

107TH CONGRESS  
2D SESSION

# H. R. 5005

To establish the Department of Homeland Security, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2002

Mr. ARMEY (for himself, Mr. HASTERT, Mr. DELAY, Mr. WATTS of Oklahoma, Mr. COX, Ms. PRYCE of Ohio, Mrs. CUBIN, Mr. TOM DAVIS of Virginia, Mr. BLUNT, Mr. PORTMAN, Mr. ADERHOLT, Mr. AKIN, Mr. BALLENGER, Mr. BARR of Georgia, Mr. BASS, Mr. BEREUTER, Mr. BOEHLERT, Mr. BONILLA, Mrs. BONO, Mr. BRADY of Texas, Mr. BROWN of South Carolina, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALVERT, Mr. CAMP, Mr. CANTOR, Mrs. CAPITO, Mr. CASTLE, Mr. CHAMBLISS, Mr. COOKSEY, Mr. CRENSHAW, Mrs. JO ANN DAVIS of Virginia, Mr. DREIER, Mr. DEMINT, Ms. DUNN of Washington, Mr. EHRLICH, Mr. ENGLISH, Mr. FERGUSON, Mr. FORBES, Mr. FOSSELLA, Mr. GANSKE, Mr. GEKAS, Mr. GIBBONS, Mr. GILMAN, Mr. GILLMOR, Mr. GOODE, Ms. GRANGER, Mr. GREEN of Wisconsin, Mr. GREENWOOD, Mr. GRUCCI, Mr. HANSEN, Ms. HARMAN, Ms. HART, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HOEKSTRA, Mr. HORN, Mr. HOUGHTON, Mr. ISSA, Mr. JENKINS, Mrs. JOHNSON of Connecticut, Mr. KELLER, Mrs. KELLY, Mr. KING, Mr. KOLBE, Mr. LAHOOD, Mr. LINDER, Mr. MCCREERY, Mr. MCKEON, Mr. MALONEY of Connecticut, Mr. MANZULLO, Mr. DAN MILLER of Florida, Mr. GARY G. MILLER of California, Mrs. MORELLA, Mrs. MYRICK, Mr. NUSSLE, Mr. OSBORNE, Mr. OXLEY, Mr. PICKERING, Mr. PITTS, Mr. PUTNAM, Mr. REHBERG, Mr. ROHRABACHER, Mr. ROYCE, Mrs. ROUKEMA, Mr. RYUN of Kansas, Mr. SAXTON, Mr. SCHROCK, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHAW, Mr. SHAYS, Mr. SHERWOOD, Mr. SIMPSON, Mr. SKEEN, Mr. SOUDER, Mr. SWEENEY, Mr. TANCREDO, Mr. TAUZIN, Mr. THORNBERRY, Mr. TIBERI, Mr. UPTON, Mr. SHIMKUS, Mr. WALDEN, Mr. WAMP, Mr. WELDON of Pennsylvania, Mr. WELLER, Mr. WHITFIELD, Mr. WICKER, Mrs. WILSON of New Mexico, and Mr. WILSON of South Carolina) (all by request) introduced the following bill; pursuant to House Resolution 449, referred to the Select Committee on Homeland Security for a period to be subsequently determined by the Speaker, and in addition to the Committees on Agriculture, Appropriations, Armed Services, Energy and Commerce, Financial Services, Government Reform, Intelligence (Permanent Select), International Relations, the Judiciary, Science, Transportation and Infrastructure, and Ways and Means, for a

period ending not later than July 12, 2002, in each case for consideration of such matters as fall within the jurisdiction of the committee concerned

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# A BILL

To establish the Department of Homeland Security, and  
for other purposes.

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

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

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

6       (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Construction; severability.
- Sec. 4. Effective date.

## TITLE I—DEPARTMENT OF HOMELAND SECURITY

- Sec. 101. Executive department; mission.
- Sec. 102. Secretary; functions.
- Sec. 103. Other officers.

## TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

- Sec. 201. Under Secretary for Information Analysis and Infrastructure Protec-  
tion.
- Sec. 202. Functions transferred.
- Sec. 203. Access to information.
- Sec. 204. Information voluntarily provided.

## TITLE III—CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR COUNTERMEASURES

- Sec. 301. Under Secretary for Chemical, Biological, Radiological, and Nuclear  
Countermeasures.
- Sec. 302. Functions transferred.
- Sec. 303. Conduct of certain public health-related activities.

Sec. 304. Military activities.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

Sec. 401. Under Secretary for Border and Transportation Security.  
Sec. 402. Functions transferred.  
Sec. 403. Visa issuance.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

Sec. 501. Under Secretary for Emergency Preparedness and Response.  
Sec. 502. Functions transferred.  
Sec. 503. Nuclear incident response.  
Sec. 504. Definition.  
Sec. 505. Conduct of certain public health-related activities.

TITLE VI—MANAGEMENT

Sec. 601. Under Secretary for Management.  
Sec. 602. Chief Financial Officer.  
Sec. 603. Chief Information Officer.

TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; GENERAL PROVISIONS

Subtitle A—Coordination With Non-Federal Entities

Sec. 701. Responsibilities.

Subtitle B—Inspector General

Sec. 710. Authority of the Secretary.

Subtitle C—United States Secret Service

Sec. 720. Functions transferred.

Subtitle D—General Provisions

Sec. 730. Establishment of human resources management system.  
Sec. 731. Advisory committees.  
Sec. 732. Acquisitions; property.  
Sec. 733. Reorganization; transfer.  
Sec. 734. Miscellaneous provisions.  
Sec. 735. Authorization of appropriations.

TITLE VIII—TRANSITION

Sec. 801. Definitions.  
Sec. 802. Transfer of agencies.  
Sec. 803. Transitional authorities.  
Sec. 804. Savings provisions.  
Sec. 805. Terminations.  
Sec. 806. Incidental transfers.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

Sec. 901. Inspector General Act.  
Sec. 902. Executive schedule.

Sec. 903. United States Secret Service.

Sec. 904. Coast Guard.

Sec. 905. Strategic national stockpile and smallpox vaccine development.

Sec. 906. Select agent registration.

Sec. 907. National Bio-Weapons Defense Analysis Center.

1 **SEC. 2. DEFINITIONS.**

2 Unless the context clearly indicates otherwise, the fol-  
3 lowing shall apply for purposes of this Act:

4 (1) The term “American homeland” or “home-  
5 land” means the United States, in a geographic  
6 sense.

7 (2) The term “assets” includes contracts, facili-  
8 ties, property, records, unobligated or unexpended  
9 balances of appropriations, and other funds or re-  
10 sources (other than personnel).

11 (3) The term “Department” means the Depart-  
12 ment of Homeland Security.

13 (4) The term “emergency response providers”  
14 includes Federal, State, and local government emer-  
15 gency public safety, law enforcement, emergency re-  
16 sponse, emergency medical, and related personnel,  
17 agencies, and authorities.

18 (5) The term “executive agency” means an ex-  
19 ecutive agency and a military department, as de-  
20 fined, respectively, in sections 105 and 102 of title  
21 5, United States Code.

22 (6) The term “functions” includes authorities,  
23 powers, rights, privileges, immunities, programs,

1 projects, activities, duties, responsibilities, and obli-  
2 gations.

3 (7) The term “local government” has the mean-  
4 ing given in section 102(6) of the Robert T. Stafford  
5 Disaster Relief and Emergency Assistance Act (Pub-  
6 lic Law 93–288).

