland Security Act of 2002 (6*  
 14        *U.S.C. 142) is amended—*

15                (1) *by inserting “(a) APPOINTMENT AND RE-*  
 16                *SPONSIBILITIES.—” before “The Secretary”; and*

17                (2) *by adding at the end the following:*

18                “(b) *AUTHORITY TO INVESTIGATE.*—

19                        “(1) *IN GENERAL.*—*The senior official appointed*  
 20                        *under subsection (a) may—*

21                                “(A) *have access to all records, reports, au-*  
 22                                *ditions, reviews, documents, papers, recommenda-*  
 23                                *tions, and other materials available to the De-*  
 24                                *partment that relate to programs and operations*

1           *with respect to the responsibilities of the senior*  
2           *official under this section;*

3           “(B) *make such investigations and reports*  
4           *relating to the administration of the programs*  
5           *and operations of the Department that are nec-*  
6           *essary or desirable as determined by that senior*  
7           *official;*

8           “(C) *subject to the approval of the Sec-*  
9           *retary, require by subpoena the production, by*  
10          *any person other than a Federal agency, of all*  
11          *information, documents, reports, answers,*  
12          *records, accounts, papers, and other data and*  
13          *documentary evidence necessary to performance*  
14          *of the responsibilities of the senior official under*  
15          *this section; and*

16          “(D) *administer to or take from any person*  
17          *an oath, affirmation, or affidavit, whenever nec-*  
18          *essary to performance of the responsibilities of*  
19          *the senior official under this section.*

20          “(2) *ENFORCEMENT OF SUBPOENAS.—Any sub-*  
21          *poena issued under paragraph (1)(C) shall, in the*  
22          *case of contumacy or refusal to obey, be enforceable by*  
23          *order of any appropriate United States district court.*

24          “(3) *EFFECT OF OATHS.—Any oath, affirmation,*  
25          *or affidavit administered or taken under paragraph*

1       (1)(D) by or before an employee of the Privacy Office  
2       designated for that purpose by the senior official ap-  
3       pointed under subsection (a) shall have the same force  
4       and effect as if administered or taken by or before an  
5       officer having a seal of office.

6       “(c) SUPERVISION AND COORDINATION.—

7               “(1) IN GENERAL.—The senior official appointed  
8       under subsection (a) shall—

9                       “(A) report to, and be under the general su-  
10                      pervision of, the Secretary; and

11                     “(B) coordinate activities with the Inspector  
12                     General of the Department in order to avoid du-  
13                     plication of effort.

14               “(2) NOTIFICATION TO CONGRESS ON RE-  
15       MOVAL.—If the Secretary removes the senior official  
16       appointed under subsection (a) or transfers that sen-  
17       ior official to another position or location within the  
18       Department, the Secretary shall—

19                     “(A) promptly submit a written notifica-  
20                     tion of the removal or transfer to Houses of Con-  
21                     gress; and

22                     “(B) include in any such notification the  
23                     reasons for the removal or transfer.

24       “(d) REPORTS BY SENIOR OFFICIAL TO CONGRESS.—

25       The senior official appointed under subsection (a) shall—

1           “(1) submit reports directly to the Congress re-  
2           garding performance of the responsibilities of the sen-  
3           ior official under this section, without any prior com-  
4           ment or amendment by the Secretary, Deputy Sec-  
5           retary, or any other officer or employee of the Depart-  
6           ment or the Office of Management and Budget; and

7           “(2) inform the Committee on Homeland Secu-  
8           rity and Governmental Affairs of the Senate and the  
9           Committee on Homeland Security of the House of  
10          Representatives not later than—

11                 “(A) 30 days after the Secretary dis-  
12                 approves the senior official’s request for a sub-  
13                 poena under subsection (b)(1)(C) or the Sec-  
14                 retary substantively modifies the requested sub-  
15                 poena; or

16                 “(B) 45 days after the senior official’s re-  
17                 quest for a subpoena under subsection (b)(1)(C),  
18                 if that subpoena has not either been approved or  
19                 disapproved by the Secretary.”.

20 **SEC. 504. FEDERAL AGENCY DATA MINING REPORTING ACT**

21                         **OF 2007.**

22           (a) *SHORT TITLE.*—This section may be cited as the  
23           “Federal Agency Data Mining Reporting Act of 2007”.

24           (b) *DEFINITIONS.*—In this section:



1           (1) *DATA MINING.*—*The term “data mining”*  
2           *means a query, search, or other analysis of 1 or more*  
3           *electronic databases, where—*

4                   (A) *a department or agency of the Federal*  
5                   *Government, or a non-Federal entity acting on*  
6                   *behalf of the Federal Government, is conducting*  
7                   *the query, search, or other analysis to discover or*  
8                   *locate a predictive pattern or anomaly indicative*  
9                   *of terrorist or criminal activity on the part of*  
10                   *any individual or individuals; and*

11                   (B) *the query, search, or other analysis does*  
12                   *not use personal identifiers of a specific indi-*  
13                   *vidual, or inputs associated with a specific indi-*  
14                   *vidual or group of individuals, to retrieve infor-*  
15                   *mation from the database or databases.*

16           (2) *DATABASE.*—*The term “database” does not*  
17           *include telephone directories, news reporting, infor-*  
18           *mation publicly available to any member of the pub-*  
19           *lic without payment of a fee, or databases of judicial*  
20           *and administrative opinions.*

21           (c) *REPORTS ON DATA MINING ACTIVITIES BY FED-*  
22           *ERAL AGENCIES.*—

23                   (1) *REQUIREMENT FOR REPORT.*—*The head of*  
24                   *each department or agency of the Federal Government*  
25                   *that is engaged in any activity to use or develop data*

1        *mining shall submit a report to Congress on all such*  
2        *activities of the department or agency under the juris-*  
3        *isdiction of that official. The report shall be made*  
4        *available to the public, except for a classified annex*  
5        *described paragraph (2)(H).*

6            (2) *CONTENT OF REPORT.—Each report sub-*  
7        *mitted under paragraph (1) shall include, for each ac-*  
8        *tivity to use or develop data mining, the following in-*  
9        *formation:*

10            (A) *A thorough description of the data min-*  
11        *ing activity, its goals, and, where appropriate,*  
12        *the target dates for the deployment of the data*  
13        *mining activity.*

14            (B) *A thorough description of the data min-*  
15        *ing technology that is being used or will be used,*  
16        *including the basis for determining whether a*  
17        *particular pattern or anomaly is indicative of*  
18        *terrorist or criminal activity.*

19            (C) *A thorough description of the data*  
20        *sources that are being or will be used.*

21            (D) *An assessment of the efficacy or likely*  
22        *efficacy of the data mining activity in providing*  
23        *accurate information consistent with and valu-*  
24        *able to the stated goals and plans for the use or*  
25        *development of the data mining activity.*

1           (E) *An assessment of the impact or likely*  
2 *impact of the implementation of the data mining*  
3 *activity on the privacy and civil liberties of in-*  
4 *dividuals, including a thorough description of*  
5 *the actions that are being taken or will be taken*  
6 *with regard to the property, privacy, or other*  
7 *rights or privileges of any individual or individ-*  
8 *uals as a result of the implementation of the*  
9 *data mining activity.*

10           (F) *A list and analysis of the laws and reg-*  
11 *ulations that govern the information being or to*  
12 *be collected, reviewed, gathered, analyzed, or used*  
13 *with the data mining activity.*

14           (G) *A thorough discussion of the policies,*  
15 *procedures, and guidelines that are in place or*  
16 *that are to be developed and applied in the use*  
17 *of such technology for data mining in order to—*

18                   (i) *protect the privacy and due process*  
19 *rights of individuals, such as redress proce-*  
20 *dures; and*

21                   (ii) *ensure that only accurate informa-*  
22 *tion is collected, reviewed, gathered, ana-*  
23 *lyzed, or used.*

24           (H) *Any necessary classified information in*  
25 *an annex that shall be available, as appropriate,*

1 to the Committee on Homeland Security and  
 2 Governmental Affairs, the Committee on the Ju-  
 3 diciary, the Select Committee on Intelligence,  
 4 and the Committee on Appropriations of the  
 5 Senate and the Committee on Homeland Secu-  
 6 rity, the Committee on the Judiciary, the Perma-  
 7 nent Select Committee on Intelligence, and the  
 8 Committee on Appropriations of the House of  
 9 Representatives.

10 (3) *TIME FOR REPORT.*—Each report required  
 11 under paragraph (1) shall be—

12 (A) submitted not later than 180 days after  
 13 the date of enactment of this Act; and

14 (B) updated not less frequently than annu-  
 15 ally thereafter, to include any activity to use or  
 16 develop data mining engaged in after the date of  
 17 the prior report submitted under paragraph (1).

18 **TITLE VI—ENHANCED DEFENSES**  
 19 **AGAINST WEAPONS OF MASS**  
 20 **DESTRUCTION**

21 **SEC. 601. NATIONAL BIOSURVEILLANCE INTEGRATION CEN-**  
 22 **TER.**

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

1 **“SEC. 316. NATIONAL BIOSURVEILLANCE INTEGRATION**  
2 **CENTER.**

3 “(a) *DEFINITIONS.—In this section—*

4 “(1) *the term ‘biological event of national sig-*  
5 *nificance’ means—*

6 “(A) *an act of terrorism that uses a biologi-*  
7 *cal agent, toxin, or other product derived from a*  
8 *biological agent; or*

9 “(B) *a naturally-occurring outbreak of an*  
10 *infectious disease that may result in a national*  
11 *epidemic;*

12 “(2) *the term ‘Member Agencies’ means the de-*  
13 *partments and agencies described in subsection (d)(1);*

14 “(3) *the term ‘NBIC’ means the National Bio-*  
15 *surveillance Integration Center established under sub-*  
16 *section (b);*

17 “(4) *the term ‘NBIS’ means the National Bio-*  
18 *surveillance Integration System established under*  
19 *subsection (b); and*

20 “(5) *the term ‘Privacy Officer’ means the Pri-*  
21 *vacuity Officer appointed under section 222.*

22 “(b) *ESTABLISHMENT.—The Secretary shall establish,*  
23 *operate, and maintain a National Biosurveillance Integra-*  
24 *tion Center, headed by a Directing Officer, under an exist-*  
25 *ing office or directorate of the Department, subject to the*  
26 *availability of appropriations, to oversee development and*

1 *operation of the National Biosurveillance Integration Sys-*  
2 *tem.*

3       “(c) *PRIMARY MISSION.*—*The primary mission of the*  
4 *NBIC is to enhance the capability of the Federal Govern-*  
5 *ment to—*

6               “(1) *rapidly identify, characterize, localize, and*  
7 *track a biological event of national significance by in-*  
8 *tegrating and analyzing data from human health,*  
9 *animal, plant, food, and environmental monitoring*  
10 *systems (both national and international); and*

11               “(2) *disseminate alerts and other information re-*  
12 *garding such data analysis to Member Agencies and,*  
13 *in consultation with relevant member agencies, to*  
14 *agencies of State, local, and tribal governments, as*  
15 *appropriate, to enhance the ability of such agencies to*  
16 *respond to a biological event of national significance.*

17       “(d) *REQUIREMENTS.*—*The NBIC shall design the*  
18 *NBIS to detect, as early as possible, a biological event of*  
19 *national significance that presents a risk to the United*  
20 *States or the infrastructure or key assets of the United*  
21 *States, including—*

22               “(1) *if a Federal department or agency, at the*  
23 *discretion of the head of that department or agency,*  
24 *has entered a memorandum of understanding regard-*  
25 *ing participation in the NBIC, consolidating data*

1 *from all relevant surveillance systems maintained by*  
2 *that department or agency to detect biological events*  
3 *of national significance across human, animal, and*  
4 *plant species;*

5 *“(2) seeking private sources of surveillance, both*  
6 *foreign and domestic, when such sources would en-*  
7 *hance coverage of critical surveillance gaps;*

8 *“(3) using an information technology system*  
9 *that uses the best available statistical and other ana-*  
10 *lytical tools to identify and characterize biological*  
11 *events of national significance in as close to real-time*  
12 *as is practicable;*

13 *“(4) providing the infrastructure for such inte-*  
14 *gration, including information technology systems*  
15 *and space, and support for personnel from Member*  
16 *Agencies with sufficient expertise to enable analysis*  
17 *and interpretation of data;*

18 *“(5) working with Member Agencies to create in-*  
19 *formation technology systems that use the minimum*  
20 *amount of patient data necessary and consider pa-*  
21 *tient confidentiality and privacy issues at all stages*  
22 *of development and apprise the Privacy Officer of*  
23 *such efforts; and*

24 *“(6) alerting relevant Member Agencies and, in*  
25 *consultation with relevant Member Agencies, public*

1 *health agencies of State, local, and tribal governments*  
2 *regarding any incident that could develop into a bio-*  
3 *logical event of national significance.*

4 *“(e) RESPONSIBILITIES OF THE SECRETARY.—*

5 *“(1) IN GENERAL.—The Secretary shall—*

6 *“(A) ensure that the NBIC is fully oper-*  
7 *ational not later than September 30, 2008;*

8 *“(B) not later than 180 days after the date*  
9 *of enactment of this section and on the date that*  
10 *the NBIC is fully operational, submit a report to*  
11 *the Committee on Homeland Security and Gov-*  
12 *ernmental Affairs of the Senate and the Com-*  
13 *mittee on Homeland Security of the House of*  
14 *Representatives on the progress of making the*  
15 *NBIC operational addressing the efforts of the*  
16 *NBIC to integrate surveillance efforts of Federal,*  
17 *State, local, and tribal governments.*

18 *“(f) RESPONSIBILITIES OF THE DIRECTING OFFICER*

19 *OF THE NBIC.—*

20 *“(1) IN GENERAL.—The Directing Officer of the*  
21 *NBIC shall—*

22 *“(A) establish an entity to perform all oper-*  
23 *ations and assessments related to the NBIS;*

24 *“(B) on an ongoing basis, monitor the*  
25 *availability and appropriateness of contributing*



1 *surveillance systems and solicit new surveillance*  
2 *systems that would enhance biological situational*  
3 *awareness or overall performance of the NBIS;*