7 (8) The term “major disaster” has the meaning  
8 given in section 102(2) of the Robert T. Stafford  
9 Disaster Relief and Emergency Assistance Act (Pub-  
10 lic Law 93–288).

11 (9) The term “personnel” means officers and  
12 employees.

13 (10) The term “Secretary” means the Secretary  
14 of Homeland Security.

15 (11) The term “United States”, when used in  
16 a geographic sense, means any State (within the  
17 meaning of section 102(4) of the Robert T. Stafford  
18 Disaster Relief and Emergency Assistance Act (Pub-  
19 lic Law 93–288)), any possession of the United  
20 States, and any waters within the jurisdiction of the  
21 United States.

22 **SEC. 3. CONSTRUCTION; SEVERABILITY.**

23 Any provision of this Act held to be invalid or unen-  
24 forceable by its terms, or as applied to any person or cir-  
25 cumstance, shall be construed so as to give it the max-

1 imum effect permitted by law, unless such holding shall  
2 be one of utter invalidity or unenforceability, in which  
3 event such provision shall be deemed severable from this  
4 Act and shall not affect the remainder thereof, or the ap-  
5 plication of such provision to other persons not similarly  
6 situated or to other, dissimilar circumstances.

7 **SEC. 4. EFFECTIVE DATE.**

8       This Act shall take effect thirty days after the date  
9 of enactment or, if enacted within thirty days before Janu-  
10 ary 1, 2003, on January 1, 2003.

11                   **TITLE I—DEPARTMENT OF**  
12                   **HOMELAND SECURITY**

13 **SEC. 101. EXECUTIVE DEPARTMENT; MISSION.**

14       (a) **ESTABLISHMENT.**—There is established a De-  
15 partment of Homeland Security, as an executive depart-  
16 ment of the United States within the meaning of title 5,  
17 United States Code.

18       (b) **MISSION.**—(1) The primary mission of the De-  
19 partment is to—

20                   (A) prevent terrorist attacks within the United  
21 States;

22                   (B) reduce the vulnerability of the United  
23 States to terrorism; and

1 (C) minimize the damage, and assist in the re-  
2 covery, from terrorist attacks that do occur within  
3 the United States.

4 (2) In carrying out the mission described in para-  
5 graph (1), and as further described in this Act, the De-  
6 partment's primary responsibilities shall include—

7 (A) information analysis and infrastructure pro-  
8 tection;

9 (B) chemical, biological, radiological, nuclear,  
10 and related countermeasures;

11 (C) border and transportation security;

12 (D) emergency preparedness and response; and

13 (E) coordination (including the provision of  
14 training and equipment) with other executive agen-  
15 cies, with State and local government personnel,  
16 agencies, and authorities, with the private sector,  
17 and with other entities.

18 (3) The Department shall also be responsible for car-  
19 rying out other functions of entities transferred to the De-  
20 partment as provided by law.

21 **SEC. 102. SECRETARY; FUNCTIONS.**

22 (a) SECRETARY.—(1) There is a Secretary of Home-  
23 land Security, appointed by the President, by and with the  
24 advice and consent of the Senate.

1           (2) The Secretary is the head of the Department and  
2 shall have direction, authority, and control over it.

3           (3) All functions of all officers, employees, and orga-  
4 nizational units of the Department are vested in the Sec-  
5 retary.

6           (b) FUNCTIONS.—The Secretary—

7                 (1) may delegate any of his functions to any of-  
8 ficer, employee, or organizational unit of the Depart-  
9 ment;

10                (2) may promulgate regulations hereunder; and

11                (3) shall have such functions, including the au-  
12 thority to make contracts, grants, and cooperative  
13 agreements, and to enter into agreements with other  
14 executive agencies, as may be necessary and proper  
15 to carry out his responsibilities under this Act or  
16 otherwise provided by law.

17 **SEC. 103. OTHER OFFICERS.**

18           (a) DEPUTY SECRETARY; UNDER SECRETARIES.—

19 To assist the Secretary in the performance of his func-  
20 tions, there are the following officers, appointed by the  
21 President, by and with the advice and consent of the Sen-  
22 ate:

23                 (1) A Deputy Secretary of Homeland Security,  
24 who shall be the Secretary's first assistant for pur-

1 poses of chapter 33, subchapter 3, of title 5, United  
2 States Code.

3 (2) An Under Secretary for Information Anal-  
4 ysis and Infrastructure Protection.

5 (3) An Under Secretary for Chemical, Biologi-  
6 cal, Radiological, and Nuclear Countermeasures.

7 (4) An Under Secretary for Border and Trans-  
8 portation Security.

9 (5) An Under Secretary for Emergency Pre-  
10 paredness and Response.

11 (6) An Under Secretary for Management.

12 (7) Not more than six Assistant Secretaries.

13 (b) INSPECTOR GENERAL.—To assist the Secretary  
14 in the performance of his functions, there is an Inspector  
15 General, who shall be appointed as provided in section  
16 3(a) of the Inspector General Act of 1978.

17 (c) COMMANDANT OF THE COAST GUARD.—To assist  
18 the Secretary in the performance of his functions, there  
19 is a Commandant of the Coast Guard, who shall be ap-  
20 pointed as provided in section 44 of title 14, United States  
21 Code.

22 (d) OTHER OFFICERS.—To assist the Secretary in  
23 the performance of his functions, there are the following  
24 officers, appointed by the President:

1           (1) A General Counsel, who shall be the chief  
2 legal officer of the Department.

3           (2) Not more than ten Assistant Secretaries.

4           (3) A Director of the Secret Service.

5           (4) A Chief Financial Officer.

6           (5) A Chief Information Officer.

7           (e) PERFORMANCE OF SPECIFIC FUNCTIONS.—Sub-  
8 ject to the provisions of this Act, every officer of the de-  
9 partment shall perform the functions specified by law for  
10 his office or prescribed by the Secretary.

11 **TITLE II—INFORMATION ANAL-**  
12 **YSIS AND INFRASTRUCTURE**  
13 **PROTECTION**

14 **SEC. 201. UNDER SECRETARY FOR INFORMATION ANALYSIS**  
15 **AND INFRASTRUCTURE PROTECTION.**

16           In assisting the Secretary with the responsibilities  
17 specified in section 101(b)(2)(A), the primary responsibil-  
18 ities of the Under Secretary for Information Analysis and  
19 Infrastructure Protection shall include—

20           (1) receiving and analyzing law enforcement in-  
21 formation, intelligence, and other information in  
22 order to understand the nature and scope of the ter-  
23 rorist threat to the American homeland and to de-  
24 tect and identify potential threats of terrorism with-  
25 in the United States;

1           (2) comprehensively assessing the vulnerabilities  
2 of the key resources and critical infrastructures in  
3 the United States;

4           (3) integrating relevant information, intelligence  
5 analyses, and vulnerability assessments (whether  
6 such information, analyses, or assessments are pro-  
7 vided or produced by the Department or others) to  
8 identify protective priorities and support protective  
9 measures by the Department, by other executive  
10 agencies, by State and local government personnel,  
11 agencies, and authorities, by the private sector, and  
12 by other entities;

13           (4) developing a comprehensive national plan  
14 for securing the key resources and critical infra-  
15 structures in the United States;

16           (5) taking or seeking to effect necessary meas-  
17 ures to protect the key resources and critical infra-  
18 structures in the United States, in coordination with  
19 other executive agencies and in cooperation with  
20 State and local government personnel, agencies, and  
21 authorities, the private sector, and other entities;

22           (6) administering the Homeland Security Advi-  
23 sory System, exercising primary responsibility for  
24 public threat advisories, and (in coordination with  
25 other executive agencies) providing specific warning

1 information to State and local government per-  
2 sonnel, agencies, and authorities, the private sector,  
3 other entities, and the public, as well as advice about  
4 appropriate protective actions and countermeasures;  
5 and

6 (7) reviewing, analyzing, and making rec-  
7 ommendations for improvements in the policies and  
8 procedures governing the sharing of law enforce-  
9 ment, intelligence, and other information relating to  
10 homeland security within the Federal Government  
11 and between such government and State and local  
12 government personnel, agencies, and authorities.