4 “(C) *on an ongoing basis, review and seek*  
5 *to improve the statistical and other analytical*  
6 *methods utilized by the NBIS;*

7 “(D) *receive and consider other relevant*  
8 *homeland security information, as appropriate;*  
9 *and*

10 “(E) *provide technical assistance, as appro-*  
11 *priate, to all Federal, regional, State, local, and*  
12 *tribal government entities and private sector en-*  
13 *tities that contribute data relevant to the oper-*  
14 *ation of the NBIS.*

15 “(2) *ASSESSMENTS.—The Directing Officer of*  
16 *the NBIC shall—*

17 “(A) *on an ongoing basis, evaluate available*  
18 *data for evidence of a biological event of national*  
19 *significance; and*

20 “(B) *integrate homeland security informa-*  
21 *tion with NBIS data to provide overall situa-*  
22 *tional awareness and determine whether a bio-*  
23 *logical event of national significance has oc-*  
24 *curred.*

25 “(3) *INFORMATION SHARING.—*

1           “(A) *IN GENERAL.*—*The Directing Officer of*  
2           *the NBIC shall—*

3                   “(i) *establish a method of real-time*  
4                   *communication with the National Oper-*  
5                   *ations Center, to be known as the Biological*  
6                   *Common Operating Picture;*

7                   “(ii) *in the event that a biological*  
8                   *event of national significance is detected,*  
9                   *notify the Secretary and disseminate results*  
10                   *of NBIS assessments related to that biologi-*  
11                   *cal event of national significance to appro-*  
12                   *priate Federal response entities and, in con-*  
13                   *sultation with relevant member agencies, re-*  
14                   *gional, State, local, and tribal governmental*  
15                   *response entities in a timely manner;*

16                   “(iii) *provide any report on NBIS as-*  
17                   *sessments to Member Agencies and, in con-*  
18                   *sultation with relevant member agencies,*  
19                   *any affected regional, State, local, or tribal*  
20                   *government, and any private sector entity*  
21                   *considered appropriate that may enhance*  
22                   *the mission of such Member Agencies, gov-*  
23                   *ernments, or entities or the ability of the*  
24                   *Nation to respond to biological events of na-*  
25                   *tional significance; and*

1           “(iv) share NBIS incident or situa-  
2           tional awareness reports, and other relevant  
3           information, consistent with the informa-  
4           tion sharing environment established under  
5           section 1016 of the Intelligence Reform and  
6           Terrorism Prevention Act of 2004 (6 U.S.C.  
7           485) and any policies, guidelines, proce-  
8           dures, instructions, or standards established  
9           by the President or the program manager  
10          for the implementation and management of  
11          that environment.

12          “(B) COORDINATION.—The Directing Offi-  
13          cer of the NBIC shall implement the activities  
14          described in subparagraph (A) in coordination  
15          with the program manager for the information  
16          sharing environment of the Office of the Director  
17          of National Intelligence, the Under Secretary for  
18          Intelligence and Analysis, and other offices or  
19          agencies of the Federal Government, as appro-  
20          priate.

21          “(g) RESPONSIBILITIES OF THE NBIC MEMBER AGEN-  
22          CIES.—

23                 “(1) IN GENERAL.—Each Member Agency  
24          shall—

1           “(A) use its best efforts to integrate bio-  
2           surveillance information into the NBIS, with the  
3           goal of promoting information sharing between  
4           Federal, State, local, and tribal governments to  
5           detect biological events of national significance;

6           “(B) participate in the formation and  
7           maintenance of the Biological Common Oper-  
8           ating Picture to facilitate timely and accurate  
9           detection and reporting;

10          “(C) connect the biosurveillance data sys-  
11          tems of that Member Agency to the NBIC data  
12          system under mutually-agreed protocols that  
13          maintain patient confidentiality and privacy;

14          “(D) participate in the formation of strat-  
15          egy and policy for the operation of the NBIC  
16          and its information sharing; and

17          “(E) provide personnel to the NBIC under  
18          an interagency personnel agreement and consider  
19          the qualifications of such personnel necessary to  
20          provide human, animal, and environmental data  
21          analysis and interpretation support to the  
22          NBIC.

23          “(h) ADMINISTRATIVE AUTHORITIES.—

1           “(1) *HIRING OF EXPERTS.*—*The Directing Offi-*  
2           *cer of the NBIC shall hire individuals with the nec-*  
3           *essary expertise to develop and operate the NBIS.*

4           “(2) *DETAIL OF PERSONNEL.*—*Upon the request*  
5           *of the Directing Officer of the NBIC, the head of any*  
6           *Federal department or agency may detail, on a reim-*  
7           *bursable basis, any of the personnel of that depart-*  
8           *ment or agency to the Department to assist the NBIC*  
9           *in carrying out this section.*

10          “(i) *JOINT BIOSURVEILLANCE LEADERSHIP COUN-*  
11          *CIL.*—*The Directing Officer of the NBIC shall—*

12                 “(1) *establish an interagency coordination coun-*  
13                 *cil to facilitate interagency cooperation and to advise*  
14                 *the Directing Officer of the NBIC regarding rec-*  
15                 *ommendations to enhance the biosurveillance capa-*  
16                 *bilities of the Department; and*

17                 “(2) *invite Member Agencies to serve on such*  
18                 *council.*

19          “(j) *RELATIONSHIP TO OTHER DEPARTMENTS AND*  
20          *AGENCIES.*—*The authority of the Directing Officer of the*  
21          *NBIC under this section shall not affect any authority or*  
22          *responsibility of any other department or agency of the Fed-*  
23          *eral Government with respect to biosurveillance activities*  
24          *under any program administered by that department or*  
25          *agency.*

1       “(k) *AUTHORIZATION OF APPROPRIATIONS.*—*There*  
2 *are authorized to be appropriated such sums as are nec-*  
3 *essary to carry out this section.*”.

4       (b) *CONFORMING AMENDMENT.*—*The table of contents*  
5 *in section 1(b) of the Homeland Security Act of 2002 (6*  
6 *U.S.C. 101 et seq.) is amended by inserting after the item*  
7 *relating to section 315 the following:*

      “*Sec. 316. National Biosurveillance Integration Center.*”.

8       **SEC. 602. BIOSURVEILLANCE EFFORTS.**

9       *The Comptroller General of the United States shall*  
10 *submit a report to Congress describing—*

11           (1) *the state of Federal, State, local, and tribal*  
12 *government biosurveillance efforts as of the date of*  
13 *such report;*

14           (2) *any duplication of effort at the Federal,*  
15 *State, local, or tribal government level to create bio-*  
16 *surveillance systems; and*

17           (3) *the integration of biosurveillance systems to*  
18 *allow the maximizing of biosurveillance resources and*  
19 *the expertise of Federal, State, local, and tribal gov-*  
20 *ernments to benefit public health.*

1 **SEC. 603. INTERAGENCY COORDINATION TO ENHANCE DE-**  
2 **FENSES AGAINST NUCLEAR AND RADIO-**  
3 **LOGICAL WEAPONS OF MASS DESTRUCTION.**

4 (a) *IN GENERAL.*—*The Homeland Security Act of*  
5 *2002 is amended by adding after section 1906, as redesign-*  
6 *ated by section 203 of this Act, the following:*

7 **“SEC. 1907. JOINT ANNUAL REVIEW OF GLOBAL NUCLEAR**  
8 **DETECTION ARCHITECTURE.**

9 “(a) *ANNUAL REVIEW.*—

10 “(1) *IN GENERAL.*—*The Secretary, the Attorney*  
11 *General, the Secretary of State, the Secretary of De-*  
12 *fense, the Secretary of Energy, and the Director of*  
13 *National Intelligence shall jointly ensure interagency*  
14 *coordination on the development and implementation*  
15 *of the global nuclear detection architecture by ensur-*  
16 *ing that, not less frequently than once each year—*

17 “(A) *each relevant agency, office, or enti-*  
18 *ty—*

19 “(i) *assesses its involvement, support,*  
20 *and participation in the development, revi-*  
21 *sion, and implementation of the global nu-*  
22 *clear detection architecture;*

23 “(ii) *examines and evaluates compo-*  
24 *nents of the global nuclear detection archi-*  
25 *tecture (including associated strategies and*  
26 *acquisition plans) that are related to the*

1            *operations of that agency, office, or entity,*  
2            *to determine whether such components in-*  
3            *corporate and address current threat assess-*  
4            *ments, scenarios, or intelligence analyses de-*  
5            *veloped by the Director of National Intel-*  
6            *ligence or other agencies regarding threats*  
7            *related to nuclear or radiological weapons*  
8            *of mass destruction; and*

9            *“(B) each agency, office, or entity deploying*  
10          *or operating any technology acquired by the Of-*  
11          *fice—*

12            *“(i) evaluates the deployment and op-*  
13            *eration of that technology by that agency,*  
14            *office, or entity;*

15            *“(ii) identifies detection performance*  
16            *deficiencies and operational or technical de-*  
17            *ficiencies in that technology; and*

18            *“(iii) assesses the capacity of that*  
19            *agency, office, or entity to implement the re-*  
20            *sponsibilities of that agency, office, or entity*  
21            *under the global nuclear detection architec-*  
22            *ture.*

23            *“(2) TECHNOLOGY.—Not less frequently than*  
24          *once each year, the Secretary shall examine and*



1 *evaluate the development, assessment, and acquisition*  
2 *of technology by the Office.*

3 “(b) *ANNUAL REPORT.*—

4 “(1) *IN GENERAL.*—*Not later than March 31 of*  
5 *each year, the Secretary, in coordination with the At-*  
6 *torney General, the Secretary of State, the Secretary*  
7 *of Defense, the Secretary of Energy, and the Director*  
8 *of National Intelligence, shall submit a report regard-*  
9 *ing the compliance of such officials with this section*  
10 *and the results of the reviews required under sub-*  
11 *section (a) to—*

12 “(A) *the President;*

13 “(B) *the Committee on Appropriations, the*  
14 *Committee on Armed Services, and the Com-*  
15 *mittee on Homeland Security and Governmental*  
16 *Affairs of the Senate; and*

17 “(C) *the Committee on Appropriations, the*  
18 *Committee on Armed Services, and the Com-*  
19 *mittee on Homeland Security of the House of*  
20 *Representatives.*

21 “(2) *FORM.*—*Each report submitted under para-*  
22 *graph (1) shall be submitted in unclassified form to*  
23 *the maximum extent practicable, but may include a*  
24 *classified annex.*

1           “(c) *DEFINITION.*—*In this section, the term ‘global nu-*  
 2 *clear detection architecture’ means the global nuclear detec-*  
 3 *tion architecture developed under section 1902.’”*

4           (b) *TECHNICAL AND CONFORMING AMENDMENT.*—*The*  
 5 *table of contents in section 1(b) of the Homeland Security*  
 6 *Act of 2002 (6 U.S.C. 101 note) is amended by inserting*  
 7 *after the item relating to section 1906, as added by section*  
 8 *203 of this Act, the following:*

          “*Sec. 1907. Joint annual review of global nuclear detection architecture.’”*

9           **TITLE VII—PRIVATE SECTOR**  
 10           **PREPAREDNESS**

11       **SEC. 701. DEFINITIONS.**

12           (a) *IN GENERAL.*—*In this title, the term “voluntary*  
 13 *national preparedness standards” has the meaning given*  
 14 *that term in section 2 of the Homeland Security Act of 2002*  
 15 *(6 U.S.C. 101), as amended by this Act.*

16           (b) *HOMELAND SECURITY ACT OF 2002.*—*Section 2 of*  
 17 *the Homeland Security Act of 2002 (6 U.S.C. 101) is*  
 18 *amended by adding at the end the following:*

19                   “(17) *The term ‘voluntary national preparedness*  
 20 *standards’ means a common set of criteria for pre-*  
 21 *paredness, disaster management, emergency manage-*  
 22 *ment, and business continuity programs, such as the*  
 23 *American National Standards Institute’s National*  
 24 *Fire Protection Association Standard on Disaster/*



1           “(C) advise the Secretary on private sector  
2           preparedness issues, including effective methods  
3           for—

4                   “(i) promoting voluntary national pre-  
5                   paredness standards to the private sector;

6                   “(ii) assisting the private sector in  
7                   adopting voluntary national preparedness  
8                   standards; and

9                   “(iii) developing and implementing the  
10                  accreditation and certification program  
11                  under section 522;”.