13 **SEC. 202. FUNCTIONS TRANSFERRED.**

14 In accordance with title VIII, there shall be trans-  
15 ferred to the Secretary the functions, personnel, assets,  
16 and liabilities of the following entities—

17 (1) the National Infrastructure Protection Cen-  
18 ter of the Federal Bureau of Investigation (other  
19 than the Computer Investigations and Operations  
20 Section), including the functions of the Attorney  
21 General relating thereto;

22 (2) the National Communications System of the  
23 Department of Defense, including the functions of  
24 the Secretary of Defense relating thereto;

1           (3) the Critical Infrastructure Assurance Office  
2 of the Department of Commerce, including the func-  
3 tions of the Secretary of Commerce relating thereto;

4           (4) the Computer Security Division of the Na-  
5 tional Institute of Standards and Technology, in-  
6 cluding the functions of the Secretary of Commerce  
7 relating thereto;

8           (5) the National Infrastructure Simulation and  
9 Analysis Center of the Department of Energy, in-  
10 cluding the functions of the Secretary of Energy re-  
11 lating thereto; and

12           (6) the Federal Computer Incident Response  
13 Center of the General Services Administration, in-  
14 cluding the functions of the Administrator of Gen-  
15 eral Services relating thereto.

16 **SEC. 203. ACCESS TO INFORMATION.**

17       The Secretary shall have access to all reports, assess-  
18 ments, and analytical information relating to threats of  
19 terrorism in the United States and to other areas of re-  
20 sponsibility described in section 101(b), and to all infor-  
21 mation concerning infrastructure or other vulnerabilities  
22 of the United States to terrorism, whether or not such  
23 information has been analyzed, that may be collected, pos-  
24 sessed, or prepared by any executive agency, except as oth-  
25 erwise directed by the President. The Secretary shall also

1 have access to other information relating to the foregoing  
2 matters that may be collected, possessed, or prepared by  
3 an executive agency, as the President may further provide.  
4 With respect to the material to which the Secretary has  
5 access under this section—

6           (1) the Secretary may obtain such material by  
7 request, and may enter into cooperative arrange-  
8 ments with other executive agencies to share such  
9 material on a regular or routine basis, including re-  
10 quests or arrangements involving broad categories of  
11 material;

12           (2) regardless of whether the Secretary has  
13 made any request or entered into any cooperative ar-  
14 rangement pursuant to paragraph (1), all executive  
15 agencies promptly shall provide to the Secretary—

16           (A) all reports, assessments, and analytical  
17 information relating to threats of terrorism in  
18 the United States and to other areas of respon-  
19 sibility described in section 101(b);

20           (B) all information concerning infrastruc-  
21 ture or other vulnerabilities of the United  
22 States to terrorism, whether or not such infor-  
23 mation has been analyzed;

24           (C) all information relating to significant  
25 and credible threats of terrorism in the United

1 States, whether or not such information has  
2 been analyzed, if the President has provided  
3 that the Secretary shall have access to such in-  
4 formation; and

5 (D) such other material as the President  
6 may further provide; and

7 (3) the Secretary shall ensure that any material  
8 received pursuant to this section is protected from  
9 unauthorized disclosure and handled and used only  
10 for the performance of official duties, and that any  
11 intelligence information shared under this section  
12 shall be transmitted, retained, and disseminated con-  
13 sistent with the authority of the Director of Central  
14 Intelligence to protect intelligence sources and meth-  
15 ods under the National Security Act and related pro-  
16 cedures or, as appropriate, similar authorities of the  
17 Attorney General concerning sensitive law enforce-  
18 ment information.

19 **SEC. 204. INFORMATION VOLUNTARILY PROVIDED.**

20 Information provided voluntarily by non-Federal enti-  
21 ties or individuals that relates to infrastructure  
22 vulnerabilities or other vulnerabilities to terrorism and is  
23 or has been in the possession of the Department shall not  
24 be subject to section 552 of title 5, United States Code.

1 **TITLE III—CHEMICAL, BIOLOGI-**  
2 **CAL, RADIOLOGICAL, AND NU-**  
3 **CLEAR COUNTERMEASURES**

4 **SEC. 301. UNDER SECRETARY FOR CHEMICAL, BIOLOGICAL,**  
5 **RADIOLOGICAL, AND NUCLEAR COUNTER-**  
6 **MEASURES.**

7 In assisting the Secretary with the responsibilities  
8 specified in section 101(b)(2)(B), the primary responsibil-  
9 ities of the Under Secretary for Chemical, Biological, Ra-  
10 diological, and Nuclear Countermeasures shall include—

11 (1) securing the people, infrastructures, prop-  
12 erty, resources, and systems in the United States  
13 from acts of terrorism involving chemical, biological,  
14 radiological, or nuclear weapons or other emerging  
15 threats;

16 (2) conducting a national scientific research  
17 and development program to support the mission of  
18 the Department, including developing national policy  
19 for and coordinating the Federal Government’s civil-  
20 ian efforts to identify, devise, and implement sci-  
21 entific, technological, and other countermeasures to  
22 chemical, biological, radiological, nuclear, and other  
23 emerging terrorist threats, including directing, fund-  
24 ing, and conducting research and development relat-  
25 ing to the same;

1           (3) establishing priorities for, directing, fund-  
2           ing, and conducting national research, development,  
3           and procurement of technology and systems—

4                   (A) for preventing the importation of  
5                   chemical, biological, radiological, nuclear, and  
6                   related weapons and material; and

7                   (B) for detecting, preventing, protecting  
8                   against, and responding to terrorist attacks  
9                   that involve such weapons or material; and

10           (4) establishing guidelines for State and local  
11           government efforts to develop and implement coun-  
12           termeasures to threats of chemical, biological, radio-  
13           logical, and nuclear terrorism, and other emerging  
14           terrorist threats.

15 **SEC. 302. FUNCTIONS TRANSFERRED.**

16           In accordance with title VIII, there shall be trans-  
17           ferred to the Secretary the functions, personnel, assets,  
18           and liabilities of the following entities—

19                   (1) the select agent registration enforcement  
20                   programs and activities of the Department of Health  
21                   and Human Services, including the functions of the  
22                   Secretary of Health and Human Services relating  
23                   thereto;

24                   (2) the following programs and activities of the  
25                   Department of Energy, including the functions of

1 the Secretary of Energy relating thereto (but not in-  
2 cluding programs and activities relating to the stra-  
3 tegic nuclear defense posture of the United States):

4 (A) the chemical and biological national se-  
5 curity and supporting programs and activities  
6 of the non-proliferation and verification re-  
7 search and development program;

8 (B) the nuclear smuggling programs and  
9 activities, and other programs and activities di-  
10 rectly related to homeland security, within the  
11 proliferation detection program of the non-pro-  
12 liferation and verification research and develop-  
13 ment program, except that the programs and  
14 activities described in this subparagraph may be  
15 designated by the President either for transfer  
16 to the Department or for joint operation by the  
17 Secretary and the Secretary of Energy;

18 (C) the nuclear assessment program and  
19 activities of the assessment, detection, and co-  
20 operation program of the international mate-  
21 rials protection and cooperation program;

22 (D) the energy security and assurance pro-  
23 gram and activities;

24 (E) such life sciences activities of the bio-  
25 logical and environmental research program re-

1           lated to microbial pathogens as may be des-  
2           ignated by the President for transfer to the De-  
3           partment;

4                   (F) the Environmental Measurements Lab-  
5           oratory; and

6                   (G) the advanced scientific computing re-  
7           search program and activities, and the intel-  
8           ligence program and activities, at Lawrence  
9           Livermore National Laboratory;

10           (3) the National Bio-Weapons Defense Analysis  
11          Center of the Department of Defense, including the  
12          functions of the Secretary of Defense related there-  
13          to; and

14                   (4) the Plum Island Animal Disease Center of  
15          the Department of Agriculture, including the func-  
16          tions of the Secretary of Agriculture relating there-  
17          to.