12 **SEC. 703. VOLUNTARY NATIONAL PREPAREDNESS STAND-**  
13 **ARDS COMPLIANCE; ACCREDITATION AND**  
14 **CERTIFICATION PROGRAM FOR THE PRIVATE**  
15 **SECTOR.**

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

19 **“SEC. 522. VOLUNTARY NATIONAL PREPAREDNESS STAND-**  
20 **ARDS COMPLIANCE; ACCREDITATION AND**  
21 **CERTIFICATION PROGRAM FOR THE PRIVATE**  
22 **SECTOR.**

23           “(a) *ACCREDITATION AND CERTIFICATION PRO-*  
24 *GRAM.*—Not later than 120 days after the date of enactment  
25 of this section, the Secretary, in consultation with rep-

1 *representatives of the organizations that coordinate or facili-*  
2 *tate the development of and use of voluntary consensus*  
3 *standards, appropriate voluntary consensus standards de-*  
4 *velopment organizations, and each private sector advisory*  
5 *council created under section 102(f)(4), shall—*

6           “(1) *support the development, promulgating, and*  
7 *updating, as necessary, of voluntary national pre-*  
8 *paredness standards; and*

9           “(2) *develop, implement, and promote a program*  
10 *to certify the preparedness of private sector entities.*

11       “(b) *PROGRAM ELEMENTS.—*

12           “(1) *IN GENERAL.—*

13           “(A) *PROGRAM.—The program developed*  
14 *and implemented under this section shall assess*  
15 *whether a private sector entity complies with*  
16 *voluntary national preparedness standards.*

17           “(B) *GUIDELINES.—In developing the pro-*  
18 *gram under this section, the Secretary shall de-*  
19 *velop guidelines for the accreditation and certifi-*  
20 *cation processes established under this section.*

21           “(2) *STANDARDS.—The Secretary, in consulta-*  
22 *tion with the American National Standards Institute*  
23 *and representatives of appropriate voluntary con-*  
24 *sensus standards development organizations and each*

1 *private sector advisory council created under section*  
2 *102(f)(4)—*

3 *“(A) shall adopt appropriate voluntary na-*  
4 *tional preparedness standards that promote pre-*  
5 *paredness, which shall be used in the accredita-*  
6 *tion and certification program under this sec-*  
7 *tion; and*

8 *“(B) after the adoption of standards under*  
9 *subparagraph (A), may adopt additional vol-*  
10 *untary national preparedness standards or mod-*  
11 *ify or discontinue the use of voluntary national*  
12 *preparedness standards for the accreditation and*  
13 *certification program, as necessary and appro-*  
14 *priate to promote preparedness.*

15 *“(3) TIERING.—The certification program devel-*  
16 *oped under this section may use a multiple-tiered sys-*  
17 *tem to rate the preparedness of a private sector entity.*

18 *“(4) SMALL BUSINESS CONCERNS.—The Sec-*  
19 *retary and any selected entity shall establish separate*  
20 *classifications and methods of certification for small*  
21 *business concerns (as that term is defined in section*  
22 *3 of the Small Business Act (15 U.S.C. 632)) for the*  
23 *program under this section.*

1           “(5) *CONSIDERATIONS.*—*In developing and im-*  
 2           *plementing the program under this section, the Sec-*  
 3           *retary shall—*

4                   “(A) *consider the needs of the insurance in-*  
 5                   *dustry, the credit-ratings industry, and other in-*  
 6                   *dustries that may consider preparedness of pri-*  
 7                   *vate sector entities, to assess the preparedness of*  
 8                   *private sector entities; and*

9                   “(B) *ensure the program accommodates*  
 10                   *those needs where appropriate and feasible.*

11           “(c) *ACCREDITATION AND CERTIFICATION PROC-*  
 12           *ESSES.*—

13                   “(1) *AGREEMENT.*—

14                   “(A) *IN GENERAL.*—*Not later than 120*  
 15                   *days after the date of enactment of this section,*  
 16                   *the Secretary shall enter into 1 or more agree-*  
 17                   *ments with the American National Standards*  
 18                   *Institute or other similarly qualified nongovern-*  
 19                   *mental or other private sector entities to carry*  
 20                   *out accreditations and oversee the certification*  
 21                   *process under this section.*

22                   “(B) *CONTENTS.*—*Any selected entity shall*  
 23                   *manage the accreditation process and oversee the*  
 24                   *certification process in accordance with the pro-*  
 25                   *gram established under this section and accredit*

1           *qualified third parties to carry out the certifi-*  
2           *cation program established under this section.*

3           “(2) *PROCEDURES AND REQUIREMENTS FOR AC-*  
4           *CREDITATION AND CERTIFICATION.—*

5                   “(A) *IN GENERAL.—The selected entities*  
6                   *shall collaborate to develop procedures and re-*  
7                   *quirements for the accreditation and certification*  
8                   *processes under this section, in accordance with*  
9                   *the program established under this section and*  
10                   *guidelines developed under subsection (b)(1)(B).*

11                   “(B) *CONTENTS AND USE.—The procedures*  
12                   *and requirements developed under subparagraph*  
13                   *(A) shall—*

14                           “(i) *ensure reasonable uniformity in*  
15                           *the accreditation and certification processes*  
16                           *if there is more than 1 selected entity; and*

17                                   “(ii) *be used by any selected entity in*  
18                                   *conducting accreditations and overseeing*  
19                                   *the certification process under this section.*

20                   “(C) *DISAGREEMENT.—Any disagreement*  
21                   *among selected entities in developing procedures*  
22                   *under subparagraph (A) shall be resolved by the*  
23                   *Secretary.*



1           “(3) *DESIGNATION.*—A selected entity may ac-  
2           credit any qualified third party to carry out the cer-  
3           tification process under this section.

4           “(4) *THIRD PARTIES.*—To be accredited under  
5           paragraph (3), a third party shall—

6                   “(A) demonstrate that the third party has  
7                   the ability to certify private sector entities in ac-  
8                   cordance with the procedures and requirements  
9                   developed under paragraph (2);

10                   “(B) agree to perform certifications in ac-  
11                   cordance with such procedures and requirements;

12                   “(C) agree not to have any beneficial inter-  
13                   est in or any direct or indirect control over—

14                           “(i) a private sector entity for which  
15                           that third party conducts a certification  
16                           under this section; or

17                           “(ii) any organization that provides  
18                           preparedness consulting services to private  
19                           sector entities;

20                   “(D) agree not to have any other conflict of  
21                   interest with respect to any private sector entity  
22                   for which that third party conducts a certifi-  
23                   cation under this section;

1           “(E) maintain liability insurance coverage  
2 at policy limits in accordance with the require-  
3 ments developed under paragraph (2); and

4           “(F) enter into an agreement with the se-  
5 lected entity accrediting that third party to pro-  
6 tect any proprietary information of a private  
7 sector entity obtained under this section.

8           “(5) MONITORING.—

9           “(A) IN GENERAL.—The Secretary and any  
10 selected entity shall regularly monitor and in-  
11 spect the operations of any third party con-  
12 ducting certifications under this section to en-  
13 sure that third party is complying with the pro-  
14 cedures and requirements established under  
15 paragraph (2) and all other applicable require-  
16 ments.

17           “(B) REVOCATION.—If the Secretary or any  
18 selected entity determines that a third party is  
19 not meeting the procedures or requirements es-  
20 tablished under paragraph (2), the appropriate  
21 selected entity shall—

22           “(i) revoke the accreditation of that  
23 third party to conduct certifications under  
24 this section; and

1                   “(ii) review any certification con-  
2                   ducted by that third party, as necessary  
3                   and appropriate.

4                   “(d) ANNUAL REVIEW.—

5                   “(1) IN GENERAL.—The Secretary, in consulta-  
6                   tion with representatives of the organizations that co-  
7                   ordinate or facilitate the development of and use of  
8                   voluntary consensus standards, appropriate voluntary  
9                   consensus standards development organizations, and  
10                  each private sector advisory council created under sec-  
11                  tion 102(f)(4), shall annually review the voluntary  
12                  accreditation and certification program established  
13                  under this section to ensure the effectiveness of such  
14                  program and make improvements and adjustments to  
15                  the program as necessary and appropriate.

16                  “(2) REVIEW OF STANDARDS.—Each review  
17                  under paragraph (1) shall include an assessment of  
18                  the voluntary national preparedness standards used  
19                  in the program under this section.

20                  “(e) VOLUNTARY PARTICIPATION.—Certification under  
21                  this section shall be voluntary for any private sector entity.

22                  “(f) PUBLIC LISTING.—The Secretary shall maintain  
23                  and make public a listing of any private sector entity cer-  
24                  tified as being in compliance with the program established

1 *under this section, if that private sector entity consents to*  
 2 *such listing.*

3 “(g) *DEFINITION.—In this section, the term ‘selected*  
 4 *entity’ means any entity entering an agreement with the*  
 5 *Secretary under subsection (c)(1)(A).”.*

6 (b) *TECHNICAL AND CONFORMING AMENDMENT.—The*  
 7 *table of contents in section 1(b) of the Homeland Security*  
 8 *Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting*  
 9 *after the item relating to section 521 the following:*

*“Sec. 522. Voluntary national preparedness standards compliance; accreditation  
 and certification program for the private sector.”.*

10 **SEC. 704. SENSE OF CONGRESS REGARDING PROMOTING AN**  
 11 **INTERNATIONAL STANDARD FOR PRIVATE**  
 12 **SECTOR PREPAREDNESS.**

13 *It is the sense of Congress that the Secretary or any*  
 14 *entity designated under section 522(c)(1)(A) of the Home-*  
 15 *land Security Act of 2002, as added by this Act, should*  
 16 *promote, where appropriate, efforts to develop a consistent*  
 17 *international standard for private sector preparedness.*

18 **SEC. 705. REPORT TO CONGRESS.**

19 *Not later than 180 days after the date of enactment*  
 20 *of this Act, the Secretary shall submit to the Committee on*  
 21 *Homeland Security and Governmental Affairs of the Senate*  
 22 *and the Committee on Homeland Security of the House of*  
 23 *Representatives a report detailing—*

1           (1) *any action taken to implement this title or*  
 2           *an amendment made by this title; and*

3           (2) *the status, as of the date of that report, of the*  
 4           *implementation of this title and the amendments*  
 5           *made by this title.*

6 **SEC. 706. RULE OF CONSTRUCTION.**

7           *Nothing in this title may be construed to supercede*  
 8           *any preparedness or business continuity standards or re-*  
 9           *quirements established under any other provision of Federal*  
 10          *law.*

11 **TITLE VIII—TRANSPORTATION**  
 12           **SECURITY PLANNING AND IN-**  
 13           **FORMATION SHARING**

14 **SEC. 801. TRANSPORTATION SECURITY STRATEGIC PLAN-**  
 15           **NING.**

16           (a) *IN GENERAL.*—Section 114(t)(1)(B) of title 49,  
 17          *United States Code, is amended to read as follows:*

18                           “(B) *transportation modal and intermodal*  
 19                           *security plans addressing risks, threats, and*  
 20                           *vulnerabilities for aviation, bridge, tunnel, com-*  
 21                           *muter rail and ferry, highway, maritime, pipe-*  
 22                           *line, rail, mass transit, over-the-road bus, and*  
 23                           *other public transportation infrastructure as-*  
 24                           *sets.”.*

1           (b) *CONTENTS OF THE NATIONAL STRATEGY FOR*  
2 *TRANSPORTATION SECURITY.*—*Section 114(t)(3) of such*  
3 *title is amended—*

4           (1) *in subparagraph (B), by inserting “, based*  
5 *on risk assessments conducted by the Secretary of*  
6 *Homeland Security,” after “risk based priorities”;*

7           (2) *in subparagraph (D)—*

8           (A) *by striking “and local” and inserting “,*  
9 *local, and tribal”;* and

10           (B) *by striking “private sector cooperation*  
11 *and participation” and inserting “cooperation*  
12 *and participation by private sector entities and*  
13 *nonprofit employee labor organizations”;*

14           (3) *in subparagraph (E)—*

15           (A) *by striking “response” and inserting*  
16 *“prevention, response,”;* and

17           (B) *by inserting “and threatened and exe-*  
18 *cuted acts of terrorism outside the United States*  
19 *to the extent such acts affect United States trans-*  
20 *portation systems” before the period at the end;*

21           (4) *in subparagraph (F), by adding at the end*  
22 *the following: “Transportation security research and*  
23 *development projects initiated by the Secretary of*  
24 *Homeland Security shall be based on such*  
25 *prioritization.”;* and

1           (5) *by adding at the end the following:*

2                   “(G) *Short- and long-term budget rec-*  
3                   *ommendations for Federal transportation secu-*  
4                   *rity programs, which reflect the priorities of the*  
5                   *National Strategy for Transportation Security.*

6                   “(H) *Methods for linking the individual*  
7                   *transportation modal security plans and the pro-*  
8                   *grams contained therein, and a plan for address-*  
9                   *ing the security needs of intermodal transpor-*  
10                   *tation hubs.*

11                   “(I) *Transportation security modal and*  
12                   *intermodal plans, including operational recovery*  
13                   *plans to expedite, to the maximum extent prac-*  
14                   *ticable, the return of an adversely affected trans-*  
15                   *portation system to its normal performance level*  
16                   *preceding a major terrorist attack on that system*  
17                   *or another catastrophe. These plans shall be co-*  
18                   *ordinated with the resumption of trade protocols*  
19                   *required under section 202 of the SAFE Port Act*  
20                   *(6 U.S.C. 942).”.*

21           (c) *PERIODIC PROGRESS REPORTS.*—Section 114(t)(4)

22 *of such title is amended—*

23                   (1) *in subparagraph (C)—*

1           (A) in clause (i), by inserting “, including  
2           the transportation modal security plans” before  
3           the period at the end; and

4           (B) by striking clause (ii) and inserting the  
5           following:

6                   “(ii) *CONTENT.*—Each progress report  
7                   submitted under this subparagraph shall in-  
8                   clude the following:

9                           “(I) *Recommendations for im-*  
10                           *proving and implementing the Na-*  
11                           *tional Strategy for Transportation Se-*  
12                           *curity and the transportation modal*  
13                           *and intermodal security plans that the*  
14                           *Secretary of Homeland Security, in*  
15                           *consultation with the Secretary of*  
16                           *Transportation, considers appropriate.*

17                           “(II) *An accounting of all grants*  
18                           *for transportation security, including*  
19                           *grants for research and development,*  
20                           *distributed by the Secretary of Home-*  
21                           *land Security in the most recently con-*  
22                           *cluded fiscal year and a description of*  
23                           *how such grants accomplished the goals*  
24                           *of the National Strategy for Transpor-*  
25                           *tation Security.*



1 “(III) *An accounting of all—*

2 “(aa) *funds requested in the*  
3 *President’s budget submitted pur-*  
4 *suant to section 1105 of title 31*  
5 *for the most recently concluded*  
6 *fiscal year for transportation se-*  
7 *curity, by mode; and*

8 “(bb) *personnel working on*  
9 *transportation security issues, in-*  
10 *cluding the number of contractors.*

11 “(iii) *WRITTEN EXPLANATION OF*  
12 *TRANSPORTATION SECURITY ACTIVITIES NOT*  
13 *DELINEATED IN THE NATIONAL STRATEGY*  
14 *FOR TRANSPORTATION SECURITY.—At the*  
15 *end of each year, the Secretary of Homeland*  
16 *Security shall submit to the appropriate*  
17 *congressional committees a written expla-*  
18 *nation of any activity inconsistent with, or*  
19 *not clearly delineated in, the National*  
20 *Strategy for Transportation Security, in-*  
21 *cluding the amount of funds to be expended*  
22 *for the activity.”; and*

23 (2) *in subparagraph (E), by striking “Select”.*

24 (d) *PRIORITY STATUS.—Section 114(t)(5)(B) of such*  
25 *title is amended—*

1           (1) *in clause (iii), by striking “and” at the end;*

2           (2) *by redesignating clause (iv) as clause (v);*

3           *and*

4           (3) *by inserting after clause (iii) the following:*

5                     *“(iv) the transportation sector specific*  
6                     *plan required under Homeland Security*  
7                     *Presidential Directive-7; and”.*

8           (e) *COORDINATION AND PLAN DISTRIBUTION.—Section*  
9           *114(t) of such title is amended by adding at the end the*  
10           *following:*

11                    *“(6) COORDINATION.—In carrying out the re-*  
12                    *sponsibilities under this section, the Secretary of*  
13                    *Homeland Security, in consultation with the Sec-*  
14                    *retary of Transportation, shall consult with Federal,*  
15                    *State, and local agencies, tribal governments, private*  
16                    *sector entities (including nonprofit employee labor or-*  
17                    *ganizations), institutions of higher learning, and*  
18                    *other appropriate entities.*

19                    *“(7) PLAN DISTRIBUTION.—The Secretary of*  
20                    *Homeland Security shall provide an unclassified*  
21                    *version of the National Strategy for Transportation*  
22                    *Security, including its component transportation*  
23                    *modal security plans, to Federal, State, regional,*  
24                    *local and tribal authorities, transportation system*  
25                    *owners or operators, private sector stakeholders (in-*

1 *cluding non-profit employee labor organizations), in-*  
2 *stitutions of higher learning, and other appropriate*  
3 *entities.”.*

4 **SEC. 802. TRANSPORTATION SECURITY INFORMATION**  
5 **SHARING.**

6 *(a) IN GENERAL.—Section 114 of title 49, United*  
7 *States Code, is amended by adding at the end the following:*

8 *“(u) TRANSPORTATION SECURITY INFORMATION*  
9 *SHARING PLAN.—*

10 *“(1) ESTABLISHMENT OF PLAN.—The Secretary*  
11 *of Homeland Security, in consultation with the pro-*  
12 *gram manager of the information sharing environ-*  
13 *ment established under section 1016 of the Intelligence*  
14 *Reform and Terrorism Prevention Act of 2004 (6*  
15 *U.S.C. 485), the Secretary of Transportation, and*  
16 *public and private stakeholders, shall establish a*  
17 *Transportation Security Information Sharing Plan.*

18 *“(2) PURPOSE OF PLAN.—The Plan shall pro-*  
19 *mote sharing of transportation security information*  
20 *between the Department of Homeland Security and*  
21 *public and private stakeholders.*

22 *“(3) CONTENT OF PLAN.—The Plan shall in-*  
23 *clude—*

24 *“(A) a description of how intelligence ana-*  
25 *lysts within the Department of Homeland Secu-*

1            *riety will coordinate their activities within the*  
2            *Department and with other Federal, State, and*  
3            *local agencies, and tribal governments;*

4            *“(B) an assignment of a single point of con-*  
5            *tact for and within the Department of Homeland*  
6            *Security for its sharing of transportation secu-*  
7            *rity information with public and private stake-*  
8            *holders;*

9            *“(C) a demonstration of input on the devel-*  
10           *opment of the Plan from private and public*  
11           *stakeholders and the program manager of the in-*  
12           *formation sharing environment established under*  
13           *section 1016 of the Intelligence Reform and Ter-*  
14           *rорism Prevention Act of 2004 (6 U.S.C. 485);*

15           *“(D) a reasonable deadline by which the*  
16           *Plan will be implemented; and*

17           *“(E) a description of resource needs for ful-*  
18           *filling the Plan.*

19           *“(4) COORDINATION WITH THE INFORMATION*  
20           *SHARING ENVIRONMENT.—The Plan shall be—*

21           *“(A) implemented in coordination with the*  
22           *program manager for the information sharing*  
23           *environment established under section 1016 of*  
24           *the Intelligence Reform and Terrorism Preven-*  
25           *tion Act of 2004 (6 U.S.C. 485); and*

1           “(B) *consistent with and support the estab-*  
2           *lishment of that environment, and any policies,*  
3           *guidelines, procedures, instructions, or standards*  
4           *established by the President or the program man-*  
5           *ager for the implementation and management of*  
6           *that environment.*

7           “(5) *REPORTS TO CONGRESS.—*

8           “(A) *IN GENERAL.—Not later than 180*  
9           *days after the date of enactment of this sub-*  
10           *section, the Secretary shall submit to the appro-*  
11           *priate congressional committees a report con-*  
12           *taining the Plan.*

13           “(B) *ANNUAL REPORT.—Not later than 1*  
14           *year after the date of enactment of this sub-*  
15           *section, the Secretary shall submit to the appro-*  
16           *priate congressional committees an annual re-*  
17           *port on updates to and the implementation of the*  
18           *Plan.*

19           “(6) *SURVEY.—*

20           “(A) *IN GENERAL.—The Secretary shall*  
21           *conduct an annual survey of the satisfaction of*  
22           *each of the recipients of transportation intel-*  
23           *ligence reports disseminated under the Plan, and*  
24           *include the results of the survey as part of the*

1           *annual report to be submitted under paragraph*  
2           *(5)(B).*

3           “(B) *INFORMATION SOUGHT.*—*The annual*  
4           *survey conducted under subparagraph (A) shall*  
5           *seek information about the quality, speed, regu-*  
6           *larity, and classification of the transportation*  
7           *security information products disseminated from*  
8           *the Department of Homeland Security to public*  
9           *and private stakeholders.*

10          “(7) *SECURITY CLEARANCES.*—*The Secretary, to*  
11          *the greatest extent practicable, shall facilitate the se-*  
12          *curity clearances needed for public and private stake-*  
13          *holders to receive and obtain access to classified infor-*  
14          *mation as appropriate.*

15          “(8) *CLASSIFICATION OF MATERIAL.*—*The Sec-*  
16          *retary, to the greatest extent practicable, shall provide*  
17          *public and private stakeholders with specific and ac-*  
18          *tionable information in an unclassified format.*

19          “(9) *DEFINITIONS.*—*In this subsection:*

20                 “(A) *APPROPRIATE CONGRESSIONAL COM-*  
21                 *MITTEES.*—*The term ‘appropriate congressional*  
22                 *committees’ has the meaning given that term in*  
23                 *subsection (t).*

1           “(B) *PLAN*.—The term ‘Plan’ means the  
2           *Transportation Security Information Sharing*  
3           *Plan established under paragraph (1).*

4           “(C) *PUBLIC AND PRIVATE STAKE-*  
5           *HOLDERS*.—The term ‘public and private stake-  
6           holders’ means *Federal, State, and local agencies,*  
7           *tribal governments, and appropriate private en-*  
8           *tities, including nonprofit employee labor orga-*  
9           *nizations.*

10          “(D) *SECRETARY*.—The term ‘Secretary’  
11          means *the Secretary of Homeland Security.*

12          “(E) *TRANSPORTATION SECURITY INFORMA-*  
13          *TION*.—The term ‘*transportation security infor-*  
14          *mation*’ means *information relating to the*  
15          *threats to and vulnerabilities and consequences of*  
16          *transportation modes, including aviation, bridge*  
17          *and tunnel, mass transit, passenger and freight*  
18          *rail, ferry, highway, maritime, pipeline, and*  
19          *over-the-road bus transportation.”.*

20          (b) *CONGRESSIONAL OVERSIGHT OF SECURITY ASSUR-*  
21          *ANCE FOR PUBLIC AND PRIVATE STAKEHOLDERS*.—

22                 (1) *IN GENERAL*.—Except as provided in para-  
23                 graph (2), the Secretary shall provide a semiannual  
24                 report to the Committee on Homeland Security and  
25                 Governmental Affairs and the Committee on Com-

1        *merce, Science, and Transportation of the Senate and*  
2        *the Committee on Homeland Security and the Com-*  
3        *mittee on Transportation and Infrastructure of the*  
4        *House of Representatives that—*

5                *(A) identifies the job titles and descriptions*  
6                *of the persons with whom such information is to*  
7                *be shared under the transportation security in-*  
8                *formation sharing plan established under section*  
9                *114(u) of title 49, United States Code, as added*  
10               *by this Act, and explains the reason for sharing*  
11               *the information with such persons;*

12               *(B) describes the measures the Secretary has*  
13               *taken, under section 114(u)(7) of that title, or*  
14               *otherwise, to ensure proper treatment and secu-*  
15               *rity for any classified information to be shared*  
16               *with the public and private stakeholders under*  
17               *the plan; and*

18               *(C) explains the reason for the denial of*  
19               *transportation security information to any*  
20               *stakeholder who had previously received such in-*  
21               *formation.*

22               *(2) NO REPORT REQUIRED IF NO CHANGES IN*  
23               *STAKEHOLDERS.—The Secretary is not required to*  
24               *provide a semiannual report under paragraph (1) if*  
25               *no stakeholders have been added to or removed from*



1        *the group of persons with whom transportation secu-*  
2        *rity information is shared under the plan since the*  
3        *end of the period covered by the last preceding semi-*  
4        *annual report.*

5        **SEC. 803. TRANSPORTATION SECURITY ADMINISTRATION**  
6                                **PERSONNEL MANAGEMENT.**

7        *(a) TSA EMPLOYEE DEFINED.—In this section, the*  
8        *term “TSA employee” means an individual who holds—*

9                                *(1) any position which was transferred (or the*  
10        *incumbent of which was transferred) from the Trans-*  
11        *portation Security Administration of the Department*  
12        *of Transportation to the Department by section 403*  
13        *of the Homeland Security Act of 2002 (6 U.S.C. 203);*  
14        *or*

15                                *(2) any other position within the Department*  
16        *the duties and responsibilities of which include car-*  
17        *rying out 1 or more of the functions that were trans-*  
18        *ferred from the Transportation Security Administra-*  
19        *tion of the Department of Transportation to the Sec-*  
20        *retary by such section.*

21        *(b) ELIMINATION OF CERTAIN PERSONNEL MANAGE-*  
22        *MENT AUTHORITIES.—Effective 90 days after the date of*  
23        *enactment of this Act—*

24                                *(1) section 111(d) of the Aviation and Transpor-*  
25        *tation Security Act (49 U.S.C. 44935 note) is re-*

1        *pealed and any authority of the Secretary derived*  
2        *from such section 111(d) shall terminate;*

3                *(2) any personnel management system, to the ex-*  
4        *tent established or modified under such section 111(d)*  
5        *(including by the Secretary through the exercise of*  
6        *any authority derived from such section 111(d)) shall*  
7        *terminate; and*

8                *(3) the Secretary shall ensure that all TSA em-*  
9        *ployees are subject to the same personnel management*  
10        *system as described in paragraph (1) or (2) of sub-*  
11        *section (e).*

12        *(c) ESTABLISHMENT OF CERTAIN UNIFORMITY RE-*  
13        *QUIREMENTS.—*

14                *(1) SYSTEM UNDER SUBSECTION (e)(1).—The*  
15        *Secretary shall, with respect to any personnel man-*  
16        *agement system described in subsection (e)(1), take*  
17        *any measures which may be necessary to provide for*  
18        *the uniform treatment of all TSA employees under*  
19        *such system.*

20                *(2) SYSTEM UNDER SUBSECTION (e)(2).—Section*  
21        *9701(b) of title 5, United States Code, is amended—*

22                *(A) in paragraph (4), by striking “and” at*  
23        *the end;*

24                *(B) in paragraph (5), by striking the period*  
25        *at the end and inserting “; and”; and*

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

2           “(6) provide for the uniform treatment of all  
3           TSA employees (as that term is defined in section 803  
4           of the Improving America’s Security Act of 2007).”.

5           (3) *EFFECTIVE DATE.*—

6           (A) *PROVISIONS RELATING TO A SYSTEM*  
7           *UNDER SUBSECTION (e)(1).*—Any measures nec-  
8           essary to carry out paragraph (1) shall take ef-  
9           fect 90 days after the date of enactment of this  
10          Act.

11          (B) *PROVISIONS RELATING TO A SYSTEM*  
12          *UNDER SUBSECTION (e)(2).*—Any measures nec-  
13          essary to carry out the amendments made by  
14          paragraph (2) shall take effect on the later of 90  
15          days after the date of enactment of this Act and  
16          the commencement date of the system involved.

17          (d) *REPORT TO CONGRESS.*—

18          (1) *REPORT REQUIRED.*—Not later than 6  
19          months after the date of enactment of this Act, the  
20          Comptroller General of the United States shall submit  
21          to the Committee on Homeland Security and Govern-  
22          mental Affairs of the Senate and the Committee on  
23          Homeland Security of the House of Representatives a  
24          report on—

1           (A) the pay system that applies with respect  
2 to TSA employees as of the date of enactment of  
3 this Act; and

4           (B) any changes to such system which  
5 would be made under any regulations which  
6 have been prescribed under chapter 97 of title 5,  
7 United States Code.

8           (2) *MATTERS FOR INCLUSION.*—The report re-  
9 quired under paragraph (1) shall include—

10           (A) a brief description of each pay system  
11 described in paragraphs (1)(A) and (1)(B), re-  
12 spectively;

13           (B) a comparison of the relative advantages  
14 and disadvantages of each of those pay systems;  
15 and

16           (C) such other matters as the Comptroller  
17 General determines appropriate.