18 **SEC. 303. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED**

19                   **ACTIVITIES.**

20           (a) CERTAIN ACTIVITIES CARRIED OUT THROUGH  
21          HHS.—(1) Except as the President may otherwise direct,  
22          the Secretary shall carry out his civilian human health-  
23          related biological, biomedical, and infectious disease de-  
24          fense research and development (including vaccine re-  
25          search and development) responsibilities through the De-

1 partment of Health and Human Services (including the  
2 Public Health Service), under agreements with the Sec-  
3 retary of Health and Human Services, and may transfer  
4 funds to him in connection with such agreements.

5 (2) With respect to any responsibilities carried out  
6 through the Department of Health and Human Services  
7 under this subsection, the Secretary, in consultation with  
8 the Secretary of Health and Human Services, shall have  
9 the authority to establish the research and development  
10 program, including the setting of priorities.

11 (b) TRANSFER OF FUNDS.—With respect to such  
12 other research and development responsibilities under this  
13 title, including health-related chemical, radiological, and  
14 nuclear defense research and development responsibilities,  
15 as he may elect to carry out through the Department of  
16 Health and Human Services (including the Public Health  
17 Service) (under agreements with the Secretary of Health  
18 and Human Services) or through other Federal agencies  
19 (under agreements with their respective heads), the Sec-  
20 retary may transfer funds to the Secretary of Health and  
21 Human Services, or to such heads, as the case may be.

22 **SEC. 304. MILITARY ACTIVITIES.**

23 Except as specifically provided in this Act, nothing  
24 in this Act shall confer upon the Secretary any authority

1 to engage in warfighting, the military defense of the  
2 United States, or other traditional military activities.

3                   **TITLE IV—BORDER AND**  
4                   **TRANSPORTATION SECURITY**

5                   **SEC. 401. UNDER SECRETARY FOR BORDER AND TRANS-**  
6                   **PORTATION SECURITY.**

7                   In assisting the Secretary with the responsibilities  
8 specified in section 101(b)(2)(C), the primary responsibil-  
9 ities of the Under Secretary for Border and Transpor-  
10 tation Security shall include—

11                   (1) preventing the entry of terrorists and the  
12 instruments of terrorism into the United States;

13                   (2) securing the borders, territorial waters,  
14 ports, terminals, waterways, and air, land, and sea  
15 transportation systems of the United States, includ-  
16 ing managing and coordinating governmental activi-  
17 ties at ports of entry;

18                   (3) administering the immigration and natu-  
19 ralization laws of the United States, including the  
20 establishment of rules, in accordance with section  
21 403, governing the granting of visas or other forms  
22 of permission, including parole, to enter the United  
23 States to individuals who are not citizens or lawful  
24 permanent residents thereof;

1           (4) administering the customs laws of the  
2 United States; and

3           (5) in carrying out the foregoing responsibil-  
4 ities, ensuring the speedy, orderly, and efficient flow  
5 of lawful traffic and commerce.

6 **SEC. 402. FUNCTIONS TRANSFERRED.**

7           In accordance with title VIII, there shall be trans-  
8 ferred to the Secretary the functions, personnel, assets,  
9 and liabilities of the following entities—

10           (1) the United States Customs Service of the  
11 Department of the Treasury, including the functions  
12 of the Secretary of the Treasury relating thereto;

13           (2) the Immigration and Naturalization Service  
14 of the Department of Justice, including the func-  
15 tions of the Attorney General relating thereto;

16           (3) the Animal and Plant Health Inspection  
17 Service of the Department of Agriculture, including  
18 the functions of the Secretary of Agriculture relating  
19 thereto;

20           (4) the Coast Guard of the Department of  
21 Transportation, which shall be maintained as a dis-  
22 tinct entity within the Department, including the  
23 functions of the Secretary of Transportation relating  
24 thereto;

1           (5) the Transportation Security Administration  
2 of the Department of Transportation, including the  
3 functions of the Secretary of Transportation, and of  
4 the Under Secretary of Transportation for Security,  
5 relating thereto; and

6           (6) the Federal Protective Service of the Gen-  
7 eral Services Administration, including the functions  
8 of the Administrator of General Services relating  
9 thereto.

10 **SEC. 403. VISA ISSUANCE.**

11       (a) **AUTHORITY.**—Notwithstanding the provisions of  
12 section 104 of the Immigration and Nationality Act (8  
13 U.S.C. 1104) or any other law, and except as provided  
14 in subsection (b) of this section, the Secretary shall have—

15           (1) exclusive authority, through the Secretary  
16 of State, to issue regulations with respect to, admin-  
17 ister, and enforce the provisions of that Act and all  
18 other immigration and nationality laws relating to  
19 the functions of diplomatic and consular officers of  
20 the United States in connection with the granting or  
21 refusal of visas; and

22           (2) authority to confer or impose upon any offi-  
23 cer or employee of the United States, with the con-  
24 sent of the executive agency under whose jurisdiction

1 such officer or employee is serving, any of the func-  
2 tions specified in paragraph (1).

3 (b) REFUSAL OF VISAS.—The Secretary of State may  
4 refuse a visa to an alien if the Secretary of State deems  
5 such refusal necessary or advisable in the interests of the  
6 United States.

7 **TITLE V—EMERGENCY**  
8 **PREPAREDNESS AND RESPONSE**

9 **SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPARED-**  
10 **NESS AND RESPONSE.**

11 In assisting the Secretary with the responsibilities  
12 specified in section 101(b)(2)(D), the primary responsibil-  
13 ities of the Under Secretary for Emergency Preparedness  
14 and Response shall include—

15 (1) helping to ensure the preparedness of emer-  
16 gency response providers for terrorist attacks, major  
17 disasters, and other emergencies;

18 (2) with respect to the Nuclear Incident Re-  
19 sponse Team (regardless of whether it is operating  
20 as an organizational unit of the Department pursu-  
21 ant to this title)—

22 (A) establishing standards and certifying  
23 when those standards have been met;

24 (B) conducting joint and other exercises  
25 and training and evaluating performance; and

1 (C) providing funds to the Department of  
2 Energy and the Environmental Protection  
3 Agency, as appropriate, for homeland security  
4 planning, exercises and training, and equip-  
5 ment;

6 (3) providing the Federal Government's re-  
7 sponse to terrorist attacks and major disasters,  
8 including—

9 (A) managing such response;

10 (B) directing the Domestic Emergency  
11 Support Team, the Strategic National Stock-  
12 pile, the National Disaster Medical System, and  
13 (when operating as an organizational unit of  
14 the Department pursuant to this title) the Nu-  
15 clear Incident Response Team;

16 (C) overseeing the Metropolitan Medical  
17 Response System; and

18 (D) coordinating other Federal response  
19 resources in the event of a terrorist attack or  
20 major disaster;

21 (4) aiding the recovery from terrorist attacks  
22 and major disasters;

23 (5) building a comprehensive national incident  
24 management system with Federal, State, and local

1 government personnel, agencies, and authorities, to  
2 respond to such attacks and disasters;

3 (6) consolidating existing Federal Government  
4 emergency response plans into a single, coordinated  
5 national response plan; and

6 (7) developing comprehensive programs for de-  
7 veloping interoperative communications technology,  
8 and helping to ensure that emergency response pro-  
9 viders acquire such technology.