18           (e) *PERSONNEL MANAGEMENT SYSTEM DESCRIBED.*—  
19 A personnel management system described in this sub-  
20 section is—

21           (1) any personnel management system, to the ex-  
22 tent that it applies with respect to any TSA employ-  
23 ees under section 114(n) of title 49, United States  
24 Code; and

1           (2) *any human resources management system,*  
 2           *established under chapter 97 of title 5, United States*  
 3           *Code.*

4           ***TITLE IX—INCIDENT COMMAND***  
 5   ***SYSTEM***

6           ***SEC. 901. PREIDENTIFYING AND EVALUATING MULTIJURIS-***  
 7   ***DICTIONAL FACILITIES TO STRENGTHEN IN-***  
 8   ***CIDENT COMMAND; PRIVATE SECTOR PRE-***  
 9   ***PAREDNESS.***

10           *Section 507(c)(2) of the Homeland Security Act of*  
 11           *2002 (6 U.S.C. 317(c)(2)) is amended—*

12                           (1) *in subparagraph (H), by striking “and” at*  
 13           *the end;*

14                           (2) *by redesignating subparagraph (I) as sub-*  
 15           *paragraph (K); and*

16                           (3) *by inserting after subparagraph (H) the fol-*  
 17           *lowing:*

18   *“(I) coordinating with the private sector to*  
 19           *help ensure private sector preparedness for nat-*  
 20           *ural disasters, acts of terrorism, or other man-*  
 21           *made disasters;*

22   *“(J) assisting State, local, or tribal govern-*  
 23           *ments, where appropriate, to preidentify and*  
 24           *evaluate suitable sites where a multijuris-*  
 25           *dictional incident command system can be*

1           *quickly established and operated from, if the*  
 2           *need for such a system arises; and”.*

3 **SEC. 902. CREDENTIALING AND TYPING TO STRENGTHEN**  
 4           **INCIDENT COMMAND.**

5           *(a) IN GENERAL.—Title V of the Homeland Security*  
 6 *Act of 2002 (6 U.S.C. 331 et seq.) is amended—*

7           *(1) by striking section 510 and inserting the fol-*  
 8           *lowing:*

9 **“SEC. 510. CREDENTIALING AND TYPING.**

10           **“(a) CREDENTIALING.—**

11           **“(1) DEFINITIONS.—In this subsection—**

12                   **“(A) the term ‘credential’ means to provide**  
 13                   **documentation that can authenticate and verify**  
 14                   **the qualifications and identity of managers of**  
 15                   **incidents, emergency response providers, and**  
 16                   **other appropriate personnel, including by ensur-**  
 17                   **ing that such personnel possess a minimum com-**  
 18                   **mon level of training, experience, physical and**  
 19                   **medical fitness, and capability appropriate for**  
 20                   **their position;**

21                   **“(B) the term ‘credentialing’ means evalu-**  
 22                   **ating an individual’s qualifications for a specific**  
 23                   **position under guidelines created under this sub-**  
 24                   **section and assigning such individual a quali-**

1           *fication under the standards developed under*  
2           *this subsection; and*

3           “(C) *the term ‘credentialed’ means an indi-*  
4           *vidual has been evaluated for a specific position*  
5           *under the guidelines created under this sub-*  
6           *section.*

7           “(2) *REQUIREMENTS.—*

8           “(A) *IN GENERAL.—The Administrator*  
9           *shall enter into a memorandum of understanding*  
10           *with the administrators of the Emergency Man-*  
11           *agement Assistance Compact, State, local, and*  
12           *tribal governments, emergency response pro-*  
13           *viders, and the organizations that represent such*  
14           *providers, to collaborate on establishing nation-*  
15           *wide standards for credentialing all personnel*  
16           *who are likely to respond to a natural disaster,*  
17           *act of terrorism, or other man-made disaster.*

18           “(B) *CONTENTS.—The standards developed*  
19           *under subparagraph (A) shall—*

20           “(i) *include the minimum professional*  
21           *qualifications, certifications, training, and*  
22           *education requirements for specific emer-*  
23           *gency response functional positions that are*  
24           *applicable to Federal, State, local, and trib-*  
25           *al government;*

1                   “(ii) be compatible with the National  
2                   Incident Management System; and

3                   “(iii) be consistent with standards for  
4                   advance registration for health professions  
5                   volunteers under section 319I of the Public  
6                   Health Services Act (42 U.S.C. 247d-7b).

7                   “(C) TIMEFRAME.—The Administrator shall  
8                   develop standards under subparagraph (A) not  
9                   later than 6 months after the date of enactment  
10                  of the Improving America’s Security Act of 2007.

11                  “(3) CREDENTIALING OF DEPARTMENT PER-  
12                  SONNEL.—

13                  “(A) IN GENERAL.—Not later than 1 year  
14                  after the date of enactment of the Improving  
15                  America’s Security Act of 2007, the Secretary  
16                  and the Administrator shall ensure that all per-  
17                  sonnel of the Department (including temporary  
18                  personnel and individuals in the Surge Capacity  
19                  Force established under section 624 of the Post-  
20                  Katrina Emergency Management Reform Act of  
21                  2006 (6 U.S.C. 711)) who are likely to respond  
22                  to a natural disaster, act of terrorism, or other  
23                  man-made disaster are credentialed.

24                  “(B) STRATEGIC HUMAN CAPITAL PLAN.—  
25                  Not later than 90 days after completion of the



1           *credentialing under subparagraph (A), the Ad-*  
2           *ministrator shall evaluate whether the workforce*  
3           *of the Agency complies with the strategic human*  
4           *capital plan of the Agency developed under sec-*  
5           *tion 10102 of title 5, United States Code, and is*  
6           *sufficient to respond to a catastrophic incident.*

7           “(4) *INTEGRATION WITH NATIONAL RESPONSE*  
8           *PLAN.—*

9                   “(A) *DISTRIBUTION OF STANDARDS.—Not*  
10           *later than 6 months after the date of enactment*  
11           *of the Improving America’s Security Act of 2007,*  
12           *the Administrator shall provide the standards*  
13           *developed under paragraph (2) to all Federal*  
14           *agencies that have responsibilities under the Na-*  
15           *tional Response Plan.*

16                   “(B) *CREDENTIALING OF AGENCIES.—Not*  
17           *later than 6 months after the date on which the*  
18           *standards are provided under subparagraph (A),*  
19           *each agency described in subparagraph (A)*  
20           *shall—*

21                           “(i) *ensure that all employees or volun-*  
22                           *teers of that agency who are likely to re-*  
23                           *spond to a natural disaster, act of ter-*  
24                           *rorism, or other man-made disaster are*  
25                           *credentialed; and*

1                   “(ii) submit to the Secretary the name  
2                   of each credentialed employee or volunteer of  
3                   such agency.

4                   “(C) LEADERSHIP.—The Administrator  
5                   shall provide leadership, guidance, and technical  
6                   assistance to an agency described in subpara-  
7                   graph (A) to facilitate the credentialing process  
8                   of that agency.

9                   “(5) DOCUMENTATION AND DATABASE SYSTEM.—

10                   “(A) IN GENERAL.—Not later than 1 year  
11                   after the date of enactment of the Improving  
12                   America’s Security Act of 2007, the Adminis-  
13                   trator shall establish and maintain a docu-  
14                   mentation and database system of Federal emer-  
15                   gency response providers and all other Federal  
16                   personnel credentialed to respond to a natural  
17                   disaster, act of terrorism, or other man-made  
18                   disaster.

19                   “(B) ACCESSIBILITY.—The documentation  
20                   and database system established under subpara-  
21                   graph (1) shall be accessible to the Federal co-  
22                   ordinating officer and other appropriate officials  
23                   preparing for or responding to a natural dis-  
24                   aster, act of terrorism, or other man-made dis-  
25                   aster.

1           “(C) *CONSIDERATIONS.*—*The Administrator*  
2           *shall consider whether the credentialing system*  
3           *can be used to regulate access to areas affected by*  
4           *a natural disaster, act of terrorism, or other*  
5           *man-made disaster.*

6           “(6) *GUIDANCE TO STATE AND LOCAL GOVERN-*  
7           *MENTS.*—*Not later than 6 months after the date of en-*  
8           *actment of the Improving America’s Security Act of*  
9           *2007, the Administrator shall—*

10           “(A) *in collaboration with the administra-*  
11           *tors of the Emergency Management Assistance*  
12           *Compact, State, local, and tribal governments,*  
13           *emergency response providers, and the organiza-*  
14           *tions that represent such providers, provide de-*  
15           *tailed written guidance, assistance, and expertise*  
16           *to State, local, and tribal governments to facili-*  
17           *tate the credentialing of State, local, and tribal*  
18           *emergency response providers commonly or likely*  
19           *to be used in responding to a natural disaster,*  
20           *act of terrorism, or other man-made disaster;*  
21           *and*

22           “(B) *in coordination with the administra-*  
23           *tors of the Emergency Management Assistance*  
24           *Compact, State, local, and tribal governments,*  
25           *emergency response providers (and the organiza-*

1           tions that represent such providers), and appro-  
2           priate national professional organizations, assist  
3           State, local, and tribal governments with  
4           credentialing the personnel of the State, local, or  
5           tribal government under the guidance provided  
6           under subparagraph (A).

7           “(7) *REPORT.*—Not later than 6 months after the  
8           date of enactment of the *Improving America’s Secu-*  
9           *rity Act of 2007*, and annually thereafter, the *Admin-*  
10          *istrator shall submit to the Committee on Homeland*  
11          *Security and Governmental Affairs of the Senate and*  
12          *the Committee on Homeland Security of the House of*  
13          *Representatives a report describing the implementa-*  
14          *tion of this subsection, including the number and level*  
15          *of qualification of Federal personnel trained and*  
16          *ready to respond to a natural disaster, act of ter-*  
17          *rorism, or other man-made disaster.*

18          “(b) *TYPING OF RESOURCES.*—

19                 “(1) *DEFINITIONS.*—*In this subsection—*

20                         “(A) *the term ‘typed’ means an asset or re-*  
21                         *source that has been evaluated for a specific*  
22                         *function under the guidelines created under this*  
23                         *section; and*

1           “(B) the term ‘typing’ means to define in  
2 detail the minimum capabilities of an asset or  
3 resource.

4           “(2) REQUIREMENTS.—

5           “(A) IN GENERAL.—The Administrator  
6 shall enter into a memorandum of understanding  
7 with the administrators of the Emergency Man-  
8 agement Assistance Compact, State, local, and  
9 tribal governments, emergency response pro-  
10 viders, and organizations that represent such  
11 providers, to collaborate on establishing nation-  
12 wide standards for typing of resources commonly  
13 or likely to be used in responding to a natural  
14 disaster, act of terrorism, or other man-made  
15 disaster.

16           “(B) CONTENTS.—The standards developed  
17 under subparagraph (A) shall—

18           “(i) be applicable to Federal, State,  
19 local, and tribal government; and

20           “(ii) be compatible with the National  
21 Incident Management System.

22           “(3) TYPING OF DEPARTMENT RESOURCES AND  
23 ASSETS.—Not later than 1 year after the date of en-  
24 actment of the Improving America’s Security Act of  
25 2007, the Secretary shall ensure that all resources and

1 *assets of the Department that are commonly or likely*  
2 *to be used to respond to a natural disaster, act of ter-*  
3 *rorism, or other man-made disaster are typed.*

4 “(4) *INTEGRATION WITH NATIONAL RESPONSE*  
5 *PLAN.—*

6 “(A) *DISTRIBUTION OF STANDARDS.—Not*  
7 *later than 6 months after the date of enactment*  
8 *of the Improving America’s Security Act of 2007,*  
9 *the Administrator shall provide the standards*  
10 *developed under paragraph (2) to all Federal*  
11 *agencies that have responsibilities under the Na-*  
12 *tional Response Plan.*

13 “(B) *TYPING OF AGENCIES, ASSETS, AND*  
14 *RESOURCES.—Not later than 6 months after the*  
15 *date on which the standards are provided under*  
16 *subparagraph (A), each agency described in sub-*  
17 *paragraph (A) shall—*

18 “(i) *ensure that all resources and assets*  
19 *(including teams, equipment, and other as-*  
20 *sets) of that agency that are commonly or*  
21 *likely to be used to respond to a natural*  
22 *disaster, act of terrorism, or other man-*  
23 *made disaster are typed; and*

24 “(ii) *submit to the Secretary a list of*  
25 *all types resources and assets.*

1           “(C) *LEADERSHIP.*—*The Administrator*  
2           *shall provide leadership, guidance, and technical*  
3           *assistance to an agency described in subpara-*  
4           *graph (A) to facilitate the typing process of that*  
5           *agency.*

6           “(5) *DOCUMENTATION AND DATABASE SYSTEM.*—

7           “(A) *IN GENERAL.*—*Not later than 1 year*  
8           *after the date of enactment of the Improving*  
9           *America’s Security Act of 2007, the Adminis-*  
10           *trator shall establish and maintain a docu-*  
11           *mentation and database system of Federal re-*  
12           *sources and assets commonly or likely to be used*  
13           *to respond to a natural disaster, act of terrorism,*  
14           *or other man-made disaster.*

15           “(B) *ACCESSIBILITY.*—*The documentation*  
16           *and database system established under subpara-*  
17           *graph (A) shall be accessible to the Federal co-*  
18           *ordinating officer and other appropriate officials*  
19           *preparing for or responding to a natural dis-*  
20           *aster, act of terrorism, or other man-made dis-*  
21           *aster.*

22           “(6) *GUIDANCE TO STATE AND LOCAL GOVERN-*  
23           *MENTS.*—*Not later than 6 months after the date of en-*  
24           *actment of the Improving America’s Security Act of*  
25           *2007, the Administrator, in collaboration with the ad-*

1 *ministrators of the Emergency Management Assist-*  
2 *ance Compact, State, local, and tribal governments,*  
3 *emergency response providers, and the organizations*  
4 *that represent such providers, shall—*

5 *“(A) provide detailed written guidance, as-*  
6 *sistance, and expertise to State, local, and tribal*  
7 *governments to facilitate the typing of the re-*  
8 *sources and assets of State, local, and tribal gov-*  
9 *ernments likely to be used in responding to a*  
10 *natural disaster, act of terrorism, or other man-*  
11 *made disaster; and*

12 *“(B) assist State, local, and tribal govern-*  
13 *ments with typing resources and assets of State,*  
14 *local, or tribal governments under the guidance*  
15 *provided under subparagraph (A).*

16 *“(7) REPORT.—Not later than 6 months after the*  
17 *date of enactment of the Improving America’s Secu-*  
18 *rity Act of 2007, and annually thereafter, the Admin-*  
19 *istrator shall submit to the Committee on Homeland*  
20 *Security and Governmental Affairs of the Senate and*  
21 *the Committee on Homeland Security of the House of*  
22 *Representatives a report describing the implementa-*  
23 *tion of this subsection, including the number and type*  
24 *of Federal resources and assets ready to respond to a*



1       *natural disaster, act of terrorism, or other man-made*  
2       *disaster.*

3       “(c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
4       *authorized to be appropriated such sums as necessary to*  
5       *carry out this section.”; and*

6               (2) *by adding after section 522, as added by sec-*  
7       *tion 703 of this Act, the following:*

8       “**SEC. 523. PROVIDING SECURE ACCESS TO CRITICAL INFRA-**  
9                               **STRUCTURE.**

10       “*Not later than 6 months after the date of enactment*  
11       *of the Improving America’s Security Act of 2007, and in*  
12       *coordination with appropriate national professional orga-*  
13       *nizations, Federal, State, local, and tribal government*  
14       *agencies, and private-sector and nongovernmental entities,*  
15       *the Administrator shall create model standards or guide-*  
16       *lines that States may adopt in conjunction with critical*  
17       *infrastructure owners and operators and their employees to*  
18       *permit access to restricted areas in the event of a natural*  
19       *disaster, act of terrorism, or other man-made disaster.”.*

20       (b) *TECHNICAL AND CONFORMING AMENDMENT.*—*The*  
21       *table of contents in section 1(b) of the Homeland Security*  
22       *Act of 2002 (6 U.S.C. 101(b)) is amended by inserting after*  
23       *the item relating to section 522, as added by section 703*  
24       *of this Act, the following:*

      “*Sec. 523. Providing secure access to critical infrastructure.”.*

1                   **TITLE X—CRITICAL**  
2                   **INFRASTRUCTURE PROTECTION**

3                   **SEC. 1001. CRITICAL INFRASTRUCTURE PROTECTION.**

4                   (a) *CRITICAL INFRASTRUCTURE LIST.*—Not later than  
5 90 days after the date of enactment of this Act, and in co-  
6 ordination with other initiatives of the Secretary relating  
7 to critical infrastructure or key resource protection and  
8 partnerships between the government and private sector, the  
9 Secretary shall establish a risk-based prioritized list of crit-  
10 ical infrastructure and key resources that—

11                   (1) includes assets or systems that, if successfully  
12 destroyed or disrupted through a terrorist attack or  
13 natural catastrophe, would cause catastrophic na-  
14 tional or regional impacts, including—

15                   (A) significant loss of life;

16                   (B) severe economic harm;

17                   (C) mass evacuations; or

18                   (D) loss of a city, region, or sector of the  
19 economy as a result of contamination, destruc-  
20 tion, or disruption of vital public services; and

21                   (2) reflects a cross-sector analysis of critical in-  
22 frastructure to determine priorities for prevention,  
23 protection, recovery, and restoration.

24                   (b) *SECTOR LISTS.*—In coordination with other ini-  
25 tiatives of the Secretary relating to critical infrastructure

1 *or key resource protection and partnerships between the gov-*  
2 *ernment and private sector, the Secretary may establish ad-*  
3 *ditional critical infrastructure and key resources priority*  
4 *lists by sector, including at a minimum the sectors named*  
5 *in Homeland Security Presidential Directive–7 as in effect*  
6 *on January 1, 2006.*

7       *(c) MAINTENANCE.—Each list created under this sec-*  
8 *tion shall be reviewed and updated on an ongoing basis,*  
9 *but at least annually.*

10       *(d) ANNUAL REPORT.—*

11           *(1) GENERALLY.—Not later than 120 days after*  
12 *the date of enactment of this Act, and annually there-*  
13 *after, the Secretary shall submit to the Committee on*  
14 *Homeland Security and Governmental Affairs of the*  
15 *Senate and the Committee on Homeland Security of*  
16 *the House of Representatives a report summarizing—*

17                   *(A) the criteria used to develop each list cre-*  
18 *ated under this section;*

19                   *(B) the methodology used to solicit and*  
20 *verify submissions for each list;*

21                   *(C) the name, location, and sector classi-*  
22 *fication of assets in each list created under this*  
23 *section;*

24                   *(D) a description of any additional lists or*  
25 *databases the Department has developed to*

1           *prioritize critical infrastructure on the basis of*  
2           *risk; and*

3                     *(E) how each list developed under this sec-*  
4           *tion will be used by the Secretary in program*  
5           *activities, including grant making.*

6           (2) *CLASSIFIED INFORMATION.*—*The Secretary*  
7           *shall submit with each report under this subsection a*  
8           *classified annex containing information required to*  
9           *be submitted under this subsection that cannot be*  
10          *made public.*

11 **SEC. 1002. RISK ASSESSMENT AND REPORT.**

12          (a) *RISK ASSESSMENT.*—

13                     (1) *IN GENERAL.*—*The Secretary, pursuant to*  
14          *the responsibilities under section 202 of the Homeland*  
15          *Security Act (6 U.S.C. 122), for each fiscal year be-*  
16          *ginning with fiscal year 2007, shall prepare a risk*  
17          *assessment of the critical infrastructure and key re-*  
18          *sources of the Nation which shall—*

19                     (A) *be organized by sector, including the*  
20                     *critical infrastructure sectors named in Home-*  
21                     *land Security Presidential Directive–7, as in ef-*  
22                     *fect on January 1, 2006; and*

23                     (B) *contain any actions or countermeasures*  
24                     *proposed, recommended, or directed by the Sec-*

1            *retary to address security concerns covered in the*  
2            *assessment.*

3            (2) *RELIANCE ON OTHER ASSESSMENTS.—In*  
4            *preparing the assessments and reports under this sec-*  
5            *tion, the Department may rely on a vulnerability as-*  
6            *essment or risk assessment prepared by another Fed-*  
7            *eral agency that the Department determines is pre-*  
8            *pared in coordination with other initiatives of the*  
9            *Department relating to critical infrastructure or key*  
10           *resource protection and partnerships between the gov-*  
11           *ernment and private sector, if the Department cer-*  
12           *tifies in the applicable report submitted under sub-*  
13           *section (b) that the Department—*

14                    (A) *reviewed the methodology and analysis*  
15                    *of the assessment upon which the Department re-*  
16                    *lied; and*

17                    (B) *determined that assessment is reliable.*

18            (b) *REPORT.—*

19                    (1) *IN GENERAL.—Not later than 6 months after*  
20                    *the last day of fiscal year 2007 and for each year*  
21                    *thereafter, the Secretary shall submit to the Com-*  
22                    *mittee on Homeland Security and Governmental Af-*  
23                    *airs of the Senate and the Committee on Homeland*  
24                    *Security of the House of Representatives a report con-*  
25                    *taining a summary and review of the risk assessments*

1        *prepared by the Secretary under this section for that*  
 2        *fiscal year, which shall be organized by sector and*  
 3        *which shall include recommendations of the Secretary*  
 4        *for mitigating risks identified by the assessments.*

5                (2) *CLASSIFIED ANNEX.—The report under this*  
 6        *subsection may contain a classified annex.*

7        **SEC. 1003. USE OF EXISTING CAPABILITIES.**

8                *Where appropriate, the Secretary shall use the Na-*  
 9        *tional Infrastructure Simulation and Analysis Center to*  
 10        *carry out the actions required under this title.*

11                **TITLE XI—CONGRESSIONAL**  
 12                **OVERSIGHT OF INTELLIGENCE**

13        **SEC. 1101. AVAILABILITY TO PUBLIC OF CERTAIN INTEL-**  
 14                **LIGENCE FUNDING INFORMATION.**

15                (a) *AMOUNTS REQUESTED EACH FISCAL YEAR.—The*  
 16        *President shall disclose to the public for each fiscal year*  
 17        *after fiscal year 2007 the aggregate amount of appropria-*  
 18        *tions requested in the budget of the President for such fiscal*  
 19        *year for the National Intelligence Program.*

20                (b) *AMOUNTS AUTHORIZED AND APPROPRIATED EACH*  
 21        *FISCAL YEAR.—Congress shall disclose to the public for*  
 22        *each fiscal year after fiscal year 2007 the aggregate amount*  
 23        *of funds authorized to be appropriated, and the aggregate*  
 24        *amount of funds appropriated, by Congress for such fiscal*  
 25        *year for the National Intelligence Program.*

1           (c) *STUDY ON DISCLOSURE OF ADDITIONAL INFORMA-*  
2 *TION.—*

3           (1) *IN GENERAL.—The Director of National In-*  
4 *telligence shall conduct a study to assess the advis-*  
5 *ability of disclosing to the public amounts as follows:*

6           (A) *The aggregate amount of appropri-*  
7 *ations requested in the budget of the President for*  
8 *each fiscal year for each element of the intel-*  
9 *ligence community.*

10           (B) *The aggregate amount of funds author-*  
11 *ized to be appropriated, and the aggregate*  
12 *amount of funds appropriated, by Congress for*  
13 *each fiscal year for each element of the intel-*  
14 *ligence community.*

15           (2) *REQUIREMENTS.—The study required by*  
16 *paragraph (1) shall—*

17           (A) *address whether or not the disclosure to*  
18 *the public of the information referred to in that*  
19 *paragraph would harm the national security of*  
20 *the United States; and*

21           (B) *take into specific account concerns re-*  
22 *lating to the disclosure of such information for*  
23 *each element of the intelligence community.*

24           (3) *REPORT.—Not later than 180 days after the*  
25 *date of enactment of this Act, the Director shall sub-*

1        *mit to Congress a report on the study required by*  
2        *paragraph (1).*

3        *(d) DEFINITIONS.—In this section—*

4            *(1) the term “element of the intelligence commu-*  
5        *nity” means an element of the intelligence community*  
6        *specified in or designated under section 3(4) of the*  
7        *National Security Act of 1947 (50 U.S.C. 401a(4));*  
8        *and*

9            *(2) the term “National Intelligence Program”*  
10        *has the meaning given that term in section 3(6) of the*  
11        *National Security Act of 1947 (50 U.S.C. 401a(6)).*

12        **SEC. 1102. RESPONSE OF INTELLIGENCE COMMUNITY TO**  
13            **REQUESTS FROM CONGRESS.**

14        *(a) RESPONSE OF INTELLIGENCE COMMUNITY TO RE-*  
15        *QUESTS FROM CONGRESS FOR INTELLIGENCE DOCUMENTS*  
16        *AND INFORMATION.—Title V of the National Security Act*  
17        *of 1947 (50 U.S.C. 413 et seq.) is amended by adding at*  
18        *the end the following new section:*

19        *“RESPONSE OF INTELLIGENCE COMMUNITY TO REQUESTS*  
20            *FROM CONGRESS FOR INTELLIGENCE DOCUMENTS AND*  
21            *INFORMATION*

22            *“SEC. 508. (a) REQUESTS OF COMMITTEES.—The Di-*  
23        *rector of the National Counterterrorism Center, the Director*  
24        *of a national intelligence center, or the head of any depart-*  
25        *ment, agency, or element of the intelligence community*  
26        *shall, not later than 15 days after receiving a request for*



1 *any intelligence assessment, report, estimate, legal opinion,*  
2 *or other intelligence information from the Select Committee*  
3 *on Intelligence of the Senate, the Permanent Select Com-*  
4 *mittee on Intelligence of the House of Representatives, or*  
5 *any other committee of Congress with jurisdiction over the*  
6 *subject matter to which information in such assessment, re-*  
7 *port, estimate, legal opinion, or other information relates,*  
8 *make available to such committee such assessment, report,*  
9 *estimate, legal opinion, or other information, as the case*  
10 *may be.*

11       “(b) *REQUESTS OF CERTAIN MEMBERS.—(1) The Di-*  
12 *rector of the National Counterterrorism Center, the Director*  
13 *of a national intelligence center, or the head of any depart-*  
14 *ment, agency, or element of the intelligence community shall*  
15 *respond, in the time specified in subsection (a), to a request*  
16 *described in that subsection from the Chairman or Vice*  
17 *Chairman of the Select Committee on Intelligence of the*  
18 *Senate or the Chairman or Ranking Member of the Perma-*  
19 *nent Select Committee on Intelligence of the House of Rep-*  
20 *resentatives.*

21       “(2) *Upon making a request covered by paragraph*  
22 *(1)—*

23               “(A) *the Chairman or Vice Chairman, as the*  
24 *case may be, of the Select Committee on Intelligence*

1       of the Senate shall notify the other of the Chairman  
2       or Vice Chairman of such request; and

3               “(B) the Chairman or Ranking Member, as the  
4       case may be, of the Permanent Select Committee on  
5       Intelligence of the House of Representatives shall no-  
6       tify the other of the Chairman or Ranking Member of  
7       such request.

8               “(c) *ASSERTION OF PRIVILEGE.*—In response to a re-  
9       quest covered by subsection (a) or (b), the Director of the  
10      National Counterterrorism Center, the Director of a na-  
11      tional intelligence center, or the head of any department,  
12      agency, or element of the intelligence community shall pro-  
13      vide the document or information covered by such request  
14      unless the President certifies that such document or infor-  
15      mation is not being provided because the President is as-  
16      serting a privilege pursuant to the Constitution of the  
17      United States.

18              “(d) *INDEPENDENT TESTIMONY OF INTELLIGENCE OF-*  
19      *FICIALS.*—No officer, department, agency, or element with-  
20      in the Executive branch shall have any authority to require  
21      the head of any department, agency, or element of the intel-  
22      ligence community, or any designate of such a head—

23                      “(1) to receive permission to testify before Con-  
24      gress; or

1           “(2) to submit testimony, legislative rec-  
2           ommendations, or comments to any officer or agency  
3           of the Executive branch for approval, comments, or  
4           review prior to the submission of such recommenda-  
5           tions, testimony, or comments to Congress if such tes-  
6           timony, legislative recommendations, or comments in-  
7           clude a statement indicating that the views expressed  
8           therein are those of the head of the department, agen-  
9           cy, or element of the intelligence community that is  
10          making the submission and do not necessarily rep-  
11          resent the views of the Administration.”.