10 **SEC. 502. FUNCTIONS TRANSFERRED.**

11 In accordance with title VIII, there shall be trans-  
12 ferred to the Secretary the functions, personnel, assets,  
13 and liabilities of the following entities—

14 (1) the Federal Emergency Management Agen-  
15 cy, including the functions of the Director of the  
16 Federal Emergency Management Agency relating  
17 thereto;

18 (2) the Office for Domestic Preparedness of the  
19 Office of Justice Programs, including the functions  
20 of the Attorney General relating thereto;

21 (3) the National Domestic Preparedness Office  
22 of the Federal Bureau of Investigation, including the  
23 functions of the Attorney General relating thereto;

1           (4) the Domestic Emergency Support Teams of  
2           the Department of Justice, including the functions  
3           of the Attorney General relating thereto;

4           (5) the Office of the Assistant Secretary for  
5           Public Health Emergency Preparedness (including  
6           the Office of Emergency Preparedness, the National  
7           Disaster Medical System, and the Metropolitan Med-  
8           ical Response System) of the Department of Health  
9           and Human Services, including the functions of the  
10          Secretary of Health and Human Services relating  
11          thereto; and

12          (6) the Strategic National Stockpile of the De-  
13          partment of Health and Human Services, including  
14          the functions of the Secretary of Health and Human  
15          Services relating thereto.

16 **SEC. 503. NUCLEAR INCIDENT RESPONSE.**

17          (a) NUCLEAR INCIDENT RESPONSE TEAM.—At the  
18          direction of the Secretary (in connection with an actual  
19          or threatened terrorist attack, major disaster, or other  
20          emergency), the Nuclear Incident Response Team shall  
21          operate as an organizational unit of the Department.  
22          While so operating, the Nuclear Incident Response Team  
23          shall be subject to the direction, authority, and control of  
24          the Secretary.

1 (b) CONSTRUCTION.—Nothing in this title shall be  
2 understood to limit the ordinary responsibility of the Sec-  
3 retary of Energy and the Administrator of the Environ-  
4 mental Protection Agency for organizing, training, equip-  
5 ping, and utilizing their respective entities in the Nuclear  
6 Incident Response Team, or (subject to the provisions of  
7 this title) from exercising direction, authority, and control  
8 over them when they are not operating as a unit of the  
9 Department.

10 **SEC. 504. DEFINITION.**

11 For purposes of this title, “nuclear incident response  
12 team” means a resource that includes—

13 (1) those entities of the Department of Energy  
14 that perform nuclear or radiological emergency sup-  
15 port functions (including accident response, search  
16 response, advisory, and technical operations func-  
17 tions), radiation exposure functions at the medical  
18 assistance facility known as Oak Ridge National  
19 Laboratory, radiological assistance functions, and re-  
20 lated functions; and

21 (2) those entities of the Environmental Protec-  
22 tion Agency that perform such support functions (in-  
23 cluding radiological emergency response functions)  
24 and related functions.

1 **SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED**  
2 **ACTIVITIES.**

3 (a) IN GENERAL.—Except as the President may oth-  
4 erwise direct, the Secretary shall carry out the following  
5 responsibilities through the Department of Health and  
6 Human Services (including the Public Health Service),  
7 under agreements with the Secretary of Health and  
8 Human Services, and may transfer funds to him in con-  
9 nection with such agreements:

10 (1) All biological, chemical, radiological, and  
11 nuclear preparedness-related construction, renova-  
12 tion, and enhancement of security for research and  
13 development or other facilities owned or occupied by  
14 the Department of Health and Human Services.

15 (2) All public health-related activities being car-  
16 ried out by the Department of Health and Human  
17 Services on the effective date of this Act (other than  
18 activities under functions transferred by this Act to  
19 the Department) to assist State and local govern-  
20 ment personnel, agencies, or authorities, non-Federal  
21 public and private health care facilities and pro-  
22 viders, and public and non-profit health and edu-  
23 cational facilities, to plan, prepare for, prevent, iden-  
24 tify, and respond to biological, chemical, radiological,  
25 and nuclear events and public health emergencies, by  
26 means including direct services, technical assistance,

1 communications and surveillance, education and  
2 training activities, and grants.

3 (b) PREPAREDNESS AND RESPONSE PROGRAM.—

4 With respect to any responsibilities carried out through  
5 the Department of Health and Human Services under this  
6 section, the Secretary, in consultation with the Secretary  
7 of Health and Human Services, shall have the authority  
8 to establish the preparedness and response program, in-  
9 cluding the setting of priorities.

## 10 **TITLE VI—MANAGEMENT**

### 11 **SEC. 601. UNDER SECRETARY FOR MANAGEMENT.**

12 In assisting the Secretary with the management and  
13 administration of the Department, the primary respon-  
14 sibilities of the Under Secretary for Management shall in-  
15 clude, for the Department—

16 (1) the budget, appropriations, expenditures of  
17 funds, accounting, and finance;

18 (2) procurement;

19 (3) human resources and personnel;

20 (4) information technology and communications  
21 systems;

22 (5) facilities, property, equipment, and other  
23 material resources;

1           (6) security for personnel, information tech-  
2           nology and communications systems, facilities, prop-  
3           erty, equipment, and other material resources; and

4           (7) identification and tracking of performance  
5           measures relating to the responsibilities of the De-  
6           partment.

7 **SEC. 602. CHIEF FINANCIAL OFFICER.**

8           The Chief Financial Officer shall report to the Sec-  
9           retary, or to another official of the Department, as the  
10          Secretary may direct.

11 **SEC. 603. CHIEF INFORMATION OFFICER.**

12          The Chief Information Officer shall report to the Sec-  
13          retary, or to another official of the Department, as the  
14          Secretary may direct.

15 **TITLE VII—COORDINATION WITH**  
16 **NON-FEDERAL ENTITIES; IN-**  
17 **SPECTOR GENERAL; UNITED**  
18 **STATES SECRET SERVICE;**  
19 **GENERAL PROVISIONS**  
20 **Subtitle A—Coordination With**  
21 **Non-Federal Entities**

22 **SEC. 701. RESPONSIBILITIES.**

23          In discharging his responsibilities relating to coordi-  
24          nation (including the provision of training and equipment)  
25          with State and local government personnel, agencies, and

1 authorities, with the private sector, and with other enti-  
2 ties, the responsibilities of the Secretary shall include—

3 (1) coordinating with State and local govern-  
4 ment personnel, agencies, and authorities, and with  
5 the private sector, to ensure adequate planning,  
6 equipment, training, and exercise activities;

7 (2) coordinating and, as appropriate, consoli-  
8 dating, the Federal Government's communications  
9 and systems of communications relating to homeland  
10 security with State and local government personnel,  
11 agencies, and authorities, the private sector, other  
12 entities, and the public;

13 (3) directing and supervising grant programs of  
14 the Federal Government for State and local govern-  
15 ment emergency response providers; and

16 (4) distributing or, as appropriate, coordinating  
17 the distribution of, warnings and information to  
18 State and local government personnel, agencies, and  
19 authorities and to the public.