12          (b) *DISCLOSURES OF CERTAIN INFORMATION TO CON-*  
13 *GRESS.—Title V of the National Security Act of 1947 (50*  
14 *U.S.C. 413 et seq.), as amended by subsection (a), is amend-*  
15 *ed by adding at the end the following new section:*

16   “DISCLOSURES TO CONGRESS

17          “SEC. 509. (a) *AUTHORITY TO DISCLOSE CERTAIN IN-*  
18 *FORMATION.—An employee of a covered agency or an em-*  
19 *ployee of a contractor carrying out activities pursuant to*  
20 *a contract with a covered agency may disclose covered infor-*  
21 *mation to an authorized individual without first reporting*  
22 *such information to the appropriate Inspector General.*

23          “(b) *AUTHORIZED INDIVIDUAL.—(1) In this section,*  
24 *the term ‘authorized individual’ means—*

1           “(A) a Member of the Senate or the House of  
2           Representatives who is authorized to receive informa-  
3           tion of the type disclosed; or

4           “(B) an employee of the Senate or the House of  
5           Representatives who—

6                   “(i) has an appropriate security clearance;

7                   and

8                   “(ii) is authorized to receive information of  
9                   the type disclosed.

10          “(2) An authorized individual described in paragraph  
11          (1) to whom covered information is disclosed under the au-  
12          thority in subsection (a) shall be presumed to have a need  
13          to know such covered information.

14          “(c) COVERED AGENCY AND COVERED INFORMATION  
15          DEFINED.—In this section:

16               “(1) The term ‘covered agency’ means—

17                   “(A) any department, agency, or element of  
18                   the intelligence community;

19                   “(B) a national intelligence center; and

20                   “(C) any other Executive agency, or element  
21                   or unit thereof, determined by the President  
22                   under section 2302(a)(2)(C)(ii) of title 5, United  
23                   States Code, to have as its principal function the  
24                   conduct of foreign intelligence or counterintel-  
25                   ligence activities.

1           “(2) *The term ‘covered information’—*

2                   “(A) *means information, including classi-*  
3                   *fied information, that an employee referred to in*  
4                   *subsection (a) reasonably believes provides direct*  
5                   *and specific evidence of a false or inaccurate*  
6                   *statement—*

7                           “(i) *made to Congress; or*

8                           “(ii) *contained in any intelligence as-*  
9                           *essment, report, or estimate; and*

10                   “(B) *does not include information the dis-*  
11                   *closure of which is prohibited by rule 6(e) of the*  
12                   *Federal Rules of Criminal Procedure.*

13           “(d) *CONSTRUCTION WITH OTHER REPORTING RE-*  
14           *QUIREMENTS.—Nothing in this section may be construed to*  
15           *modify, alter, or otherwise affect—*

16                   “(1) *any reporting requirement relating to intel-*  
17                   *ligence activities that arises under this Act or any*  
18                   *other provision of law; or*

19                   “(2) *the right of any employee of the United*  
20                   *States to disclose information to Congress, in accord-*  
21                   *ance with applicable law, information other than cov-*  
22                   *ered information.”.*

23           “(c) *CLERICAL AMENDMENT.—The table of contents in*  
24           *the first section of that Act is amended by inserting after*  
25           *the item relating to section 507 the following new items:*

*“Sec. 508. Response of intelligence community to requests from Congress for intelligence documents and information.*

*“Sec. 509. Disclosures to Congress.”.*

1 **SEC. 1103. PUBLIC INTEREST DECLASSIFICATION BOARD.**

2 *The Public Interest Declassification Act of 2000 (50*  
3 *U.S.C. 435 note) is amended—*

4 *(1) in section 704(e)—*

5 *(A) by striking “If requested” and inserting*  
6 *the following:*

7 *“(1) IN GENERAL.—If requested”; and*

8 *(B) by adding at the end the following:*

9 *“(2) AUTHORITY OF BOARD.—Upon receiving a*  
10 *congressional request described in section 703(b)(5),*  
11 *the Board may conduct the review and make the rec-*  
12 *ommendations described in that section, regardless of*  
13 *whether such a review is requested by the President.*

14 *“(3) REPORTING.—Any recommendations sub-*  
15 *mitted to the President by the Board under section*  
16 *703(b)(5), shall be submitted to the chairman and*  
17 *ranking member of the committee of Congress that*  
18 *made the request relating to such recommendations.”;*  
19 *and*

20 *(2) in section 710(b), by striking “8 years after*  
21 *the date of the enactment of this Act” and inserting*  
22 *“on December 31, 2012”.*

1 **TITLE XII—INTERNATIONAL CO-**  
2 **OPERATION ON**  
3 **ANTITERRORISM TECH-**  
4 **NOLOGIES**

5 **SEC. 1201. PROMOTING ANTITERRORISM CAPABILITIES**  
6 **THROUGH INTERNATIONAL COOPERATION.**

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

8 (1) *The development and implementation of tech-*  
9 *nology is critical to combating terrorism and other*  
10 *high consequence events and implementing a com-*  
11 *prehensive homeland security strategy.*

12 (2) *The United States and its allies in the global*  
13 *war on terrorism share a common interest in facili-*  
14 *tating research, development, testing, and evaluation*  
15 *of equipment, capabilities, technologies, and services*  
16 *that will aid in detecting, preventing, responding to,*  
17 *recovering from, and mitigating against acts of ter-*  
18 *rorism.*

19 (3) *Certain United States allies in the global*  
20 *war on terrorism, including Israel, the United King-*  
21 *dom, Canada, Australia, and Singapore have exten-*  
22 *sive experience with, and technological expertise in,*  
23 *homeland security.*

24 (4) *The United States and certain of its allies in*  
25 *the global war on terrorism have a history of success-*

1 *ful collaboration in developing mutually beneficial*  
 2 *equipment, capabilities, technologies, and services in*  
 3 *the areas of defense, agriculture, and telecommuni-*  
 4 *cations.*

5 *(5) The United States and its allies in the global*  
 6 *war on terrorism will mutually benefit from the shar-*  
 7 *ing of technological expertise to combat domestic and*  
 8 *international terrorism.*

9 *(6) The establishment of an office to facilitate*  
 10 *and support cooperative endeavors between and*  
 11 *among government agencies, for-profit business enti-*  
 12 *ties, academic institutions, and nonprofit entities of*  
 13 *the United States and its allies will safeguard lives*  
 14 *and property worldwide against acts of terrorism and*  
 15 *other high consequence events.*

16 *(b) PROMOTING ANTITERRORISM THROUGH INTER-*  
 17 *NATIONAL COOPERATION ACT.—*

18 *(1) IN GENERAL.—The Homeland Security Act*  
 19 *of 2002 is amended by inserting after section 316, as*  
 20 *added by section 601 of this Act, the following:*

21 **“SEC. 317. PROMOTING ANTITERRORISM THROUGH INTER-**  
 22 **NATIONAL COOPERATION PROGRAM.**

23 *“(a) DEFINITIONS.—In this section:*

24 *“(1) DIRECTOR.—The term ‘Director’ means the*  
 25 *Director selected under subsection (b)(2).*



1           “(2) *INTERNATIONAL COOPERATIVE ACTIVITY.*—  
2           *The term ‘international cooperative activity’ in-*  
3           *cludes—*

4                     “(A) *coordinated research projects, joint re-*  
5                     *search projects, or joint ventures;*

6                     “(B) *joint studies or technical demonstra-*  
7                     *tions;*

8                     “(C) *coordinated field exercises, scientific*  
9                     *seminars, conferences, symposia, and workshops;*

10                    “(D) *training of scientists and engineers;*

11                    “(E) *visits and exchanges of scientists, engi-*  
12                    *neers, or other appropriate personnel;*

13                    “(F) *exchanges or sharing of scientific and*  
14                    *technological information; and*

15                    “(G) *joint use of laboratory facilities and*  
16                    *equipment.*

17           “(b) *SCIENCE AND TECHNOLOGY HOMELAND SECU-*  
18           *RITY INTERNATIONAL COOPERATIVE PROGRAMS OFFICE.*—

19                    “(1) *ESTABLISHMENT.*—*The Under Secretary*  
20                    *shall establish the Science and Technology Homeland*  
21                    *Security International Cooperative Programs Office.*

22                    “(2) *DIRECTOR.*—*The Office shall be headed by*  
23                    *a Director, who—*

24                             “(A) *shall be selected (in consultation with*  
25                             *the Assistant Secretary for International Affairs,*

1           *Policy Directorate) by and shall report to the*  
2           *Under Secretary; and*

3           “(B) *may be an officer of the Department*  
4           *-serving in another position.*

5           “(3) *RESPONSIBILITIES.—*

6           “(A) *DEVELOPMENT OF MECHANISMS.—The*  
7           *Director shall be responsible for developing, in*  
8           *coordination with the Department of State, the*  
9           *Department of Defense, the Department of En-*  
10          *ergy, and other Federal agencies, mechanisms*  
11          *and legal frameworks to allow and to support*  
12          *international cooperative activity in support of*  
13          *homeland security research.*

14          “(B) *PRIORITIES.—The Director shall be re-*  
15          *sponsible for developing, in coordination with the*  
16          *Directorate of Science and Technology, the other*  
17          *components of the Department (including the Of-*  
18          *fice of the Assistant Secretary for International*  
19          *Affairs, Policy Directorate), the Department of*  
20          *State, the Department of Defense, the Depart-*  
21          *ment of Energy, and other Federal agencies,*  
22          *strategic priorities for international cooperative*  
23          *activity.*

24          “(C) *ACTIVITIES.—The Director shall facili-*  
25          *tate the planning, development, and implementa-*

1            *tion of international cooperative activity to ad-*  
2            *dress the strategic priorities developed under sub-*  
3            *paragraph (B) through mechanisms the Under*  
4            *Secretary considers appropriate, including*  
5            *grants, cooperative agreements, or contracts to or*  
6            *with foreign public or private entities, govern-*  
7            *mental organizations, businesses, federally fund-*  
8            *ed research and development centers, and univer-*  
9            *sities.*

10            *“(D) IDENTIFICATION OF PARTNERS.—The*  
11            *Director shall facilitate the matching of United*  
12            *States entities engaged in homeland security re-*  
13            *search with non-United States entities engaged*  
14            *in homeland security research so that they may*  
15            *partner in homeland security research activities.*

16            *“(4) COORDINATION.—The Director shall ensure*  
17            *that the activities under this subsection are coordi-*  
18            *nated with the Office of International Affairs and the*  
19            *Department of State, the Department of Defense, the*  
20            *Department of Energy, and other relevant Federal*  
21            *agencies or interagency bodies. The Director may*  
22            *enter into joint activities with other Federal agencies.*

23            *“(c) MATCHING FUNDING.—*

24            *“(1) IN GENERAL.—*

1           “(A) *EQUITABILITY.*—*The Director shall en-*  
2           *sure that funding and resources expended in*  
3           *international cooperative activity will be equi-*  
4           *tably matched by the foreign partner government*  
5           *or other entity through direct funding, funding*  
6           *of complementary activities, or through the pro-*  
7           *vision of staff, facilities, material, or equipment.*

8           “(B) *GRANT MATCHING AND REPAYMENT.*—

9           “(i) *IN GENERAL.*—*The Secretary may*  
10          *require a recipient of a grant under this*  
11          *section—*

12                 “(I) *to make a matching contribu-*  
13                 *tion of not more than 50 percent of the*  
14                 *total cost of the proposed project for*  
15                 *which the grant is awarded; and*

16                 “(II) *to repay to the Secretary the*  
17                 *amount of the grant (or a portion*  
18                 *thereof), interest on such amount at an*  
19                 *appropriate rate, and such charges for*  
20                 *administration of the grant as the Sec-*  
21                 *retary determines appropriate.*

22           “(ii) *MAXIMUM AMOUNT.*—*The Sec-*  
23           *retary may not require that repayment*  
24           *under clause (i)(II) be more than 150 per-*  
25           *cent of the amount of the grant, adjusted for*

1                    *inflation on the basis of the Consumer Price*  
2                    *Index.*

3                    “(2) *FOREIGN PARTNERS.*—*Partners may in-*  
4                    *clude Israel, the United Kingdom, Canada, Australia,*  
5                    *Singapore, and other allies in the global war on ter-*  
6                    *rorism, as determined by the Secretary of State.*

7                    “(d) *FUNDING.*—*Funding for all activities under this*  
8                    *section shall be paid from discretionary funds appropriated*  
9                    *to the Department.*

10                  “(e) *FOREIGN REIMBURSEMENTS.*—*If the Science and*  
11                  *Technology Homeland Security International Cooperative*  
12                  *Programs Office participates in an international coopera-*  
13                  *tive activity with a foreign partner on a cost-sharing basis,*  
14                  *any reimbursements or contributions received from that for-*  
15                  *ign partner to meet the share of that foreign partner of*  
16                  *the project may be credited to appropriate appropriations*  
17                  *accounts of the Directorate of Science and Technology.”.*

18                  (2) *TECHNICAL AND CONFORMING AMEND-*  
19                  *MENT.*—*The table of contents in section 1(b) of the*  
20                  *Homeland Security Act of 2002 (6 U.S.C. 101 et seq.)*  
21                  *is amended by adding after the item relating to sec-*  
22                  *tion 316, as added by section 601 of this Act, the fol-*  
23                  *lowing:*

“*Sec. 317. Promoting antiterrorism through international cooperation program.*”.

1 **SEC. 1202. TRANSPARENCY OF FUNDS.**

2 *For each Federal award (as that term is defined in*  
 3 *section 2 of the Federal Funding Accountability and Trans-*  
 4 *parency Act of 2006 (31 U.S.C. 6101 note)) under this title*  
 5 *or an amendment made by this title, the Director of the*  
 6 *Office of Management and Budget shall ensure full and*  
 7 *timely compliance with the requirements of the Federal*  
 8 *Funding Accountability and Transparency Act of 2006 (31*  
 9 *U.S.C. 6101 note).*

10 **TITLE XIII—MISCELLANEOUS**  
 11 **PROVISIONS**

12 **SEC. 1301. DEPUTY SECRETARY OF HOMELAND SECURITY**  
 13 **FOR MANAGEMENT.**

14 *(a) ESTABLISHMENT AND SUCCESSION.—Section 103*  
 15 *of the Homeland Security Act of 2002 (6 U.S.C. 113) is*  
 16 *amended—*

17 *(1) in subsection (a)—*

18 *(A) in the subsection heading, by striking*  
 19 *“DEPUTY SECRETARY” and inserting “DEPUTY*  
 20 *SECRETARIES”;*

21 *(B) by striking paragraph (6);*

22 *(C) by redesignating paragraphs (2)*  
 23 *through (5) as paragraphs (3) through (6), re-*  
 24 *spectively; and*

25 *(D) by striking paragraph (1) and insert-*  
 26 *ing the following:*

1           “(1) *A Deputy Secretary of Homeland Security.*

2           “(2) *A Deputy Secretary of Homeland Security*  
3 *for Management.*”; and

4           (2) *by adding at the end the following:*

5           “(g) *VACANCIES.—*

6           “(1) *VACANCY IN OFFICE OF SECRETARY.—*

7                   “(A) *DEPUTY SECRETARY.—In case of a va-*  
8 *cancy in the office of the Secretary, or of the ab-*  
9 *sence or disability of the Secretary, the Deputy*  
10 *Secretary of Homeland Security may exercise all*  
11 *the duties of that office, and for the purpose of*  
12 *section 3345 of title 5, United States Code, the*  
13 *Deputy Secretary of Homeland Security is the*  
14 *first assistant to the Secretary.*

15                   “(B) *DEPUTY SECRETARY FOR MANAGE-*  
16 *MENT.—When by reason of absence, disability, or*  
17 *vacancy in office, neither the Secretary nor the*  
18 *Deputy Secretary of Homeland Security is*  
19 *available to exercise the duties of the office of the*  
20 *Secretary, the Deputy Secretary of Homeland*  
21 *Security for Management shall act as Secretary.*

22           “(2) *VACANCY IN OFFICE OF DEPUTY SEC-*  
23 *RETARY.—In the case of a vacancy in the office of the*  
24 *Deputy Secretary of Homeland Security, or of the ab-*  
25 *sence or disability of the Deputy Secretary of Home-*

1 *land Security, the Deputy Secretary of Homeland Se-*  
2 *curity for Management may exercise all the duties of*  
3 *that office.*

4 “(3) *FURTHER ORDER OF SUCCESSION.—The*  
5 *Secretary may designate such other officers of the De-*  
6 *partment in further order of succession to act as Sec-*  
7 *retary.”.*

8 (b) *RESPONSIBILITIES.—Section 701 of the Homeland*  
9 *Security Act of 2002 (6 U.S.C. 341) is amended—*

10 (1) *in the section heading, by striking “UNDER*  
11 *SECRETARY” and inserting “DEPUTY SECRETARY*  
12 *OF HOMELAND SECURITY”;*

13 (2) *in subsection (a)—*

14 (A) *by inserting “The Deputy Secretary of*  
15 *Homeland Security for Management shall serve*  
16 *as the Chief Management Officer and principal*  
17 *advisor to the Secretary on matters related to the*  
18 *management of the Department, including man-*  
19 *agement integration and transformation in sup-*  
20 *port of homeland security operations and pro-*  
21 *grams.” before “The Secretary”;*

22 (B) *by striking “Under Secretary for Man-*  
23 *agement” and inserting “Deputy Secretary of*  
24 *Homeland Security for Management”;*



1                   (C) by striking paragraph (7) and inserting  
2                   the following:

3                   “(7) Strategic planning and annual performance  
4                   planning and identification and tracking of perform-  
5                   ance measures relating to the responsibilities of the  
6                   Department.”; and

7                   (D) by striking paragraph (9), and insert-  
8                   ing the following:

9                   “(9) The integration and transformation process,  
10                  to ensure an efficient and orderly consolidation of  
11                  functions and personnel to the Department, including  
12                  the development of a management integration strategy  
13                  for the Department.”; and

14                  (3) in subsection (b)—

15                  (A) in paragraph (1), by striking “Under  
16                  Secretary for Management” and inserting “Dep-  
17                  uty Secretary of Homeland Security for Manage-  
18                  ment”; and

19                  (B) in paragraph (2), by striking “Under  
20                  Secretary for Management” and inserting “Dep-  
21                  uty Secretary of Homeland Security for Manage-  
22                  ment”.

23                  (c) APPOINTMENT, EVALUATION, AND REAPPOINT-  
24                  MENT.—Section 701 of the Homeland Security Act of 2002

1 *(6 U.S.C. 341) is amended by adding at the end the fol-*  
2 *lowing:*

3       “(c) *APPOINTMENT, EVALUATION, AND REAPPOINT-*  
4 *MENT.—The Deputy Secretary of Homeland Security for*  
5 *Management—*

6           “(1) *shall be appointed by the President, by and*  
7 *with the advice and consent of the Senate, from*  
8 *among persons who have—*

9           “(A) *extensive executive level leadership and*  
10 *management experience in the public or private*  
11 *sector;*

12           “(B) *strong leadership skills;*

13           “(C) *a demonstrated ability to manage*  
14 *large and complex organizations; and*

15           “(D) *a proven record in achieving positive*  
16 *operational results;*

17       “(2) *shall—*

18           “(A) *serve for a term of 5 years; and*

19           “(B) *be subject to removal by the President*  
20 *if the President—*

21           “(i) *finds that the performance of the*  
22 *Deputy Secretary of Homeland Security for*  
23 *Management is unsatisfactory; and*

24           “(ii) *communicates the reasons for re-*  
25 *moving the Deputy Secretary of Homeland*

1                   *Security for Management to Congress before*  
2                   *such removal;*

3                   “(3) *may be reappointed in accordance with*  
4                   *paragraph (1), if the Secretary has made a satisfac-*  
5                   *tory determination under paragraph (5) for the 3*  
6                   *most recent performance years;*

7                   “(4) *shall enter into an annual performance*  
8                   *agreement with the Secretary that shall set forth*  
9                   *measurable individual and organizational goals; and*

10                  “(5) *shall be subject to an annual performance*  
11                  *evaluation by the Secretary, who shall determine as*  
12                  *part of each such evaluation whether the Deputy Sec-*  
13                  *retary of Homeland Security for Management has*  
14                  *made satisfactory progress toward achieving the goals*  
15                  *set out in the performance agreement required under*  
16                  *paragraph (4).”.*

17                  *(d) INCUMBENT.—The individual who serves in the po-*  
18                  *sition of Under Secretary for Management of the Depart-*  
19                  *ment of Homeland Security on the date of enactment of this*  
20                  *Act—*

21                  *(1) may perform all the duties of the Deputy*  
22                  *Secretary of Homeland Security for Management at*  
23                  *the pleasure of the President, until a Deputy Sec-*  
24                  *retary of Homeland Security for Management is ap-*  
25                  *pointed in accordance with subsection (c) of section*

1       701 of the Homeland Security Act of 2002 (6 U.S.C.  
2       341), as added by this Act; and

3               (2) may be appointed Deputy Secretary of  
4       Homeland Security for Management, if such appoint-  
5       ment is otherwise in accordance with sections 103  
6       and 701 of the Homeland Security Act of 2002 (6  
7       U.S.C. 113 and 341), as amended by this Act.

8       (e) REFERENCES.—References in any other Federal  
9       law, Executive order, rule, regulation, or delegation of au-  
10      thority, or any document of or relating to the Under Sec-  
11      retary for Management of the Department of Homeland Se-  
12      curity shall be deemed to refer to the Deputy Secretary of  
13      Homeland Security for Management.

14      (f) TECHNICAL AND CONFORMING AMENDMENTS.—

15               (1) OTHER REFERENCE.—Section 702(a) of the  
16      Homeland Security Act of 2002 (6 U.S.C. 342(a)) is  
17      amended by striking “Under Secretary for Manage-  
18      ment” and inserting “Deputy Secretary of Homeland  
19      Security for Management”.

20               (2) TABLE OF CONTENTS.—The table of contents  
21      in section 1(b) of the Homeland Security Act of 2002  
22      (6 U.S.C. 101(b)) is amended by striking the item re-  
23      lating to section 701 and inserting the following:

“Sec. 701. Deputy Secretary of Homeland Security for Management.”.

24               (3) EXECUTIVE SCHEDULE.—Section 5313 of  
25      title 5, United States Code, is amended by inserting

1       *after the item relating to the Deputy Secretary of*  
2       *Homeland Security the following:*

3               *“Deputy Secretary of Homeland Security for*  
4       *Management.”.*

5   **SEC. 1302. SENSE OF THE SENATE REGARDING COMBATING**  
6               **DOMESTIC RADICALIZATION.**

7       *(a) FINDINGS.—The Senate finds the following:*

8               *(1) The United States is engaged in a struggle*  
9       *against a transnational terrorist movement of radical*  
10       *extremists seeking to exploit the religion of Islam*  
11       *through violent means to achieve ideological ends.*

12              *(2) The radical jihadist movement transcends*  
13       *borders and has been identified as a potential threat*  
14       *within the United States.*

15              *(3) Radicalization has been identified as a pre-*  
16       *cursor to terrorism.*

17              *(4) Countering the threat of violent extremists*  
18       *domestically, as well as internationally, is a critical*  
19       *element of the plan of the United States for success*  
20       *in the war on terror.*

21              *(5) United States law enforcement agencies have*  
22       *identified radicalization as an emerging threat and*  
23       *have in recent years identified cases of “homegrown”*  
24       *extremists operating inside the United States with the*

1       *intent to provide support for, or directly commit, a*  
2       *terrorist attack.*

3               (6) *The alienation of Muslim populations in the*  
4       *Western world has been identified as a factor in the*  
5       *spread of radicalization.*

6               (7) *Radicalization cannot be prevented solely*  
7       *through law enforcement and intelligence measures.*

8       (b) *SENSE OF SENATE.—It is the sense of the Senate*  
9       *that the Secretary, in consultation with other relevant Fed-*  
10       *eral agencies, should make a priority of countering domestic*  
11       *radicalization and extremism by—*

12               (1) *using intelligence analysts and other experts*  
13       *to better understand the process of radicalization from*  
14       *sympathizer to activist to terrorist;*

15               (2) *recruiting employees with diverse worldviews,*  
16       *skills, languages, and cultural backgrounds and exper-*  
17       *tise;*

18               (3) *consulting with experts to ensure that the*  
19       *lexicon used within public statements is precise and*  
20       *appropriate and does not aid extremists by offending*  
21       *the American Muslim community;*

22               (4) *developing and implementing, in concert*  
23       *with the Attorney General and State and local correc-*  
24       *tions officials, a program to address prisoner*  
25       *radicalization and post-sentence reintegration;*

1           (5) *pursuing broader avenues of dialogue with*  
2 *the Muslim community to foster mutual respect, un-*  
3 *derstanding, and trust; and*

4           (6) *working directly with State, local, and com-*  
5 *munity leaders to—*

6                 (A) *educate these leaders on the threat of*  
7 *radicalization and the necessity of taking pre-*  
8 *ventative action at the local level; and*

9                 (B) *facilitate the sharing of best practices*  
10 *from other countries and communities to encour-*  
11 *age outreach to the American Muslim commu-*  
12 *nity and develop partnerships between all faiths,*  
13 *including Islam.*

14 **SEC. 1303. SENSE OF THE SENATE REGARDING OVERSIGHT**  
15 **OF HOMELAND SECURITY.**

16 (a) *FINDINGS.—The Senate finds the following:*

17           (1) *The Senate recognizes the importance and*  
18 *need to implement the recommendations offered by the*  
19 *National Commission on Terrorist Attacks Upon the*  
20 *United States (in this section referred to as the “Com-*  
21 *mission”).*

22           (2) *Congress considered and passed the National*  
23 *Security Intelligence Reform Act of 2004 (Public Law*  
24 *108–458; 118 Stat. 3643) to implement the rec-*  
25 *ommendations of the Commission.*

1           (3) *Representatives of the Department testified at*  
2           *165 Congressional hearings in calendar year 2004,*  
3           *and 166 Congressional hearings in calendar year*  
4           *2005.*

5           (4) *The Department had 268 representatives tes-*  
6           *tify before 15 committees and 35 subcommittees of the*  
7           *House of Representatives and 9 committees and 12*  
8           *subcommittees of the Senate at 206 congressional*  
9           *hearings in calendar year 2006.*

10          (5) *The Senate has been unwilling to reform*  
11          *itself in accordance with the recommendation of the*  
12          *Commission to provide better and more streamlined*  
13          *oversight of the Department.*

14          (b) *SENSE OF SENATE.—It is the sense of the Senate*  
15          *that the Senate should implement the recommendation of*  
16          *the Commission to “create a single, principal point of over-*  
17          *sight and review for homeland security.”.*

18          **SEC. 1304. REPORT REGARDING BORDER SECURITY.**

19          (a) *IN GENERAL.—Not later than 180 days after the*  
20          *date of enactment of this Act, the Secretary shall submit*  
21          *a report to Congress regarding ongoing initiatives of the*  
22          *Department to improve security along the northern border*  
23          *of the United States.*

24          (b) *CONTENTS.—The report submitted under sub-*  
25          *section (a) shall—*



1           (1) *address the vulnerabilities along the northern*  
2           *border of the United States; and*

3           (2) *provide recommendations to address such*  
4           *vulnerabilities, including required resources needed to*  
5           *protect the northern border of the United States.*

6           (c) *GOVERNMENT ACCOUNTABILITY OFFICE.—Not*  
7           *later than 270 days after the date of the submission of the*  
8           *report under subsection (a), the Comptroller General of the*  
9           *United States shall submit a report to Congress that—*

10           (1) *reviews and comments on the report under*  
11           *subsection (a); and*

12           (2) *provides recommendations regarding any ad-*  
13           *ditional actions necessary to protect the northern bor-*  
14           *der of the United States.*

**Calendar No. 57**

110<sup>TH</sup> CONGRESS  
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**S. 4**

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**A BILL**

To make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

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FEBRUARY 23, 2007

Reported with an amendment