## 20 **Subtitle B—Inspector General**

### 21 **SEC. 710. AUTHORITY OF THE SECRETARY.**

22 (a) IN GENERAL.—Notwithstanding the last two sen-  
23 tences of section 3(a) of the Inspector General Act of  
24 1978, the Inspector General shall be under the authority,  
25 direction, and control of the Secretary with respect to au-

1 dits or investigations, or the issuance of subpoenas, that  
2 require access to information concerning—

3 (1) intelligence, counterintelligence, or  
4 counterterrorism matters;

5 (2) ongoing criminal investigations or pro-  
6 ceedings;

7 (3) undercover operations;

8 (4) the identity of confidential sources, includ-  
9 ing protected witnesses;

10 (5) other matters the disclosure of which would,  
11 in the Secretary's judgment, constitute a serious  
12 threat to the protection of any person or property  
13 authorized protection by section 3056 of title 18,  
14 United States Code, section 202 of title 3 of such  
15 Code, or any provision of the Presidential Protection  
16 Assistance Act of 1976; or

17 (6) other matters the disclosure of which would,  
18 in the Secretary's judgment, constitute a serious  
19 threat to national security.

20 (b) PROHIBITION OF CERTAIN INVESTIGATIONS.—

21 With respect to the information described in subsection  
22 (a), the Secretary may prohibit the Inspector General  
23 from carrying out or completing any audit or investiga-  
24 tion, or from issuing any subpoena, after such Inspector  
25 General has decided to initiate, carry out, or complete

1 such audit or investigation or to issue such subpoena, if  
2 the Secretary determines that such prohibition is nec-  
3 essary to prevent the disclosure of any information de-  
4 scribed in subsection (a), to preserve the national security,  
5 or to prevent a significant impairment to the interests of  
6 the United States.

7 (c) NOTIFICATION REQUIRED.—The Secretary shall  
8 notify the President of the Senate and the Speaker of the  
9 House of Representatives within thirty days of any exer-  
10 cise of his authority under this section.

## 11 **Subtitle C—United States Secret** 12 **Service**

### 13 **SEC. 720. FUNCTIONS TRANSFERRED.**

14 In accordance with title VIII, there shall be trans-  
15 ferred to the Secretary the functions, personnel, assets,  
16 and liabilities of the United States Secret Service, which  
17 shall be maintained as a distinct entity within the Depart-  
18 ment, including the functions of the Secretary of the  
19 Treasury relating thereto.

## 20 **Subtitle D—General Provisions**

### 21 **SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MAN-** 22 **AGEMENT SYSTEM.**

23 Title 5, United States Code, is amended by  
24 inserting—

25 (1) after part III a new part as follows:



1 United States Code, unless his act, which by any such sec-  
2 tion is made unlawful when performed by an individual  
3 referred to therein, is with respect to any particular mat-  
4 ter that directly involves the Department or in which the  
5 Department is directly interested. An advisory committee  
6 established under this section shall not be subject to Pub-  
7 lic Law 92-463, but the Secretary shall publish notice in  
8 the Federal Register announcing the establishment of  
9 such a committee and identifying its purpose and member-  
10 ship.

11 **SEC. 732. ACQUISITIONS; PROPERTY.**

12 (a) RESEARCH AND DEVELOPMENT PROJECTS.—(1)  
13 When the Secretary carries out basic, applied, and ad-  
14 vanced research and development projects, he may exercise  
15 the same authority (subject to the same limitations and  
16 conditions) with respect to such research and projects as  
17 the Secretary of Defense may exercise under section 2371  
18 of title 10, United States Code (except for subsections (b)  
19 and (f) of such section), after making a determination that  
20 the use of a contract, grant, or cooperative agreement for  
21 such project is not feasible or appropriate. The annual re-  
22 port required under subsection (h) of such section, as ap-  
23 plied to the Secretary by this paragraph, shall be sub-  
24 mitted to the President of the Senate and the Speaker  
25 of the House of Representatives.

1           (2) The Secretary may, under the authority of para-  
2 graph (1), carry out prototype projects in accordance with  
3 the requirements and conditions provided for carrying out  
4 prototype projects under section 845 of the National De-  
5 fense Authorization Act for Fiscal Year 1994 (Public Law  
6 103–160). In applying the authorities of such section 845,  
7 subsection (c) thereof shall apply with respect to prototype  
8 projects under this paragraph, and the Secretary shall  
9 perform the functions of the Secretary of Defense under  
10 subsection (d) thereof.

11           (b) **PERSONAL SERVICES.**—Notwithstanding the time  
12 and pay limitations of section 3109 of title 5, United  
13 States Code, the Secretary may procure personal services,  
14 including the services of experts and consultants (or orga-  
15 nizations thereof).

16           (c) **EXEMPTION FROM CERTAIN AUTHORITIES.**—  
17 Section 602(d) of the Federal Property and Administra-  
18 tive Services Act 1949 (40 U.S.C. 474(d)) is amended by  
19 striking “; or (21)” and inserting “; (21) the Department  
20 of Homeland Security; or (22)”.

21           (d) **REAL PROPERTY.**—Notwithstanding any other  
22 provision of law, the Secretary, in accordance with regula-  
23 tions prescribed jointly with the Administrator of General  
24 Services and the Director of the Office of Management  
25 and Budget—

1           (1) may acquire replacement real property (in-  
2           cluding interests therein)—

3                   (A) by transfer or exchange of the Depart-  
4           ment's property with other executive agencies;  
5           or

6                   (B) by sale to or exchange of the Depart-  
7           ment's property with non-Federal parties;

8           (2) by lease, permit, license, or other similar in-  
9           strument, may make available to other executive  
10          agencies and to non-Federal parties, on a fair mar-  
11          ket rental value basis, the unexpired portion of any  
12          government lease for real property occupied or pos-  
13          sessed by the Department;

14          (3) may make available by outlease agreements  
15          with other executive agencies or with non-Federal  
16          parties, any unused or underused portion of or inter-  
17          est in any real or related personal property occupied  
18          or possessed by the Department; and

19          (4) may deposit the proceeds of any exercise of  
20          the authority granted by this subsection into any ac-  
21          count in the Treasury available to him, without re-  
22          gard to fiscal year limitations.

23          (e) DELEGATION OF CERTAIN RESPONSIBILITIES.—

24          Upon the written request of the Secretary, the Adminis-  
25          trator of General Services shall delegate to him all respon-

1 sibilities and authorities provided by law to the Adminis-  
2 trator for the care and handling of the Department's sur-  
3 plus real and related personal property, pending its dis-  
4 position, and for the disposal of such property.

5 (f) RECOVERY OF COSTS.—Notwithstanding any  
6 other provision of law, the Secretary may retain, from the  
7 proceeds of the sale of personal property, amounts nec-  
8 essary to recover, to the extent practicable, the full costs  
9 (direct and indirect) incurred by the Secretary in dis-  
10 posing of such property, including but not limited to the  
11 costs of warehousing, storage, environmental services, ad-  
12 vertising, appraisal, and transportation. Such amounts  
13 shall be deposited into an account available for such ex-  
14 penses without regard to fiscal year limitations.

15 **SEC. 733. REORGANIZATION; TRANSFER.**

16 (a) ALLOCATION OF FUNCTIONS.—The Secretary is  
17 authorized to allocate or reallocate functions among the  
18 officers of the Department, and to establish, consolidate,  
19 alter, or discontinue such organizational units within the  
20 Department, as he may deem necessary or appropriate,  
21 but such authority does not extend to—

22 (1) any entity transferred to the Department  
23 and established by statute, or any function vested by  
24 statute in such an entity or officer of such an entity,  
25 unless not less than ninety days' notice has been

1 given to the President of the Senate and Speaker of  
2 the House of Representatives; or

3 (2) the abolition of any entity established or re-  
4 quired to be maintained as a distinct entity by this  
5 Act.

6 (b) TRANSFER OF APPROPRIATIONS.—Except as oth-  
7 erwise specifically provided by law, not to exceed five per-  
8 cent of any appropriation available to the Secretary in any  
9 fiscal year may be transferred between such appropria-  
10 tions, except that not less than fifteen days' notice shall  
11 be given to the Committees on Appropriations of the Sen-  
12 ate and House of Representatives before any such transfer  
13 is made.

14 **SEC. 734. MISCELLANEOUS PROVISIONS.**

15 (a) SEAL.—The Department shall have a seal, whose  
16 design is subject to the approval of the President.

17 (b) GIFTS, DEVISES, AND BEQUESTS.—With respect  
18 to the Department, the Secretary shall have the same au-  
19 thorities that the Attorney General has with respect to the  
20 Department of Justice under section 524(d) of title 28,  
21 United States Code.

22 (c) PARTICIPATION OF MEMBERS OF THE ARMED  
23 FORCES.—With respect to the Department, the Secretary  
24 shall have the same authorities that the Secretary of  
25 Transportation has with respect to the Department of

1 Transportation under section 324 of title 49, United  
2 States Code.

3 (d) REDELEGATION OF FUNCTIONS.—Unless other-  
4 wise provided in the delegation or by law, any function  
5 delegated under this Act may be redelegated to any subor-  
6 dinate.

7 **SEC. 735. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated such sums  
9 as may be necessary to carry out the provisions of this  
10 Act.

11 **TITLE VIII—TRANSITION**

12 **SEC. 801. DEFINITIONS.**

13 For purposes of this title—

14 (1) the term “agency” includes any entity, or-  
15 ganizational unit, or function; and

16 (2) the term “transition period” means the 12-  
17 month period beginning on the effective date of this  
18 Act.

19 **SEC. 802. TRANSFER OF AGENCIES.**

20 The transfer of an agency to the Department shall  
21 occur when the President so directs, but in no event later  
22 than the end of the transition period. When an agency  
23 is transferred, the President may also transfer to the De-  
24 partment any agency established to carry out or support  
25 adjudicatory or review functions in relation to the agency.

1 **SEC. 803. TRANSITIONAL AUTHORITIES.**

2 (a) **PROVISION OF ASSISTANCE BY OFFICIALS.—**

3 Until the transfer of an agency to the Department, any  
4 official having authority over or functions relating to the  
5 agency immediately before the effective date of this Act  
6 shall provide to the Secretary such assistance, including  
7 the use of personnel and assets, as he may request in pre-  
8 paring for the transfer and integration of the agency into  
9 the Department.

10 (b) **SERVICES AND PERSONNEL.—**During the transi-  
11 tion period, upon the request of the Secretary, the head  
12 of any executive agency may, on a reimbursable or non-  
13 reimbursable basis, provide services or detail personnel to  
14 assist with the transition.

15 (c) **TRANSFER OF FUNDS.—**Until the transfer of an  
16 agency to the Department, the President is authorized to  
17 transfer to the Secretary not to exceed five percent of the  
18 unobligated balance of any appropriation available to such  
19 agency, to fund the purposes authorized in this Act, except  
20 that not less than 15 days' notice shall be given to the  
21 Committees on Appropriations of the Senate and House  
22 of Representatives before any such funds transfer is made.

23 (d) **ACTING OFFICIALS.—**(1) During the transition  
24 period, pending the advice and consent of the Senate to  
25 the appointment of an officer required by this Act to be  
26 appointed by and with such advice and consent, the Presi-

1 dent may designate any officer whose appointment was re-  
2 quired to be made by and with such advice and consent  
3 and who was such an officer immediately before the effec-  
4 tive date of this Act (and who continues in office) or im-  
5 mediately before such designation, to act in such office  
6 until the same is filled as provided in this Act. While so  
7 acting, such officers shall receive compensation at the  
8 higher of—

9 (A) the rates provided by this Act for the re-  
10 spective offices in which they act; or

11 (B) the rates provided for the offices held at  
12 the time of designation.

13 (2) Nothing in this Act shall be understood to require  
14 the advice and consent of the Senate to the appointment  
15 by the President to a position in the Department of any  
16 officer whose agency is transferred to the Department  
17 pursuant to this Act and whose duties following such  
18 transfer are germane to those performed before such  
19 transfer.

20 (e) TRANSFER OF PERSONNEL, ASSETS, LIABIL-  
21 ITIES, AND FUNCTIONS.—Upon the transfer of an agency  
22 to the Department—

23 (1) the personnel, assets, and liabilities held by  
24 or available in connection with the agency shall be  
25 transferred to the Secretary for appropriate alloca-

1       tion, subject to the approval of the Director of the  
2       Office of Management and Budget and notwith-  
3       standing the provisions of section 1531(a)(2) of title  
4       31, United States Code; and

5           (2) the Secretary shall have all functions relat-  
6       ing to the agency that any other official could by law  
7       exercise in relation to the agency immediately before  
8       such transfer, and shall have in addition all func-  
9       tions vested in the Secretary by this Act or other  
10      law.

11 **SEC. 804. SAVINGS PROVISIONS.**

12      (a) COMPLETED ADMINISTRATIVE ACTIONS.—(1)  
13      Completed administrative actions of an agency shall not  
14      be affected by the enactment of this Act or the transfer  
15      of such agency to the Department, but shall continue in  
16      effect according to their terms until amended, modified,  
17      superseded, terminated, set aside, or revoked in accord-  
18      ance with law by an officer of the United States or a court  
19      of competent jurisdiction, or by operation of law.

20      (2) For purposes of paragraph (1), the term “com-  
21      pleted administrative action” includes orders, determina-  
22      tions, rules, regulations, personnel actions, permits, agree-  
23      ments, grants, contracts, certificates, licenses, registra-  
24      tions, and privileges.

1 (b) PENDING PROCEEDINGS.—Subject to the author-  
2 ity of the Secretary under this Act—

3 (1) pending proceedings in an agency, including  
4 notices of proposed rulemaking, and applications for  
5 licenses, permits, certificates, grants, and financial  
6 assistance, shall continue notwithstanding the enact-  
7 ment of this Act or the transfer of the agency to the  
8 Department, unless discontinued or modified under  
9 the same terms and conditions and to the same ex-  
10 tent that such discontinuance could have occurred if  
11 such enactment or transfer had not occurred; and

12 (2) orders issued in such proceedings, and ap-  
13 peals therefrom, and payments made pursuant to  
14 such orders, shall issue in the same manner and on  
15 the same terms as if this Act had not been enacted  
16 or the agency had not been transferred, and any  
17 such orders shall continue in effect until amended,  
18 modified, superseded, terminated, set aside, or re-  
19 voked by an officer of the United States or a court  
20 of competent jurisdiction, or by operation of law.

21 (c) PENDING CIVIL ACTIONS.—Subject to the author-  
22 ity of the Secretary under this Act, pending civil actions  
23 shall continue notwithstanding the enactment of this Act  
24 or the transfer of an agency to the Department, and in  
25 such civil actions, proceedings shall be had, appeals taken,

1 and judgments rendered and enforced in the same manner  
2 and with the same effect as if such enactment or transfer  
3 had not occurred.

4 (d) REFERENCES.—References relating to an agency  
5 that is transferred to the Department in statutes, Execu-  
6 tive orders, rules, regulations, directives, or delegations of  
7 authority that precede such transfer or the effective date  
8 of this Act shall be deemed to refer, as appropriate, to  
9 the Department, to its officers, employees, or agents, or  
10 to its corresponding organizational units or functions.  
11 Statutory reporting requirements that applied in relation  
12 to such an agency immediately before the effective date  
13 of this Act shall continue to apply following such transfer  
14 if they refer to the agency by name.

15 (e) EMPLOYMENT PROVISIONS.—(1) Notwith-  
16 standing the generality of the foregoing (including sub-  
17 sections (a) and (d)), in and for the Department the Sec-  
18 retary may, in regulations prescribed jointly with the Di-  
19 rector of the Office of Personnel Management, adopt the  
20 rules, procedures, terms, and conditions, established by  
21 statute, rule, or regulation before the effective date of this  
22 Act, relating to employment in any agency transferred to  
23 the Department pursuant to this Act; and

24 (2) except as otherwise provided in this Act, or under  
25 authority granted by this Act, the transfer pursuant to

1 this Act of personnel shall not alter the terms and condi-  
2 tions of employment, including compensation, of any em-  
3 ployee so transferred.

4 **SEC. 805. TERMINATIONS.**

5 Except as otherwise provided in this Act, whenever  
6 all the functions vested by law in any agency have been  
7 transferred pursuant to this Act, each position and office  
8 the incumbent of which was authorized to receive com-  
9 pensation at the rates prescribed for an office or position  
10 at level II, III, IV, or V, of the Executive Schedule, shall  
11 terminate.

12 **SEC. 806. INCIDENTAL TRANSFERS.**

13 The Director of the Office of Management and Budg-  
14 et, in consultation with the Secretary, is authorized and  
15 directed to make such additional incidental dispositions of  
16 personnel, assets, and liabilities held, used, arising from,  
17 available, or to be made available, in connection with the  
18 functions transferred by this Act, as he may deem nec-  
19 essary to accomplish the purposes of this Act.

20 **TITLE IX—CONFORMING AND**  
21 **TECHNICAL AMENDMENTS**

22 **SEC. 901. INSPECTOR GENERAL ACT.**

23 Section 11 of the Inspector General Act of 1978  
24 (Public Law 95–452) is amended—

1           (1) by inserting “Homeland Security,” after  
2 “Transportation,” each place it appears;

3           (2) by striking “; and” each place it appears  
4 and inserting “;”;

5           (3) by striking “,” and inserting “;”; and

6           (4) by striking “;” and inserting “;”.

7 **SEC. 902. EXECUTIVE SCHEDULE.**

8 Title 5, United States Code, is amended—

9           (1) in section 5312, by inserting “Secretary of  
10 Homeland Security.” as a new item after “Affairs.”;

11           (2) in section 5313, by inserting “Deputy Sec-  
12 retary of Homeland Security.” as a new item after  
13 “Affairs.”;

14           (3) in section 5314, by inserting “Under Secre-  
15 taries, Department of Homeland Security.” as a new  
16 item after “Affairs.” the third place it appears;

17           (4) in section 5315, by inserting “Assistant  
18 Secretaries, Department of Homeland Security.”,  
19 “General Counsel, Department of Homeland Secu-  
20 rity.”, “Chief Financial Officer, Department of  
21 Homeland Security.”, “Chief Information Officer,  
22 Department of Homeland Security.”, and “Inspector  
23 General, Department of Homeland Security.” as new  
24 items after “Affairs.” the first place it appears.

1 **SEC. 903. UNITED STATES SECRET SERVICE.**

2 (a) IN GENERAL.—The United States Code is  
3 amended in sections 202 and 208 of title 3, and in section  
4 3056 of title 18, by striking “of the Treasury”, each place  
5 it appears and inserting “of Homeland Security”.

6 (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall take effect on the date of transfer of  
8 the United States Secret Service to the Department.

9 **SEC. 904. COAST GUARD.**

10 (a) TITLE 14, U.S.C.—Title 14 of the United States  
11 Code is amended—

12 (1) in sections 1, 3, 53, 95, 145, 516, 666, 669,  
13 673 (as added by Public Law 104–201), 673 (as  
14 added by Public Law 104–324), 674, 687, and 688,  
15 by striking “of Transportation”, each place it ap-  
16 pears, and inserting “of Homeland Security”; and

17 (2) after executing the other amendments re-  
18 quired by this subsection, by redesignating the sec-  
19 tion 673 added by Public Law 104–324 as section  
20 673a.

21 (b) TITLE 10, U.S.C.—Section 801(1) of title 10,  
22 United States Code, is amended by striking “the General  
23 Counsel of the Department of Transportation” and insert-  
24 ing “an official designated to serve as Judge Advocate  
25 General of the Coast Guard by the Secretary of Homeland  
26 Security”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on the date of transfer of  
3 the Coast Guard to the Department.

4 **SEC. 905. STRATEGIC NATIONAL STOCKPILE AND SMALL-**  
5 **POX VACCINE DEVELOPMENT.**

6 (a) IN GENERAL.—The Public Health Security and  
7 Bioterrorism Preparedness and Response Act of 2002 is  
8 amended—

9 (1) in section 121(a)(1)—

10 (A) by striking “Secretary of Health and  
11 Human Services” and inserting “Secretary of  
12 Homeland Security”;

13 (B) by inserting “the Secretary of Health  
14 and Human Services and” between “in coordi-  
15 nation with” and “the Secretary of Veterans  
16 Affairs”; and

17 (C) by inserting “of Health and Human  
18 Services” after “as are determined by the Sec-  
19 retary”; and

20 (2) in subsections 121(a)(2) and (b), by insert-  
21 ing “of Health and Human Services” after “Sec-  
22 retary” each place it appears.

23 (b) EFFECTIVE DATE.—The amendments made by  
24 this section shall take effect on the date of transfer of

1 the Strategic National Stockpile of the Department of  
2 Health and Human Services to the Department.

3 **SEC. 906. SELECT AGENT REGISTRATION.**

4 (a) PUBLIC HEALTH SERVICE ACT.—The Public  
5 Health Service Act is amended—

6 (1) in section 351A(a)(1)(A), by inserting “(as  
7 defined in subsection (l)(9))” after “Secretary”;

8 (2) in section 351A(h)(2)(A), by inserting “De-  
9 partment of Homeland Security, the” before “De-  
10 partment of Health and Human Services”;

11 (3) in section 351A(l), by inserting after para-  
12 graph (8) a new paragraph as follows:

13 “(9) The term ‘Secretary’ means the Secretary  
14 of Homeland Security, in consultation with the Sec-  
15 retary of Health and Human Services.”; and

16 (4) in section 352A(i)—

17 (A) by striking “(1)” the first place it ap-  
18 pears; and

19 (B) by striking paragraph (2).

20 (b) PUBLIC HEALTH SECURITY AND BIOTERRORISM  
21 PREPAREDNESS AND RESPONSE ACT OF 2002.—Section  
22 201(b) of the Public Health Security and Bioterrorism  
23 Preparedness and Response Act of 2002 is amended by  
24 striking “Secretary of Health and Human Services” and  
25 inserting “Secretary of Homeland Security”.

